



Statute Update (Smaller Government) Act 2018

No. 4, 2018

**An Act to make various amendments of the statute
law of the Commonwealth to abolish statutory
bodies, and for other purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

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No. 4, 2018

**An Act to make various amendments of the statute
law of the Commonwealth to abolish statutory
bodies, and for other purposes**

[Assented to 20 February 2018]

The Parliament of Australia enacts:

1 Short title

This Act is the *Statute Update (Smaller Government) Act 2018*.

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. The whole of this Act | The day after this Act receives the Royal Assent. | 21 February 2018 |

Note: This table relates only to the provisions of this Act as originally enacted.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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Tradespersons' rights committees

Part 1—Repeals of Acts

Tradespersons' Rights Regulation Act 1946

1 The whole of the Act

Repeal the Act.

Part 2—Other amendments

Sea Installations Act 1987

2 Schedule

Omit "*Tradespersons' Rights Regulation Act 1946*".

Schedule 2—Oil Stewardship Advisory Council

Product Stewardship (Oil) Act 2000

1 Subsection 6(1) (definition of *Advisory Council*)

Repeal the definition.

2 Subsection 6(1) (definition of *voting member*)

Repeal the definition.

3 Subsection 10(4)

Omit “The Minister may also take into consideration any relevant recommendation made to the Minister by the Advisory Council.”.

4 Part 3

Repeal the Part.

5 Saving provision—protection from civil actions

Despite the repeal of Part 3 of the *Product Stewardship (Oil) Act 2000* by this Schedule, section 31 of that Act, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to an act done or omitted to be done before that commencement by a member of the Oil Stewardship Advisory Council.

Schedule 3—Product Stewardship Advisory Group

Product Stewardship Act 2011

1 Section 6 (definition of *Advisory Group*)

Repeal the definition.

2 Section 108B

Repeal the section.

3 Schedule 1

Repeal the Schedule.

Schedule 4—Advisory Group of the Australian Sports Anti-Doping Authority

Australian Sports Anti-Doping Authority Act 2006

1 Section 3

Omit “an Advisory Group,”.

2 Section 3

Omit “The Advisory Group provides advice and recommendations to the CEO.”.

3 Section 4

Repeal the following definitions:

- (a) definition of *advisory committee*;
- (b) definition of *advisory committee member*;
- (c) definition of *Advisory Group*;
- (d) definition of *Advisory Group Chair*;
- (e) definition of *Advisory Group member*.

4 Section 4 (definition of *sporting administration body*)

Omit “, the Advisory Group”.

5 Section 4 (paragraph (a) of the definition of *vacancy*)

Repeal the paragraph.

6 Subsection 5(1)

Repeal the subsection.

7 Section 20CA

Omit “The CEO must have regard to advice and recommendations given to the CEO by the Advisory Group or an advisory committee.”.

8 Paragraph 21(1)(ka)

Repeal the paragraph.

9 Subsection 21(1A)

Repeal the subsection.

10 Subsection 24A(2)

Omit “Advisory Group member or an”.

11 Paragraph 24J(2)(b)

Repeal the paragraph.

12 Division 6 of Part 3A

Repeal the Division.

13 Part 4

Repeal the Part.

14 Subsection 43(3)

Omit “, an ASDMAC member or an Advisory Group member”, substitute “or an ASDMAC member”.

15 Subparagraph 50F(a)(ii)

Repeal the subparagraph.

16 Subparagraph 50F(d)(iii)

Repeal the subparagraph.

17 At the end of subparagraph 50F(d)(v)

Add “and”.

18 Subparagraph 50F(d)(vi)

Repeal the subparagraph.

19 Subparagraph 50F(e)(iii)

Repeal the subparagraph.

20 Subparagraph 50F(e)(iv)

Omit “41; and”, substitute “41.”.

21 Subparagraph 50F(e)(v)

Repeal the subparagraph.

22 Paragraph 68(e)

Omit “ASDMAC; or”, substitute “ASDMAC.”.

23 Paragraph 68(f)

Repeal the paragraph.

24 Paragraph 69(aa)

Repeal the paragraph.

25 Paragraph 69(g)

Omit “member; or”, substitute “member.”.

