



Statute Law Revision Bill 2008

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Statute Law Revision Bill 2008

Date introduced: 19 March 2008

House: Senate

Portfolio: Attorney-General

Commencement: The effect of the commencement provisions in Schedules 1 and 2 is that the errors are taken to have been correct immediately after the error was made.¹ Schedule 3 commences on Royal Assent and Schedule 4 commences the day after Royal Assent.

Links: The [relevant links](#) to the Bill, Explanatory Memorandum and second reading speech can be accessed via BillsNet, which is at <http://www.aph.gov.au/bills/>. When Bills have been passed they can be found at ComLaw, which is at <http://www.comlaw.gov.au/>.

Purpose

Schedule 1 of the Bill amends 26 principal Acts, Schedule 2 amends 14 amending Acts, Schedule 3 repeals 27 obsolete Acts, the majority of which belong within the portfolio of the Minister of Agriculture, Fisheries and Forestry, and Schedule 4 removes gender specific language from 88 Acts.

Background

Statute Law Revision Bills are traditionally non-controversial and receive the support of the Parliament as they are regarded as an essential tool in the process of keeping orderly, accurate and up to date Commonwealth Statute books. All jurisdictions pass similar bills for the same purpose and entail a constant review and monitoring of laws.

The main purpose is to amend drafting and technical errors and to get rid of obsolete legislation and language. These omnibus bills are never used or meant to be used to make substantive change to the law.² As stated in the Second Reading Speech:³

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1. Hon. Sen. Kim Carr, 'Second Reading Speech: Statute Law Revision Bill 2008', Senate, *Debates*, 19 March 2008.
 2. A point also emphasised in relation to this particular Bill in the Statute Law Revision Bill 2008, Explanatory Memorandum, paragraph 5, p. 1.

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Scrutiny of the statute book extends beyond the correction of minor errors and the clearing away of obsolete Acts. This Bill removes gender-specific language which will ensure that our laws are contemporary.

The timely corrections and repeals of obsolete language effected by Statute Law Revision Bills improve the quality and accuracy of Commonwealth legislation and facilitate the publication of consolidated versions of Acts.

Financial implications

According to the Explanatory Memorandum the Bill will have no financial impact.⁴

Main provisions

Due to the nature of this Bill it is not necessary to give a detailed analysis of the provisions. The Digest therefore focuses on just a couple of examples.

References to the Australian Citizenship Act

For example, **items 6-13**, and **items 19** and **20** in Schedule 2 amend various Acts to replace the incorrect statements of the short title of the *Australian Citizenship Act 2007*. The Act had been incorrectly described as the *Australian Citizenship Act 2006*. The Australian Citizenship Bill was introduced into the House of Representatives on 9 November 2005, with the substantive part of the Bill to commence by Proclamation. The Bill was assented to on 15 March 2007, (Act No. 20 of 2007, the *Australian Citizenship Act 2007*) and proclaimed on 1 July 2007. This Act was later amended by the *Australian Citizenship Amendment (Citizenship Testing) Act*, (Act No. 142 of 2007, which commenced on 1 October 2007). This been said, there never was an *Australian Citizenship Act 2006*.

Removal of gender specific language

Last year's Statute Law Revision Bill amended the *Customs Act 1901* to remove gender specific language and other Acts⁵ have been amended on ad hoc occasions to have such changes made as part of the Commonwealth's programme of reform in this area. Under the paragraph 23(a) of the *Acts Interpretation Act 1901*, in any Act, unless the contrary

3. op. cit.

4. op. cit, paragraph 6, p. 1.

5. For example, by the Liquid Fuel Emergency Amendment Bill 2007, the Defence Legislation Amendment Bill 2006, and the Financial Framework Legislation Amendment Bill (No.1) 2005.

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intention appears, words importing a gender include 'every other gender'. However, the Government is still processing this reform measure progressively.

In addition the *Legislative Instruments Act 2003* in its provisions on measures to achieve high drafting standards provides:

The Secretary must also cause steps to be taken:

- (a) to prevent the inappropriate use of gender-specific language in legislative instruments; and
- (b) to advise rule-makers of legislative instruments that have already been made if those legislative instruments make inappropriate use of such language; and
- (c) to notify both Houses of the Parliament about any occasion when a rule-maker is advised under paragraph (b).⁶

'Inappropriate use of gender-specific language' is a self-explanatory expression defined as follows:

inappropriate use of gender-specific language, in relation to a legislative instrument, means use of such language in the legislative instrument in circumstances where it is not necessary to identify persons by their sex.

Schedule 4 proposes over 500 amendments to 88 Acts to remove gender specific language.

6. *Legislative Instruments Act 2003*, subsection 16(3).

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