

ACTS INTERPRETATION.

No. 2 of 1901.

An Act for the Interpretation of Acts of Parliament
and for Shortening their Language.

[Assented to 12th July, 1901.]

BE it enacted by the King's Most Excellent Majesty the Senate
and the House of Representatives of the Commonwealth of
Australia as follows :—

SHORT TITLE AND APPLICATION.

Short title.

1. This Act may be cited as the *Acts Interpretation Act* 1901.

Application of
Act.

2. This Act shall apply to all Acts of the Parliament, including
this Act, and shall be binding on the Crown.

COMMENCEMENT OF ACTS.

3.—(1.) In every Act the word “commencement,” when used with reference to an Act, shall mean the time at which the Act comes into operation.

Meaning of
“commence-
ment.”

52 & 53 Vict.
c. 63 s. 36.

(2.) Where an Act, or any instrument (including any rules regulations or by-laws) made granted or issued under a power conferred by an Act, is expressed to come into operation on a particular day, it shall come into operation immediately on the expiration of the last preceding day.

4. When an Act is not to come into operation immediately on the passing thereof, and confers power to make any appointment, to make grant or issue any instrument (including any rules regulations or by-laws), to give notices, to prescribe forms, or to do any other thing for the purposes of the Act, that power may, unless the contrary intention appears, be exercised at any time after the passing of the Act for the purpose of bringing the Act into operation at the commencement thereof.

Exercise of
statutory
powers between
passing and
commencement
of Act.

52 & 53 Vict.
c. 63 s. 37.

Provided that any instrument made under the power shall not, unless the contrary intention appears in the Act or the contrary is necessary for bringing the Act into operation, come into operation until the Act comes into operation.

5.—(1.) Every Act to which the Royal assent is given by the Governor-General for and on behalf of the King shall come into operation on the day on which such Act receives the Royal assent, unless the contrary intention appears in such Act.

Commencement
of Acts assented
to by the
Governor-
General.

(2.) Every Act reserved for the signification of the King’s pleasure thereon shall come into operation on the day on which His Majesty’s assent is proclaimed in the *Gazette* by the Governor-General, unless the contrary intention appears in such Act.

Commencement
of Acts reserved.

6. The date appearing on the copy of an Act printed by the Government Printer, and purporting to be the date on which the Governor-General assented thereto, or made known the King’s assent, shall be evidence that such date was the date on which the Governor-General so assented or made known the King’s assent, and shall be judicially noticed.

Evidence of date
of assent or
proclamation.

REPEAL AND EXPIRATION OF ACTS.

7. The repeal of an Act or part thereof by which a previous Act or part thereof was repealed shall not have the effect of reviving such last-mentioned Act or part thereof without express words.

Effect of repeal
of Act.

52 & 53 Vict.
c. 63 s. 11 (1).

8. Where an Act repeals in the whole or in part a former Act, then unless the contrary intention appears the repeal shall not—

Effect of repeal.

52 & 53 Vict.
c. 63 s. 38 (2).

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

(b) affect the previous operation of any Act so repealed, or anything duly done or suffered under any Act so repealed; or

- (c) affect any right privilege obligation or liability acquired accrued or incurred under any Act so repealed ; or
- (d) affect any penalty forfeiture or punishment incurred in respect of any offence committed against any Act so repealed ; or
- (e) affect any investigation legal proceeding or remedy in respect of any such right privilege obligation liability penalty forfeiture or punishment as aforesaid ;

and any such investigation legal proceeding or remedy may be instituted continued or enforced, and any such penalty forfeiture or punishment may be imposed, as if the repealing Act had not been passed.

Repealed Acts in force until substituted provisions operate.

52 & 53 Vict. c. 63 s. 11 (2).

References to repealed provisions.

52 & 53 Vict. c. 63 s. 38 (1).

Expiration of Act.

No. 4 1897 (N.S.W.) s. 9.

9. Where an Act repeals in the whole or in part a former Act and substitutes provisions in lieu thereof, the repealed provisions shall remain in force until the substituted provisions come into operation.

10. Where an Act repeals and re-enacts with or without modification any provisions of a former Act, references in any other Act to the provisions so repealed shall unless the contrary intention appears be construed as references to the provisions so re-enacted.

11. The expiration of an Act shall not affect any civil proceeding previously commenced under such Act, but every such proceeding may be continued and everything in relation thereto be done in all respects as if the Act continued in force.

GENERAL PROVISIONS.

Every section a substantive enactment.

52 & 53 Vict. c. 63 s. 8.

Headings schedules marginal notes and footnotes.

Vict. No. 1058 s. 21.

