Statute Law (Miscellaneous Provisions) Bill 1988

Date introduced: 25 April 1988
House: Senate
Presented by: Senator the Hon. Michael Tate, Minister for Justice

Digest of Bill

Purpose

This is an omnibus Bill that will make a number of non-contentious amendments, some of which will implement minor policy and administrative changes. Other amendments are designed to streamline, correct or update existing legislation.

Outline

The Bill will amend 31 Acts as set out in Schedule 1. Schedule 2 contains a list of 10 Acts to be repealed.

Main Provisions

The major amendments are as follows:

Archives Act 1983

An amendment will extend protection from civil and criminal liability for defamation, infringement of copyright, breach of confidence, and criminal liability generally, to instances where access to Commonwealth records is granted by persons other than the Director-General or the staff of Archives under the Act.

Protection from civil and criminal liability will also be operative where: access is given to records placed in the Archives by persons or bodies other than Commonwealth institutions, access is given to records, in good faith, in the belief that the records are more than 30 years old and that access is required under the Act, and where access is given to records to which special or accelerated access rules apply.

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Australian Bicentennial Authority Act 1980

Amendments will provide that the Australian Bicentennial Authority be deemed an 'authority' of the Commonwealth for the purposes of the Archives Act 1983, and a 'prescribed authority' for the purposes of the Freedom of Information Act 1982 and Ombudsman Act 1976, to make the Australian Bicentennial Authority subject to those Acts.

Australian Capital Territory Supreme Court Act 1933

The Act will be amended to provide for the appointment of a Master of the A.C.T. Supreme Court.

Rules of Court may be made to permit the exercise of the jurisdiction of the Supreme Court by the Master or Registrar.

Appeals from decisions of the Master are to a single Judge of the Court, in interlocutory matters, and to a full bench of the Court in other matters. On appeal the Court has the power to: draw inferences of fact, receive further evidence, and make such orders as it considers just in the circumstances. Appeals from decisions of the Registrar are to a Judge of the Court, and the Court is permitted to make such orders as it considers just in the circumstances.

Where the jurisdiction of the Court is to be, or is being, exercised by the Master, the Master may refer, on his/her own motion, or on the application of a party to the proceedings, the proceedings to the Court constituted by one Judge. The Court can give such directions as it considers appropriate and may remit the proceedings to the Master.

The Governor - General is empowered to remove the Master from office on the grounds of proved misbehaviour or incapacity in response to an address from both Houses of the Parliament. The Governor - General may suspend the Master because of misbehaviour or incapacity.

Australian National University Act 1946

Amendments clarify the legal power the Australian National University has to form companies so as to develop and exploit commercially any discovery, invention or property.

Amendments will also provide for the disclosure by University Council members of any direct or indirect pecuniary interests in the matters under consideration by the University Council. The University Council will be able to make Statutes to determine conditions under which members may in such circumstances participate in decisions and discussions.
Other amendments to the Australian National University Act relate to the structure of the Institute of Advanced Studies.

First Home Owners Act 1983

The Act provides for assistance in the form of payments to eligible persons who are constructing or purchasing their first home. An amendment will alter the definition of what an "approved interest in land" constitutes, to provide that the definition include a registered lease exceeding 15 years.

A further amendment will provide, in respect of the income test in the Act, that an applicant be an Australian citizen, hold a valid entry permit, or be exempted from the holding of such an entry permit prior to the financial year for which income is tested.

Regulations may be made authorising the disclosure of information of a prescribed kind to a prescribed authority or person, and the specified conditions that would need to be satisfied prior to such information being disclosed.

The Secretary of the Department will be able to write off irrecoverable debts arising from over-payments under the Act. The Secretary will be required to report to Parliament on amounts written off or waived.

Human Rights and Equal Opportunity Commission Act 1986

Amendments will provide that persons acting under inter-governmental arrangements are in the same position, as regards performing functions of the Human Rights and Equal Opportunity Commission (the Commission), as would be the case if those functions were being performed directly by the Commission. This is intended to clarify the status of actions taken under the Government's one-stop shopping approach and complaints handling.

Judiciary Act 1903

The Act currently enables a person to appeal as a right to the Full Court of the High Court from a judgment of a Justice or Justices exercising the Court's original jurisdiction. An amendment will require a person who is not satisfied with an interlocutory judgment to obtain the leave of the Court before he/she can appeal to the Full Court.

Maritime College Act 1978

Amendments clarify the legal power the Maritime College has to form companies and commercially develop or exploit any discovery, invention or property.
Amendments will also provide for disclosure of any direct or indirect pecuniary interests with respect to matters under consideration by the Maritime College Council, and empower the Council to make statutes covering a broad field of matters under the Act.

The Maritime College is given express authority to lend, borrow, invest monies, and authorise the Treasurer to guarantee payments by the College.

**Marriage Act 1961**

An amendment will insert a definition of 'artificial conception procedure' into the Act. The amendment, which will bring the Act into line with the *Family Law Act 1975*, defines 'artificial conception procedure' to include artificial insemination and the implantation of an embryo in the body of a woman. The amendments also enable the Minister to cause the publication of lists of authorised marriage celebrants and other prescribed authorities in such manner as the Minister considers appropriate.

**National Parks and Wildlife Conservation Act 1975**

Where the Director of National Parks and Wildlife holds a leasehold interest, in respect of land in a park or reserve, which ceases to exist, the land will cease to be land within that park or reserve. Another amendment will enable the termination of a leasehold interest held by the Director, in respect of land in a park or reserve, so that it can be replaced with a new lease without requiring the Governor-General to amend or revoke the proclamation with respect to a park or reserve.

**Racial Discrimination Act 1975**

An amendment will insert a definition of 'complainant' into the Act. The proposed amendment defines 'complainant' to include individuals on whose behalf a complaint is made. This will ensure that a separate complaint need not be made to the Racial Discrimination Commission by each person seeking a remedy for a particular discriminatory action.

An amendment to the Act provides protection from civil actions for damages for persons exercising powers or functions, and for persons dealing with those persons, in relation to acts done or omitted to be done in good faith under the provisions of the Act.
Sex Discrimination Act 1984

An amendment will insert a definition of 'complainant' into the Act. The proposed amendment defines 'complainant' to include individuals on whose behalf a complaint is made. This will ensure that a separate complaint need not be made to the Sex Discrimination Commission by each person seeking a remedy for a particular discriminatory action.

An amendment to the Act provides that notice of a decision not to conduct, or to discontinue, an inquiry into a complaint, together with a statement of reasons and appeal rights, is not required where such action is taken at the complainant's request. Where a complaint is lodged on behalf of other persons and any of those persons disagree with the complainant's decision to terminate the complaint, they are able to make a fresh complaint to the Sex Discrimination Commissioner.

For further information, if required, contact the Law and Government Group.

29 June 1988

Bills Digest Service
Legislative Research Service

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

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