

No. , 1968.

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## A BILL

Relating to the interpretation of Acts and certain statutory instruments; to amend the Interpretation Act of 1897, as subsequently amended; and for purposes connected therewith.

[Mr McCaw—19 November, 1968.]

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**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. (1) This Act may be cited as the "Interpretation (Amendment) Act, 1968".
- (2) Short title, citation and commencement.

*Interpretation (Amendment).*

(2) The Interpretation Act of 1897, as subsequently amended and as amended by this Act, may be cited as the Interpretation Act, 1897-1968.

(3) This Act shall commence on a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. The Interpretation Act of 1897, as subsequently amended, is amended— Amendment of Act No. 4, 1897.

10 (a) by omitting from section one the words "Interpretation Act of" and by inserting in lieu thereof the words "Interpretation Act,"; Sec. 1. (Short title.)

(b) by omitting subsection three of section two and by inserting in lieu thereof the following subsection :— Sec. 2. (Application of Acts.)

(iii) This Act—

15 (a) applies to this Act;

(b) except where otherwise expressly provided in this Act, applies to all Acts passed after the commencement of this Act and to all instruments made after that commencement under any Acts whenever passed; and

20 (c) notwithstanding any other provision of this Act, except subsection one of this section and subsection two of section 14A of this Act, does not apply to Acts passed before that commencement or to instruments made before that commencement under any such Acts.

25 (c) by inserting next after section fourteen the following new section :— New sec. 14A.

30 14A. (1) An Act shall be read and construed as operating to the full extent of, but so as not to exceed, the legislative powers of the State, to the intent that where any provision of the Act, or the application of any such provision to any person, subject-matter Plenary construction of Acts.

*Interpretation (Amendment).*

5 subject-matter or circumstance, would, but for this section, have been construed as being in excess of those powers, it shall be a valid provision to the extent to which it is not in excess of those powers, and the remainder of the Act and the application of the provision to other persons, subject-matters or circumstances shall not be affected.

10 (II) Subsection one of this section applies to an Act passed before or after the commencement of the Interpretation (Amendment) Act, 1968, and applies to any such Act in addition to, and not in derogation of, any provision of any such Act relating to the construction, or extent of the operation, of the Act.

15 (d) by inserting at the end of section twenty-one the following new paragraphs :—

(i) The word "Commonwealth" shall mean the Commonwealth of Australia. Sec. 21.  
(Meaning of words.)  
"Commonwealth"

20 (j) The word "prescribed" shall mean prescribed by, or by regulations, rules or by-laws made under, the Act in which the word is used. "Prescribed"

(e) by omitting section twenty-five and by inserting in lieu thereof the following section :— Subst.  
sec. 25.

25 25. (I) Where an Act or an instrument made under an Act or any provision thereof is referred to in an Act or an instrument so made and the Act, instrument or provision so referred to has, at the time the reference is made, been amended or is subsequently amended, or is subsequently repealed and re-enacted, with or without modification, the reference extends to the Act, instrument or provision, as the case may be, as amended or re-enacted or, where the Act, instrument or provision as re-enacted has been subsequently amended, to the Act, instrument or provision as re-enacted and amended. References to amended or substituted Acts or statutory instruments.

30

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(II)



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*Interpretation (Amendment).*

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(II) Subsection one of this section—

- 5 (a) applies to a reference to an Act passed, and to a reference to an instrument made, before or after the commencement of the Interpretation (Amendment) Act, 1968, and whether the reference is contained in an Act passed, or in an instrument under an Act made, before or after that commencement;
- 10 (b) applies, in the case of a reference contained in an Act passed, or in an instrument under an Act made, before the commencement of the Interpretation (Amendment) Act, 1968, whether or not the reference is followed by words indicating that the reference includes subsequent amendments of the Act or instrument referred to, and whether or not the reference is to a mode of citation of the Act or instrument that includes two secular years; and
- 15 (c) so applies, except in so far as a contrary intention appears.
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(III) In the application of subsection one of this section to an instrument made under an Act—

- 25 (a) “amended” includes altered or varied;
- (b) “re-enacted” includes re-made; and
- (c) “repealed” includes revoked or rescinded.

(f) by inserting at the end of section twenty-seven the following new subsections :—

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(II) Any provision in an Act, regulation, rule or by-law (not being a provision, or a provision of an Act, regulation, rule or by-law, declared by an order in force under subsection three of this section to be a provision to which or an Act, regulation, rule or by-law to the provisions of which this

Sec. 27.  
(Meaning of service by post.)