N. Z. 15, 1888 s. 5.

12. Every section of an Act shall have effect as a substantive enactment without introductory words.

13.—(1.) The headings of the Parts Divisions and Subdivisions into which any Act is divided shall be deemed to be part of the Act.

(2.) Every schedule to an Act shall be deemed to form part thereof.

(3.) Neither the marginal notes nor the footnotes to any Act shall be deemed to be part thereof.

Acts may be altered &c. in same session.

52 & 53 Vict. c. 63 s. 10.

Amending to be construed with amended Act.

No. 4 1897 (N.S.W.) s. 12.

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

15. Every Act amending another Act shall, unless the contrary intention appears, be construed with such other Act and as part thereof.

WORDS AND REFERENCES IN ACTS.

References to the Sovereign.

52 & 53 Vict. c. 63 s. 30.

16. In any Act references to the Sovereign reigning at the time of the passing of such Act, or to the Crown, shall unless the contrary intention appears be construed as references to the Sovereign for the time being.

17. In any Act, unless the contrary intention appears—
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| (a) "The Commonwealth" shall mean the Commonwealth of Australia : | Constitutional and official definitions.
"The Commonwealth." |
| (b) "Australia" includes the whole of the Commonwealth : | "Australia." |
| (c) "The Constitution" shall mean the Constitution of the Commonwealth : | "The Constitution." |
| (d) "The Constitution Act" shall mean <i>The Commonwealth of Australia Constitution Act</i> : | "The Constitution Act." |
| (e) "The Parliament" shall mean the Parliament of the Commonwealth : | "The Parliament." |
| (f) "The Governor-General" shall mean the Governor-General of the Commonwealth, or the person for the time being administering the government of the Commonwealth, acting with the advice of the Executive Council : | "The Governor-General." |
| (g) "The Executive Council" shall mean the Federal Executive Council : | "The Executive Council." |
| (h) "Minister of State" or "Minister" shall mean one of the King's Ministers of State for the Commonwealth : | "Minister of State." |
| (i) "The Minister" shall mean the Minister for the time being administering the Act or enactment in which or in respect of which the expression is used : | "The Minister." |
| (j) "Proclamation" shall mean Proclamation by the Governor-General published in the <i>Gazette</i> : | "Proclamation." |
| (k) "The Consolidated Revenue Fund" shall mean the Consolidated Revenue Fund of the Commonwealth : | "The Consolidated Revenue Fund." |
| (l) "The seat of Government" shall mean the seat of Government of the Commonwealth : | "The seat of Government." |
| (m) "The <i>Gazette</i> " shall mean the <i>Commonwealth of Australia Gazette</i> : | "The <i>Gazette</i> ." |
| (n) "The Government Printer" shall include any person printing for the Government of the Commonwealth : | "The Government Printer." |
| (o) "State" shall mean a State of the Commonwealth. | "State." |
18. In any Act, unless the contrary intention appears—
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| (a) "The United Kingdom" shall mean the United Kingdom of Great Britain and Ireland : | Definitions.
52 & 53 Vict. c. 63 s. 18. |
| (b) "British possession" shall mean any part of the King's dominions exclusive of the United Kingdom, and where parts of such dominions are under both a central and a local Legislature all parts under the central Legislature shall for the purposes of this definition be deemed to be one British possession. | "The United Kingdom."
"British possession." |
19. Where in an Act any Minister is referred to, such reference shall unless the contrary intention appears be deemed to include any Minister for the time being acting for or on behalf of such Minister.
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| | Mention of Minister.
54 Vict. No. 1053 (Vict.) s. 7. |
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20. Where in an Act any person holding or occupying a particular office or position is mentioned or referred to in general terms, such mention or reference shall unless the contrary intention appears be deemed to include all persons who at any time occupy for the time being the said office or position.
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| | Mention of an officer in general terms.
No. 4 1897 (N.S.W.) s. 16. |
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Office &c. means office &c. of the Commonwealth.
No. 4 1897
(N.S.W.) s. 17.

21. In any Act, unless the contrary intention appears—

- (a) references to any officer or office shall be construed as references to such officer or office in and for the Commonwealth; and
- (b) references to localities jurisdictions and other matters and things shall be construed as references to such localities jurisdictions and other matters and things in and of the Commonwealth.

Meaning of certain words.
52 & 53 Vict.
c. 63 s. 3.
No. 4 1897
(N.S.W.) s. 21.
"Person,"
"party."

