Acts and Instruments (Framework Reform) Act 2015

No. 10, 2015

An Act to amend the *Legislative Instruments Act 2003* and other Acts, and for other purposes

Note: An electronic version of this Act is available in ComLaw (http://www.comlaw.gov.au/)

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Acts and Instruments (Framework Reform) Act 2015

No. 10, 2015

An Act to amend the *Legislative Instruments Act 2003* and other Acts, and for other purposes

[*Assented to 5 March 2015*]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Acts and Instruments (Framework Reform) Act 2015*.

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2 Commencement

(1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information

Column 1	Column 2	Column 3
Provisions	**Commencement**	**Date/Details**
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	5 March 2015
2. Schedules 1 to 3	A single day to be fixed by Proclamation. However, if the provisions do not commence within the period of 12 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

(2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

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Schedule 1—Acts, legislative instruments and notifiable instruments

Part 1—Definitions and key concepts

Legislative Instruments Act 2003

1 Title

Repeal the title, substitute:

An Act providing for public access to Acts and instruments, for the making, parliamentary scrutiny and sunsetting of legislative instruments and for the repeal of spent instruments and provisions, and for other purposes.

2 Part 1 (heading)

Repeal the heading, substitute:

Chapter 1—Introduction

Part 1—Preliminary

3 Section 1

Omit "*Legislative Instruments Act 2003*", substitute "*Legislation Act 2003*".

Note 1: This item amends the short title of the Act. If another amendment of the Act is described by reference to the Act's previous short title, that other amendment has effect after the commencement of this item as an amendment of the Act under its amended short title (see section 10 of the *Acts Interpretation Act 1901*).

Note 2: See also Part 6 of this Schedule.

4 Section 2A

Repeal the section.

5 Section 3

Omit "Commonwealth legislative instruments by", substitute "Acts and instruments by".

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6 Paragraph 3(a)

Repeal the paragraph, substitute:

(a) establishing the Federal Register of Legislation as a permanent repository of versions (including authorised versions) of Acts, legislative instruments, notifiable instruments and compilations, together with associated documents and information; and

(aa) enabling the First Parliamentary Counsel to make editorial changes and some other changes in preparing compilations of Acts, legislative instruments and notifiable instruments, if those changes do not change the effect of the Acts or instruments; and

7 Paragraph 3(c)

After "legislative instruments", insert "and notifiable instruments".

8 Paragraph 3(d)

Omit "legislative instruments", substitute "Acts and instruments".

9 Paragraph 3(ea)

Repeal the paragraph, substitute:

(ea) automatically repealing spent legislative instruments and notifiable instruments (or provisions of those instruments) that merely provide for the amendment, repeal or commencement of Acts or other instruments; and

10 At the end of section 3

Add:

; and (g) enabling regulations to be made under this Act amending or repealing legislative instruments and notifiable instruments in some circumstances.

11 After section 3

Insert:

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3A Simplified outline of this Act

This Act provides for public access to Commonwealth Acts, legislative instruments and notifiable instruments. The Act also regulates other matters relating to legislative instruments and notifiable instruments.

Acts, legislative instruments and notifiable instruments, compilations and associated documents and information are registered on the Federal Register of Legislation. The public has online access (through an approved website) to authorised versions of registered Acts, instruments and compilations, and to associated documents and information.

The First Parliamentary Counsel maintains the Register and the approved website. The First Parliamentary Counsel is given the power to make editorial changes and some other changes to registered Acts and instruments in preparing compilations, if those changes do not change the effect of the Acts or instruments.

For legislative instruments and notifiable instruments, the Act deals with commencement, interpretation, incorporation of external material by reference and drafting standards.

Rule-makers for legislative instruments must undertake appropriate and reasonably practicable consultation before the instruments are made. Generally, legislative instruments must be tabled in both Houses of Parliament and are generally subject to disallowance by either House.

Legislative instruments and notifiable instruments (or provisions of those instruments) are automatically repealed after their commencement if they merely provide for the amendment, repeal or commencement of Acts or other instruments. Legislative instruments are generally repealed automatically (sunsetted) no more than 10 years after being registered.

12 Sections 4 to 12

Repeal the sections, substitute:

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4 The Dictionary

In this Act:

amend: see subsection 5(1).

approved website: see section 15C.

authorised version, of a registered law or explanatory statement: see section 15ZA.

commencement instrument, in relation to an Act, legislative instrument or notifiable instrument, means an instrument providing solely for the commencement of:

(a) the Act or instrument; or

(b) a provision of the Act or instrument.

Example: A Proclamation providing solely for the commencement of an Act.

compilation, of an Act, legislative instrument or notifiable instrument, is a document showing the text of the Act or instrument:

(a) as amended (if at all) and in force on a day (the ***compilation date***) stated in the document; or

(b) as the Act or instrument would be amended and in force on a day (the ***compilation date***) stated in the document, by amendments that have not commenced, if the document indicates that the amendments have not commenced; or

(c) as the Act or instrument is, or would be, modified by an Act or an instrument, and in force on a day (the ***compilation date***) stated in the document.

Note: See Part 2 of Chapter 2 for the registration of compilations.

compilation date: see the definition of ***compilation*** in this section.

disallowable legislative instrument means a legislative instrument to which section 42 applies.

Note: Section 42 provides for the parliamentary disallowance of legislative instruments. Section 42 does not apply to some legislative instruments (see section 44).

discretionary compilation event, for an Act, legislative instrument or notifiable instrument: see section 15Q.

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editorial change, in relation to an Act, legislative instrument or notifiable instrument: see section 15X.

enabling legislation, in relation to a legislative instrument or notifiable instrument, means the primary law that authorises the making of the instrument.

explanatory statement for a legislative instrument: see section 15J.

Federal Register of Legislation means the register established and maintained under section 15A.

First Parliamentary Counsel means the person appointed to the position of First Parliamentary Counsel under subsection 4(1) of the *Parliamentary Counsel Act 1970*.

initial explanatory statement: see section 15J.

instrument means any writing or other document, and includes an instrument in electronic form.

legislative instrument: see section 8.

Note: This term has the same meaning when used in other Acts and instruments: see the definition of ***legislative instrument*** in section 2B of the *Acts Interpretation Act 1901*.

making, in relation to an instrument, means the signing, sealing or other endorsement of the instrument by the person or body empowered to make it.

modify: see subsection 5(2).

notifiable instrument: see section 11.

Note: This term has the same meaning when used in other Acts and instruments: see the definition in section 2B of the *Acts Interpretation Act 1901*.

Office of Parliamentary Counsel means the office established by subsection 2(1) of the *Parliamentary Counsel Act 1970*.

power delegated by the Parliament: an instrument made under a ***power delegated by the Parliament*** includes:

(a) an instrument made under a power delegated by the Parliament to a person or body and then, under the authority

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of the Parliament, further delegated by that person or body to another person or body; and

(b) an instrument that may be made under a power delegated by the Parliament as well as under a power given otherwise by law.

Example: An instrument made under an Act as well as a prerogative power.

primary law means an Act or an instrument made under an Act, or a provision of an Act or an instrument made under an Act.

register means register on the Federal Register of Legislation.

registered law or explanatory statement: see section 15Z.

repeal, in relation to an instrument or a provision of an instrument, includes revoke or rescind the instrument or provision.

Note: Section 5 defines ***amend***, for a provision of an instrument, to include the repeal of a provision of the instrument.

replacement explanatory statement: see section 15J.

required compilation event, for an Act, legislative instrument or notifiable instrument: see section 15Q.

responsible person: see section 6.

rule-maker: see section 6.

rules means rules made by the First Parliamentary Counsel under section 61A.

Note: These rules are legislative instruments. Regulations may also be made for the purposes of this Act (see section 62).

supplementary explanatory statement: see section 15J.

text includes any writing.

Note: See the definition of ***writing*** in section 2B of the *Acts Interpretation Act 1901*.

5 Definitions of *amend* and *modify*

(1) In this Act, ***amend*** includes:

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(a) for an Act or instrument—repeal, omit, insert, substitute, renumber or relocate a provision of the Act or instrument; and

(b) for a provision of an Act or instrument—any of the following:

(i) repeal or omit the provision (or a part of it);

(ii) substitute another provision for the provision (or a part of it);

(iii) insert another provision into the provision (or a part of it);

(iv) renumber the provision (or a part of it);

(v) relocate the provision (or a part of it); and

(c) for an Act or instrument, or a provision of an Act or instrument—amend by implication; and

(d) for an Act or instrument, or a provision of an Act or instrument—change its text in any other way.

Note 1: ***Repeal***, in relation to a provision of an instrument, includes revoke or rescind the provision (see the definition of ***repeal*** in section 4).

Note 2: For the purposes of Part 2 of Chapter 2 (registration of compilations), an Act or instrument is amended by an Act or instrument, or a provision of an Act or instrument, when the amending Act or provision commences (see subsection 15Q(3)).

(2) In this Act, ***modify*** an Act or instrument means modify the operation of the Act or instrument without amending its text.

6 Definitions of *rule-maker* and *responsible person*

Rule-makers

(1) In this Act, ***rule-maker***, for an instrument, means:

(a) for an instrument made by the Governor-General that is made under enabling legislation (whether or not it may also be made under any other power)—the Minister currently responsible for administering the provision of the enabling legislation under which the instrument is made; or

(b) for an instrument made by the Governor-General, in any other case—the Prime Minister, or a Minister prescribed by regulation for the purposes of this paragraph; or

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(c) for an instrument made by a person other than the Governor-General—a person currently authorised to make the instrument.

Responsible persons

(2) In this Act, ***responsible person*** means:
(a) for an Act or a provision of an Act—the Minister currently responsible for administering the Act or provision; or
(b) for an instrument—the rule-maker for the instrument.

(3) If more than one Minister is currently responsible for administering an Act, or a provision of an Act:
(a) each of those Ministers is a ***responsible person*** for the Act or provision (as the case may be); and
(b) the performance of a function or duty under this Act (in relation to the Act or provision administered) by any of the Ministers discharges the function or duty.

Part 2—Key concepts for legislative instruments and notifiable instruments

7 Simplified outline of this Part

What are legislative instruments?

Generally, the following are legislative instruments:

- an instrument described or declared by a law (including this Act) to be a legislative instrument;
- an instrument registered on the Federal Register of Legislation as a legislative instrument;
- an instrument made under a power delegated by the Parliament that determines the law or alters its content.

However, an instrument is not a legislative instrument if an Act (or a regulation under this Act) so provides.

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What are notifiable instruments?

Generally, the following are notifiable instruments:

- an instrument described or declared by a law (including this Act or a regulation under this Act) to be a notifiable instrument;
- a commencement instrument;
- an instrument (other than a legislative instrument) that is registered on the Federal Register of Legislation as a notifiable instrument.

Generally, unlike legislative instruments, notifiable instruments are not subject to parliamentary scrutiny, nor are they subject to automatic repeal 10 years after registration.

Other key concepts

A legislative instrument or notifiable instrument commences on the day after the instrument is registered, or on another day provided by the instrument. Generally, the instrument does not apply retrospectively if that would adversely affect rights or impose liabilities.

Generally, the same rules apply to the interpretation of legislative instruments and notifiable instruments as apply to the interpretation of Acts. Some special rules also apply to the construction of instruments.

There are restrictions on the extent to which legislative instruments or notifiable instruments can incorporate matters by reference to external documents.

8 Definition of *legislative instrument*

(1) A ***legislative instrument*** is an instrument to which subsection (2), (3), (4) or (5) applies.

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Note: Instruments that can be legislative instruments may be described by their enabling legislation in different ways, for example as regulations, rules, ordinances or determinations.

Primary law provides for something to be done by legislative instrument

(2) If a primary law gives power to do something by legislative instrument, then:

(a) if the thing is done, it must be done by instrument; and

(b) that instrument is a ***legislative instrument***.

Example 1: A primary law provides that "The Minister may, by legislative instrument, determine licence conditions for the purposes of this section.".

Example 2: A primary law provides as follows:

"(1) The Chief Executive may, by instrument, determine licence conditions.

(2) The Chief Executive may, by instrument, exempt a person from the requirement under this Act to hold a licence.

(3) An instrument made by the Chief Executive under subsection (1) or (2) is a legislative instrument.".

Instruments registered on the Federal Register of Legislation

(3) An instrument made under a power delegated by the Parliament is a ***legislative instrument*** if it is registered as a legislative instrument.

Note: An instrument made under a power delegated by the Parliament may be a legislative instrument because it is registered as a legislative instrument, whether or not it is a legislative instrument because of another provision of this section.

Instruments that determine or alter the law etc.

(4) An instrument is a ***legislative instrument*** if:

(a) the instrument is made under a power delegated by the Parliament; and

(b) any provision of the instrument:

(i) determines the law or alters the content of the law, rather than determining particular cases or particular circumstances in which the law, as set out in an Act or another legislative instrument or provision, is to apply, or is not to apply; and

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(ii) has the direct or indirect effect of affecting a privilege or interest, imposing an obligation, creating a right, or varying or removing an obligation or right.

Instruments declared to be legislative instruments

(5) An instrument is a ***legislative instrument*** if it is declared by section 10 or 57A to be a legislative instrument.

Note: Section 10 declares regulations and some other instruments to be legislative instruments. Section 57A declares some instruments to be legislative instruments that were made under a power delegated by the Parliament before 1 January 2005, when the substantive provisions of this Act commenced.

Instruments that are not legislative instruments

(6) Despite subsections (4) and (5), an instrument is not a ***legislative instrument*** if it is:
(a) declared by an Act not to be a legislative instrument; or
(b) prescribed by regulation for the purposes of this paragraph.

(7) However, subsection (6) does not apply to an instrument that is a legislative instrument under subsection (3) by registration.

(8) Despite anything else in this section, the following are not legislative instruments, and cannot become legislative instruments under subsection (3) (by being registered as legislative instruments):
(a) an instrument that is a notifiable instrument because of subsection 11(1) (primary law gives power to do something by notifiable instrument);
(b) a commencement instrument;
(c) a compilation of a legislative instrument or notifiable instrument;
(d) rules of court, or a compilation of rules of court, for the High Court, the Federal Court of Australia, the Family Court of Australia or the Federal Circuit Court of Australia;
(e) an explanatory statement for a legislative instrument, or rules of court mentioned in paragraph (d).

Note: Rules of court are, however, registered under this Act, and are otherwise treated as if they were legislative instruments by their enabling legislation.

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9 Inference of legislative character

No implication of legislative character (or otherwise)

(1) The fact that an instrument is a legislative instrument because of subsection 8(2), (3) or (5) does not imply that the instrument is, or must be, of legislative character (within the ordinary meaning of that term).

(2) The fact that an instrument is not a legislative instrument because of subsection 8(6) does not imply that the instrument is not, or must not be, of legislative character (within the ordinary meaning of that term).

No inference for other instruments

(3) In determining whether an instrument made under a provision of a primary law is a legislative instrument under subsection 8(4), no inference may be drawn from the fact that an instrument made under another provision of that primary law, or any other primary law, is a legislative instrument, or is not a legislative instrument.

Example: In determining whether a Ministerial direction under a provision of a primary law is a legislative instrument, no inference may be drawn from the fact that a Ministerial direction under another provision of the primary law is described as a legislative instrument.

10 Instruments declared to be legislative instruments

(1) For the purposes of subsection 8(5), each of the following is a legislative instrument:

(a) a regulation or Proclamation (other than a Proclamation that is a commencement instrument) made under a power delegated by the Parliament;

(b) a Territory Ordinance covered by subsection (2), or a regulation, rule or by-law under such an Ordinance;

(c) an instrument prescribed by regulation for the purposes of this paragraph;

(d) an instrument that includes a provision that amends or repeals another legislative instrument.

Note: Commencement instruments, which may be Proclamations, are notifiable instruments: see section 11.

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(2) The following Territory Ordinances are covered by this subsection:

(a) an Ordinance made under a power delegated by the Parliament in an Act providing for the government of a non-self-governing Territory;

(b) an Ordinance made under subsection 12(1) of the *Seat of Government (Administration) Act 1910* that has not become an enactment (as defined in the *Australian Capital Territory (Self-Government) Act 1988*);

(c) an Ordinance made under section 27 of the *Norfolk Island Act 1979*.

11 Definition of *notifiable instrument*

What is a notifiable instrument?

(1) If a primary law gives power to do something by notifiable instrument, then:

(a) if the thing is done, it must be done by instrument; and

(b) that instrument is a ***notifiable instrument***.

Example 1: A primary law provides that "The Minister may, by notifiable instrument, approve a form for the purposes of this section.".

Example 2: A primary law provides as follows:

"(1) The Chief Executive may, by instrument, appoint an inspector for the purposes of section [X].

(2) The Chief Executive may, by instrument, approve a form for the purposes of section [Y].

(3) An instrument made by the Chief Executive under subsection (1) or (2) is a notifiable instrument.".

(2) Each of the following is a ***notifiable instrument***:

(a) a commencement instrument for an Act, legislative instrument or notifiable instrument, or for a provision of an Act or such an instrument;

(b) an instrument, other than a legislative instrument, prescribed by regulation for the purposes of this paragraph;

(c) an instrument, other than a legislative instrument, that is registered as a notifiable instrument, if the instrument is made under a power delegated by the Parliament or another power given by law;

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(d) an instrument, other than a legislative instrument, that includes a provision that amends or repeals another notifiable instrument.

Note: The effect of paragraph (c) is that an instrument (other than a legislative instrument) may be a notifiable instrument because it is registered as a notifiable instrument, even if it would not otherwise be a notifiable instrument because of this section. For a corresponding provision relating to legislative instruments, see subsection 8(3).

Modification of the operation of this Act

(3) The enabling legislation for a notifiable instrument, or a regulation under this Act in relation to a notifiable instrument, may modify the operation of this Act in relation to the instrument.

Example: Such a regulation may provide that a provision of this Act about explanatory statements that is expressed to apply in relation to legislative instruments is also to apply to a particular class of notifiable instruments.

Registration to satisfy other publication or notification requirements

(4) If an Act or an instrument requires an instrument (other than a legislative instrument), or the particulars of the instrument's making, to be published or notified in the Gazette or in any other way, then, unless the contrary intention appears, the requirement is taken to be satisfied if the instrument is registered as a notifiable instrument.

12 Commencement of legislative instruments and notifiable instruments

When do legislative instruments and notifiable instruments commence?

(1) A legislative instrument or a notifiable instrument commences:

(a) at the start of the day after the day the instrument is registered; or

(b) so far as the instrument provides otherwise—in accordance with such provision.

Note: The instrument may provide for its commencement by enabling a commencement instrument to be made: see subsection (5).

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Retrospective application

(2) A provision of a legislative instrument or notifiable instrument does not apply in relation to a person (other than the Commonwealth or an authority of the Commonwealth) if the provision commences before the day the instrument is registered, to the extent that as a result:

(a) the person's rights as at that day would be affected so as to disadvantage the person; or

(b) liabilities would be imposed on the person in respect of anything done or omitted to be done before that day.

(3) However, subject to subsection (2), a legislative instrument or notifiable instrument may provide that a provision of the instrument commences before the day the instrument is registered.

(4) The effect of subsection (2) or (3) in relation to an instrument is subject to any contrary provision in an Act.

Commencement instruments

(5) Without limiting paragraph (1)(b), for the purposes of that paragraph, a legislative instrument or notifiable instrument may authorise the making of a commencement instrument in relation to the legislative instrument or notifiable instrument.

13 Subsection 13(1)

Omit "rule-maker the power to make a legislative instrument", substitute "person the power to make a legislative instrument or notifiable instrument".

14 Paragraphs 13(1)(a), (b) and (c)

Omit "legislative" (wherever occurring).

15 Paragraph 13(1)(c)

Omit "rule-maker", substitute "person to make the instrument".

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16 Subsection 13(2)

Omit "any legislative instrument would, but for this subsection, be construed as being in excess of the rule-maker's power", substitute "the making of a legislative instrument or notifiable instrument would, apart from this subsection, be construed as being in excess of the power to make the instrument".