26 Paragraphs 69(h) and (i)

Repeal the paragraphs.

27 Subsection 78(1A)

Repeal the subsection.

28 Paragraphs 78(4)(a) to (c)

Omit “the Advisory Group,”.

29 Saving provisions

- (1) Part 8 of the *Australian Sports Anti-Doping Authority Act 2006*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to:
 - (a) a person who was an Advisory Group member at any time before that commencement; or
 - (b) an individual who attended a meeting of the Advisory Group at any time before that commencement.
- (2) Despite the repeal of subsection 78(1A) of the *Australian Sports Anti-Doping Authority Act 2006* made by this Schedule, that subsection, as in force immediately before the commencement of this item, continues to apply on and after that commencement to a former

Advisory Group member in relation to an act done or omitted to be done before that commencement.

- (3) Subsection 78(4) of the *Australian Sports Anti-Doping Authority Act 2006*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to the making of a statement to, or the giving of a document or information to, the Advisory Group at any time before that commencement.

Schedule 5—Plant Breeder's Rights Advisory Committee

Plant Breeder's Rights Act 1994

1 Subsection 3(1)

Repeal the following definitions:

- (a) definition of *Advisory Committee*;
- (b) definition of *indigenous*;
- (c) definition of *member*.

2 Subsection 49(1)

Repeal the subsection.

3 Subsection 49(2)

Omit “, having regard to the views of the Plant Breeder's Rights Advisory Committee on a matter referred under subsection (1),”.

4 Part 7

Repeal the Part.

5 Subsection 69(1)

Omit “and before the Minister seeks any advice from the Advisory Committee concerning those regulations”.

6 Subsection 69(3)

Repeal the subsection.

7 Section 85

Repeal the section.

8 Transitional provisions

(1) If:

- (a) before the commencement of this item, the Advisory Committee had given views to the Minister on a matter

referred to the Committee under subsection 49(1) of the *Plant Breeder's Rights Act 1994*; and

- (b) before that commencement, the Minister had not had regard to those views;

then the Minister must have regard to those views on or after that commencement.

- (2) Any records or documents that were in the possession of the Advisory Committee immediately before the commencement of this item are to be transferred to the Registrar after that commencement.

Note: The records and documents are Commonwealth records for the purposes of the *Archives Act 1983*.

- (3) If:

- (a) before the commencement of this item, the Advisory Committee had given advice to the Minister on an intended regulation as mentioned in section 69 of the *Plant Breeder's Rights Act 1994*; and

- (b) before that commencement, the Minister had not had regard to that advice;

then the Minister must have regard to that advice on or after that commencement.

Schedule 6—Development Allowance Authority

Part 1—Repeals of Acts

Development Allowance Authority Act 1992

1 The whole of the Act

Repeal the Act.

Infrastructure Certificate Cancellation Tax Act 1994

2 The whole of the Act

Repeal the Act.

Part 2—Other amendments

Airports (Transitional) Act 1996

3 Section 56

Repeal the section.

Income Tax Assessment Act 1936

4 Subsection 6(1) (paragraph (g) of the definition of assessment)

Repeal the paragraph.

5 Subsection 82KZME(1) (note)

Omit “(6),”.

6 Subsection 82KZME(6)

Repeal the subsection.

7 Paragraphs 126(1)(d) and 128B(3)(bb)

Repeal the paragraphs.

8 Division 16L of Part III

Repeal the Division.

Income Tax Assessment Act 1997

9 Section 10-5 (table item headed “infrastructure borrowings”)

Repeal the item.

10 Section 10-5 (table item headed “interest”)

Omit:

infrastructure borrowings, on 159GZZZZG

11 Section 11-15 (table item headed “financial transactions”)

Omit:

infrastructure borrowings, income in relation to 159GZZZZE

12 Section 12-5 (table item headed “financial arrangements”)

Omit “*infrastructure*”.

13 Section 12-5 (table item headed “infrastructure”)

Repeal the item, substitute:

infrastructure

see *tax losses*

14 Section 12-5 (table item headed “interest”)

Omit “see also *infrastructure*”.

15 Section 13-1 (table item headed “infrastructure”)

Repeal the item.