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*Interpretation (Amendment).*

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5 this subsection does not apply) under which a document, other than a summons, may be or is required to be served on or sent to any person by registered mail, registered post, certified mail or certified post shall be construed as authorising the service or sending of the document by post, other than registered mail, registered post, certified mail or certified post, but nothing in this subsection prevents the service or sending of the document in the manner prescribed by the provision.

15 (III) The Governor may, by order published in the Gazette, declare that the provisions of subsection two of this section do not apply to any specified provision of an Act, regulation, rule or by-law or to the provisions of any specified Act, regulation, rule or by-law.

(IV) Subsection two of this section—

20 (a) applies only to Acts passed, and to regulations, rules and by-laws made, before the commencement of the Interpretation (Amendment) Act, 1968; and

(b) so applies notwithstanding any provision of any such Act, regulation, rule or by-law.

25 (v) An order made under subsection three of this section does not affect the operation of subsection two of this section in relation to the service or sending of a document that had been posted before the order was made.

30 (g) by inserting at the end of section thirty-four the following new subsection :—

Sec. 34.  
(Proclamations  
judicially  
noticed.)

(II) Judicial notice shall be taken—

(a) of every regulation, rule or by-law—

35 (i) made or purporting to have been made, whether before or after the commencement of the Interpretation (Amendment)

*Interpretation (Amendment).*

(Amendment) Act, 1968, by the Governor under an Act passed before or after that commencement; or

- 5 (ii) made or purporting to have been made, whether before or after that commencement, by any other person or body under an Act so passed and
- 10 required by the Act under which it is made to be approved or confirmed by the Governor,

15 where the regulation, rule or by-law is required by the Act under which it is made to be published in the Gazette and it is so published; and

(b) of the date of its publication.

- 20 (h) by omitting from section thirty-seven the words “, so far as may be necessary or expedient for the purpose of bringing the Act into operation at the date of the commencement thereof”; Sec. 37.  
(Exercise of statutory powers between passing and commencement of Act.)

- (i) by inserting next after section thirty-seven the following new sections and headings :— New secs. 38-45.

STATUTORY BODIES.

25 38. (1) A corporation constituted by or under an Act— Statutory corporations.

- (a) has perpetual succession;
- (b) shall have a common seal;
- (c) may take proceedings and be proceeded against in its corporate name;
- (d)

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*Interpretation (Amendment).*

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- (d) may, for the purposes for which it is constituted, purchase, exchange, take on lease, hold, dispose of and otherwise deal with property; and
- 5 (e) may do and suffer all other things that bodies corporate generally may, by law, do and suffer and that are necessary for or incidental to the purposes for which it is constituted.
- 10 (ii) The common seal of a corporation so constituted shall be kept by the president, chairman or other principal officer of the corporation and shall only be affixed to an instrument or document in the presence of at least two members of the corporation with an attestation by the signatures of those members of the fact and date of the affixing of the seal.
- 15 (iii) All courts and persons acting judicially—
- 20 (a) shall take judicial notice of the seal of a corporation so constituted that has been affixed to any instrument or document; and
- (b) shall until the contrary is proved presume that the seal was properly affixed.
- 25 (iv) The foregoing provisions of this section—
- (a) apply only in respect of a corporation constituted by or under an Act passed after the commencement of the Interpretation (Amendment) Act, 1968;
- 30 (b) apply in addition to any other provisions relating to such a corporation that are contained in the Act by or under which it is constituted; and
- 35 (c) so apply, except in so far as a contrary intention appears.



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*Interpretation (Amendment).*

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5 39. (I) A person who is appointed to be a member of any body, whether incorporated or not, constituted by or under an Act ceases to hold office as a member of that body and there is a casual vacancy in his office—

Casual vacancies in membership of statutory bodies.

- (a) if he dies;
- 10 (b) if he becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958;
- (c) if he resigns his office in writing under his hand addressed to the person by whom he was appointed and the resignation is accepted by that person;
- 15 (d) if he becomes bankrupt, compounds with his creditors or makes any assignment of his estate for their benefit;
- 20 (e) if he is convicted in New South Wales of a felony or of a misdemeanour punishable by imprisonment for a period of twelve months or more, or if he is convicted elsewhere than in New South Wales of an offence that, if it were committed in New South Wales, would be a felony or a
- 25 misdemeanour so punishable;
- (f) if he ceases to hold the qualification, if any, by virtue of which he was eligible to be, and was, appointed to the body; or
- 30 (g) if he is removed from that office by the person by whom he was appointed.