17 Subsection 13(3)

Omit "rule-maker the power to make a legislative instrument", substitute "person the power to make a legislative instrument or notifiable instrument".

18 Subsection 13(3)

Omit "rule-maker may identify", substitute "person may identify".

19 After subsection 13(4) (before the note)

Insert:

(5) The amendment of a legislative instrument or notifiable instrument by an Act does not prevent the instrument, as so amended, from being amended or repealed by a person who is currently authorised under the enabling legislation for the instrument to make instruments of the same kind.

20 Section 13 (note)

Omit "that are not legislative instruments", substitute "other than legislative instruments or notifiable instruments".

21 Subsection 14(1)

Omit "in a legislative instrument, the legislative instrument", substitute "by a legislative instrument or notifiable instrument, the instrument".

22 Paragraph 14(1)(a)

Repeal the paragraph, substitute:

(a) by applying, adopting or incorporating, with or without modification, any of the following, as in force at a particular time or as in force from time to time:

(i) the provisions of an Act;

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(ii) the provisions of a legislative instrument covered by subsection (3); or

23 Paragraph 14(1)(b)

Omit "first-mentioned legislative instrument takes effect", substitute "first-mentioned instrument commences".

24 Subsection 14(2)

After "legislative instrument", insert "or notifiable instrument".

25 After subsection 14(2) (before the note)

Insert:

(3) The following legislative instruments are covered by this subsection:

(a) disallowable legislative instruments;

(b) legislative instruments that were disallowable under the *Acts Interpretation Act 1901* or any other Act at any time before 1 January 2005.

Note: The substantive provisions of this Act commenced on 1 January 2005.

Exception—forms

(4) Despite subsections (1) to (3), a legislative instrument or notifiable instrument (the ***enabling instrument***) may authorise or require a form (however described) to be used for the purposes of an Act, that instrument or another instrument if the enabling instrument provides that:

(a) the form is a notifiable instrument; or

(b) the form is required to be publicly available in another specified way.

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Part 2—Registration of Acts and instruments

Legislative Instruments Act 2003

26 After Part 1

Insert:

Chapter 2—Registration of Acts, legislative instruments and notifiable instruments

Part 1—The Federal Register of Legislation

Division 1—Simplified outline of this Part

15 Simplified outline of this Part

The Federal Register of Legislation contains the following:

- Acts, legislative instruments and notifiable instruments as made, and explanatory statements for legislative instruments;
- compilations of Acts, legislative instruments and notifiable instruments;
- other relevant documents and information.

Rule-makers for legislative instruments and notifiable instruments are responsible for lodging the instruments for registration (together with explanatory statements for legislative instruments).

Legislative instruments are not enforceable unless registered.

Responsible persons for Acts, and rule-makers for legislative instruments or notifiable instruments, must notify the First Parliamentary Counsel of some events affecting the status of the Acts or instruments.

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Division 2—Federal Register of Legislation

15A Federal Register of Legislation—establishment and maintenance

(1) The First Parliamentary Counsel must establish and maintain a register of Acts, legislative instruments and notifiable instruments, to be known as the Federal Register of Legislation.

Note 1: The contents of the Federal Register of Legislation may be accessed on the approved website (see section 15C).

Note 2: The Federal Register of Legislation in its initial form consists of the following:

(a) the contents of the Federal Register of Legislative Instruments established under this Act, when this Act was known as the *Legislative Instruments Act 2003*;

(b) the contents of the Acts database under the *Acts Publication Act 1905* (which was repealed when this section commenced);

(c) other legislative material published on the whole-of-government legislation website known as ComLaw.

(2) The Register must contain the following:

(a) Acts as made that are registered under this Part;

(b) legislative instruments and notifiable instruments as made that are registered under this Part;

(c) compilations, registered under this Part, of Acts, legislative instruments and notifiable instruments;

(d) explanatory statements, registered under this Part, for legislative instruments;

(e) other documents registered under this Part.

(3) The Register may contain additional documents if the First Parliamentary Counsel considers that the documents are likely to be useful to users of the Register, including the following (without limitation):

(a) Acts as made (other than Acts registered under this Part);

(b) instruments as made (other than legislative instruments or notifiable instruments registered under this Part;

(c) Gazette notices;

(d) compilations of Acts or instruments (other than compilations registered under this Part);

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(e) documents that may be considered under section 15AB of the *Acts Interpretation Act 1901* (and that section as applied by section 13 of this Act) in working out the meaning of an Act, legislative instrument or notifiable instrument, for example, an explanatory memorandum for an Act.

(4) The First Parliamentary Counsel may include in the Register any information that he or she considers likely to be useful to users of the Register.

(5) Without limiting subsection (1), the First Parliamentary Counsel may, subject to this Act and the rules, do anything he or she considers necessary or desirable to ensure that the Register is accurate and up-to-date, and contains material likely to be useful to users of the Register.

15B Federal Register of Legislation—complete record of registered laws

The Federal Register of Legislation is, for all purposes, taken to be a complete and accurate record of all registered Acts, legislative instruments and notifiable instruments.

Note: For authorised versions of Acts, legislative instruments, notifiable instruments and compilations, and judicial notice of authorised versions, see Part 3 of this Chapter.

15C Federal Register of Legislation—access to registered material on approved website

The First Parliamentary Counsel must ensure that registered Acts, legislative instruments, notifiable instruments and compilations, and other registered documents, are available to the public on a website (an ***approved website***) prescribed by the rules.

15D Federal Register of Legislation—correction of errors

Registered Acts, instruments and compilations

(1) If the First Parliamentary Counsel is satisfied that there is a mistake, omission or other error in the Federal Register of Legislation consisting of an error in the text of an Act, a legislative instrument or notifiable instrument, or of a compilation of an Act

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or such an instrument, as registered, the First Parliamentary Counsel must:

(a) correct the error in the Register as soon as possible; and

(b) include in the Register a statement that the correction has been made, and a brief outline of the correction in general terms.

(2) The correction of the Register under subsection (1):

(a) does not affect any right or privilege that was acquired, or that accrued, because of reliance on the registered text of the Act, instrument or compilation before the correction was made; and

(b) does not impose or increase any obligation or liability that was incurred before the correction was made.

Other errors in the Register

(3) The First Parliamentary Counsel may correct any other mistake, omission or other error in the Register, subject to any requirements of the rules.

Section does not apply to errors in text of Acts or instruments as enacted or made, or as amended

(4) This section does not apply to the correction of an error:

(a) for a registered Act or instrument—in the text of the Act or instrument as originally enacted or made; or

(b) for a registered compilation of an Act, legislative instrument or notifiable instrument—in the text of the Act or instrument as amended (if at all) and in force.

15E Federal Register of Legislation—keeping the Register

The rules may provide for, or in relation to, the following:

(a) keeping the Federal Register of Legislation;

(b) giving unique identifiers to registered Acts, legislative instruments, notifiable instruments and compilations, and other registered documents;

(c) numbering for series of legislative instruments, notifiable instruments and other documents in the Register;

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(d) including additional documents in the Register and removing them from the Register;
(e) including information in the Register, changing it and removing it from the Register.

Division 3—Registration on Federal Register of Legislation

15F Registration of Acts

The First Parliamentary Counsel must register an Act as soon as practicable after the Act is assented to.

15G Lodgement of legislative instruments and notifiable instruments, and other material

Legislative instruments and notifiable instruments

(1) The rule-maker for a legislative instrument must lodge the instrument for registration as a legislative instrument as soon as practicable after the instrument is made.

(2) The rule-maker for a notifiable instrument must lodge the instrument for registration as a notifiable instrument as soon as practicable after the instrument is made.

(3) The rule-maker for an instrument made under a power delegated by the Parliament, other than a legislative instrument or notifiable instrument, may lodge the instrument for registration as a legislative instrument or notifiable instrument.

Note: For instruments that become legislative instruments by registration, see subsection 8(3). For instruments that become notifiable instruments by registration, see paragraph 11(2)(c).

Explanatory statements for legislative instruments

(4) The rule-maker for an instrument that is lodged for registration as a legislative instrument must:
(a) lodge an initial explanatory statement for the instrument for registration as soon as practicable after the instrument is lodged for registration; and

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(b) lodge any supplementary explanatory statement or replacement explanatory statement for the instrument for registration as soon as practicable after it is prepared.

Note: For explanatory statements and supplementary and replacement explanatory statements, see section 15J.

Other documents

(5) The rule-maker for an instrument that is, or that is to be, registered as a legislative instrument or notifiable instrument may lodge a document that relates to the instrument for registration.

15H Registration of legislative instruments and notifiable instruments, and other documents

(1) If an instrument is lodged for registration as a legislative instrument or notifiable instrument in accordance with section 15G and the rules, the First Parliamentary Counsel must register the instrument or document:
  (a) if the instrument is lodged for registration as a legislative instrument—as a legislative instrument; or
  (b) if the instrument is lodged for registration as a notifiable instrument—as a notifiable instrument.

(2) If an instrument or document is lodged for registration otherwise than as a legislative instrument or notifiable instrument, in accordance with section 15G and the rules, the First Parliamentary Counsel must register the instrument or document accordingly.

(3) However, the First Parliamentary Counsel must not register an instrument or document if:
  (a) for a document lodged for registration otherwise than as a legislative instrument or notifiable instrument—the First Parliamentary Counsel considers that:
    (i) the document is not likely to be useful to users of the Register; or
    (ii) it would otherwise be inappropriate to register the document; or
  (b) before the instrument or document is registered, the person lodging the instrument or document (or another person acting on behalf of the responsible person for the instrument, or for

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the instrument to which the document relates) withdraws the lodgement.

(4) If the First Parliamentary Counsel does not register an instrument or document because of paragraph (3)(a), he or she must give written notice to the person lodging the instrument or document.

15J Explanatory statements

*Definition of **explanatory statement***

(1) An ***explanatory statement*** for a legislative instrument is one of the following statements prepared for laying before each House of Parliament:

(a) a statement (an ***initial explanatory statement***) for the instrument that complies with subsection (2);

(b) a statement (a ***replacement explanatory statement***) for the instrument that:

(i) replaces an explanatory statement for the instrument that has already been registered; and

(ii) complies with subsection (2);

(c) a statement (a ***supplementary explanatory statement***) for the instrument that:

(i) amends an initial explanatory statement or a replacement explanatory statement; and

(ii) complies with subsection (3).

Requirements for initial and replacement explanatory statements

(2) An initial explanatory statement, or a replacement explanatory statement, for a legislative instrument must:

(a) be approved by the rule-maker; and

(b) explain the purpose and operation of the instrument; and

(c) if any documents are incorporated in the instrument by reference—contain a description of the incorporated documents and indicate how they may be obtained; and

(d) if consultation was undertaken under section 17 before the instrument was made—contain a description of the nature of that consultation; and

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(e) if no such consultation was undertaken—explain why no such consultation was undertaken; and

(f) if the instrument is a disallowable legislative instrument—contain a statement of compatibility prepared under subsection 9(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011*; and

(g) contain such other information as is prescribed by regulation.

Requirements for supplementary explanatory statements

(3) A supplementary explanatory statement for a legislative instrument must:

(a) be approved by the rule-maker; and

(b) contain such other information as is prescribed by regulation.

Single explanatory statements—one or more legislative instruments

(4) A single explanatory statement may relate to one or more legislative instruments.

15K Registration—enforceability of legislative instruments

(1) A legislative instrument is not enforceable by or against any person (including the Commonwealth) unless the instrument is registered as a legislative instrument.

(2) A failure by the rule-maker to lodge an explanatory statement in relation to a legislative instrument for registration as required by subsection 15G(4) does not affect the validity or enforceability of the instrument.

15L Events affecting the currency or accuracy of the Register

(1) The responsible person for a registered Act, legislative instrument or notifiable instrument must give notice to the First Parliamentary Counsel of the occurrence of any of the following events in relation to the Act or instrument:

(a) an event resulting in, or otherwise affecting, the commencement of the Act or instrument (or a provision of the Act or instrument);

(b) a discretionary compilation event for the Act or instrument;

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(c) an event resulting in the Act or instrument (or a provision of the Act or instrument) being repealed, lapsing, expiring or otherwise ceasing to be in force;

(d) an event resulting in the Act or instrument, or a provision of the Act or instrument, being (or being declared by a court or tribunal to be) invalid or unenforceable;

(e) the responsible person's becoming aware of:

(i) an error in the Register to which subsection 15D(1) (correction of registration errors) may apply; or

(ii) any other error in the Register;

(f) another event prescribed by the rules.

Example: If a registered legislative instrument is expressed to commence when a particular treaty comes into force for Australia, paragraph (1)(a) would require the responsible person for the instrument to notify the First Parliamentary Counsel when the treaty comes into force.

(2) However, subsection (1) does not require the responsible person to give notice to the First Parliamentary Counsel of any of the following events in relation to a registered Act or instrument:

(a) the occurrence of a day or time specified in the Act or instrument, or the making of a commencement instrument, resulting in, or otherwise affecting, the commencement of the Act or instrument (or a provision of the Act or instrument);

(b) a required compilation event for the Act or instrument;

(c) for a disallowable legislative instrument—the disallowance of:

(i) the instrument (or a provision of the instrument); or

(ii) another legislative instrument (or a provision of another legislative instrument) that amends the instrument;

(d) for a legislative instrument or notifiable instrument—the amendment or repeal of the instrument by:

(i) the operation of Part 3 of Chapter 3 (repeal of spent instruments or provisions); or

(ii) the operation of Part 4 of Chapter 3 (sunsetting of legislative instruments);

(e) another event prescribed by the rules.

15M Rules for lodgement and registration

The rules may provide for, or in relation to, any of the following:

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(a) the lodgement of instruments and documents for registration, including any or all of the following:
  (i) the form in which instruments and documents must or may be lodged;
  (ii) any other matters affecting how instruments and documents must or may be lodged;
  (iii) the information that must or may be provided with instruments and documents;
  (iv) the certification of instruments and documents;
  (v) other requirements to be satisfied for lodgement;
(b) the identification of instruments and documents lodged for registration, including authorising the First Parliamentary Counsel to do any or all of the following:
  (i) adding a name to an unnamed instrument or document;
  (ii) amending the name of an instrument or document;
  (iii) adding anything to an instrument or document to assist in its identification;
  (iv) doing anything else in relation to an instrument or document to assist users of the Register to identify or refer to the instrument or document;
(c) the withdrawal of lodgement of instruments or documents;
(d) the registration of Acts, instruments and documents;
(e) the refusal of registration of instruments and documents;
(f) alternative arrangements for the registration of Acts, instruments and documents in the event of technical difficulties;
(g) any other matter relating to the lodgement of instruments and documents;
(h) any other matter relating to the registration of Acts, instruments and documents.

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Part 2—Compilations

Division 1—Simplified outline of this Part

15N Simplified outline of this Part

A compilation shows the text of an Act, legislative instrument or notifiable instrument as amended (if at all) and in force on the compilation date stated in the Act or instrument.

The First Parliamentary Counsel must generally register a compilation after a registered Act or instrument is amended, and in some other circumstances.

A rule-maker for a legislative instrument or notifiable instrument must lodge a compilation for registration if the instrument is amended, or in some circumstances on notice from the First Parliamentary Counsel.

The First Parliamentary Counsel may make editorial changes and some other changes in preparing a compilation of a registered Act or instrument, as long as they do not change the effect of the Act or instrument.

Division 2—Registration of compilations

15P Registered compilations—information requirements

(1) Without limiting the information that a registered compilation of an Act, legislative instrument or notifiable instrument (the ***principal law***) may include, the registered compilation must include the following information:

(a) the compilation date;

(b) if any editorial changes are made in preparing the compilation—a statement that editorial changes have been made and a brief outline of the changes in general terms;

(c) details (including commencement details) of any Act or instrument that amends the principal law;

(d) the amendment history of provisions of the principal law;

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(e) any further information prescribed by the rules.

(2) However, the information mentioned in any of paragraphs (1)(c) to (e) does not need to be included in the compilation if:

(a) the First Parliamentary Counsel is satisfied that the information mentioned in that paragraph is otherwise appropriately available on an approved website to users of the Federal Register of Legislation; and

(b) the compilation indicates in general terms how users of the Register may access that information on the approved website.

15Q Definitions of *required compilation event* and *discretionary compilation event* etc.

Definitions

(1) A ***required compilation event*** occurs for an Act, legislative instrument or notifiable instrument when:

(a) the Act or instrument is expressly amended (otherwise than under section 48C or 48D); or

(b) in the case of a disallowable legislative instrument:

(i) a provision of the instrument is disallowed under section 42; or

(ii) a provision of another disallowable legislative instrument has amended a provision of the instrument, but the amending instrument, or the amending provision, is disallowed under section 42; or

(c) a provision of the Act or instrument is repealed, lapses, expires or otherwise ceases to be in force under another Act or instrument (other than this Act), or because of the making of another Act or instrument; or

(d) something else happens that is prescribed by the rules for the purposes of this paragraph.

(2) A ***discretionary compilation event*** occurs for an Act, legislative instrument or notifiable instrument when:

(a) a provision of the Act or instrument commences; or

(b) in the case of a legislative instrument or notifiable instrument—the instrument is amended by section 48C or 48D; or

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(c) the Act or instrument is modified; or

(d) the Act or instrument is impliedly amended; or

(e) a provision of the Act or instrument is repealed, lapses, expires or otherwise ceases to be in force under another provision of that Act or instrument; or

(f) if no compilation has been registered for the Act or instrument—the text of the Act or instrument as registered otherwise ceases to show the text of the Act or instrument as in force; or

(g) if a compilation has been registered for the Act or instrument—the text of the latest registered compilation otherwise ceases to show the text of the Act or instrument as amended (if at all) and in force; or

(h) something else happens that is prescribed by the rules for the purposes of this paragraph.

Note: Sections 48C and 48D provide for the automatic repeal of amending, repealing and commencement provisions of legislative instruments and notifiable instruments.

When an Act or instrument is amended

(3) For the purposes of this Division, an Act or instrument is amended by an Act or instrument, or a provision of an Act or instrument, when the amending Act or provision commences.

15R Lodgement of compilations of instruments—required compilation events

Compilation required to be prepared and lodged

(1) If a required compilation event occurs for a legislative instrument or notifiable instrument, the rule-maker must prepare and lodge for registration a compilation of the instrument for registration.

Compilation date

(2) The compilation date for the compilation must be the date of the required compilation event.

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Time for lodgement

(3) The rule-maker must lodge for registration the compilation required by subsection (1) within 28 days after the event occurs, or a longer period allowed by the First Parliamentary Counsel.

Exceptions

(4) This section does not apply to legislative instruments or notifiable instruments, or in circumstances, prescribed by rules made for the purposes of this subsection.

Example: A circumstance prescribed by the rules may be if the First Parliamentary Counsel prepares and registers a compilation of a legislative instrument or notifiable instrument.

15S Lodgement of compilations of instruments—discretionary compilation events

Compilation required to be prepared and lodged if notice given

(1) If a discretionary compilation event occurs for a legislative instrument or notifiable instrument, the First Parliamentary Counsel may, by written notice given to the rule-maker, require the rule-maker, within a period stated in the notice, to prepare and lodge for registration a compilation of the instrument for registration.

Compilation date

(2) The compilation date for the compilation must be the date of the discretionary compilation event.

Time for lodgement

(3) If a notice is given under subsection (1) to a rule-maker for an instrument, the rule-maker must lodge for registration a compilation of the instrument within the period stated in the notice, or a longer period allowed by the First Parliamentary Counsel.

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15T Registration of compilations

Required compilation events for Acts

(1) If a required compilation event occurs for an Act, the First Parliamentary Counsel must prepare and register a compilation of the Act as soon as practicable afterwards.

Required compilation events for instruments

(2) If a required compilation event occurs for a legislative instrument or notifiable instrument, the First Parliamentary Counsel must register a compilation of the instrument:
  (a) if a compilation is lodged for registration within 28 days after the event, or within a longer period allowed by the First Parliamentary Counsel—as soon as practicable after lodgement; or
  (b) if a compilation is not lodged for registration within that period—as soon as practicable after the end of the period.