16 Paragraph 104-71(3)(a)

Repeal the paragraph, substitute:

- (a) an amount that is not included in the assessable income of an entity because of section 124ZM or 124ZN (which exempt income arising from *shares in a *PDF) of the *Income Tax Assessment Act 1936*; or

17 Section 112-97 (table item 12A)

Repeal the item.

18 Paragraphs 118-425(13)(d) and 118-427(14)(d)

After “*Development Allowance Authority Act 1992*”, insert “, as in force just before the commencement of Schedule 6 to the *Statute Update (Smaller Government) Act 2018*”.

19 Subsection 230-460(14)

Repeal the subsection.

20 Subsection 721-10(2) (note)

Repeal the note, substitute:

Note: The other amounts referred to in item 3 of the table are interest payable under section 102AAM of the *Income Tax Assessment Act 1936* (distributions from certain non-resident trust estates).

Taxation Administration Act 1953

21 Subsection 3B(1B)

Repeal the subsection.

22 Section 8AB

Repeal the section.

23 Paragraph 8J(2)(ga)

Repeal the paragraph.

24 Subsections 8W(1B), 13K(11), 15(4) and 15A(11)

Repeal the subsections.

25 Subsection 250-10(1) in Schedule 1 (table item 105)

Repeal the item.

26 Subsection 355-65(5) in Schedule 1 (table item 3)

Repeal the item.

Part 3—Application of amendments

27 Application of amendments

- (1) The amendments made by this Schedule (other than the repeal of Part 5 of Chapter 3 and Part 2 of Chapter 4 of the *Development Allowance Authority Act 1992*) do not apply in relation to a certificate that is in force just before the commencement of this item.
- (2) For the purposes of applying, on or after that commencement, the Acts amended by this Schedule, as those Acts apply because of subitem (1), a reference in those Acts to the Development Allowance Authority is treated as being a reference to the Commissioner of Taxation.

Schedule 7—Corporations and Markets Advisory Committee

Part 1—Amendments

Australian Securities and Investments Commission Act 2001

1 Title

Omit “, a Corporations and Markets Advisory Committee”.

2 Paragraph 1(1)(c)

Repeal the paragraph.

3 Subsection 5(1) (definition of CAMAC)

Repeal the definition.

4 Subsection 5(1) (definition of *Convenor*)

Repeal the definition.

5 Subsection 5(1) (paragraph (b) of the definition of *meeting*)

Repeal the paragraph.

6 Subsection 5(1) (paragraph (a) of the definition of *member*)

Omit “9,”.

7 Subsection 5(1) (paragraph (a) of the definition of *member*)

Omit “CAMAC,”.

8 Subsection 5(1) (paragraph (b) of the definition of *member*)

Repeal the paragraph.

9 Subsection 11(3)

Repeal the subsection, substitute:

- (3) ASIC may, on its own initiative or when requested by the Minister, advise the Minister, and make to the Minister such recommendations as it thinks fit, about any matter connected with:

- (a) a proposal to make corporations legislation, or to make amendments of the corporations legislation (other than the excluded provisions); or
- (b) the operation or administration of the corporations legislation (other than the excluded provisions); or
- (c) law reform in relation to the corporations legislation (other than the excluded provisions); or
- (d) companies or a segment of the financial products and financial services industry; or
- (e) a proposal for improving the efficiency of the financial markets.

10 Paragraph 127(4)(a)

Omit “CAMAC,”.

11 Part 9

Repeal the Part.

12 Paragraphs 246(1)(b), (d) and (h)

Repeal the paragraphs.

13 At the end of section 261

Add:

Note: The Corporations and Markets Advisory Committee (CAMAC) ceased to exist on the commencement of Schedule 7 to the *Statute Update (Smaller Government) Act 2018*.

Part 2—Transitional and saving provisions

14 Definitions

(1) In this Part:

asset means:

- (a) any legal or equitable estate or interest in real or personal property, whether actual, contingent or prospective; and
- (b) any right, power, privilege or immunity, whether actual, contingent or prospective.