35 (II) On the occurrence of a casual vacancy in the office of a member of a body referred to in subsection one of this section, the person or body by whom that member was appointed may, in like manner, if any, as applied to the appointment of the person whose office has been vacated, appoint another

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*Interpretation (Amendment).*

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5 another person to fill the vacant office for the  
residue of the term of office of the person whose  
office has been vacated, but, where the person whose  
office has been vacated was eligible to be appointed  
by reason of his holding some qualification or by  
reason of his being elected, or nominated or recom-  
mended for appointment, to the office, a person  
shall not be appointed under this subsection to fill  
10 the casual vacancy unless he has that qualification  
or is elected, or nominated or recommended for  
appointment, by the same person or body as elected,  
nominated or recommended the person whose office  
has been vacated.

15 (III) A person appointed, in accordance  
with subsection two of this section, to fill a vacant  
office for the residue of the term of office of a  
person whose office has been vacated is, if otherwise  
qualified, eligible for reappointment to that office  
on the expiration of the term for which he was  
20 appointed.

(IV) Subsection one of this section—

- 25 (a) applies only to a member of a body con-  
stituted under an Act passed after the  
commencement of the Interpretation  
(Amendment) Act, 1968;
- (b) applies in addition to any other provisions  
relating to such a body that are contained in  
the Act by or under which it is constituted;  
and
- 30 (c) so applies, except in so far as a contrary  
intention appears.

35 40. (I) Any act or proceeding of any body, Acts and  
proceedings  
of statutory  
bodies. whether incorporated or not, constituted by or  
under an Act is, notwithstanding that at the time  
when the act or proceeding was done, taken or  
commenced there was—

- (a) a vacancy in the office of a member of the  
body; or

(b)

*Interpretation (Amendment).*

5 (b) any defect in the appointment, or any disqualification, of a member of a body, as valid as if the vacancy, defect or disqualification did not exist and the body were fully and properly constituted.

(II) Subsection one of this section—

10 (a) applies only in respect of a body constituted by or under an Act passed after the commencement of the Interpretation (Amendment) Act, 1968;

(b) applies in addition to any other provisions relating to such a body that are contained in the Act by or under which it is constituted; and

15 (c) so applies, except in so far as a contrary intention appears.

DELEGATED POWERS, ETC.

20 41. (I) Where the discharge, exercise or performance by a person of a responsibility, power, authority, duty or function under an Act or under an instrument made under an Act depends on his opinion, belief or state of mind and the responsibility, power, authority, duty or function is, in accordance with the Act or instrument, delegated, the delegate may, subject to any restriction imposed by the delegation, discharge, exercise or perform the responsibility, power, authority, duty or function on his own opinion, belief or state of mind, as the case may require.

Exercise or performance of delegated powers, authorities, duties or functions.

30 (II) Subsection one of this section applies to a delegate discharging, exercising or performing a responsibility, power, authority, duty or function under an Act passed, or under an instrument made, before or after the commencement of the Interpretation (Amendment) Act, 1968, and whether the delegation was made before or after that commencement.

PROVISIONS



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*Interpretation (Amendment).*

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PROVISIONS RELATING TO CERTAIN STATUTORY  
INSTRUMENTS.

5 42. (I) A regulation under an Act passed after the commencement of the Interpretation (Amendment) Act, 1968, shall, except in so far as a contrary intention appears—

Machinery  
for making  
regulations.

(a) be published in the Gazette;

10 (b) take effect on and from the date of publication or a later date specified in the regulation; and

(c) be laid before each House of Parliament within fourteen sitting days of that House after the date of publication.

15 (II) If either House of Parliament passes a resolution, of which notice has been given within fifteen sitting days of that House after a regulation referred to in subsection one of this section has been laid before it, disallowing the regulation or any part thereof, the regulation or part thereupon ceases to have effect.

20 (III) For the purposes of subsections one and two of this section, sitting days shall be counted, whether or not they occur during the same session.