(3) However, if a required compilation event occurs for a legislative instrument or notifiable instrument, and section 15R does not apply because of subsection 15R(4), the First Parliamentary Counsel must prepare and register a compilation of the instrument as soon as practicable afterwards.

Discretionary compilation events for Acts and instruments

(4) If a discretionary compilation event occurs for an Act or a legislative instrument or notifiable instrument, the First Parliamentary Counsel may prepare and register a compilation of the Act or instrument.

(5) If a discretionary compilation event occurs for a legislative instrument or notifiable instrument, and the First Parliamentary Counsel gives the rule-maker for the instrument a notice under section 15S, the First Parliamentary Counsel must register a compilation of the instrument:
  (a) if a compilation is lodged for registration within the period stated in the notice, or within a longer period allowed by the First Parliamentary Counsel—as soon as practicable after lodgement; or

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(b) if a compilation is not lodged for registration within that period—as soon as practicable after the end of the period.

No required or discretionary compilation event for Act or instrument

(6) The First Parliamentary Counsel may prepare and register a compilation of an Act, legislative instrument or notifiable instrument even if neither a required compilation event nor a discretionary compilation event has occurred for the Act or instrument.

Repeal, disallowance, lapse or expiry of Act or instrument

(7) The First Parliamentary Counsel must ensure that a registered compilation of an Act, legislative instrument or notifiable instrument is no longer shown on the Register as a compilation currently in force as soon as practicable after:
(a) the Act or instrument is repealed, expires, lapses or otherwise ceases to be in force; or
(b) for a disallowable legislative instrument—the instrument is disallowed under section 42.

15U Compilations—rules

General

(1) The rules may provide for, or in relation to, any of the following in relation to compilations of Acts, legislative instruments or notifiable instruments:
(a) the format, layout and printing style required for compilations, and any other presentational aspects of compilations;
(b) the extent and form of the information mentioned in subsection 15P(1) or (2) that is required to be included in compilations, or made available on an approved website;
(c) any other matter relating to the preparation of compilations;
(d) the lodgement of compilations of instruments for registration, including any of the following:
(i) the form in which compilations must or may be lodged;
(ii) how compilations must or may be lodged;

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(iii) the information that must or may be provided with or for compilations;
(iv) the certification of compilations;
(v) other requirements to be satisfied for compilations;

(e) the withdrawal of lodgement of compilations of instruments;
(f) the registration of compilations of Acts and instruments;
(g) the refusal of registration of compilations of instruments;
(h) alternative arrangements for the registration of compilations of Acts, and for the lodgement and registration of compilations of instruments, in the event of technical difficulties;
(i) any other matter relating to the lodgement or registration of compilations of Acts or instruments.

Compilations reflecting retrospective amendments

(2) If an amendment of an Act, a legislative instrument or a notifiable instrument commences retrospectively, in addition to any other requirement or power under this Division in relation to the lodgement or registration of a compilation of the Act or instrument as a result of that amendment, the rules may provide for:
(a) in the case of the amendment of an Act—the registration of compilations of the Act with different specified compilation dates; and
(b) in the case of the amendment of an instrument—the lodgement and registration of compilations of the instrument with different specified compilation dates.

Note 1: In this situation, this Division may require the lodgement or registration of a compilation of an Act or instrument with a compilation date that is the date of retrospective commencement of the amendments.

Note 2: Rules under subsection (2) may also require or permit the lodgement or registration of an additional compilation or compilations (with different compilation dates) reflecting the retrospective effect of the amendments.

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Division 3—Editorial changes and other changes

15V Power to make editorial changes and other changes

Editorial changes

(1) In preparing a compilation of an Act, legislative instrument or notifiable instrument for registration (including a compilation that has been lodged for registration), the First Parliamentary Counsel may make editorial changes to any text that is part of the Act or instrument.

Note 1: For what is an ***editorial change***, see section 15X.

Note 2: For what text forms part of the Act or instrument, see section 13 of the *Acts Interpretation Act 1901* (which applies in relation to instruments under section 13 of this Act).

(2) The First Parliamentary Counsel may make an editorial change to an Act or instrument under subsection (1) only if he or she considers the change to be desirable to:

(a) bring the Act or instrument into line, or more closely into line, with legislative drafting practice being used by the Office of Parliamentary Counsel; or

(b) correct an error, or ensure that a misdescribed amendment of the Act or instrument is given effect to as intended.

Presentational changes

(3) In preparing a compilation of an Act, legislative instrument or notifiable instrument for registration (including a compilation that has been lodged for registration), the First Parliamentary Counsel may make changes to the Act or instrument that affect the format, layout or printing style of the Act or instrument, or any other presentational aspect of the Act or instrument.

(4) The First Parliamentary Counsel may make a change to an Act or instrument under subsection (3) only if he or she considers the change to be desirable to bring the Act or instrument into line, or more closely into line, with legislative drafting practice being used by the Office of Parliamentary Counsel.

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Text not part of an Act or instrument

(5) In preparing a compilation of an Act, legislative instrument or notifiable instrument (including a compilation that has been lodged for registration), the First Parliamentary Counsel may include, omit or change any text that is not part of the Act or instrument, including (without limitation) any of the following:

(a) a table of contents or other provision that only describes the arrangement of the Act or instrument (or provisions of the Act or instrument) into groups of provisions;

(b) a reader's guide, simplified outline or similar text that only describes the nature or effect of the Act or instrument;

(c) text, known as alternative text (or "alt text"), that does not form part of the Act or instrument because of subsection 13(3) of the *Acts Interpretation Act 1901* (including that subsection as applied by section 13 of this Act);

(d) for an instrument—instrument-making words.

Note: For paragraph (c), alternative text may, for example, aurally indicate the effect of a graphic image in an Act or instrument to assist users of an approved website who have visual disabilities.

No change of effect

(6) The First Parliamentary Counsel must not make a change to an Act or instrument under this section that would change the effect of the Act or instrument.

(7) Subsection (6) does not prevent the First Parliamentary Counsel making a change to an Act or instrument mentioned in paragraph (2)(m) of the definition of ***editorial change*** in subsection 15X(2), or any editorial change consequential on such a change, as mentioned in paragraph (2)(q) of that definition.

Note: Such a change consists of the incorporation into an Act or instrument of an application, savings, transitional, validation or similar provision that is contained in an amending Act or instrument.

15W Editorial changes treated in the same way as amendments

If the First Parliamentary Counsel makes an editorial change to an Act or instrument under section 15V in preparing a compilation, then, after the registration of the compilation:

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(a) the Act or instrument has effect for all purposes as if the change had been made by an amendment of the Act or instrument that commenced on the day the compilation was registered; and

(b) the Act or instrument may be further amended as if the change had been made by an amendment of the Act or instrument.

15X Definition of *editorial change*

(1) This section describes the kinds of editorial changes that the First Parliamentary Counsel may make to an Act, legislative instrument or notifiable instrument under section 15V in preparing a compilation of the Act or instrument.

Note: An editorial change cannot be made to an Act, legislative instrument or notifiable instrument if it would change the effect of the Act or instrument (see subsection 15V(6)).

(2) An ***editorial change*** to an Act, legislative instrument or notifiable instrument is a change made by the First Parliamentary Counsel that:

(a) goes only to a matter of spelling, punctuation, grammar or syntax, or the use of conjunctives and disjunctives; or

(b) updates a reference to:

(i) a law covered by subsection (3) (or a provision of such a law); or

(ii) a person, body or other entity, or an office, position, place, document or thing; or

(c) changes the short title of an Act or the name of an instrument, or the name of the types of provision in an instrument; or

(d) numbers or renumbers a provision of the Act or instrument; or

(e) changes the order of definitions or other provisions of the Act or instrument; or

(f) replaces a reference to a provision of a law covered by subsection (3) with a different form of reference to the provision; or

(g) changes the way of referring to or expressing a number, year, date, time, amount of money or other amount, penalty, quantity, measurement or other matter, idea or concept; or

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Example: A reference in a form to "this [blank] day of [blank] 19…" may be changed to "[Date]".

(h) changes language that indicates gender or that could be taken to indicate gender; or

(i) omits or changes a table of contents or other provision that only describes the arrangement of the Act or instrument (or provisions of the Act or instrument) into groups of provisions; or

(j) omits or changes a reader's guide, simplified outline or other text that only describes the nature or effect of the Act or instrument; or

(k) omits a provision, or a reference to a law covered by subsection (3) (or a provision of such a law) that has expired, the operation of which is exhausted or spent, or that is otherwise obsolete or redundant; or

(l) omits, inserts or changes a term that identifies a provision of the Act or instrument as a provision, or part of a provision, of the Act or instrument; or

Examples: The following are examples of references to provisions:

(a) of these regulations;
(b) of this regulation;
(c) of this section;
(d) hereof;
(e) said.

(m) incorporates into the Act or instrument (the ***principal law***) an application, savings, transitional, validation or similar provision that is contained in another Act or instrument that amends the principal law; or

(n) shows the effect of any amendment of the Act or instrument, or is consequential on any such amendment; or

Example: The heading to a section may be changed to reflect the effect of an amendment of the section.

(o) if an amendment of the Act or instrument is misdescribed by an amending Act or instrument—gives effect to the misdescribed amendment as intended; or

(p) corrects an error covered by subsection (4); or

(q) is consequential on any other editorial change made to the Act or instrument or to another Act or instrument.

(3) This subsection covers the following laws:

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(a) an Act;
(b) an instrument made under an Act or another power given by law;
(b) an Act of a State, a Territory or New Zealand, or an instrument made under such an Act.

(4) This subsection covers the following errors:
(a) typographical and clerical errors;
(b) grammatical and spelling errors, and errors of punctuation;
(c) errors in numbering, cross-referencing and alphabetical ordering;
(d) errors in references to laws or instruments, or provisions of such laws, covered by subsection (3);
(e) errors in or arising out of an amendment of an Act or instrument, including errors relating to the number of times such an amendment is expressed to be made;
(f) any other errors of a nature similar to those mentioned in paragraphs (a) to (e).

Part 3—Authorised versions and judicial notice

Division 1—Introduction

15Y Simplified outline of this Part

Authorised versions of registered Acts, legislative instruments, notifiable instruments, explanatory statements for legislative instruments and compilations may be sourced from the approved website. Judicial notice may be taken of authorised versions and related matters.

15Z Scope of this Part

This Part applies in relation to each of the following documents (a ***registered law or explanatory statement***) and, in the same way, to a provision or part of each document:
(a) a registered Act;
(b) a registered legislative instrument or notifiable instrument;

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(c) a registered explanatory statement for a legislative instrument;
(d) a registered compilation of an Act, legislative instrument or notifiable instrument.

Division 2—Authorised versions and judicial notice

15ZA Authorised versions

Authorised electronic versions

(1) An electronic copy of a registered law or explanatory statement is an ***authorised version*** of the registered law or explanatory statement if:
(a) the electronic copy is accessed at, or downloaded from, an approved website in a format prescribed by the rules; and
(b) either:
(i) the website indicates, in a way prescribed by the rules, that such a copy is an authorised version; or
(ii) the electronic copy indicates, in a way prescribed by the rules, that it is an authorised version.

Example: For paragraph (a), a locked pdf file may be a format prescribed by the rules.

(2) An electronic copy of a registered law or explanatory statement is an ***authorised version*** of the registered law or explanatory statement if:
(a) it is in a format prescribed by the rules; and
(b) the electronic copy indicates, in a way prescribed by the rules, that it is an authorised version.

Example: For paragraph (a), a locked pdf file may be a format prescribed by the rules.

Authorised printed versions

(3) A printed copy of a registered law or explanatory statement is an ***authorised version*** of the registered law or explanatory statement if the copy indicates, in a way prescribed by the rules, that it is an authorised version.

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(4) A printed copy of a registered law or explanatory statement is an ***authorised version*** of the registered law or explanatory statement if the copy is produced directly from another version of the registered law or explanatory statement that is an authorised version under subsection (1), (2) or (3), or this subsection.

Presumptions about an approved website and registered laws or explanatory statements

(5) It is presumed, unless the contrary is proved, that:

(a) a website purporting to be an approved website is an approved website; and

(b) if accessed at a website mentioned in paragraph (a), an Act, a legislative instrument, a notifiable instrument, an explanatory statement for a legislative instrument or a compilation of an Act or a legislative instrument or notifiable instrument is registered; and

(c) an electronic copy of a registered law or explanatory statement accessed at, or downloaded from, an approved website is an authorised version under subsection (1), if:

(i) the website indicates (in any way) that such a copy is an authorised version; or

(ii) the copy indicates (in any way) that the copy is an authorised version; and

(d) an electronic copy of a registered law or explanatory statement is an authorised version under subsection (2) if the copy indicates (in any way) that it is an authorised version; and

(e) a printed copy of a registered law or explanatory statement is an authorised version under subsection (3) or (4) if the copy indicates (in any way) that it is an authorised version; and

(f) an authorised version of a registered Act, legislative instrument or notifiable instrument, as made, correctly shows the text of the Act or instrument as made; and

(g) an authorised version of a registered explanatory statement for a legislative instrument correctly shows the text of the statement as approved by the rule-maker (under subsection 15J(2) or (3)); and

(h) an authorised version of a registered compilation of an Act, legislative instrument or notifiable instrument correctly

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shows the text of the Act or instrument as amended (if at all) and in force on the compilation date.

Forms of indication

(6) A way of indicating that is prescribed by rules made for the purposes of subsection (1), (2) or (3), or an indication mentioned in paragraph (5)(c), (d) or (e), may include an indication consisting of any text, including one or more of the following:

(a) a logo;

(b) a form of words;

(c) a unique identifier, for a registered law or explanatory statement, prescribed by the rules.

15ZB Judicial notice

(1) In proceedings in a court or tribunal, proof is not required about any of the following:

(a) the assent, and the day of assent, of an Act;

(b) the making, and the day of making, of a registered legislative instrument or notifiable instrument;

(c) the text of a registered law or explanatory statement;

(d) the registration, and day of registration, of a registered law or explanatory statement;

(e) the commencement of a registered Act, legislative instrument or notifiable instrument, or any provision of a registered Act, legislative instrument or notifiable instrument;

(f) editorial changes made to an Act, legislative instrument or notifiable instrument in preparing a registered compilation of the Act or instrument;

(g) the text and compilation date of a registered compilation of an Act, legislative instrument or notifiable instrument;

(h) whether a copy of a registered law or explanatory statement is an authorised version of the registered law or explanatory statement.

(2) A court or tribunal may inform itself of anything mentioned in subsection (1) in any way it considers appropriate.

(3) However, the court or tribunal must consider whether the source it intends to use appears to be a reliable source of information.

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(4) For the purposes of subsection (3), an authorised version of a registered law or explanatory statement is a reliable source of information.

(5) This section does not limit any other law providing how a court or tribunal may be informed about a matter mentioned in subsection (1).

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Part 3—Legislative instruments and notifiable instruments generally

Legislative Instruments Act 2003

27 Part 2 (heading)

Repeal the heading, substitute:

Chapter 3—Legislative instruments and notifiable instruments

Part 1—Drafting standards and consultation

15ZC Simplified outline of this Part

> The First Parliamentary Counsel is responsible for promoting the legal effectiveness, clarity and intelligibility of legislative instruments and notifiable instruments.
>
> Before a legislative instrument is made, the rule-maker must be satisfied that any consultation that is appropriate and reasonably practicable has taken place.

28 Section 16 (heading)

Repeal the heading, substitute:

16 Measures to achieve high drafting standards for legislative instruments and notifiable instruments

29 Subsection 16(1)

After "legislative instruments" (wherever occurring), insert "and notifiable instruments".

30 Paragraphs 16(2)(a), (b) and (c)

After "legislative instruments", insert "and notifiable instruments".

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31 Paragraphs 16(3)(a) and (b)

Repeal the paragraphs, substitute:

(a) to prevent the use of gender-specific language in legislative instruments and notifiable instruments in circumstances where it is not necessary to identify persons by their sex; and

(b) to advise rule-makers for registered legislative instruments or notifiable instruments if those instruments use gender-specific language in those circumstances; and

32 Part 3 (heading)

Repeal the heading.

33 Subsection 17(1)

Repeal the subsection, substitute:

(1) Before a legislative instrument is made, the rule-maker must be satisfied that there has been undertaken any consultation that is:

(a) considered by the rule-maker to be appropriate; and

(b) reasonably practicable to undertake.

34 Section 17 (note)

Omit "subsection 26(1A)", substitute "subsection 15J(2)".

35 Section 18

Repeal the section.

36 Part 4

Repeal the Part.

37 Part 5 (heading)

Repeal the heading, substitute:

Part 2—Parliamentary scrutiny of legislative instruments

38 Before section 37

Insert:

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36 Simplified outline of this Part

> The Office of Parliamentary Counsel must generally deliver a legislative instrument for laying before each House of the Parliament within 6 sitting days of that House after the instrument is registered (with the instrument's registered explanatory statement, if applicable).
>
> A legislative instrument (or a provision) may be disallowed by either House within a certain time after the instrument is tabled. A legislative instrument is taken to be repealed if it is disallowed. Some legislative instruments are required to be tabled in Parliament, but are not subject to disallowance.

39 Section 37 (note)

Repeal the note, substitute:

Note: Some legislative instruments are not disallowable (see section 44).

40 Subsection 38(1)

Omit "legislative instrument registered under Division 2 of Part 4", substitute "registered legislative instrument".

41 Subsection 38(2)

Repeal the subsection.

42 Subsection 38(3)

Omit "that is required to be laid before each House of the Parliament is not so laid", substitute "is not laid before each House of the Parliament".

43 At the end of subsection 38(3)

Add:

Note: See also subsection 45(1).

44 Section 39

Repeal the section, substitute:

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39 Tabling of explanatory statements

(1) If an explanatory statement for a legislative instrument is registered, the Office of Parliamentary Counsel must arrange for a copy of the explanatory statement to be delivered to each House of the Parliament, to be laid before each House.

(2) The delivery to each House of the Parliament must be arranged:
  (a) in the case of an initial explanatory statement:
    (i) if practicable, at the same time as a copy of the instrument is delivered to that House under section 38; or
    (ii) in any other case—within 6 sitting days of that House after registration of the explanatory statement; or
  (b) in the case of a supplementary explanatory statement or replacement explanatory statement—within 6 sitting days of that House after registration of the explanatory statement.

(3) If the initial explanatory statement for a legislative instrument is lodged by the rule-maker for registration too late for it to be delivered to a House of the Parliament at the same time as a copy of the instrument, the rule-maker must, as soon as possible, deliver to that House a written statement explaining the lateness of lodgement.

(4) If a replacement explanatory statement replacing an initial explanatory statement is registered before the initial explanatory statement is delivered to each House of the Parliament under subsection (1):
  (a) this section stops applying to the initial explanatory statement; and
  (b) this section applies to the replacement explanatory statement as if it were the initial explanatory statement.

Note: For initial explanatory statements and supplementary and replacement explanatory statements, see section 15J.

45 At the end of subsections 42(1) and (2)

Add:

Note: See also subsection 45(1).

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46 Subsection 44(1)

Omit ", made on or after the commencing day,".

47 Subsections 44(2) and (3)

Repeal the subsections, substitute:

(2) Section 42 does not apply in relation to a legislative instrument, or a provision of a legislative instrument, if:

(a) an Act declares, or has the effect, that section 42 does not apply in relation to the instrument or provision; or

(b) the legislative instrument is prescribed by regulation for the purposes of this paragraph.

(3) Prescribing a kind of instrument by regulation for the purposes of paragraph (2)(b) does not imply that every instrument of that kind is a legislative instrument.

48 Subsection 45(3)

Omit "Part 6", substitute "Part 4 (sunsetting of legislative instruments)".

49 Section 48

Repeal the section, substitute:

48 Remaking disallowed legislative instruments

(1) A legislative instrument or a provision of a legislative instrument (the ***later instrument or provision***) that is the same in substance as a legislative instrument or a provision of a legislative instrument (the ***disallowed instrument or provision***) that has been disallowed (or is taken to have been disallowed) under subsection 42(1) or (2) must not be made within 6 months after the day of disallowance.