CAMAC means the Corporations and Markets Advisory Committee.

commencement time means the time this Schedule commences.

instrument includes:

- (a) a contract, undertaking, deed or agreement; and
- (b) a notice, authority, order or instruction; and
- (c) an instrument made under an Act or a regulation;

but does not include the following:

- (d) an Act;
- (e) an instrument made under this Act;
- (f) the *Corporations Agreement 2002*.

land means any legal or equitable estate or interest in real property, whether actual, contingent or prospective.

liability means any liability, duty or obligation, whether actual, contingent or prospective.

rules means rules made under item 27.

Treasury Department means the Department administered by the Treasury Minister.

Treasury Minister means the Minister administering the *Australian Securities and Investments Commission Act 2001*.

Treasury Secretary means the Secretary of the Treasury Department.

(2) Section 5A of the *Australian Securities and Investments Commission Act 2001* applies to this Part as if the provisions of this Part were provisions of that Act.

Note: Section 5A applies the *Acts Interpretation Act 1901* as in force on 1 January 2005.

15 Assets and liabilities

- (1) At the commencement time, the assets and liabilities of CAMAC immediately before that time cease to be assets and liabilities of CAMAC and become assets and liabilities of the Commonwealth without any conveyance, transfer or assignment.
- (2) The Commonwealth becomes the successor in law in relation to those assets and liabilities.

16 Certificates relating to vesting of assets

- (1) If land vests in the Commonwealth under this Part and the Treasury Minister signs a certificate that:
 - (a) identifies the land, whether by reference to a map or otherwise; and
 - (b) states that the land has become vested in the Commonwealth under this Part; and
 - (c) is lodged with the Registrar of Titles or other proper officer of the State or Territory in which the land is situated;the Registrar or other officer may:
 - (d) register the matter in a way that is the same as, or similar to, the way in which dealings in land of that kind are registered; and
 - (e) deal with, and give effect to, the certificate.
- (2) If an asset other than land vests in the Commonwealth under this Part and the Treasury Minister signs a certificate that:
 - (a) identifies the asset; and
 - (b) states that the asset has become vested in the Commonwealth under this Part; and
 - (c) is lodged with the person or authority who has responsibility for keeping a register in relation to assets of that kind (whether under a law of the Commonwealth, a State or a Territory, a trust instrument or otherwise);the person or authority may:
 - (d) deal with, and give effect to, the certificate as if it were a proper and appropriate instrument for transactions in relation to assets of that kind; and

- (e) make such entries in the register as are necessary, having regard to the effect of this Part.
- (3) A document that appears to be a certificate made under this item is taken, unless the contrary is established, to be such a certificate and to have been properly made.
- (4) A certificate made under this item is not a legislative instrument.

17 References in instruments to CAMAC

- (1) If an instrument in force immediately before the commencement time contains a reference to CAMAC, the instrument has effect from the commencement time as if the reference were a reference to the Commonwealth.
- (2) Subitem (1) does not, by implication, prevent the instrument from being varied or terminated after the commencement time.
- (3) The rules may prescribe:
 - (a) instruments, or references contained in instruments, to which subitem (1) does not apply; or
 - (b) instruments, or references contained in instruments, to which subitem (1) applies as if the reference in that subitem to the Commonwealth were a reference to the person prescribed by the rules.
- (4) Subsection 12(2) of the *Legislation Act 2003* does not apply in relation to rules made for the purposes of subitem (3) that commence on or after the commencement time.

18 Operation of laws

- (1) Subject to subitem (2), if a thing was done by, or in relation to, CAMAC before the commencement time, then, for the purposes of the operation of any law of the Commonwealth after the commencement time, the thing is taken to have been done by, or in relation to, the Commonwealth.
- (2) For the purposes of the operation of the *Ombudsman Act 1976* after the commencement time, a thing done by, or in relation to, CAMAC before the commencement time is taken to have been done by, or in relation to, the Treasury Department.

- (3) The rules may prescribe:
- (a) things in relation to which subitem (1) does not apply; or
 - (b) things in relation to which subitem (1) applies as if the references in that subitem to the Commonwealth were references to the person prescribed by the rules.
- (4) Subsection 12(2) of the *Legislation Act 2003* does not apply in relation to rules made for the purposes of subitem (3) that commence on or after the commencement time.

19 Legal proceedings

If, immediately before the commencement time, CAMAC was a party to proceedings pending in any court or tribunal, the Commonwealth is substituted for CAMAC as a party to the proceedings from that time.