25 (IV) The provisions of paragraph (c) of subsection one and the provisions of subsections two and three of this section shall, in respect of a regulation made after the commencement of the Interpretation (Amendment) Act, 1968, under an Act passed before that commencement and notwithstanding anything contained in any such Act, apply to and in respect of the laying before each House of Parliament, and the disallowance, of that regulation and any such Act so passed shall be deemed to be amended to the extent necessary to give effect to this subsection.

(v)

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*Interpretation (Amendment).*

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(v) In this section, "regulation" means regulation, rule or by-law—

- (a) that is made by the Governor; or
- (b) that is made by any other person or body and is required by the Act under which it is made to be approved or confirmed by the Governor.

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43. (i) It shall be presumed, in the absence of Regulations, evidence to the contrary, that all conditions and <sup>etc.—</sup> preliminary steps precedent to the making, whether conditions precedent. before or after the commencement of the Interpretation (Amendment) Act, 1968, of an instrument made under an Act have been complied with and performed.

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(ii) In this section, "instrument" means instrument—

- (a) that is made by the Governor; or
- (b) that is made by any other person or body and is required by the Act under which it is made to be approved or confirmed by the Governor,

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being an instrument that is required by this Act or the Act under which it is made to be published in the Gazette.

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44. (i) The repeal, revocation, or rescission <sup>Effect of</sup> whether in whole or in part, of any regulation under <sup>repeal of</sup> an Act does not affect— <sup>regulations.</sup>

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- (a) the previous operation of the regulation or anything duly suffered, done or commenced under the regulation;
- (b) any right, privilege, obligation or liability acquired, accrued or incurred under the regulation;

(c)

*Interpretation (Amendment).*

(c) any penalty, forfeiture or punishment incurred in respect of any offence against the regulation; or

5 (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment,

10 and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed or enforced as if the repeal, revocation or rescission had not occurred.

(II) Subsection one of this section—

15 (a) applies only to a repeal, revocation or rescission occurring after the commencement of the Interpretation (Amendment) Act, 1968; and

(b) so applies, except in so far as the contrary appears.

20 (III) In this section, “regulation” means regulation, rule or by-law—

(a) that is made by the Governor; or

25 (b) that is made by any other person or body and is required by the Act under which it is made to be approved or confirmed by the Governor,

being a regulation, rule or by-law that is required by this Act or the Act under which it is made to be published in the Gazette.

30 45. The penalty, pecuniary or other—

(a) specified at the end of a section of an Act; Method of imposing penalties.

(b) specified at the end of a subsection of a section of an Act, but not at the end of the section; or

(c)



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*Interpretation (Amendment).*

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- (c) specified at the end of a section of an Act or subsection of a section of an Act and expressed to apply to part only of the section or subsection,
- 5 indicates that a contravention of the section, subsection or part, respectively, whether by act or omission, is an offence against the Act, punishable upon conviction by a penalty not exceeding the penalty so specified.
- 10 **3.** Notwithstanding any other provision of this Act the <sup>Saving.</sup> provisions of this Act do not affect any proceedings commenced or completed before, or pending at, the commencement of this Act.