(2) However, the later instrument or provision may be made within that time if the relevant House of the Parliament approves, by resolution, the making of a legislative instrument or provision the same in substance as the disallowed instrument or provision.

(3) For the purposes of subsection (2), the ***relevant House of Parliament*** is the House of Parliament in which notice was given of the motion to disallow the disallowed instrument or provision.

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(4) A legislative instrument or provision made in contravention of this section has no effect.

50 Part 5A (heading)

Repeal the heading, substitute:

Part 3—Repeal of spent legislative instruments, notifiable instruments and provisions

Division 1A—Simplified outline of this Part

51 Before Division 1 of Part 5A

Insert:

48AA Simplified outline of this Part

> A legislative instrument or notifiable instrument (or provision) that only repeals or amends another instrument, or provides for its commencement, is itself automatically repealed after it has achieved this effect.
>
> Regulations made under this Act may repeal a legislative instrument or notifiable instrument (or provision) if the Attorney-General is satisfied that the instrument (or provision) to be repealed is spent or is no longer required.

52 Subsection 48A(1)

Repeal the subsection, substitute:

(1) This section repeals a legislative instrument or notifiable instrument whose only legal effect is to amend or repeal one or more other legislative instruments or notifiable instruments, without making any application, saving or transitional provisions relating to the amendment or repeal.

(1A) For the purposes of subsection (1), a legislative instrument or notifiable instrument is not taken to make an application, saving or transitional provision mentioned in that subsection merely because the instrument amends another such instrument to make an

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application, saving or transitional provision relating to the amendment or repeal.

53 Subsection 48A(2)

Repeal the subsection, substitute:

Time of repeal

(2) The repeal of the instrument by this section happens on the day after the later of the following events occurs:
  (a) whichever of the following is applicable:
    (i) the commencement of the instrument, or of the last of its provisions to commence;
    (ii) if the last of its provisions that have not commenced are repealed, or cannot commence because of the occurrence of an event—that repeal, or the occurrence of that event;
  (b) the registration of the instrument.

54 At the end of subsection 48A(4)

Add:

Note: See also subsection 45(2).

55 Subsections 48B(1) and (2)

Repeal the subsections, substitute:

(1) This section repeals a commencement instrument that provides for the commencement of one of the following (a ***primary law***) or a provision (a ***primary provision***) of one of the following:
  (a) an Act;
  (b) a legislative instrument or notifiable instrument.

Time of repeal

(2) The repeal of the commencement instrument by this section happens on the day after the later of the following events occurs:
  (a) whichever of the following is applicable:
    (i) the commencement (or the last commencement) the commencement instrument provides for;

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(ii) if the commencement instrument provides for the commencement of a primary law, and the last of the provisions of the primary law that have not commenced are repealed—that repeal;

(iii) if the commencement instrument provides for the commencement of a primary law, and the primary law (or the last of the provisions of the primary law) cannot commence because of the occurrence of an event—the occurrence of that event;

(iv) if the commencement instrument provides for the commencement of a primary provision or primary provisions, and the primary provision (or the last of those primary provisions) is repealed, or cannot commence because of the occurrence of an event—that repeal, or the occurrence of that event;

(b) the registration of the commencement instrument.

56 Subdivision C of Division 1 of Part 5A (heading)

Repeal the heading, substitute:

Subdivision C—Repeal of amending or repealing provisions of instruments containing other matter

57 Subsection 48C(1)

After "legislative instrument" (first occurring), insert "or notifiable instrument".

58 Paragraph 48C(1)(a)

Omit "is made on or after the commencement of this section but".

59 Subparagraph 48C(1)(b)(i)

Omit "legislative instruments", substitute "legislative instruments or notifiable instruments".

60 Subsection 48C(2)

Repeal the subsection, substitute:

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Time of repeal

(2) The repeal of the provision by this section happens immediately after the later of the following events occurs:

(a) whichever of the following is applicable:

(i) the commencement of the provision;

(ii) if the provision cannot commence because of the occurrence of an event—the occurrence of that event;

(b) the registration of the legislative instrument or notifiable instrument containing the provision.

61 At the end of section 48C

Add:

Repeal of associated provisions

(5) If subsection (1) repeals a provision of a legislative instrument or notifiable instrument, this section also repeals the following provisions:

(a) any other provision (for example, a Schedule) of the instrument that only identifies another instrument or provision that is amended or repealed;

(b) any other provision (for example, a Part heading) of the instrument that only identifies (or groups) provisions that are amended or repealed.

Note: See also subsection 45(2).

62 Subdivision D of Division 1 of Part 5A (heading)

Repeal the heading, substitute:

Subdivision D—Repeal of commencement provisions of instruments containing other matter

63 Subsection 48D(1)

Repeal the subsection, substitute:

(1) This section repeals a provision (a ***commencement provision***) of a legislative instrument or notifiable instrument, other than a commencement instrument, if the commencement provision provides solely for the commencement of one of the following (a

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primary law) or a provision (a ***primary provision***) of one of the following:

(a) the instrument;

(b) an Act;

(c) another instrument that is a legislative instrument or notifiable instrument.

64 Subsection 48D(2)

Repeal the subsection, substitute:

Time of repeal

(2) The repeal of the commencement provision by this section happens immediately after the later of the following events occurs:

(a) whichever of the following is applicable:

(i) the commencement (or the last commencement) the commencement provision provides for;

(ii) if the commencement provision provides for the commencement of a primary law, and the last of the provisions of the primary law that have not commenced are repealed—that repeal;

(iii) if the commencement provision provides for the commencement of a primary law, and the primary law (or the last of the provisions of the primary law) cannot commence because of the occurrence of an event—the occurrence of that event;

(iv) if the commencement provision provides for the commencement of a primary provision, and the primary provision is repealed, or cannot commence because of the occurrence of an event—that repeal, or the occurrence of that event;

(b) the registration of the legislative instrument or notifiable instrument containing the commencement provision.

65 Section 48E (heading)

Repeal the heading, substitute:

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48E Regulations may repeal instruments or provisions no longer required

66 Subsections 48E(1) and (2)

After "legislative instrument" (wherever occurring), insert "or notifiable instrument".

67 Part 6 (heading)

Repeal the heading, substitute:

Part 4—Sunsetting of legislative instruments

68 Before section 49

Insert:

48F Simplified outline of this Part

Legislative instruments are automatically repealed after a fixed period of time (subject to some exceptions). The automatic repeal is called sunsetting.

Generally, legislative instruments sunset on the first 1 April or 1 October on or after the tenth anniversary of their registration. The Attorney-General may (by legislative instrument) defer sunsetting in some circumstances.

The Attorney-General must arrange for the tabling in each House of Parliament of a list of legislative instruments that are due for sunsetting on the same day. The Office of Parliamentary Counsel must then arrange for each rule-maker to be given a copy of the list.

Either House of Parliament may resolve to continue in force a legislative instrument that would otherwise sunset.

A legislative instrument does not sunset if this Act or a regulation under this Act, or another Act, provides or has the effect that this Part does not apply to the instrument.

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69 Subsection 50(3)

Omit "Part 5A", substitute "Part 3 (repeal of spent legislative instruments, notifiable instruments and provisions)".

70 Subsection 50(3) (note)

Omit "Part 5A", substitute "Part 3".

71 Subsection 51(3)

Omit "and, as such, is required under Part 4 to be registered".

72 Subsection 51A(3)

Omit "Part 5", substitute "Part 2 (parliamentary scrutiny of legislative instruments)".

73 Subsection 54(1)

Omit "made before, on or after the commencing day,".

74 Subsections 54(2) and (3)

Repeal the subsections, substitute:

(2) This Part does not apply in relation to a legislative instrument if:

(a) an Act provides, or has the effect, that this Part does not apply in relation to the instrument; or

(b) the legislative instrument is prescribed by regulation for the purposes of this paragraph; or

(c) the legislative instrument is a regulation made for the purposes of:

(i) paragraph 8(6)(b) (which covers instruments that are not legislative instruments); or

(ii) paragraph 10(1)(c) (which covers instruments that are legislative instruments); or

(iii) paragraph 11(2)(b) (which covers instruments that are notifiable instruments); or

(iv) paragraph 44(2)(b) (which covers instruments that are not subject to disallowance); or

(v) paragraph (b) of this subsection.

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(3) Prescribing a kind of instrument by regulation for the purposes of paragraph (2)(b) does not imply that every instrument of that kind is a legislative instrument.

75 Part 7 (heading)

Repeal the heading, substitute:

Chapter 4—Miscellaneous

76 Sections 55 and 56

Repeal the sections, substitute:

55 Simplified outline of this Chapter

This Chapter deals with miscellaneous matters, such as the following:

- publication requirements for legislative instruments other than publication by registration;
- parliamentary scrutiny requirements for instruments other than legislative instruments or notifiable instruments, other than scrutiny under this Act;
- delegation powers of the First Parliamentary Counsel;
- a review of Part 4 of Chapter 3 (sunsetting of legislative instruments) in 2017;
- the First Parliamentary Counsel's power to make rules for this Act (rules are legislative instruments);
- the power to make regulations under this Act, including a regulation that amends any legislative instrument or notifiable instrument with the agreement of the rule-maker for the instrument.

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56 Legislative instruments—gazettal and other publication and notification requirements

Gazettal requirements satisfied by registration

(1) If a primary law requires a legislative instrument made under that law or other enabling legislation, or particulars of the making of the instrument, to be published or notified in the Gazette, the requirement is taken to be satisfied if the instrument is registered as a legislative instrument.

Other publication or notification requirements in addition to registration

(2) Subsection (3) applies if a primary law as enacted or made, or as amended, on or after 1 January 2005 requires a legislative instrument made under that law or other enabling legislation, or particulars of the making of the instrument, to be published or notified otherwise than in the Gazette.

Note: The substantive provisions of this Act commenced on 1 January 2005.

(3) The requirement for publication or notification is taken to be in addition to a requirement under this Act for the legislative instrument to be registered as a legislative instrument.

77 Subsections 57(1) and (2)

Repeal the subsections, substitute:

(1) If, before 1 January 2005, a law required a document that is a legislative instrument for the purposes of this Act to be laid before the Parliament within a certain time, and in a certain way, compliance with section 38 on and after 1 January 2005 is taken to constitute full compliance with those requirements.

(2) If, before 1 January 2005, a law provided for the disallowance of a document that is a legislative instrument for the purposes of this Act, sections 42 to 48 are taken to apply in respect of the document, subject to subsection (5), to the exclusion of the provision for disallowance in that law.

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78 Subsections 57(3), (4) and (5)

Omit "the commencing day" (wherever occurring), substitute "1 January 2005".

79 Subsection 57(5)

Omit "of Part 5 of this Act".

80 At the end of section 57

Add:

Note: The substantive provisions of this Act commenced on 1 January 2005.

81 After section 57

Insert:

57A Legislative instruments made under power delegated by the Parliament before 1 January 2005

For the purposes of subsection 8(5) (meaning of ***legislative instrument***), an instrument is a legislative instrument if:

(a) it is made under a power delegated by the Parliament before 1 January 2005; and

(b) in accordance with a provision of the enabling legislation, the instrument:

(i) is declared to be a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901* as in force at any time before 1 January 2005; or

(ii) is otherwise able to be disallowed under Part XII of the *Acts Interpretation Act 1901* as in force at any time before 1 January 2005.

Note: The substantive provisions of this Act commenced on 1 January 2005.

82 Paragraph 58(a)

Repeal the paragraph, substitute:

(a) a Second Parliamentary Counsel (appointed under subsection 4(1) of the *Parliamentary Counsel Act 1970*); or

83 Section 59

Repeal the section, substitute:

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59 Review of operation of this Act

(1) During the 3 months starting on the fifth anniversary of the commencement (the ***framework reform commencement***) of Schedule 1 to the *Acts and Instruments (Framework Reform) Act 2015*, the Attorney-General must appoint persons to a body to review the operation of this Act.

(2) A person appointed to the body may resign from it by giving the Attorney-General a signed notice of resignation.

(3) The body must review all aspects of the operation of this Act and any related matters that the Attorney-General specifies.

(4) The body must give the Attorney-General a written report on the review within 15 months after the fifth anniversary of the framework reform commencement.

(5) The Attorney-General must cause the report to be laid before each House of the Parliament within 6 sitting days of the House after the Attorney-General receives the report.

84 Subsection 60(1)

Repeal the subsection, substitute:

(1) Between 1 January and 31 March 2017, the Attorney-General must appoint persons to a body to review the operation of Part 4 of Chapter 3 (sunsetting of legislative instruments).

85 Subsection 60(3)

Omit "Part 6", substitute "Part 4 of Chapter 3".

86 Subsection 60(4)

Omit "within 9 months after the 12th anniversary of the commencing day", substitute "before 1 October 2017".

87 Section 61

Repeal the section, substitute:

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61 Legislative instrument and notifiable instrument amendments by regulations under this Act

(1) A regulation under this Act may amend a legislative instrument or notifiable instrument.

(2) Regulations made for the purposes of subsection (1) may include amendments providing for any matters of a transitional nature (including saving or application provisions) that are necessary or convenient to be prescribed for amendments of the instrument concerned.

(3) Before the Governor-General makes a regulation for the purposes of subsection (1) amending an instrument, the Attorney-General must be satisfied that the rule-maker for the instrument has agreed to the amendment.

61A Rules made by First Parliamentary Counsel

The First Parliamentary Counsel may, by legislative instrument, make rules prescribing all matters required or permitted by this Act to be prescribed by the rules.

88 Paragraph 62(a)

After "prescribed", insert "by regulation".

89 Schedule 1

Repeal the Schedule.

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Part 4—Repeals

Acts Citation Act 1976

90 The whole of the Act

Repeal the Act.

Acts Publication Act 1905

91 The whole of the Act

Repeal the Act.

Ordinances and Regulations (Notification) Act 1972

92 The whole of the Act

Repeal the Act.

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Part 5—Amendments of other Acts

Acts Interpretation Act 1901

93 Section 1A

Omit:

> Part 1 provides that this Act applies to all Acts. This Act also applies to legislative instruments and other instruments made under an Act (see subsection 13(1) of the *Legislative Instruments Act 2003* and subsection 46(1) of this Act).

substitute:

> Part 1 provides that this Act applies to all Acts. This Act also applies to legislative instruments, notifiable instruments and other instruments made under an Act (see subsection 13(1) of the *Legislation Act 2003* and subsection 46(1) of this Act).

94 Section 1A

Omit:

> Part 10 deals with non-legislative instruments. For example, it provides that this Act applies to those instruments and that expressions in those instruments have the same meaning as in the enabling legislation.

substitute:

> Part 10 deals with instruments other than legislative instruments or notifiable instruments. For example, it provides that this Act applies to those instruments and that expressions in those instruments have the same meaning as in the enabling legislation.

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95 Subsection 2(1) (note)

Omit "and other instruments made under an Act: see subsection 13(1) of the *Legislative Instruments Act 2003*", substitute ", notifiable instruments and other instruments: see subsection 13(1) of the *Legislation Act 2003*".

96 Section 2B

Insert:

legislative instrument has the same meaning as in the *Legislation Act 2003*.

notifiable instrument has the same meaning as in the *Legislation Act 2003*.

97 Section 2B (definition of *Proclamation*)

Repeal the definition, substitute:

Proclamation means a Proclamation by the Governor-General that is registered in the Federal Register of Legislation established under the *Legislation Act 2003* as a legislative instrument or notifiable instrument.

Note: Some Proclamations provide solely for the commencement of Acts, legislative instruments or notifiable instruments, or provisions of Acts or such instruments. Under section 11 of the *Legislation Act 2003*, these are notifiable instruments.

98 Section 3

Omit "it shall come into operation immediately on the expiration of the last preceding day", substitute "it comes into operation at the start of the day".

99 At the end of section 13

Add:

(3) However, text is not part of an Act, or a compilation of an Act within the meaning of the *Legislation Act 2003*, if the text:

(a) only indicates the effect of an element of the Act; and

(b) is accessible in an electronic version of the Act or compilation; and

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(c) does not appear in the printed text of the Act (or any amendment of the Act) as enacted by the Parliament, or any other printed version of the Act or compilation.

Note: This text is known as alternative text or "alt text". Alternative text may be accessible in an electronic version of an Act or compilation that is published on an approved website under the *Legislation Act 2003*. This text may, for example, aurally indicate the effect of a graphic image in an Act to assist users of the website who have visual disabilities.

100 Section 15AE

Repeal the section.

101 Subsection 33(3AB)

After "except a legislative instrument", insert ", a notifiable instrument".

102 Subsection 33(3AB) (note)

Omit "in section 13 of the *Legislative Instruments Act 2003*", substitute "and notifiable instruments, in section 13 of the *Legislation Act 2003*".

103 Part 9 (heading)

Repeal the heading, substitute:

Part 9—Citation of Acts and instruments

104 Section 40 (heading)

Repeal the heading, substitute:

40 Citation of Acts and instruments

105 Before subsection 40(1)

Insert:

Citation of Acts, legislative instruments and notifiable instruments

(1A) In any Act, instrument or document:

(a) an Act may be cited by:

(i) the short title of the Act; or

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(ii) the secular year in which it was passed, and its number; or

(iii) a unique identifier given to the Act in accordance with rules prescribed under the *Legislation Act 2003*; and

(b) a legislative instrument or notifiable instrument may be cited by:

(i) any name the instrument gives itself; or

(ii) a unique identifier given to the instrument in accordance with rules prescribed under the *Legislation Act 2003*; or

(iii) if the instrument was numbered under a Commonwealth law—the year it was made and its number, together with a reference (if necessary) to the kind of instrument; or

(iv) if the instrument was notified or published in the Gazette—the date and (if necessary) number and page of the Gazette in which it was notified or published; or

(v) the date it was made, together with a reference to the Act or instrument, and (if necessary) provision, under which it was made.

Citation of Imperial Acts, State Acts and Territory Acts

106 Paragraph 40(1)(a)

Repeal the paragraph.

107 Part 10 (heading)

Repeal the heading, substitute:

Part 10—Instruments not covered by the Legislation Act 2003, and parliamentary resolutions

108 Subsection 46(1)

Omit "an authority the power to make an instrument that is neither a legislative instrument for the purposes of the *Legislative Instruments Act 2003* nor", substitute "a person (the ***authority***) the power to make an instrument other than a legislative instrument, notifiable instrument or".

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109 Paragraph 46(1)(b)

Repeal the paragraph, substitute:

(b) expressions used in any instrument so made have the same meaning as in the Act or instrument, as in force from time to time, that authorises the making of the instrument in which the expressions are used; and

110 After subsection 46(2) (before the note)

Insert:

(3) The amendment of an instrument, other than a legislative instrument or a notifiable instrument, or a rule of court, by an Act does not prevent the instrument, as so amended, from being amended or repealed by the authority.

111 Section 46 (note)

Omit ", in section 13 of the *Legislative Instruments Act 2003*", substitute "and notifiable instruments, in section 13 of the *Legislation Act 2003*".

112 Subsection 46AA(1)

Omit "that is neither a legislative instrument for the purposes of the *Legislative Instruments Act 2003* nor", substitute ", other than a legislative instrument, a notifiable instrument or".

113 Paragraph 46AA(1)(a)

Repeal the paragraph, substitute:

(a) by applying, adopting or incorporating, with or without modification, any of the following, as in force at a particular time or as in force from time to time:

(i) the provisions of an Act;

(ii) the provisions of a legislative instrument covered by subsection (3); or

114 Paragraph 46AA(1)(b)

Omit "instrument takes effect", substitute "instrument commences".

115 After subsection 46AA(2) (before the note)

Insert:

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(3) The following legislative instruments are covered by this subsection:

(a) disallowable legislative instruments within the meaning of the *Legislation Act 2003*;

(b) legislative instruments that were disallowable under this or any other Act at any time before 1 January 2005.