20 Transfer of records to the Treasury Department

Any records or documents that were in the possession of CAMAC immediately before the commencement time are to be transferred to the Treasury Department.

Note: The records and documents are Commonwealth records for the purposes of the *Archives Act 1983*.

21 Protection of information obtained from ASIC

If:

- (a) before the commencement time, information was disclosed to CAMAC in accordance with subsection 127(4) of the *Australian Securities and Investments Commission Act 2001*; and
- (b) immediately before the commencement time, a person was subject to a condition imposed under subsection 127(4A) of that Act in relation to the information disclosed;

the person continues to be subject to the condition after the commencement time.

22 Final report

- (1) The Treasury Secretary must prepare and give to the Treasury Minister, for presentation to the Parliament, a report on the activities of CAMAC during the final reporting period.

- (2) The Minister administering the *Public Governance, Performance and Accountability Act 2013* may give the Treasury Secretary written directions in relation to the report. The Treasury Secretary must comply with any such directions in preparing the report.
- (3) The Treasury Secretary must give the Treasury Minister the report within 4 months after the end of the final reporting period.
- (4) The Treasury Minister must table the report in each House of the Parliament within 15 sitting days of that House after the report is given to the Treasury Minister.
- (5) In this item:
final reporting period means the period:
 - (a) starting on the first day after the end of the last period for which an annual report on CAMAC's operations or activities was given to the Treasury Minister; and
 - (b) ending immediately before the commencement time.

23 Exemption from stamp duty etc.

No stamp duty or other tax is payable under a law of a State or Territory in respect of the following, or anything connected with the following:

- (a) the vesting of an asset or liability under this Part;
- (b) the operation of this Part in any other respect.

24 Delegation by Ministers

- (1) The Treasury Minister may, by writing, delegate all or any of his or her powers and functions under this Part (other than under item 27) to:
 - (a) the Secretary of the Treasury Department; or
 - (b) an SES employee, or acting SES employee, in the Treasury Department.

Note: The expressions *SES employee* and *acting SES employee* are defined in the *Acts Interpretation Act 1901*.

- (2) The Minister administering the *Public Governance, Performance and Accountability Act 2013* may delegate his or her power under subitem 22(2) to the Secretary of the Department administered by that Minister.
 - (3) In exercising powers or functions under a delegation, the delegate must comply with any directions of the delegating Minister.
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25 Saving—operation of section 246 of the *Australian Securities and Investments Commission Act 2001*

- (1) Despite the repeal of paragraphs 246(1)(b), (d) and (h) of the *Australian Securities and Investments Commission Act 2001* by this Schedule, section 246 of that Act continues to apply, in relation to anything done or omitted to be done before the commencement time, as if the repeal had not happened.
- (2) Paragraph 246(1)(b) of the *Australian Securities and Investments Commission Act 2001* as continued under subitem (1) has effect, in relation to anything done or omitted to be done by CAMAC before the commencement time, as if the Commonwealth were referred to in that paragraph.

26 Compensation for acquisition of property

- (1) If the operation of this Part would result in an acquisition of property (within the meaning of paragraph 51(xxxi) of the Constitution) from a person otherwise than on just terms (within the meaning of that paragraph), the Commonwealth is liable to pay a reasonable amount of compensation to the person.
- (2) If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute proceedings in a court of competent jurisdiction for the recovery from the Commonwealth of such reasonable amount of compensation as the court determines.

27 Transitional rules

- (1) The Treasury Minister may, by legislative instrument, make rules:
 - (a) prescribing matters required or permitted by this Schedule to be prescribed by the rules; or
 - (b) in relation to transitional matters arising out of the amendments and repeals made by this Schedule.
- (2) However, to avoid doubt, the rules may not do the following:
 - (a) create an offence or civil penalty;
 - (b) provide powers of:
 - (i) arrest or detention; or
 - (ii) entry, search or seizure;
 - (c) impose a tax;

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- (d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Act;
 - (e) directly amend the text of this Act.
- (3) This Schedule (other than subitem (2)) does not limit the rules that may be made for the purposes of subitem (1).
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*[Minister's second reading speech made in—
House of Representatives on 22 June 2017
Senate on 14 September 2017]*

(135/17)