16. 5. 68

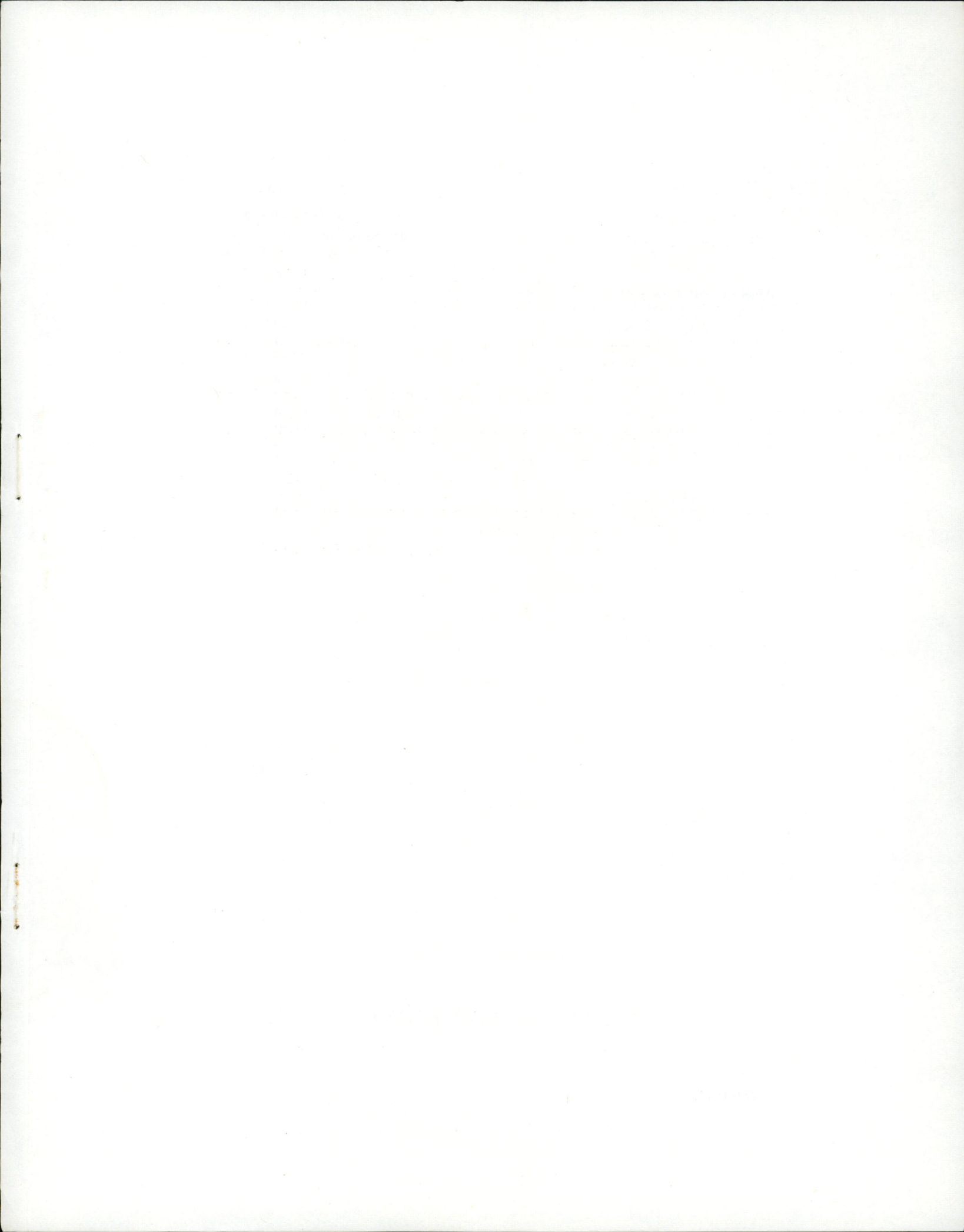
PROOF

# INTERPRETATION (AMENDMENT) BILL, 1968

## EXPLANATORY NOTE

THE object of this Bill is to amend the Interpretation Act of 1897, as subsequently amended, (hereinafter referred to as the Principal Act) so as—

- (a) to include in the Principal Act a provision relating to the plenary construction of Acts (commonly referred to as a "reading down" or "severance" section);
- (b) to define the expressions "Commonwealth" and "prescribed";
- (c) to provide that references to Acts or statutory instruments made in Acts or statutory instruments shall be construed as including any subsequent amendments or any substituted Act or statutory instrument;
- (d) to enable documents required by past Acts, regulations, rules or by-laws to be served by registered or certified mail, to be served by ordinary mail unless the Act, regulation, rule or by-law is excepted from this provision by an order of the Governor;
- (e) to require judicial notice to be taken of regulations, rules or by-laws made or approved by the Governor and published in the Gazette and of the date of their publication;
- (f) to amend section 37 of the Principal Act so that certain instruments may be made under an Act before the Act comes into operation although the instrument is not necessary for the purpose of bringing the Act into operation so long as the instrument does not commence until the Act commences;
- (g) to include in the Principal Act general provisions with respect to statutory corporations;
- (h) to include in the Principal Act a general provision relating to the circumstances in which members of statutory bodies cease to hold office;
- (i) to provide that acts or proceedings of a statutory body are valid, notwithstanding a vacancy in the office, a defect in the appointment, or the disqualification, of a member of the body;
- (j) to provide that where the exercise, etc., of a power, etc., that has been delegated is dependent upon the opinion, belief or state of mind of the delegate, the delegate may exercise, etc., the power, etc., on his own opinion, belief or state of mind;
- (k) to include in the Principal Act general machinery provisions relating to the making of regulations;
- (l) to make a statutory presumption, in the absence of evidence to the contrary, that all conditions precedent and preliminary steps necessary for the making of a statutory instrument have been complied with and performed;
- (m) to make provision with respect to the saving of the previous operation of regulations similar to the provision contained in section 8 of the Principal Act relating to Acts;
- (n) to enable the penalty for an offence against a provision of an Act or regulations to be expressed in abbreviated form at the end of the provision;
- (o) to make other amendments of a consequential or ancillary character.