Note 1: Section 4 of the *Legislation Act 2003* defines a ***disallowable legislative instrument*** as a legislative instrument to which section 42 of that Act applies.

Note 2: The substantive provisions of the *Legislation Act 2003* commenced on 1 January 2005.

Exception—forms

(4) Despite subsections (1) to (3), an instrument (the ***enabling instrument***) to which subsection (1) applies may authorise or require a form (however described) to be used for the purposes of an Act, that instrument or another instrument if the enabling instrument provides that:

(a) the form is a notifiable instrument; or

(b) the form is required to be publicly available in another specified way.

116 Section 46AA (note)

Omit ", in section 14 of the *Legislative Instruments Act 2003*", substitute "and notifiable instruments, in section 14 of the *Legislation Act 2003*".

117 Section 46B

Repeal the section.

Defence Act 1903

118 Subsections 52(4) and (4A)

Repeal the subsections, substitute:

(4A) Paragraph 14(1)(a) of the *Legislation Act 2003* applies in relation to a determination under this section as if the reference in that paragraph to legislative instruments covered by subsection 14(3) of

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that Act included a reference to determinations under section 58H of this Act.

Note: Section 14 of the *Legislation Act 2003* allows legislative instruments to provide for matters by reference to disallowable legislative instruments as in force at a particular time or from time to time. That section would, for example, allow a determination under this section to provide for matters by reference to a determination under section 58B as in force at a particular time or from time to time.

119 Subsection 58B(1)

Omit "instrument in writing", substitute "legislative instrument".

120 Subsection 58B(1A)

Repeal the subsection, substitute:

(1A) Paragraph 14(1)(a) of the *Legislation Act 2003* applies in relation to a determination under this section as if the reference in that paragraph to legislative instruments covered by subsection 14(3) of that Act included a reference to:

(a) determinations under section 58H of this Act; and

(b) determinations under section 24 of the *Public Service Act 1999*.

Note: Section 14 of the *Legislation Act 2003* allows legislative instruments to provide for matters by reference to disallowable legislative instruments as in force at a particular time or from time to time.

121 Subsections 58B(4), (5), (5A), (5B), (5C), (6) and (7)

Repeal the subsections.

122 Subsection 124(1A)

Omit "58B or".

123 At the end of subsection 124(1A)

Add:

Note: In addition, section 14 of the *Legislation Act 2003* allows regulations to prescribe matters by reference to disallowable legislative instruments as in force at a particular time or from time to time. That section would, for example, allow a regulation to prescribe matters by reference to a determination under section 58B as in force at a particular time or from time to time.

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Defence Force Discipline Act 1982

124 Subsection 3(10)

Omit "a provision of any other regulations under any Act as in force at a particular time or as in force from time to time, or any determination under section 58B or 58H", substitute "a determination under section 58H".

125 At the end of subsection 3(10)

Add:

Note: In addition, section 14 of the *Legislation Act 2003* allows regulations to prescribe matters by reference to disallowable legislative instruments as in force at a particular time or from time to time. That section would, for example, allow a regulation to prescribe matters by reference to a determination under section 58B of the *Defence Act 1903* as in force at a particular time or from time to time.

Defence Force Retirement and Death Benefits Act 1973

126 Subsection 131(4)

Omit "58B or".

127 At the end of subsection 131(4)

Add:

Note: In addition, section 14 of the *Legislation Act 2003* allows regulations to prescribe matters by reference to disallowable legislative instruments as in force at a particular time or from time to time. That section would, for example, allow a regulation to prescribe matters by reference to a determination under section 58B of the *Defence Act 1903* as in force at a particular time or from time to time.

Family Law Act 1975

128 Section 26E (heading)

Repeal the heading, substitute:

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26E Application of the *Legislation Act 2003* to rules of court

129 Section 26E

Omit "*Legislative Instruments Act 2003* (other than sections 5, 6, 7, 10, 11 and 16 of that Act)", substitute "*Legislation Act 2003* (other than sections 8, 9, 10 and 16 of that Act)".

130 Paragraph 33C(8)(b)

Omit "*Legislative Instruments Act 2003*", substitute "*Legislation Act 2003*".

131 Subsections 37A(14)

Omit "*Legislative Instruments Act 2003* (other than sections 5, 6, 7, 10, 11 and 16 of that Act)", substitute "*Legislation Act 2003* (other than sections 8, 9, 10 and 16 of that Act)".

132 Subsection 40(1)

Omit "*Legislative Instruments Act 2003*", substitute "*Legislation Act 2003*".

133 Subsection 123(2)

Omit "*Legislative Instruments Act 2003* (other than sections 5, 6, 7, 10, 11 and 16 of that Act)", substitute "*Legislation Act 2003* (other than sections 8, 9, 10 and 16 of that Act)".

134 Subsection 123(2A)

Omit "*Legislative Instruments Act 2003*", substitute "*Legislation Act 2003*".

135 Paragraph 125(1)(baa)

Omit "*Legislative Instruments Act 2003* (other than the provisions of Part 5", substitute "*Legislation Act 2003* (other than the provisions of Part 2 of Chapter 3".

Federal Circuit Court of Australia Act 1999

136 Paragraph 41(10)(b)

Omit "*Legislative Instruments Act 2003*", substitute "*Legislation Act 2003*".

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137 Subsection 81(3)

Omit "*Legislative Instruments Act 2003* (other than sections 5, 6, 7, 10, 11 and 16 of that Act)", substitute "*Legislation Act 2003* (other than sections 8, 9, 10 and 16 of that Act)".

138 Subsection 81(4)

Omit "*Legislative Instruments Act 2003*", substitute "*Legislation Act 2003*".

139 Subsection 120(4)

Omit "*Legislative Instruments Act 2003* (other than the provisions of Part 5", substitute "*Legislation Act 2003* (other than the provisions of Part 2 of Chapter 3".

Federal Court of Australia Act 1976

140 Subsection 59(4)

Omit "*Legislative Instruments Act 2003* (other than sections 5, 6, 7, 10, 11 and 16 of that Act)", substitute "*Legislation Act 2003* (other than sections 8, 9, 10 and 16 of that Act)".

141 Subsection 59(5)

Omit "*Legislative Instruments Act 2003*", substitute "*Legislation Act 2003*".

142 Section 59A (heading)

Repeal the heading, substitute:

59A Regulations modifying or adapting the *Legislation Act 2003*

143 Section 59A

Omit "*Legislative Instruments Act 2003* (other than the provisions of Part 5", substitute "*Legislation Act 2003* (other than the provisions of Part 2 of Chapter 3".

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Great Barrier Reef Marine Park Act 1975

144 Subsections 31(1) and (3) (notes)

Omit "(see item 23 of the table in subsection 44(2), and item 22 of the table in subsection 54(2), of the *Legislative Instruments Act 2003*)", substitute "(see regulations made for the purposes of subsections 44(2) and 54(2) of the *Legislation Act 2003*)".

145 Section 39ZF (note)

Omit "(see item 22 of the table in subsection 54(2) of the *Legislative Instruments Act 2003*)", substitute "(see regulations made for the purposes of subsection 54(2) of the *Legislation Act 2003*)".

146 Subsections 39ZG(4) and 39ZH(1) (notes)

Omit "(see item 22 of the table in subsection 54(2) of the *Legislative Instruments Act 2003*)", substitute "(see regulations made for the purposes of subsection 54(2) of the *Legislation Act 2003*)".

Health Insurance Commission (Reform and Separation of Functions) Act 1997

147 Section 40 (heading)

Repeal the heading, substitute:

40 Instruments under this Part not legislative instruments

148 Section 40

Omit "*Legislative Instruments Act 1997*", substitute "*Legislation Act 2003*".

Human Rights (Parliamentary Scrutiny) Act 2011

149 Subsection 3(1) (definition of *rule-maker*)

Omit "*Legislative Instruments Act 2003*", substitute "*Legislation Act 2003*".

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150 Subsection 9(1)

Omit "*Legislative Instruments Act 2003*" (first occurring), substitute "*Legislation Act 2003*".

151 Subsection 9(1) (note)

Omit "subsection 26(1A) of the *Legislative Instruments Act 2003*", substitute "section 15J of the *Legislation Act 2003*".

Judiciary Act 1903

152 Subsection 86(2)

Omit "*Legislative Instruments Act 2003* (other than sections 5, 6, 7, 10, 11 and 16 of that Act)", substitute "*Legislation Act 2003* (other than sections 8, 9, 10 and 16 of that Act)".

153 Subsection 86(3)

Omit "*Legislative Instruments Act 2003*", substitute "*Legislation Act 2003*".

154 Paragraph 88(cb)

Omit "*Legislative Instruments Act 2003* (other than the provisions of Part 5", substitute "*Legislation Act 2003* (other than the provisions of Part 2 of Chapter 3".

Motor Vehicle Standards Act 1989

155 Section 7 (note)

Repeal the note, substitute:

Note: Part 4 of Chapter 3 of the *Legislation Act 2003*, which deals with sunsetting of legislative instruments, does not apply to a determination under this section (see regulations made for the purposes of subsection 54(2) of that Act).

156 Section 9 (note)

Repeal the note, substitute:

Note: Part 4 of Chapter 3 of the *Legislation Act 2003*, which deals with sunsetting of legislative instruments, does not apply to a determination under this section (see regulations made for the purposes of subsection 54(2) of that Act).

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Parliamentary Counsel Act 1970

157 Paragraph 3(1)(g)

Omit "*Acts Publication Act 1905*, the *Legislative Instruments Act 2003*", substitute "the *Legislation Act 2003*".

Protection of the Sea (Prevention of Pollution from Ships) Act 1983

158 Subsection 22A(8)

Omit "for the purposes of the *Legislative Instruments Act 2003*".

159 Subsection 34(1) (note)

Repeal the note, substitute:

Note: Part 4 of Chapter 3 of the *Legislation Act 2003*, which deals with sunsetting of legislative instruments, does not apply to an order under this subsection (see regulations made for the purposes of subsection 54(2) of that Act).

160 Subsection 34(8)

Omit "*Legislative Instruments Act 2003*", substitute "*Legislation Act 2003*".

Radiocommunications Act 1992

161 Subsection 82(4)

Omit "*Legislative Instruments Act 2003*", substitute "*Legislation Act 2003*".

162 Paragraph 314A(5)(b)

Omit "*Legislative Instruments Act 1997*", substitute "*Legislation Act 2003*".

Telecommunications Act 1997

163 Paragraph 589(5)(b)

Omit "*Legislative Instruments Act 1997*", substitute "*Legislation Act 2003*".

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Trade Marks Act 1995

164 Subsection 6(3)

Omit "*Legislative Instruments Act 2003*", substitute "*Legislation Act 2003*".

165 Subsection 18(2)

Omit "*Legislative Instruments Act 1995*", substitute "*Legislation Act 2003*".

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Part 6—References to the Legislative Instruments Act 2003

166 References to the *Legislative Instruments Act 2003*

(1) A reference in a law of the Commonwealth in force immediately before the commencement of this Schedule to the *Legislative Instruments Act 2003*, or a provision of that Act, listed in the following table has effect, on and after the commencement of this Schedule, in accordance with the table.

References to the *Legislative Instruments Act 2003*

Item	A reference to …	is a reference to …
1	the *Legislative Instruments Act 2003*	the *Legislation Act 2003*.
2	Part 5 of the *Legislative Instruments Act 2003*	Part 2 of Chapter 3 of the *Legislation Act 2003*.
3	Part 6 of the *Legislative Instruments Act 2003*	Part 4 of Chapter 3 of the *Legislation Act 2003*.
4	Any other provision of the *Legislative Instruments Act 2003*	the provision of the *Legislation Act 2003* that corresponds to the other provision (whether or not the provisions are identically numbered).

(2) Subitem (1) does not limit the effect of section 10 of the *Acts Interpretation Act 1901*.

Note 1: Part 1 of this Schedule amends the *Legislative Instruments Act 2003* to change the short title of that Act to the *Legislation Act 2003*.

Note 2: Section 10 of the *Acts Interpretation Act 1901* deals with references (in other Acts) to Acts whose short title is changed. That section applies to other Commonwealth laws (see section 46 of that Act and section 13 of the *Legislation Act 2003*).

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Part 7—Application, savings and transitional

167 Application of amendments to instruments—general

Subject to this Part, the amendments of Acts made by this Schedule apply in relation to an instrument made before, on or after the commencement of this Schedule.

168 Savings—pre-commencement status of instruments and ongoing effect of existing exemptions

Status of legislative instruments

(1) An instrument made before the commencement of this Schedule that was a legislative instrument under the *Legislative Instruments Act 2003* is taken to continue to be a legislative instrument on and after that commencement despite the amendments of that Act made by Part 1 of this Schedule.

Status of non-legislative instruments

(2) An instrument made before the commencement of this Schedule that was not a legislative instrument under the *Legislative Instruments Act 2003* immediately before the commencement of this Schedule is taken to continue not to be a legislative instrument on and after that commencement despite the amendments of that Act made by Part 1 of this Schedule.

(3) If, immediately before the commencement of this Schedule, a provision of a legislative instrument required or permitted an instrument described as not being a legislative instrument to be made, on and after that commencement an instrument made under that provision is not a legislative instrument.

Note: Before the commencement of this Schedule, subsection 15AE(3) of the *Acts Interpretation Act 1901* (which is repealed by Part 5 of this Schedule) provided that if a primary law (including an Act or a legislative instrument) provided for another instrument to be made that was described as not being a legislative instrument, the other instrument was not a legislative instrument.

The *Legislation Act 2003*, as that Act is amended by this Schedule, does not continue the effect of this provision in the case of a primary law that is a legislative instrument (see section 8 of that Act).

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Instruments may become legislative instruments by registration

(4) Subitems (2) and (3) do not prevent an instrument becoming a legislative instrument under subsection 8(3) of the *Legislation Act 2003* by being registered as a legislative instrument after the commencement of this Schedule.

Note: The *Legislative Instruments Act 2003* is renamed by this Act as the *Legislation Act 2003*.

169 Savings—displacement of subsection 12(2) of the *Legislative Instruments Act 2003*

(1) This item applies to a provision of an Act (the ***displacing provision***) enacted before the commencement of this Schedule that, before that commencement, had the effect of displacing the operation of subsection 12(2) of the *Legislative Instruments Act 2003* by enabling a legislative instrument to be made that would commence before the date of the registration of the instrument under that Act.

Example: Subsection 285(4) of the *Australian Securities and Investments Commission Act 2001* provides that "Despite subsection 12(2) of the *Legislative Instruments Act 2003*, regulations made for the purposes of this section may be expressed to take effect from a date before the regulations are registered under that Act.". This is a displacing provision.

(2) On and after the commencement this Schedule, the displacing provision is to be read as if it provided that subsection 12(2) of the *Legislation Act 2003* does not apply in relation to the legislative instrument.

Note 1: The *Legislative Instruments Act 2003* is renamed by this Act as the *Legislation Act 2003*.

Note 2: Generally, subsection 12(2) of that Act as amended by Part 1 of this Schedule provides that a provision of a legislative instrument or notifiable instrument does not apply retrospectively to the extent that it would have an adverse effect.

170 Application of amendments—incorporation of material in instruments

The amendments of section 14 of the *Legislative Instruments Act 2003* made by Part 1 of this Schedule apply in relation to:

(a) a legislative instrument or notifiable instrument made on or after the commencement of this Schedule that makes provision in relation to any matter by applying, adopting or incorporating the provisions of any document (an ***incorporated document***); and

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(b) an incorporated document other than a form, whether the document was made, or has been amended, before, on or after that commencement; and

(c) an incorporated document that is a form, if the document is made on or after that commencement.

171 Application of amendments to instruments—general

Paragraph 11(2)(a) of the *Legislation Act 2003*, as that Act is amended by this Schedule, applies in relation to a commencement instrument made on or after the commencement of this Schedule.

Note: Paragraph 11(2)(a) of that Act provides that commencement instruments are notifiable instruments. A Proclamation that provides solely for the commencement of an Act or a provision of an Act is an example of a "commencement instrument".

Under paragraph 6(e) of the *Legislative Instruments Act 2003*, Proclamations made before the commencement of this Schedule were declared to be legislative instruments (though commencement Proclamations were not subject to disallowance: see the table in subsection 44(2) of that Act).

172 Transitional—lodgement of legislative instruments, compilations and explanatory statements for registration

(1) If, immediately before the commencement of this Schedule, a legislative instrument, or a compilation of a legislative instrument, had been lodged for registration under the *Legislative Instruments Act 2003*, but had not been registered, that Act, as amended by Part 2 of this Schedule, applies in relation to the instrument or compilation as if it had been lodged for registration as a legislative instrument or compilation under that Act as so amended.

(2) If, immediately before the commencement of this Schedule, an explanatory statement had been lodged for registration under the *Legislative Instruments Act 2003*, but had not been registered, that Act, as amended by Part 2 of this Schedule, applies in relation to the statement as if it had been lodged for registration as an explanatory statement for a legislative instrument under that Act as so amended.

173 Transitional—Federal Register of Legislation

Registration of Acts and compilations

(1) An Act or a compilation of an Act in an Acts database under section 4 of the *Acts Publication Act 1905* immediately before the

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commencement of this Schedule is taken to be registered on and after that commencement as an Act or a compilation of an Act on the Federal Register of Legislation.

Registration of legislative instruments, compilations, explanatory statements and other documents or information

(2) A legislative instrument, a compilation of a legislative instrument or an explanatory statement that was registered on the Federal Register of Legislative Instruments under the *Legislative Instruments Act 2003* immediately before the commencement of this Schedule is taken to be registered as follows:

(a) for a legislative instrument or compilation—the instrument or compilation is taken to be registered on the Federal Register of Legislation as a legislative instrument or a compilation of a legislative instrument;

(b) for an explanatory statement for a legislative instrument—the explanatory statement is taken to be registered on the Federal Register of Legislation as an explanatory statement for the instrument.

(3) A document relating to a legislative instrument containing information that was included in the Federal Register of Legislative Instruments under section 21 of the *Legislative Instruments Act 2003* immediately before the commencement of this Schedule is taken to be registered on the Federal Register of Legislation on and after that commencement.

Note: Under section 21 of that Act, information relating to legislative instruments was able to be included in the Federal Register of Legislative Instruments. Subitem (3) would provide that documents containing such information are taken to be registered on the Federal Register of Legislation.

174 Application of amendments—gazettal and other publication requirements

Section 56 of the *Legislation Act 2003*, as that Act is amended by Part 3 of this Schedule, applies in relation to:

(a) a primary law or enabling legislation whether the primary law or enabling legislation is enacted or made before, on or after the commencement of this Schedule; and

(b) an instrument made on or after the commencement of this Schedule.

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175 Saving—repeal of the *Ordinances and Regulations (Notification) Act 1972*

Despite the repeal of the *Ordinances and Regulations (Notification) Act 1972* by Part 4 of this Schedule, that Act continues to apply in relation to the publication in the Gazette, before the commencement of that Act, of a form of words mentioned in subsection 3(1) of that Act.

176 Application of amendments of the *Acts Interpretation Act 1901*—definition of *Proclamation*

The definition of ***Proclamation*** in section 2B of the *Acts Interpretation Act 1901*, as that Act is amended by Part 5 of this Schedule, is taken to include a Proclamation by the Governor-General that was published in the Gazette before the commencement of this Schedule.

177 Application of amendments of the *Acts Interpretation Act 1901*—citation of Acts and instruments

Subsection 40(1A) of the *Acts Interpretation Act 1901*, as that Act is amended by Part 5 of this Schedule, applies in relation to an Act, instrument or document (the ***citing Act, instrument or document***) that cites an Act or legislative instrument:

(a) whether the citing Act, instrument or document was enacted, made or executed before, on or after the commencement of this Schedule; and

(b) whether the Act or legislative instrument cited was enacted or made before, on or after the commencement of this Schedule.

