Statute Law (Miscellaneous Provisions) Bill (No.1) 1987

Date Introduced: 30 April 1987
House: House of Representatives
Presented by: Hon Lionel Bowen, M.P., Attorney-General

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 76 Acts as set out in Schedule 1. Schedule 2 contains a list of 24 Acts to be repealed.

Main Provisions
The major amendments are as follows:

Anglo-Australian Telescope Agreement Act 1970
The functions of the Anglo-Australian Telescope Board are currently limited to the operation and management of the Telescope in accordance with the agreement annexed to the Act. Amendments will enable the Board to undertake additional functions as prescribed by regulation and will empower the Governor-General to make regulations for carrying out or giving effect to the Act.

Audit Act 1901
An amendment will alter the definition of 'prescribed authority' to bring a wider class of organisations and bodies within the scope of the Act.

The Auditor-General is to prepare an annual report on the operations of the Auditor-General's Office for tabling in Parliament. The report may include references to efficiency auditing required under the Act.

The Minister for Finance will be authorised to direct the Secretary of the Department to draw from the Commonwealth Public Account in accordance with an appropriation. The requirement for the Governor-General's warrant and the Auditor-General's certificate will be eliminated.

Departments will be required to report on 'special operations' to their Ministers in addition to having the accounts and financial statements of special operations audited by the Auditor-General.
The Auditor-General’s obligation to report breaches of legislation will be limited to those breaches which, in the opinion of the Auditor-General, are of sufficient importance to justify a report.

Regulations may be made to ensure that Commonwealth drivers will be liable for the cost of replacing or repairing a damaged vehicle if their use of a vehicle was unauthorised or they were convicted of the charge of driving under the influence of alcohol or drugs.

Australian Capital Territory Electricity Supply Act 1962

The Act provides for the former House of Assembly to elect one member of the ACT Electricity Authority. An amendment will dispense with this provision and instead empower the Governor-General to appoint a member to hold office for a maximum period of three years.

Australian Citizenship Act 1948

The Act will be amended to allow the holder of a visa in a class prescribed by regulation as permitting return travel to Australia, to be treated as a permanent resident of Australia while outside Australia.

Automotive Industry Authority Act 1984

The Act presently restricts eligibility for participation in the Motor Vehicles and Components Development Grants Scheme to companies incorporated in Australia. Amendments will remove this restriction.

Bass Strait Freight Adjustment Trust Fund Act 1984

Amendments will redefine ‘prescribed refiner’ as a person who operates a refinery. Prescribed refiners will be eligible for payments from the Trust Fund for prescribed oil that they have exported in a particular month.

Commonwealth Prisoners Act 1967

Amendments will ensure that a NSW court may fix a non-probation period for a Federal offender who is sentenced to a term of imprisonment for less than three years. Courts sentencing Federal offenders for more than one offence will be able to apply the relevant State or Territory law in setting non-parole periods.

Complaints (Australian Federal Police) Act 1981

Amendments will provide for an alternative disciplinary procedure to deal with minor complaints. An AFP member who is willing to accept it, may be given a caution instead of being charged with a breach of discipline. Otherwise, the case will go before the Federal Police Disciplinary Tribunal.

Under arrangements agreed to by the AFP and the Commonwealth Ombudsman, minor complaints are dealt with through a process of conciliation. It is only if this process does not achieve a resolution that full investigation and reporting procedures are invoked under the Act. Amendments will give a statutory basis to what is currently an administrative arrangement, and will, in addition, provide for resolution of complaints, minor or otherwise, through conciliation.
Crimes Act 1914; Removal of Prisoners (Australian Capital Territory) Act 1968; Removal of Prisoners (Territories) Act 1923

At common law, a prisoner who escapes from custody while serving a term of imprisonment cannot be detained once the sentence has expired. Amendments to the Crimes Act and the Removal of Prisoners (Territories Act) will ensure that while Federal or Territory offenders are at large in these circumstances, their sentences will cease to run.

Another common law rule establishes that if a prisoner is accidentally released before time by prison authorities, the original warrant lapses and the prisoner cannot be returned to custody. Amendments to these three Acts will empower a constable to arrest the prisoner and take the prisoner before a Magistrate. The Magistrate may issue a warrant committing the prisoner to prison.

Customs Act 1901

The Official Trustee in Bankruptcy has power to take control of the property of persons suspected of certain narcotics dealings in order to recover pecuniary penalties that have been imposed on them. An amendment will provide that the Commonwealth is to indemnify the Trustee against any personal liability that may arise from acts or omissions in the exercise of this power.

Another amendment will indemnify the Official Receiver against liability in negligence for acts or omissions in performing the duties of that office. The indemnification will apply to any person who assists or performs any of the duties of the Official Receiver.