22. In any Act, unless the contrary intention appears—

- (a) "Person" and "party" shall include a body politic or corporate as well as an individual:
- (b) "Month" shall mean calendar month:
- (c) "Land" shall include messuages tenements and hereditaments, corporeal and incorporeal, of any tenure or description, and whatever may be the estate or interest therein:
- (d) "Estate" shall include any estate or interest charge right title claim demand lien or incumbrance at law or in equity:
- (e) "Financial year" shall mean, as respects any matters relating to the Consolidated Revenue Fund or moneys provided by the Parliament or to public taxes or finance, the twelve months ending the thirtieth day of June.

"Month."
"Land."
"Estate."

"Financial year."
52 & 53 Vict.
c. 63 s. 22.

Rules as to gender and number.
52 & 53 Vict.
c. 63 s. 1.

23. In any Act, unless the contrary intention appears—

- (a) Words importing the masculine gender shall include females; and
- (b) Words in the singular shall include the plural, and words in the plural shall include the singular.

Corporations liable to and may sue for penalties.

24. Every provision of an Act relating to offences punishable on indictment or summary conviction shall unless the contrary intention appears be deemed to refer to bodies corporate as well as to persons.

Where under any Act any forfeiture or penalty is payable to a party aggrieved it shall be payable to a body corporate where the body corporate is the party aggrieved.

References to "writing."
52 & 53 Vict.
c. 63 s. 20.

25. In any Act expressions referring to writing shall, unless the contrary intention appears, be construed as including references to any mode of representing or reproducing words in a visible form.

JUDICIAL EXPRESSIONS.

Judicial definitions.
"The High Court."

26. In any Act, unless the contrary intention appears—

- (a) "The High Court" shall mean the High Court of Australia:
- (b) "Federal Court" shall mean the High Court or any court created by the Parliament:
- (c) "Court exercising federal jurisdiction" shall mean any court when exercising federal jurisdiction and shall include federal courts:

"Federal Court."
"Court of federal jurisdiction."

- (d) "Court of summary jurisdiction" shall mean any justice or justices of the peace or other magistrate of the Commonwealth or part of the Commonwealth, or of a State or part of a State, sitting as a court for the making of summary orders or the summary punishment of offences under the law of the Commonwealth or of a State or by virtue of his or their commission or commissions or any Imperial Act.

"Court of summary jurisdiction."
See 52 & 53 Vict. c. 63 s. 13.

27. In any Act, unless the contrary intention appears—

- (a) The word "indictment" shall include information :

Meaning of certain words.

- (b) The words "oath" and "affidavit" shall, in the case of persons allowed by law to affirm declare or promise instead of swearing, include affirmation, declaration, and promise, and the word "swear" shall in the like case include affirm, declare, and promise :

"Oath,"
"affidavit,"
"swear."
52 & 53 Vict. c. 63 s. 3.

- (c) The words "statutory declaration" shall mean a declaration made by virtue of any Act authorizing a declaration to be made otherwise than in the course of a judicial proceeding.

"Statutory declaration."
52 & 53 Vict. c. 63 s. 21.

- (d) The words "committed for trial," used in relation to any person, shall mean committed to prison with the view of being tried before a judge and jury, or admitted to bail upon a recognisance to appear and be so tried.

"Committed for trial."
52 & 53 Vict. c. 63 s. 27.

28.—(1.) In any Act, unless the contrary intention appears, the expression "Rules of Court" when used in relation to any court shall mean rules made by the authority having for the time being power to make rules or orders regulating the practice and procedure of such court.

Rules of Court.
52 & 53 Vict. c. 63 s. 14.

(2.) The power of such authority to make Rules of Court shall, unless the contrary intention appears, include a power to make Rules of Court for the purpose of any Act which directs or authorizes anything to be done by Rules of Court.

29. Where an Act authorizes or requires any document to be served by post, whether the expression "serve" or the expression "give" or "send" or any other expression is used, then unless the contrary intention appears the service shall be deemed to be effected by properly addressing prepaying and posting the document as a letter, and unless the contrary is proved to have been effected at the time at which the letter would be delivered in the ordinary course of post.

Meaning of service by post.
52 & 53 Vict. c. 63 s. 26.

30. Where an act or omission constitutes an offence under two or more Acts, or both under an Act and at common law, the offender shall, unless the contrary intention appears, be liable to be prosecuted and punished under either or any of those Acts or at common law, but shall not be liable to be punished twice for the same offence.

Offences under two or more laws.
52 & 53 Vict. c. 63 s. 33.

31. Judicial notice shall be taken of every Proclamation or Order by the Governor-General or by the Governor-General in Council made or purporting to be made in pursuance of any Act or Imperial Act.

Proclamations judicially noticed
No. 4 1897
(N.S.W.) s. 34.