178 Application of amendments of the *Acts Interpretation Act 1901*—incorporation of material in non-legislative instruments

The amendments of section 46AA of the *Acts Interpretation Act 1901* made by Part 5 of this Schedule apply in relation to:

(a) an instrument made on or after the commencement of this Schedule that makes provision in relation to any matter by applying, adopting or incorporating the provisions of any document (an ***incorporated document***); and

(b) an incorporated document other than a form, whether the document was made, or has been amended, before, on or after that commencement; and

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(c) an incorporated document that is a form, if the document is made on or after that commencement.

179 Saving and transitional—repeal of section 46B of the *Acts Interpretation Act 1901*

(1) This item applies in relation to an instrument to which section 46B of the *Acts Interpretation Act 1901* applied that was in force immediately before the commencement of this Schedule.

(2) Despite the repeal of section 46B of the *Acts Interpretation Act 1901* by Part 2 of this Schedule:

(a) that section, and the *Legislative Instruments Act 2003* (as applied by that section), continue to apply in relation to the instrument as in force immediately before the commencement of this Schedule; and

(b) the instrument continues in force on and after that commencement, subject to:

(i) the Act under which the instrument was made; and

(ii) section 46B of the *Acts Interpretation Act 1901*, as applied by paragraph (a).

(3) The rule-maker for the instrument may lodge the instrument for registration as a legislative instrument under the *Legislation Act 2003* on or after the commencement of this Schedule.

(4) If the instrument is lodged for registration under subitem (3), the First Parliamentary Counsel must register the instrument under that Act as a legislative instrument.

(5) If the instrument is registered under subitem (4):

(a) the requirements of Part 2 of Chapter 3 of the *Legislation Act 2003* (which deals with parliamentary scrutiny) are taken to have been satisfied in relation to the instrument; and

(b) that Act otherwise applies to the instrument in the same way that it would in relation to any other legislative instrument registered at that time.

Note: Section 46B of the *Acts Interpretation Act 1901* provided a notice and parliamentary scrutiny regime for some instruments that were declared not to be legislative instruments.

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Schedule 2—Machinery of government changes

Part 1—Acts Interpretation Act 1901

1 Section 1A

Omit:

> (d) sections 19 to 19C (which deal with references to Ministers, Departments and Secretaries of Departments and with administrative changes in the operation of the Commonwealth Government).

substitute:

> (d) sections 19 to 20 (which deal generally with references to Ministers and Departments in Acts, and with the effect of machinery of government changes on references to Ministers and Departments and other authorities in Acts and Commonwealth agreements).

2 Section 2B

Insert:

Administrative Arrangements Order:

(a) means an instrument (a ***primary AAO***) made by the Governor-General that is described as an Administrative Arrangements Order; and

(b) includes an instrument made by the Governor-General that:

(i) amends a primary AAO; or

(ii) revokes a primary AAO and substitutes a new primary AAO.

Note: The Administrative Arrangements Order sets out, from time to time, the matters dealt with by Departments of State of the Commonwealth together with the legislation administered by the Ministers for those Departments.

3 Sections 19, 19A, 19B, 19BA, 19BAA, 19BB, 19BC, 19BD, 19C and 20

Repeal the sections, substitute:

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19 References to Ministers in Acts

(1) If a provision of an Act refers to a Minister, the following table provides which Minister the provision refers to in relation to a particular matter (the ***relevant matter***) on a particular day (the ***relevant day***).

References to Ministers in Acts

	If the provision …	then the Minister referred to is …
1	refers to a Minister by using the expression "the Minister", without identifying the Minister	the Minister, or any of the Ministers, administering the provision on the relevant day, in relation to the relevant matter.
2	refers to a Minister by reference to the fact that the Minister administers any of the following laws: (a) the Act, that provision or another provision of the Act; (b) another Act, or a provision of another Act	the Minister, or any of the Ministers, administering that law on the relevant day, in relation to the relevant matter.
3	refers to a Minister by title (for example, "the Attorney-General" or "the Minister for Industry"), even if that title no longer exists	(a) if, at the time the provision commenced, or the reference to the Minister was inserted, the Minister referred to by title administered the provision—the Minister, or any of the Ministers, identified by item 1; or (b) if paragraph (a) does not apply—the Minister currently identified by the title, or by a substituted reference order under section 19B; or (c) in any case—any other Minister administering the Department of State of the Commonwealth that deals with the matters for which the Minister mentioned in paragraph (a) or (b) (as the case may be) is responsible on the relevant day.
4	refers to a Minister by describing a	the Minister, or any of the Ministers,

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References to Ministers in Acts	
If the provision …	**then the Minister referred to is …**
matter for which the Minister is responsible (for example, "the Minister responsible for the environment")	administering the Department of State of the Commonwealth that deals with the relevant matter on the relevant day.

(2) Instruments including the following, as in force on the relevant day, or any earlier day, may be used to work out which Minister (or Ministers) is referred to under subsection (1):

(a) an Administrative Arrangements Order;

(b) a substituted reference order under section 19B.

Note: Substituted reference orders under section 19B may have effect in relation to days before the orders are made.

(3) To avoid doubt, if, because of this section, a provision of an Act is taken to require anything to be done by or in relation to any one of 2 or more Ministers, the provision is not taken to require it to be done in any particular case by or in relation to more than one of those Ministers.

Acting Ministers

(4) If a provision of an Act refers to a Minister, the reference is taken to include a reference to a Minister or member of the Executive Council for the time being acting for or on behalf of the Minister.

19A References to Departments in Acts

(1) If a provision of an Act refers to a Department, the following table provides which Department the provision refers to in relation to a particular matter (the ***relevant matter***) on a particular day (the ***relevant day***).

References to Departments in Acts		
Item	**If the provision …**	**then the Department is …**
1	refers to a Department by using the expression "the Department", without identifying the Department	the Department of State of the Commonwealth that is administered by the Minister or Ministers administering that provision in relation to the relevant matter, and

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References to Departments in Acts		
Item	**If the provision …**	**then the Department is …**
		that deals with that matter.
2	refers to a Department by title (for example, "the Attorney-General's Department" or "the Department of Industry"), even if that title no longer exists	(a) if, at the time the provision commenced, or the reference to the Department was inserted, the Department referred to by title was administered by the Minister or Ministers administering that provision in relation to the relevant matter—the Department identified by item 1; or (b) if paragraph (a) does not apply—the Department of State of the Commonwealth identified by the title, or by a substituted reference order under section 19B; or (c) in any case—any other Department of State of the Commonwealth that deals with the matters for which the Department mentioned in paragraph (a) or (b) (as the case may be) is responsible on the relevant day.
3	refers to a Department by describing a matter for which the Department is responsible (for example, "the Department responsible for the environment")	the Department of State of the Commonwealth that deals with the relevant matter on the relevant day.

Example: A provision of an Act refers to "the Secretary of the Department" but does not identify which Department is referred to. Under item 1, the reference is to the Secretary of the Department administered by the Minister who administers that provision in relation to the relevant matter, and that deals with that matter, as worked out under subsection (2).

(2) Instruments including the following, as in force on the relevant day, or any earlier day, may be used to work out which Department is identified by the table in subsection (1):

(a) an Administrative Arrangements Order;

(b) a substituted reference order under section 19B.

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Note: Substituted reference orders under section 19B may have effect in relation to days before the orders are made.

19B Machinery of government—substituted reference orders

Scope

(1) This section applies if:

(a) a provision of an Act refers to an authority (see subsection (7)); and

(b) any of the following happens:

(i) the authority is abolished;

(ii) the name or title of the authority is changed;

(iii) there is a change in the matters dealt with by the authority because of the effect of an Administrative Arrangements Order;

(iv) the reference to the authority becomes no longer appropriate for any other reason.

Substituted reference orders—Ministers, Departments, Agencies and offices

(2) The Governor-General may make a substituted reference order directing that the provision is to have effect for all purposes, on and after a day specified in the order:

(a) as if there were substituted, for the reference to the authority mentioned in subsection (1), a reference to another specified authority (or authorities); or

(b) as if, in so far as the provision applies in a particular respect specified in the order, there were substituted, for the reference to the authority mentioned in subsection (1), a reference to another specified authority (or authorities).

Note: A substituted reference order may be amended or revoked in the same way as it is made (see subsection 33(3)).

(3) The day specified in the order (as the day on and after which the order is to have effect) may be a day before the order is made.

(4) A substituted reference order has effect according to its terms.

Note: The order has effect for the purpose of the making of any subsequent order under this section.

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(5) A substituted reference order is a legislative instrument.

Authority abolished and another established with the same name

(6) A substituted reference order must not be made only because an authority is abolished, and, immediately after its abolition, another authority of the same type, with the same name, is established.

Note: However, a substituted reference order may be made if either of the following happens in relation to the authority;

(a) there is a change in the matters dealt with by the authority because of the effect of an Administrative Arrangements Order (see subparagraph (1)(b)(iii));

(b) a reference to the authority becomes no longer appropriate for any other reason (see subparagraph (1)(b)(iv)).

*Definition of **authority***

(7) In this section:

authority means any of the following:

(a) a Minister;

(b) a Department of State of the Commonwealth;

(c) any other Agency within the meaning of the *Public Service Act 1999*;

(d) an office (including an APS employee's office and any other appointment or position), or the holder of an office.

Note: Offices are offices in and for the Commonwealth (see section 21). An example is the office of Secretary of a Department of State.

19C Machinery of government—references to authorities in Commonwealth agreements

Scope

(1) This section applies if:

(a) a provision of an agreement entered into by or on behalf of the Commonwealth refers to an authority (see subsection (6)) in relation to a particular matter (the ***relevant matter***); and

(b) any of the following happens after the agreement was entered into:

(i) the authority is abolished;

(ii) the name or title of the authority is changed;

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(iii) there is a change in the matters dealt with by the authority because of the effect of an Administrative Arrangements Order;

(iv) the reference to the authority becomes no longer appropriate for any other reason.

References to authorities in Commonwealth agreements

(2) The following table provides which authority the provision of the agreement is taken to refer to in relation to the relevant matter on a particular day (the ***relevant day***) after the most recent event mentioned in paragraph (1)(b).

References to authorities in Commonwealth agreements

Item	If the provision refers to …	then the provision is taken to refer to …
1	a Minister	the Minister, or any of the Ministers, administering the Department of State of the Commonwealth that deals with the relevant matter on the relevant day.
2	a Department	the Department of State of the Commonwealth that deals with the relevant matter on the relevant day.
3	any other authority (the ***relevant authority***)	an authority (including the relevant authority): (a) exercising the powers, or performing the functions, of the relevant authority on the relevant day; or (b) determined under subsection (4).

(3) The following instruments, as in force on the relevant day, or any earlier day, may be used to work out which authority is taken to be referred to under subsection (2):

(a) an Administrative Arrangements Order;

(b) a substituted reference order under section 19B.

Note: Substituted reference orders under section 19B may have effect in relation to days before the orders are made.

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(4) The Minister administering the Department of State of the Commonwealth that deals with the relevant matter may, by notifiable instrument, make a determination for the purposes of item 3 of the table in subsection (2).

Note 1: A determination may be amended or revoked in the same way as it is made (see subsection 33(3)).

Note 2: Notifiable instruments must be registered under the *Legislation Act 2003*, but they are not subject to parliamentary scrutiny or sunsetting under that Act.

(5) To avoid doubt, if, because of this section, a provision of an agreement entered into by or on behalf of the Commonwealth is taken to require anything to be done by or in relation to any one of 2 or more Ministers, the provision is not taken to require it to be done in any particular case by or in relation to more than one of those Ministers.

*Definition of **authority***

(6) In this section:

authority means any of the following:

(a) a Minister;

(b) a Department of State of the Commonwealth;

(c) any other Agency within the meaning of the *Public Service Act 1999*;

(d) an office (including an APS employee's office and any other appointment or position), or the holder of an office.

Note: Offices are offices in and for the Commonwealth (see section 21). An example is the office of Secretary of a Department of State.

19D Machinery of government changes—saving the validity of acts done by authorities

Saving the validity of acts done by authorities

(1) The purported exercise or performance of a power, function or duty by or on behalf of an authority (see subsection (5)) is not invalid merely because, following a machinery of government change, the power, function or duty:

(a) is conferred or imposed on another authority; or

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(b) is conferred or imposed on the same authority under another name or title; or

(c) is no longer conferred or imposed on any authority.

(2) Subsection (1) only applies if the authority acted on the basis of a reasonable, but mistaken, belief about the occurrence, timing or nature of the machinery of government change.

Machinery of government change

(3) For the purposes of this section, a ***machinery of government change*** occurs if any of the following applies in relation to an authority:

(a) the authority is abolished;

(b) the name or title of the authority is changed;

(c) there is a change in the matters dealt with by the authority because of the effect of an Administrative Arrangements Order;

(d) the authority no longer exercises or performs the power, function or duty for any other reason.

Powers, functions and duties

(4) This section applies in relation to a power, function or duty purportedly exercised or performed by or on behalf of an authority, whether before or after the machinery of government change, under any of the following:

(a) an Act or legislative instrument;

(b) an agreement entered into by or on behalf of the Commonwealth;

(c) any other authorisation under a law of the Commonwealth.

*Definition of **authority***

(5) In this section:

authority means any of the following persons or bodies:

(a) a Minister;

(b) a Department of State of the Commonwealth;

(c) any other Agency within the meaning of the *Public Service Act 1999*;

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(d) an office (including an APS employee's office and any other appointment or position), or the holder of an office.

Note: Offices are offices in and for the Commonwealth (see section 21). An example is the office of Secretary of a Department of State.

20 References to holders of appointments, offices and positions in Acts and Commonwealth agreements

In a provision of an Act, or of an agreement entered into by or on behalf of the Commonwealth, a reference in general terms to the holder or occupier of an office, appointment or position includes all persons who for the time being:

(a) hold or occupy the office, appointment or position; or

(b) perform the duties of the office, appointment or position.

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Part 2—Application and transitional

4 Application of amendments—Schedule 2

The amendments of the *Acts Interpretation Act 1901* made by Part 1 of this Schedule apply in relation to an Act or instrument made before, on or after the commencement of this Schedule, subject to this Part.

5 Transitional—substituted reference orders

An order under section 19B or 19BA of the *Acts Interpretation Act 1901* that was in force immediately before the commencement of this Schedule continues in force on and after that commencement (subject to that Act as amended by the amendments in Part 1 of this Schedule) as if the order had been made by the Governor-General under section 19B of that Act as that Act is amended by this Schedule.

6 Application and saving—references to authorities in Commonwealth agreements

(1) Section 19C of the *Acts Interpretation Act 1901*, as that Act is amended by this Schedule, applies in relation to an agreement entered into by or on behalf of the Commonwealth on or after the commencement of this Schedule.

(2) Despite the repeal of section 19C of the *Acts Interpretation Act 1901* by this Act:

(a) that section continues to apply in relation to an agreement entered into by or on behalf of the Commonwealth before the commencement of this Schedule; and

(b) an order under subparagraph 19C(1)(c)(ii) of the *Acts Interpretation Act 1901* that was in force immediately before that commencement in relation to such an agreement continues to apply on and after that commencement, subject to that section (as applied under paragraph (a) of this subitem).

Note: Section 19C of the *Acts Interpretation Act 1901*, and new section 19C of that Act as amended by this Schedule, deal with references in Commonwealth agreements to a Department, Minister, officer or other body.

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7 Application—new section 19D

Section 19D of the *Acts Interpretation Act 1901*, as amended by this Schedule, applies:

(a) in relation to a purported exercise or performance of a power, function or duty under an agreement entered into by or on behalf of the Commonwealth on or after the commencement of this Schedule; and

(b) in relation to a purported exercise or performance of a power, function or duty that occurs on or after the commencement of this Schedule.

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Schedule 3—Updating references to instruments

Part 1—Repeal of Act

Legislative Instruments (Transitional Provisions and Consequential Amendments) Act 2003

1 The whole of the Act

Repeal the Act.

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Part 2—Amendments of Acts

Aboriginal and Torres Strait Islanders (Queensland Reserves and Communities Self-management) Act 1978

2 Subsections 10(5), (5A), (6) and (7)

Repeal the subsections, substitute:

(5) For the purposes of the *Legislation Act 2003*, a by-law made by the Council and approved by the Minister is a legislative instrument made by the Minister on the day the by-law is approved.

Note: A by-law made by the Council and approved by the Minister is stated to be a legislative instrument made by the Minister so that the Minister may perform the functions of a rule-maker in relation to the instrument under the *Legislation Act 2003*. For example, under that Act a rule-maker for a legislative instrument is required to lodge the instrument (and any amendments and compilations of the instrument) for registration under that Act.

Aboriginal Land Grant (Jervis Bay Territory) Act 1986

3 Subsections 52A(11), (12), (13) and (14)

Repeal the subsections, substitute:

(11) For the purposes of the *Legislation Act 2003*, a by-law made by the Council and received by the Minister is a legislative instrument made by the Minister on the day the by-law is received.

Note: A by-law made by the Council and received by the Minister is stated to be a legislative instrument made by the Minister so that the Minister may perform the functions of a rule-maker in relation to the instrument under the *Legislation Act 2003*. For example, under that Act a rule-maker for a legislative instrument is required to lodge the instrument (and any amendments and compilations of the instrument) for registration under that Act.

Aboriginal Land (Lake Condah and Framlingham Forest) Act 1987

4 Subsections 15(6), (7), (8) and (9)

Repeal the subsections, substitute:

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(6) For the purposes of the *Legislation Act 2003*, a by-law made by the Kerrup-Jmara Elders Aboriginal Corporation and received by the Minister is a legislative instrument made by the Minister on the day the by-law is received.

Note: A by-law made by the Corporation and received by the Minister is stated to be a legislative instrument made by the Minister so that the Minister may perform the functions of a rule-maker in relation to the instrument under the *Legislation Act 2003*. For example, under that Act a rule-maker for a legislative instrument is required to lodge the instrument (and any amendments and compilations of the instrument) for registration under that Act.

5 Subsections 23(6), (7), (8) and (9)

Repeal the subsections, substitute:

(6) For the purposes of the *Legislation Act 2003*, a by-law made by the Kirrae Whurrong Aboriginal Corporation and received by the Minister is a legislative instrument made by the Minister on the day the by-law is received.

Note: A by-law made by the Corporation and received by the Minister is stated to be a legislative instrument made by the Minister so that the Minister may perform the functions of a rule-maker in relation to the instrument under the *Legislation Act 2003*. For example, under that Act a rule-maker for a legislative instrument is required to lodge the instrument (and any amendments and compilations of the instrument) for registration under that Act.

Australian Broadcasting Corporation Act 1983

6 Subsection 27(5)

Omit "by notice in the *Gazette*", substitute "under subsection (6)".

7 Subsection 27(6)

Repeal the subsection, substitute:

(6) The Minister may, by legislative instrument, specify a service for the purposes of subsection (5).

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Australian Institute of Aboriginal and Torres Strait Islander Studies Act 1989

8 Paragraphs 45(1)(b) and (c)

Omit ", in writing,", substitute "under subsection (2)".

9 Subsection 45(2)

Repeal the subsection, substitute:

(2) For the purposes of paragraph (1)(b) or (c), the Minister may, by notifiable instrument, determine remuneration or allowances to be paid to the holder of an office.

Note: Notifiable instruments must be registered under the *Legislation Act 2003*, but they are not subject to parliamentary scrutiny or sunsetting under that Act.

10 Subsection 48(2)

Repeal the subsection, substitute:

(2) Rules made under this section are not legislative instruments.

Australian Radiation Protection and Nuclear Safety Act 1998

11 Subsection 7(2)

Omit "declare by notice in writing", substitute "by legislative instrument, declare".

12 Subsection 7(4)

Repeal the subsection.

13 Subsection 8(2)

Omit "declare by notice in writing", substitute "by legislative instrument, declare".

14 Subsection 8(4)

Repeal the subsection.

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Broadcasting Services Act 1992

15 Subsection 6(1) (paragraph (c) of the definition of *broadcasting service*)

Omit "by notice in the *Gazette*,", substitute "under subsection (2),".

16 Subsection 6(2)

Repeal the subsection, substitute:

(2) For the purposes of paragraph (c) of the definition of ***broadcasting service*** in subsection (1), the Minister may, by legislative instrument, determine that a service, or a class of services, does not fall within that definition.