Dairy Produce Act 1986

An amendment will prevent a member of the Executive Council of the Australian Dairy Industry from being appointed to the Australian Dairy Corporation.

Director of Public Prosecutions Act 1983

Amendments will enable the DPP to file an indictment against a person who has been committed for trial for a State or Territory offence where satisfied that, on the facts or evidence of the committal proceedings, the person could have been committed for trial for a Commonwealth offence.

The DPP will be able to give an undertaking to people giving evidence in Australia under the Extradition (Commonwealth Countries) Act 1966 and Extradition (Foreign States) Act 1966 that the evidence will not be used against them in civil or criminal proceedings, except in a trial for perjury. The undertaking may also be given to people giving evidence in coronial inquests and inquiries conducted under Commonwealth law.

Export Market Development Grants Act 1974

An amendment will insert a definition of 'eligible external governmental educational services' into the Act. These will be services supplied by the Commonwealth, State or Northern Territory Governments to students outside Australia as declared by regulations.

First Home Owners Act 1983

The Secretary of the Department administering the First Home Owners Scheme may determine that the date of an applicant's contract is later than the actual date
of the contract. An amendment will provide that this power may only be exercised in unusual circumstances arising from the contract and its performance. The later date will be set within limits defined by the nature of the contract.

An intending spouse of an applicant will be able to join in the application which will be assessed in the same way as joint applications by spouses.

**Honey Industry Act 1962**

Amendments will empower the Minister to extend the periods of office of industry members of the Australian Honey Board to 31 December 1988. This will apply to producer members and packer members whose tenure would otherwise expire on 30 June 1987 and 1 August 1987 respectively.

**Human Rights and Equal Opportunity Commission Act 1986**

An amendment will preclude the Human Rights and Equal Opportunity Commission from inquiring into acts or practices of an intelligence agency. An intelligence agency will be the Australian Secret Intelligence Service, Australian Security Intelligence Organization, Office of National Assessments, Defence Signals Directorate or Joint Intelligence Organization. The Commission is to refer to the Inspector-General of Intelligence and Security any complaints that an intelligence agency is in breach of human rights or the Racial Discrimination Act 1975 or Sex Discrimination Act 1984.

**Inspector-General of Intelligence and Security Act 1986**

An amendment will require the Inspector-General to inquire into complaints referred by the Human Rights and Equal Opportunity Commission.

**National Companies and Securities Commission Act 1979**

Amendments will authorise the Ministerial Council for Companies and Securities to determine the superannuation benefits of full-time members of the National Companies and Securities Commission (NCSC). The NCSC will be empowered to make disbursements flowing from superannuation arrangements.

**National Crime Authority Act 1984**

Amendments will extend the application of relevant provisions of the Act to members of task forces established by the NCA and legal practitioners who are appointed under the Act to assist the NCA as counsel.

A Federal Court Judge will be able to issue a warrant for the apprehension of a person who is subject to a passport surrender order and is believed likely to leave Australia to avoid giving evidence to the NCA, or who is subject to a summons and is believed to be attempting to evade service.

**National Measurement Act 1960**

Sub-clause 2(24) will provide that amendments to provisions governing land transactions will operate from 1 July 1987. All land transactions entered into from that date are to be expressed in Australian legal (metric) units of measurement, otherwise they will be void. The amendment will not affect the validity of a land transaction which refers to other units of measurement prescribed in the regulations. Futures contracts will be excluded from the requirement.

Amendments will provide for the Executive Director of the National Standards Commission to be an ex-officio member of the Commission, appointed by the Commission.
The financial limit on contracts which may be entered into by the Commission without Ministerial approval will be raised from $50,000 to $100,000.

**National Museum of Australia Act 1980**

An amendment will allow the Council of the Museum to dispose of historical material which is owned or possessed by the Museum but not in the national historical collection. The material may only be destroyed if the Council is satisfied that it has no saleable value and cannot be disposed of in any other way. Ministerial approval will be required for the disposal of material of value in excess of $5000.

**Pig Industry Act 1986**

The Act prohibits the Australian Pork Corporation Selection Committee from nominating executive members of eligible industry bodies for appointment to membership of the Australian Pork Corporation. Amendments will remove this prohibition.

**Quarantine Act 1908**

An amendment will empower a quarantine officer to search goods on Australian vessels entering mainland Australia from the Torres Strait.

**Trade Practices Act 1974**

The amendment will make it clear that the provisions of the 1980 Vienna Convention on Contracts for the International Sale of Goods prevail over the provisions of this Act governing conditions and warranties in consumer practices, to the extent of any inconsistency.

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

20 May 1987

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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