POWERS CONFERRED AND DUTIES IMPOSED BY ACTS.

Expressions in instrument under an Act. 52 & 53 Vict. c. 63 s. 31.

32. Where an Act confers power to make, grant, or issue any instrument (including rules, regulations, or by-laws) expressions used in any such instrument shall, unless the contrary intention appears, have the same meanings as in the Act conferring the power.

Exercise of powers and duties, 52 & 53 Vict. c. 63 s. 32.

33.—(1.) Where an Act confers a power or imposes a duty, then, unless the contrary intention appears, the power may be exercised and the duty shall be performed from time to time as occasion requires.

by holder of office.

(2.) Where an Act confers a power or imposes a duty on the holder of an office as such, then, unless the contrary intention appears, the power may be exercised and the duty shall be performed by the holder for the time being of the office.

Power to make includes power to rescind.

(3.) Where an Act confers a power to make any rules, regulations, or by-laws the power shall, unless the contrary intention appears, be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to rescind, revoke, amend, or vary such rules, regulations or by-laws.

Power to appoint includes power to remove, No. 4 1897 (N.S.W.) s. 30.

(4.) Where an Act confers upon any person or authority a power to make appointments to any office or place, the power shall, unless the contrary intention appears, be construed as including a power to remove or suspend any person appointed, and to appoint another person temporarily in the place of any person so suspended or in place of any sick or absent holder of such office or place.

subject to conditions.

Provided that where the power of such person or authority to make any such appointment is only exercisable upon the recommendation or subject to the approval or consent of some other person or authority, such power of removal shall, unless the contrary intention appears, only be exercisable upon the recommendation or subject to the approval or consent of such other person or authority.

Power to determine includes authority to administer oath, No. 4 1897 (N.S.W.) s. 33.

34. Any court, Judge, justice of the peace, officer, commissioner, arbitrator, or other person authorized by law, or by consent of parties, to hear and determine any matter, shall have authority to receive evidence and examine witnesses and to administer an oath to all witnesses legally called before them respectively.

DISTANCE AND TIME.

Measurement of distance. 52 & 53 Vict. c. 63 s. 34.

35. In the measurement of any distance for the purposes of any Act, that distance shall, unless the contrary intention appears, be measured in a straight line on a horizontal plane.

Reckoning of time. See No. 4 1897 (N.S.W.) s. 35.

36.—(1.) Where in an Act any period of time, dating from a given day, act, or event, is prescribed or allowed for any purpose, the time shall, unless the contrary intention appears, be reckoned exclusive of such day or of the day of such act or event.

(2.) Where the last day of any period prescribed or allowed by an Act for the doing of anything falls on a Sunday, or on any day which is a public or a bank holiday throughout the Commonwealth,

or throughout the State or part of the Commonwealth in which the thing is to be or may be done, the thing may be done on the first day following which is not a Sunday or such public or bank holiday.

37. Where in an Act any reference to time occurs, such time shall, unless it is otherwise specifically stated, be deemed in each State or part of the Commonwealth to mean the standard or legal time in that State or part of the Commonwealth.

Expressions of
time.
43 & 44 Vict. c. 9.
Vict. No. 1370
s. 4.

CITATION OF ACTS.

38.—(1.) An Act passed by the Parliament of the Commonwealth may be referred to by the word “Act” alone.

(2.) An Act passed by the Parliament of the United Kingdom may be referred to by the term “Imperial Act.”

(3.) An Act passed by the Parliament of a State may be referred to by the term “State Act.”

Reference to
Acts.
See No. 4 1897
(N.S.W.) s. 24.

39. The Acts passed in each secular year shall be numbered in regular arithmetical series, beginning with the number one, in the order in which the Governor-General assents thereto, or makes known the King’s assent thereto.

Numbering of
Acts.

40.—(1.) In any Act, instrument, or document—

(a) any Act may be cited by its short title, or by reference to the secular year in which it was passed and its number ; and

(b) any Imperial Act may be cited by its short title (if any), or by reference to the regnal year in which it was passed and its chapter ; and

(c) any State Act may be cited by a reference to the State by the Parliament whereof the Act was passed, together with such mode of reference as is sufficient in Acts passed by such Parliament.

Citation of Acts.
52 & 53 Vict.
c. 63 s. 35.

(2.) Any enactment may be cited by reference to the part, section, sub-section, or other division of the Act, Imperial Act, or State Act, in which the enactment is contained.

(3.) Every such reference shall be made according to the copy of such Act printed by the Government Printer of the Commonwealth or of the State, or of the King’s Printer in London (as the case may be), or purporting to be so printed.