17 Subsection 13(3)

Omit "by notice in the *Gazette*", substitute "under subsection (4)".

18 Subsection 13(4)

Repeal the subsection, substitute:

(4) The Minister may, by legislative instrument, specify services for the purposes of subsection (3).

19 Subsection 19(1)

Omit "by notice in the *Gazette*", substitute "by legislative instrument".

20 Section 20

Repeal the section.

21 Subsection 31(1)

Omit "notify the ACMA in writing", substitute ", by legislative instrument, notify the ACMA".

22 Section 32

Repeal the section.

23 Subsection 38B(14)

Omit "writing", substitute "legislative instrument".

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24 Subsection 38B(16)

Repeal the subsection.

25 Subsections 87A(6), (7) and (8)

Omit "written determination", substitute "legislative instrument".

26 Subsection 87A(11)

Repeal the subsection.

27 Subsection 115(1)

Omit ", by notice published in the *Gazette*, specify", substitute "give notice, by legislative instrument, specifying".

28 Subsection 115(1A)

Omit ", by notice published in the *Gazette*, amend", substitute "give notice, by legislative instrument, amending".

29 Subsection 115(1AA)

Omit "publishes in the *Gazette* before that time a declaration", substitute ", by legislative instrument registered under the *Legislation Act 2003* before that time, declares".

30 Subsection 115(1AB)

Omit "publish", substitute "make".

31 Subsection 115(1B)

Omit "publishes in the *Gazette* before that time a declaration", substitute ", by legislative instrument registered under the *Legislation Act 2003* before that time, declares".

32 Subsection 115(2)

Omit ", by notice published in the *Gazette*, amend", substitute "give notice, by legislative instrument, amending".

33 Subsection 115(3)

Repeal the subsection.

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34 Section 117

Omit "by notice published in the *Gazette*,", substitute "by legislative instrument,".

35 Subsection 120(1)

Omit "by notice published in the *Gazette*", substitute "by legislative instrument".

36 Section 121

Repeal the section.

37 Subsection 121FP(1)

Omit "formulate written", substitute ", by legislative instrument, formulate".

38 Subsection 121FP(3)

Repeal the subsection.

39 Section 146A

Omit "make a disallowable instrument designating", substitute ", by legislative instrument, designate".

40 Subsections 146C(1) and (2)

Omit "by writing", substitute "by legislative instrument".

41 Subsection 146C(7)

Repeal the subsection.

42 Subsections 146CA(1) and (2)

Omit "by writing", substitute "by legislative instrument".

43 Subsection 146CA(5)

Repeal the subsection.

44 Subsection 146CA(6)

Repeal the subsection (not including the note).

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45 Subsections 212B(1), (2), (3) and (4)

Omit "writing", substitute "legislative instrument".

46 Subsection 212B(6)

Repeal the subsection (not including the note).

47 Subclauses 3(3) and (4) of Schedule 6

Omit "make a written", substitute ", by legislative instrument, make a".

48 Subclause 3(6) of Schedule 6

Repeal the subclause.

49 Subclause 3(7) of Schedule 6

Repeal the subclause (not including the note).

50 Subclauses 4(3) and (4) of Schedule 6

Omit "make a written", substitute ", by legislative instrument, make a".

51 Subclause 4(6) of Schedule 6

Repeal the subclause.

52 Subclause 4(7) of Schedule 6

Repeal the subclause (not including the note).

53 Subclauses 13(4) and (5) of Schedule 6

Omit "make a written", substitute ", by legislative instrument, make a".

54 Subclause 13(7) of Schedule 6

Repeal the subclause.

55 Subclause 13(8) of Schedule 6

Repeal the subclause (not including the note).

56 Subclauses 15(4) and (5) of Schedule 6

Omit "make a written", substitute ", by legislative instrument, make a".

57 Subclause 15(7) of Schedule 6

Repeal the subclause.

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58 Subclause 15(8) of Schedule 6

Repeal the subclause (not including the note).

59 Subclauses 21(4) and (5) of Schedule 6

Omit "make a written", substitute ", by legislative instrument, make a".

60 Subclause 21(7) of Schedule 6

Repeal the subclause.

61 Subclause 21(8) of Schedule 6

Repeal the subclause (not including the note).

62 Subclause 27(1) of Schedule 6

Omit "written", substitute "legislative".

63 Subclause 27(3) of Schedule 6

Repeal the subclause.

64 Subclause 31(1) of Schedule 6

Omit "in writing", substitute "by legislative instrument".

65 Subclause 31(2) of Schedule 6

Omit "notice in writing", substitute "legislative instrument".

66 Subclause 31(3) of Schedule 6

Repeal the subclause.

Commerce (Trade Descriptions) Act 1905

67 Subsection 5(5)

Omit "disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*", substitute "legislative instrument".

Competition and Consumer Act 2010

68 Subsection 151BUAA(1)

Omit "give written directions", substitute ", by legislative instrument, give a direction".

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69 Subsections 151BUAA(1B) and (1C)

Omit "give a written direction", substitute ", by legislative instrument, give a direction".

70 Subsection 151BUAA(4)

Repeal the subsection.

71 Subsections 151CMA(1), (2) and (3)

Omit "written".

72 Subsection 151CMA(6)

Repeal the subsection, substitute:

(6) The Minister may, by legislative instrument, make a determination for the purposes of subsection (1), (2) or (3).

73 Subsections 151CMB(1) and (2)

Omit "written".

74 Subsection 151CMB(4)

Repeal the subsection, substitute:

(4) The Minister may, by legislative instrument, make a determination for the purposes of subsection (1) or (2).

75 Section 151CMC

Omit "determination under", substitute "determination made for the purposes of".

Customs Act 1901

76 Subsection 4A(2)

Repeal the subsection.

77 Section 269SL

Repeal the section.

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78 Subsection 269TA(1)

Omit "give to the Commissioner such written directions", substitute ", by legislative instrument, give to the Commissioner such directions".

79 Subsections 269TA(3) and (4)

Repeal the subsections.

Defence (Visiting Forces) Act 1963

80 Section 29

Repeal the section.

Environment Protection and Biodiversity Conservation Act 1999

81 Subsection 40(4)

Omit "declare in writing", substitute ", by legislative instrument, declare".

82 Subsection 40(5)

Repeal the subsection.

83 Subsection 178(1)

Omit "by instrument published in the *Gazette*", substitute "by legislative instrument".

84 Subsection 181(1)

Omit "by instrument published in the *Gazette*", substitute "by legislative instrument".

85 Subsection 181(5)

Repeal the subsection, substitute:

(5) To avoid doubt, the instrument first establishing the list under subsection (1) is not taken to have been a legislative instrument.

Note: When the list was first established, it was required to be established by instrument published in the Gazette.

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86 Subsection 183(1)

Omit "by instrument published in the *Gazette*", substitute "by legislative instrument".

87 Subsection 193(1)

Omit "by instrument published in the *Gazette*", substitute "by legislative instrument".

88 Subsection 193(3)

Repeal the subsection.

89 Paragraph 194(b)

Omit "an up-to-date copy", substitute "up-to-date copies".

90 Subsection 248(1)

Omit "by instrument published in the *Gazette*", substitute "by legislative instrument".

91 Subsection 249(1)

Repeal the subsection, substitute:

(1) Subject to this Subdivision, the Minister may, by legislative instrument, amend the list by:
  (a) including or deleting items from the list; or
  (b) correcting an inaccuracy or updating the name of a marine species.

92 Subsections 249(2) and (3)

Repeal the subsections, substitute:

(2) Amendments of a list that delete items from the list take effect on the first day the amendments are no longer liable to be disallowed, or to be taken to have been disallowed, under section 42 of the *Legislation Act 2003*.

(3) Section 42 (disallowance) of the *Legislation Act 2003* does not apply to a legislative instrument to which paragraph (1)(b) of this section applies.

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93 Subsection 249(4)

Omit "section 48 of the *Acts Interpretation Act 1901*", substitute "Part 2 of Chapter 3 of the *Legislation Act 2003*".

94 Subsection 249(5)

Omit "an instrument", substitute "an amendment under subsection (1)".

95 Paragraph 251(2)(b)

Omit "cause the necessary instrument to be published in the *Gazette*", substitute "amend the list accordingly under subsection 249(1)".

96 Paragraph 251(3)(b)

Repeal the paragraph, substitute:

(b) relates to an addition or deletion included in an amendment of the list that has already been registered as a legislative instrument under the *Legislation Act 2003*.

97 At the end of section 251

Add:

Note: Amendments of the list to add or delete an item are legislative instruments (see section 249).

98 Subsections 303CA(1) and (9)

Omit "by instrument published in the *Gazette*", substitute "by legislative instrument".

99 Subsection 303CA(10)

Repeal the subsection.

100 Subsection 303CB(1)

Omit "by instrument published in the *Gazette*", substitute "by legislative instrument".

101 Subsections 303CB(3) and (4)

Repeal the subsections.

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102 Subsection 303CH(1) (table item 3, column headed "specific conditions", subparagraph (b)(i))

Repeal the subparagraph, substitute:

(i) is specified by the Minister under subsection (2) as a declared specimen; and

103 Subsection 303CH(2)

Repeal the subsection, substitute:

(2) The Minister may, by notifiable instrument, specify a specimen as a declared specimen for the purposes of subparagraph (b)(i) of item 3 of the table in subsection (1).

Note: Notifiable instruments must be registered under the *Legislation Act 2003*, but they are not subject to parliamentary scrutiny or sunsetting under that Act.

104 Subsection 303DB(1)

Omit "by instrument published in the *Gazette*", substitute "by legislative instrument".

105 Subsection 303DB(7)

Repeal the subsection.

106 Subsection 303DC(1)

Repeal the subsection, substitute:

(1) The Minister may, by legislative instrument, amend the list referred to in section 303DB by:

(a) doing any of the following:

(i) including items in the list;

(ii) deleting items from the list;

(iii) imposing a condition or restriction to which the inclusion of a specimen in the list is subject;

(iv) varying or revoking a condition or restriction to which the inclusion of a specimen in the list is subject; or

(b) correcting an inaccuracy or updating the name of a species.

107 Subsections 303DC(1B) and (2)

Omit "paragraph (1)(e)", substitute "paragraph (1)(b)".

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108 Subsection 303DC(3)

Omit "paragraph (1)(a), (b), (c) or (d)", substitute "paragraph (1)(a)".

109 Subsections 303DC(4) and (5)

Repeal the subsections, substitute:

(4) Section 42 (disallowance) of the *Legislation Act 2003* does not apply to a legislative instrument to which paragraph (1)(b) of this section applies.

110 Subsection 303EB(1)

Omit "by instrument published in the *Gazette*", substitute "by legislative instrument".

111 Subsection 303EB(12)

Repeal the subsection.

112 Subsection 303EC(1)

Repeal the subsection, substitute:

(1) The Minister may, by legislative instrument, amend the list referred to in section 303EB by:
  (a) doing any of the following:
    (i) including items in a particular part of the list;
    (ii) deleting items from a particular part of the list;
    (iii) imposing a restriction or condition to which the inclusion of a specimen in Part 2 of the list is subject;
    (iv) varying or revoking a restriction or condition to which the inclusion of a specimen in Part 2 of the list is subject; or
  (b) correcting an inaccuracy or updating the name of a species.

113 Subsection 303EC(2)

Omit "paragraph (1)(c)", substitute "paragraph (1)(b)".

114 Subsection 303EC(3)

Omit "paragraph (1)(a), (b), (d) or (e)", substitute "paragraph (1)(a)".

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115 Subsection 303EC(4)

Repeal the subsection.

116 Subsection 303EC(6)

Repeal the subsection, substitute:

(6) Section 42 (disallowance) of the *Legislation Act 2003* does not apply to a legislative instrument to which paragraph (1)(b) of this section applies.

117 Subsection 303EU(1)

Omit "make a written", substitute ", by legislative instrument, make a".

118 Subsection 303EU(5)

Repeal the subsection.

119 Subsection 303FG(4)

Omit "by instrument published in the *Gazette*", substitute "by legislative instrument".

120 Subsection 303FG(6)

Repeal the subsection, substitute:

(6) The Minister may, by legislative instrument, amend the list referred to in subsection (4) by:
(a) including or deleting items from the list; or
(b) correcting an inaccuracy or updating the name of a species.

121 Subsection 303FG(7)

Repeal the subsection, substitute:

(7) Section 42 (disallowance) of the *Legislation Act 2003* does not apply to a legislative instrument to which paragraph (6)(b) of this section applies.

122 Subsections 303GX(2) and (3)

Omit "notice published in the *Gazette*", substitute "notifiable instrument".

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123 At the end of subsection 303GX(3)

Add:

Note: Notifiable instruments must be registered under the *Legislation Act 2003*, but they are not subject to parliamentary scrutiny or sunsetting under that Act.

124 Subsection 324L(3)

Repeal the subsection, substitute:

(3) The Minister may remove all or part of a place, or a National Heritage value of a place, only by an instrument including a statement of the reasons for the removal.

Note 1: The Minister must first obtain and consider the advice of the Australian Heritage Council (see section 324M).

Note 2: For requirements relating to the instrument under the *Legislation Act 2003*, see subsections (5) and (6) of this section.

125 Subsections 324L(5) and (6)

Repeal the subsections, substitute:

(5) If the instrument deals only with removal for loss of value:
(a) it is a legislative instrument; and
(b) it takes effect on the first day it is no longer liable to be disallowed, or to be taken to have been disallowed, under section 42 of the *Legislation Act 2003*.

(6) If subsection (5) does not apply to the instrument, it is a notifiable instrument.

Note: Notifiable instruments must be registered under the *Legislation Act 2003*, but they are not subject to parliamentary scrutiny or sunsetting under that Act.

126 Paragraph 324M(5)(b)

Omit "published in the *Gazette*", substitute "made".

127 Subparagraph 324R(2)(b)(i)

Omit "publication in the *Gazette* of an instrument", substitute "registration under the *Legislation Act 2003* of a legislative instrument".

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128 Subsection 341L(4)

Repeal the subsection, substitute:

(4) The Minister may remove all or part of a place, or a Commonwealth Heritage value of a place, only by an instrument including a statement of the reasons for the removal.

Note 1: The Minister must first obtain and consider the advice of the Australian Heritage Council (see section 341M).

Note 2: For requirements relating to the instrument under the *Legislation Act 2003*, see subsections (6) and (7) of this section.

129 Subsections 341L(6) and (7)

Repeal the subsections, substitute:

(6) If the instrument deals only with removal for loss of value:
(a) it is a legislative instrument; and
(b) it takes effect on the first day it is no longer liable to be disallowed, or to be taken to have been disallowed, under section 42 of the *Legislation Act 2003*.

(7) If subsection (6) does not apply to the instrument, it is a notifiable instrument.

Note: Notifiable instruments must be registered under the *Legislation Act 2003*, but they are not subject to parliamentary scrutiny or sunsetting under that Act.

130 Paragraph 341M(5)(b)

Omit "published in the *Gazette*", substitute "made".

131 Subparagraph 341R(2)(b)(i)

Omit "publication in the *Gazette*", substitute "registration under the *Legislation Act 2003*".

132 Section 371 (heading)

Repeal the heading, substitute:

371 Approved management plans are legislative instruments

133 Subsections 371(1) and (2)

Repeal the subsections, substitute:

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(1) A management plan for a Commonwealth reserve prepared by the Director, and the Board (if any) for the reserve, and approved by the Minister, is a legislative instrument made by the Minister on the day the plan is approved.

134 Subsection 517(1)

Omit "instrument in writing", substitute "legislative instrument".

135 Subsection 517(2)

Repeal the subsection.

136 Section 528 (note at the end of the definition of *species*)

Repeal the note.

Export Control Act 1982

137 Subsection 25(4)

Repeal the subsection, substitute:

(4) An order is a legislative instrument.

138 Subsections 25(6) and (7)

Repeal the subsections.

Fisheries Management Act 1991

139 Subsection 42(3)

Omit "disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*", substitute "legislative instrument".

140 Subsection 43(11)

Omit "disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*", substitute "legislative instrument".

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Foreign Proceedings (Excess of Jurisdiction) Act 1984

141 Subsection 7(1)

Omit ", by order in writing, prohibit", substitute ", by legislative instrument, make an order prohibiting".

142 Paragraphs 9(1)(c) and (d)

Omit "by instrument in writing", substitute "by legislative instrument,".

143 After section 10

Insert:

10A Declarations under section 9—coming into force

(1) An instrument under subsection 9(1) comes into force for the purposes of section 10 on a day fixed by the Attorney-General by notifiable instrument.

Note 1: See subsection 10(8).

Note 2: Notifiable instruments must be registered under the *Legislation Act 2003*, but they are not subject to parliamentary scrutiny or sunsetting under that Act.

(2) The Attorney-General must not fix a day under subsection (1) that is earlier than the first day the Attorney-General is satisfied that the instrument under subsection 9(1) will no longer be liable to be disallowed, or to be taken to be disallowed, under section 42 of the *Legislation Act 2003*.

(3) To avoid doubt, subsections (1) and (2) do not affect the operation of subsection 12(1) of the *Legislation Act 2003* in relation to the coming into force of the instrument under subsection 9(1) of this Act for any other purpose.

Note: Subsection 12(1) of the *Legislation Act 2003* provides that a legislative instrument commences on the day it is registered under that Act, or otherwise as provided by the instrument.

144 Subsection 12(1)

Omit ", by order in writing, declare" substitute ", by legislative instrument, make an order declaring".

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145 At the end of Division 3 of Part II

Add:

12A Declarations under section 12—coming into force

(1) Despite subsection 12(1) of the *Legislation Act 2003*, an order under subsection 12(1) of this Act comes into force on a day fixed by the Attorney-General by notifiable instrument.

Note 1: Subsection 12(1) of the *Legislation Act 2003* deals with the commencement of legislative instruments.

Note 2: Notifiable instruments must be registered under the *Legislation Act 2003*, but they are not subject to parliamentary scrutiny or sunsetting under that Act.

(2) The Attorney-General must not fix a day under subsection (1) that is earlier than the first day the Attorney-General is satisfied that the order under subsection 12(1) will no longer be liable to be disallowed, or to be taken to be disallowed, under section 42 of the *Legislation Act 2003*.

146 Subsection 13(1)

Omit "by order in writing prohibit", substitute "by legislative instrument, make an order that prohibits".

147 Subsections 14(2) and (3)

Omit "by order prohibit", substitute "by legislative instrument, make an order prohibiting".

148 Section 15

Repeal the section.

149 Paragraph 17(a)

Omit "notice of that order published in the *Gazette* in accordance with subsection 48(1) of the *Acts Interpretation Act 1901* as applied by subsection 15(1) of this Act", substitute "order".

150 Paragraph 17(b)

Omit "notice of the order published as mentioned in paragraph (a)", substitute "content of the order".

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151 Subsection 19(2)

Repeal the subsection, substitute:

(2) Subsection 12(2) of the *Legislation Act 2003* does not apply to regulations prescribing an authority for the purposes of the definition of ***foreign court*** in subsection 3(1) of this Act.

Note: Subsection 12(2) of the *Legislation Act 2003* is about the retrospective application of legislative instruments (such as regulations).

Gene Technology Act 2000

152 Subsection 21(1)

Omit "may issue", substitute "may, by legislative instrument, issue".

153 Subsection 21(4)

Repeal the subsection.

154 Subsection 24(1)

Omit "may issue", substitute "may, by legislative instrument, issue".

155 Subsection 24(3)

Repeal the subsection.

156 Subsection 78(1)

Omit "by writing", substitute "by legislative instrument".

157 Subsection 78(4)

Repeal the subsection.

158 Subsection 80(1)

Omit "vary the GMO Register by written determination", substitute ", by legislative instrument, vary the GMO Register".

159 Subsection 80(3)

Repeal the subsection.

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Health and Other Services (Compensation) Act 1995

160 Subsection 33B(2)

After "determines", insert "under subsection (4)".

161 Subsection 33B(2A)

Omit "subsection (2)", substitute "subsection (4)".

162 Subsection 33B(4)

Repeal the subsection, substitute:

(4) The Minister may, by legislative instrument, make a determination for the purposes of subsection (2).

Health Insurance Act 1973

163 Subsection 3AAA(2)

Omit "instrument in writing", substitute "legislative instrument".

164 Subsection 3AAA(4)

Repeal the subsection.

165 Subsection 3AA(3)

Omit "in writing", substitute "under subsection (4)".

166 Subsection 3AA(4)

Omit "in writing", substitute "by legislative instrument".

167 Subsection 3AA(5)

Repeal the subsection.

168 Subsection 3C(1)

Omit "by writing", substitute "by legislative instrument".

169 Subsection 3C(2)

Repeal the subsection, substitute:

(2) Subsection 12(2) of the *Legislation Act 2003* does not apply to a determination under subsection (1) of this section.

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Note: Subsection 12(2) of the *Legislation Act 2003* is about the retrospective application of legislative instruments.

170 Subsections 3C(4), (5) and (6)

Repeal the subsections.

171 Subsection 3GC(1)

Omit "in writing".

172 Paragraphs 3GC(2)(a) and (b)

Omit "in writing".

173 Subsection 3GC(3)

Omit "written".

174 Subsection 3GC(6)

Repeal the subsection, substitute:

(6) A determination under this section is a legislative instrument.

175 Sections 4BA and 4BB

Omit "in writing", substitute "by legislative instrument".

176 Section 4BC

Repeal the section.

177 Subsection 6(2)

Omit "by order in writing, declare", substitute "by legislative instrument, make an order declaring".

178 Subsections 6(5), (6), (7) and (8)

Repeal the subsections.

179 Subsection 8A(1)

Omit "in writing", substitute "by legislative instrument".

180 Subsection 8A(3)

Repeal the subsection.

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181 Subsection 19AB(4B)

Omit "in writing", substitute "by legislative instrument".

182 Subsection 19AB(4D)

Repeal the subsection.

183 Subsection 19C(5)

After "by the Minister", insert ", by legislative instrument,".

184 Subsection 19C(6)

Repeal the subsection.

185 At the end of subsection 20AB(3)

Add "under subsection (6)".

186 Subsection 20AB(5)

Omit "in writing by the Minister from time to time", substitute "by the Minister under subsection (6)".

187 Subsection 20AB(6)

Repeal the subsection, substitute:

(6) The Minister may, by legislative instrument:
(a) make guidelines for the purposes of subsection (3); and
(b) determine conditions for the purposes of subsection (5).

188 Paragraph 20AC(1)(a)

Omit "20AB(3)", substitute "20AB(6)".

189 Subsection 23DB(1)

Omit "approve, in writing,", substitute ", by legislative instrument, approve".

190 Subsection 23DB(2)

Omit "vary, in writing,", substitute ", by legislative instrument, vary".

191 Subsections 23DB(5), (6) and (7)

Repeal the subsections.

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192 Subsection 23DBA(1)

Omit "a determination in writing", substitute "legislative instrument".

193 Subsection 23DBA(3)

Repeal the subsection.

194 Paragraph 23DC(2)(c)

Omit ", in writing,", substitute "under subsection (12)".

195 Subsections 23DC(12), (13) and (14)

Repeal the subsections, substitute:

(12) The Minister may, by legislative instrument, determine particulars for the purposes of subsection (2).

196 Paragraph 23DF(2)(c)

Omit ", in writing,", substitute "under subsection (13)".

197 Subsections 23DF(13), (14) and (15)

Repeal the subsections, substitute:

(13) The Minister may, by legislative instrument, determine particulars for the purposes of subsection (2).

198 Subsection 23DNBA(4)

Omit "in writing", substitute "by legislative instrument".

199 Subsection 23DNBA(6)

Repeal the subsection.

200 Subsection 23DSB(1)

Omit "The Minister may approve, in writing, for the purposes of this Act", substitute "For the purposes of this Act, the Minister may, by legislative instrument, approve".

201 Subsection 23DSB(3)

Repeal the subsection.

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202 Subsection 23DU(1)

Omit "(1)".

203 Subsection 23DU(1)

Omit "determine, in writing,", substitute ", by legislative instrument, determine".

204 Subsection 23DU(2)

Repeal the subsection.

205 Subsection 124H(1)

Omit "by instrument in writing", substitute "by legislative instrument".

206 Subsections 124H(3), (4) and (5)

Repeal the subsections.

207 Subsection 124X(1)

Omit "by signed writing", substitute "by legislative instrument".

208 Section 124ZA

Repeal the section.

Hearing Services Administration Act 1997

209 Subsection 5(3)

Omit "writing", substitute "legislative instrument".

210 Subsection 5(4)

Repeal the subsection.

211 Subsection 11(1)

Omit "written instrument", substitute "legislative instrument".

212 Subsection 11(5)

Repeal the subsection.

213 Subsection 13(1)

Omit "writing", substitute "legislative instrument".

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214 Subsection 13(4)

Repeal the subsection.

215 Subsection 15(1)

Omit "written instrument", substitute "legislative instrument".

216 Subsection 15(8)

Repeal the subsection.

217 Subsection 17(1)

Omit "written instrument", substitute "legislative instrument".

218 Subsection 17(7)

Repeal the subsection.

High Court of Australia Act 1979

219 Subsection 19(2)

Omit "in writing", substitute ", by legislative instrument,".

220 Subsections 19(3), (4) and (5)

Repeal the subsections, substitute:

(3) Directions under subsection (2) commence at the start of the day after the day they are registered under the *Legislation Act 2003*.

Horticulture Marketing and Research and Development Services Act 2000

221 Subsection 19(1)

After "Secretary may", insert ", by legislative instrument,".

222 Subsection 19(1) (note 1)

Repeal the note.

223 Subsection 19(1) (note 2)

Omit "Note 2", substitute "Note".

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224 Subsection 19(2)

Omit "on which the order is notified in the *Gazette*", substitute "that the order is registered under the *Legislation Act 2003*".

225 Subsection 19(2) (note)

Repeal the note.

226 Subsection 19(3)

Repeal the subsection.

227 At the end of section 19

Add:

(5) An order made under this section is taken to be an enactment for the purposes of the *Administrative Appeals Tribunal Act 1975*.

228 Subsection 20(1)

After "The Secretary may", insert ", by legislative instrument,".

229 Subsections 20(2), (3) and (4)

Repeal the subsections, substitute:

(2) The revocation has effect from a day specified in the revocation, which must be after the day that the revocation is registered under the *Legislation Act 2003*.

230 Subsection 35(1)

After "Secretary may", insert ", by legislative instrument,".

231 Subsections 35(2), (3) and (4)

Repeal the subsections.

232 Subsection 35(5)

Omit "or section 19".

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Imported Food Control Act 1992

233 Subsection 3(1) (paragraphs (a) and (c) of the definition of *examinable food*)

Omit "under paragraph 16(2)(a)", substitute "made for the purposes of paragraph 16(2)(a)".

234 Paragraph 16(2)(a)

Omit "and, from time to time, to vary orders so made".

235 Paragraphs 16(2)(b)

Omit "under", substitute "for the purposes of".

236 At the end of section 16

Add:

(5) An order made by the Minister for the purposes of paragraph (2)(a) is a legislative instrument.

Note: The order may be varied or revoked by the Minister in the same way as it is made, and subject to the same conditions (see subsection 33(3) of the *Acts Interpretation Act 1901*).

237 Section 17

Repeal the section, substitute:

17 Consultation with Food Standards Australia New Zealand

The Minister must not make an order for the purposes of paragraph 16(2)(a) without first consulting Food Standards Australia New Zealand.

Note: The order may be varied or revoked by the Minister in the same way as it is made, and subject to the same conditions (see subsection 33(3) of the *Acts Interpretation Act 1901*).

Industrial Chemicals (Notification and Assessment) Act 1989

238 Subsection 105(1)

Omit "by instrument published in the Chemical Gazette", substitute "by legislative instrument".

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239 Subsection 105(2)

Repeal the subsection, substitute:

(2) In addition to the requirement under the *Legislation Act 2003* for the instrument to be registered, a copy of the instrument must be published in the Chemical Gazette. However, failure to publish a copy does not affect the validity or enforceability of the instrument.

Interactive Gambling Act 2001

240 Subsection 9A(1)

Omit "writing", substitute "legislative instrument".

241 Subsection 9A(6)

Repeal the subsection.

242 Subsection 10(1)

Omit "writing", substitute "legislative instrument".

243 Subsection 10(3)

Repeal the subsection.

244 Subsection 24(5)

Omit "written", substitute "legislative".

245 Subsection 24(7)

Repeal the subsection.

246 Subsection 31(1)

Omit "written", substitute "legislative".

247 Subsection 31(4)

Repeal the subsection.

248 Subsection 44(2)

Omit "written", substitute "legislative".

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249 Subsection 44(4)

Repeal the subsection.

250 Subsection 45(2)

Omit "written", substitute "legislative".

251 Subsection 45(3)

Repeal the subsection.

252 Subsection 46(3)

Omit "written", substitute "legislative".

253 Subsection 46(5)

Repeal the subsection.

254 Subsection 47(3)

Omit "written", substitute "legislative".

255 Subsection 47(5)

Repeal the subsection.

256 Subsection 50(1)

Omit "(1) The ACMA may, by written", substitute "The ACMA may, by legislative".

257 Subsection 50(2)

Repeal the subsection.

258 Subsection 51(1)

Omit "written", substitute "legislative".

259 Subsection 51(3)

Repeal the subsection.

National Blood Authority Act 2003

260 Paragraph 8(1)(j)

Omit "written notice", substitute "notice under subsection (2)".

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261 Subsection 8(2)

Repeal the subsection, substitute:

(2) The Minister may, by legislative instrument, make a notice for the purposes of paragraph (1)(j).

262 Paragraph 13(1)(d)

Omit "written notice", substitute "notice under subsection (2)".

263 Subsection 13(2)

Repeal the subsection, substitute:

(2) The Minister may, by legislative instrument, make a notice for the purposes of paragraph (1)(d).

264 Subsections 18(1) and (3)

Omit "written determination made by the Minister", substitute "determination made by the Minister under subsection (4)".

265 Subsection 18(4)

Repeal the subsection, substitute:

(4) For the purposes of subsection (1) or (3), the Minister may, by legislative instrument, determine remuneration or allowances to be paid to a Board member.

266 Subsection 22(1)

Omit "determine in writing", substitute ", by legislative instrument, determine".

267 Subsection 22(3)

Repeal the subsection.

268 Subsections 30(1) and (2)

Omit "written determination made by the Minister", substitute "determination made by the Minister under subsection (3)".

269 Subsection 30(3)

Repeal the subsection, substitute:

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(3) For the purposes of subsection (1) or (2), the Minister may, by legislative instrument, determine remuneration or allowances to be paid to the General Manager.

270 Subsections 39(1) and (3)

Omit "written determination made by the Minister", substitute "determination made by the Minister under subsection (4)".

271 Subsection 39(4)

Repeal the subsection, substitute:

(4) For the purposes of subsection (1) or (3), the Minister may, by legislative instrument, determine remuneration or allowances to be paid to a person appointed to an advisory committee.

National Environment Protection Measures (Implementation) Act 1998

272 Subsection 37(3)

Omit ", by order published in the *Gazette*, prohibit or restrict", substitute ", by legislative instrument, make an order that prohibits or restricts".

273 Subsection 37(4)

Repeal the subsection.

National Health Act 1953

274 Subsection 84(1) (definition of *CTS claim*)

Omit "of the *National Health Act 1953*".

275 Subparagraph 86D(1)(b)(iii)

Omit "written determination made by the Minister for the purposes of this subsection", substitute "determination made by the Minister under subsection (5)".

276 Subsection 86D(5) (heading)

Repeal the heading, substitute:

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Determinations are legislative instruments

277 Subsection 86D(5)

Repeal the subsection, substitute:

(5) For the purposes of subsection (1), the Minister may, by legislative instrument, determine a person to be capable of giving an authorisation.

278 Subsection 86E(1)

Omit "by written instrument", substitute "by legislative instrument".

279 Subsection 86E(5)

Repeal the subsection.

280 Subparagraph 88AA(1)(b)(iii)

Omit "written determination made by the Minister for the purposes of this subsection", substitute "determination made by the Minister under subsection (4)".

281 Subsection 88AA(4)

Repeal the subsection, substitute:

(4) For the purposes of subsection (1), the Minister may, by legislative instrument, determine a person to be capable of giving an authorisation.

282 Paragraph 90E(c)

Omit "under paragraph 92A(1)(f)", substitute "for the purposes of paragraph 92A(1)(f)".

283 Paragraph 91(2)(c)

Omit "in writing by the Secretary for the purposes of this paragraph", substitute "by the Secretary under subsection (3)".

284 Subsection 91(3)

Repeal the subsection, substitute:

(3) For the purposes of paragraph (2)(c), the Secretary may, by legislative instrument, determine kinds of documentary evidence.

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285 Paragraph 91(7)(d)

Omit "under paragraph 92A(1)(f)", substitute "for the purposes of paragraph 92A(1)(f)".

286 At the end of paragraph 92A(1)(f)

Add "under subsection (1A)".

287 Subsection 92A(1A)

Repeal the subsection, substitute:

(1A) For the purposes of paragraph (1)(f), the Minister may, by legislative instrument, determine conditions.

288 Subsection 98C(1)

Omit "from time to time", substitute "by legislative instrument".

289 Section 98D

Repeal the section.

290 Subsection 99(8)

Omit "by written determination", substitute "by legislative instrument".

291 Subsection 99(9)

Repeal the subsection.

292 Subsection 99AAC(2)

Omit "determine, in writing,", substitute ", by legislative instrument, determine".

293 Subsection 99AAC(3)

Repeal the subsection.

294 Subsection 99L(1)

Omit "(1) The Minister must, by writing", substitute "The Minister must, by legislative instrument".

295 Subsection 99L(2)

Repeal the subsection.

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296 Subsections 99ZS(1) and (2)

Omit "notice in writing", substitute "legislative instrument".

297 Subsection 99ZS(3)

Omit "written notice", substitute "legislative instrument".

298 Subsections 99ZS(4) and (5)

Repeal the subsections, substitute:

(4) Guidelines take effect from:

(a) the first day they are no longer liable to be disallowed, or to be taken to have been disallowed, under section 42 of the *Legislation Act 2003*; or

(b) after that day, if the guidelines so provide.

299 Section 139B

Repeal the section.

National Transmission Network Sale Act 1998

300 Section 3

Omit "In this Act, unless the contrary intention appears:", substitute "(1) In this Act:".

301 Section 3 (definition of *declared remote area*)

Omit ", in writing,", substitute "under subsection (2)".

302 Section 3 (paragraph (b) of the definition of *emergency service organisation*)

Omit ", in writing,", substitute "under subsection (2)".

303 At the end of section 3

Add:

(2) The Minister may, by legislative instrument, specify:

(a) an area for the purposes of the definition of ***declared remote area*** in subsection (1); or

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(b) an organisation for the purposes of paragraph (b) of the definition of ***emergency service organisation*** in subsection (1).

304 Subsection 16(5)

Omit ", in writing,", substitute "under subsection (5A)".

305 After subsection 16(5)

Insert:

(5A) The Minister may, by legislative instrument, specify a level for the purposes of this section.

306 Subsection 18(5)

Omit "in the *Gazette*", substitute "under subsection (6)".

307 At the end of section 18

Add:

(6) The Minister may, by legislative instrument, give a notice for the purposes of subsection (5) in relation to assets.

308 Section 29

Repeal the section.

National Transport Commission Act 2003

309 Subsection 7(3)

Omit "section 49A of the *Acts Interpretation Act 1901*", substitute "section 14 of the *Legislation Act 2003*".

310 Subsection 7(4)

Repeal the subsection.

Primary Industries Levies and Charges Collection Act 1991

311 Subsections 31(3) to (5)

Repeal the subsections, substitute:

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(3) An order is a legislative instrument.

Primary Industry Councils Act 1991

312 Subsections 38(3) to (5)

Repeal the subsections, substitute:

(3) An order is a legislative instrument.

Radiocommunications Act 1992

313 Subsections 30(1) and 32(1)

Omit "written", substitute "legislative".

314 Section 35

Repeal the section.

315 Subsection 132(1)

Omit "notice published in the *Gazette*" substitute "legislative instrument".

316 Subsection 133(3)

Repeal the subsection.

317 Section 139

Repeal the section.

318 Subsection 182(1)

Omit ", by notice published in the *Gazette*, require", substitute ", by legislative instrument, give notice requiring".

319 Subsection 182(5)

Repeal the subsection.

320 Subsection 187A(1)

Omit "publishes", substitute "gives".

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321 Subsection 190(1)

Omit ", by notice published in one or more newspapers circulating generally in the capital city of each State and Territory,", substitute ", by legislative instrument,".

322 Subsection 190(1)

Omit "notice" (last occurring), substitute "declaration".

323 After subsection 190(1)

Insert:

(1A) A declaration under subsection (1) must be published:

(a) on the ACMA's website; and

(b) in one or more other forms that are readily accessible by the public.

Example: Publication in a form mentioned in paragraph (b) could be publication on a website other than the ACMA's website.

324 Subsections 190(3) and (4)

Repeal the subsections.

Telecommunications Act 1997

325 Subsections 63(1), (2), (3), (5) and (6)

Omit "by written instrument", substitute "by legislative instrument".

326 Subsections 63(10), (11) and (13)

Repeal the subsections.

327 Subsection 376(1)

Omit "by written instrument", substitute "by legislative instrument".

328 Subsections 376(5) and (6)

Repeal the subsections.

329 Subsection 380(1)

Omit "by written instrument", substitute "by legislative instrument".

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330 Subsections 380(4) and (5)

Repeal the subsections.

331 Subsection 384(1)

Omit "by written instrument", substitute "by legislative instrument".

332 Subsections 384(7) and (8)

Repeal the subsections.

333 Subsection 419(1)

Omit "by notice in the *Gazette*", substitute "by legislative instrument".

334 Subsection 419(4)

Repeal the subsection.

335 Subsection 450(1)

Omit "written", substitute "legislative".

336 Subsection 450(4)

Repeal the subsection.

Telstra Corporation Act 1991

337 Subsection 8AUA(1)

Omit "by written instrument", substitute "by legislative instrument".

338 Subsection 8AUA(3)

Repeal the subsection.

Tobacco Advertising Prohibition Act 1992

339 Subsection 17(4)

Omit "writing", substitute "legislative instrument".

340 Subsection 17(5)

Repeal the subsection.

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341 Subsection 18(5)

Omit "writing", substitute "legislative instrument".

342 Subsection 18(6)

Repeal the subsection.

Trade Representatives Act 1933

343 Subsection 11(1)

Omit "make determinations in writing", substitute ", by legislative instrument, make determinations".

344 Subsections 11(5), (6), (7), (8) and (9)

Repeal the subsections.

345 Section 11A

Repeal the section.

Wool Services Privatisation Act 2000

346 Subsection 30(1)

Omit "in writing", substitute "by legislative instrument".

347 Subsection 30(3)

Repeal the subsection.

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Part 3—Saving and transitional

348 Saving—validity and enforcement of instruments

An amendment of an Act made by Part 2 of this Schedule does not affect the validity or enforceability of an instrument made under that Act before the commencement of this Schedule.

349 Transitional—change of provision under which instrument is made

(1) This item applies if an amendment of an Act made by Part 2 of this Schedule has the effect of changing the provision of the Act under which an instrument may (expressly or by implication) be made, from one provision (the ***pre-amendment provision*)** to another (the ***post-amendment provision***).

(2) An instrument made, whether expressly or by implication, under the pre-amendment provision that is in force immediately before the commencement of Part 2 of this Schedule continues in force on and after that commencement, and may be amended or repealed, as if the instrument had been made under the post-amendment provision.

[*Minister's second reading speech made in—*
House of Representatives on 22 October 2014
Senate on 3 December 2014]

(227/14)

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