PROOF

No. , 1968.

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## A BILL

Relating to the interpretation of Acts and certain statutory instruments; to amend the Interpretation Act of 1897, as subsequently amended; and for purposes connected therewith.

[MR McCaw—19 November, 1968.]

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**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. (1) This Act may be cited as the "Interpretation (Amendment) Act, 1968".
- (2) Short title, citation and commencement.



*Interpretation (Amendment).*

(2) The Interpretation Act of 1897, as subsequently amended and as amended by this Act, may be cited as the Interpretation Act, 1897-1968.

(3) This Act shall commence on a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. The Interpretation Act of 1897, as subsequently amended, is amended—

Amendment of Act No. 4, 1897.

10 (a) by omitting from section one the words "Interpretation Act of" and by inserting in lieu thereof the words "Interpretation Act,";

Sec. 1. (Short title.)

(b) by omitting subsection three of section two and by inserting in lieu thereof the following subsection :—

Sec. 2. (Application of Acts.)

(iii) This Act—

15 (a) applies to this Act;

(b) except where otherwise expressly provided in this Act, applies to all Acts passed after the commencement of this Act and to all instruments made after that commencement under any Acts whenever passed; and

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(c) notwithstanding any other provision of this Act, except subsection one of this section and subsection two of section 14A of this Act, does not apply to Acts passed before that commencement or to instruments made before that commencement under any such Acts.

25

(c) by inserting next after section fourteen the following new section :—

New sec. 14A.

30 14A. (1) An Act shall be read and construed as operating to the full extent of, but so as not to exceed, the legislative powers of the State, to the intent that where any provision of the Act, or the application of any such provision to any person,

Plenary construction of Acts.

subject-matter

*Interpretation (Amendment).*

subject-matter or circumstance, would, but for this section, have been construed as being in excess of those powers, it shall be a valid provision to the extent to which it is not in excess of those powers, and the remainder of the Act and the application of the provision to other persons, subject-matters or circumstances shall not be affected.

(II) Subsection one of this section applies to an Act passed before or after the commencement of the Interpretation (Amendment) Act, 1968, and applies to any such Act in addition to, and not in derogation of, any provision of any such Act relating to the construction, or extent of the operation, of the Act.

(d) by inserting at the end of section twenty-one the following new paragraphs :—

(i) The word "Commonwealth" shall mean the Commonwealth of Australia.

Sec. 21.  
(Meaning of words.)

"Commonwealth"

(j) The word "prescribed" shall mean prescribed by, or by regulations, rules or by-laws made under, the Act in which the word is used.

"Prescribed"

(e) by omitting section twenty-five and by inserting in lieu thereof the following section :—

Subst. sec. 25.

25. (I) Where an Act or an instrument made under an Act or any provision thereof is referred to in an Act or an instrument so made and the Act, instrument or provision so referred to has, at the time the reference is made, been amended or is subsequently amended, or is subsequently repealed and re-enacted, with or without modification, the reference extends to the Act, instrument or provision, as the case may be, as amended or re-enacted or, where the Act, instrument or provision as re-enacted has been subsequently amended, to the Act, instrument or provision as re-enacted and amended.

References to amended or substituted Acts or statutory instruments.

(II)



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*Interpretation (Amendment).*

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(II) Subsection one of this section—

- 5 (a) applies to a reference to an Act passed, and to a reference to an instrument made, before or after the commencement of the Interpretation (Amendment) Act, 1968, and whether the reference is contained in an Act passed, or in an instrument under an Act made, before or after that commencement;
- 10 (b) applies, in the case of a reference contained in an Act passed, or in an instrument under an Act made, before the commencement of the Interpretation (Amendment) Act, 1968, whether or not the reference is followed by words indicating that the reference includes subsequent amendments of the Act or instrument referred to, and whether or not the reference is to a mode of citation of the Act or instrument that includes two secular years; and
- 15
- 20 (c) so applies, except in so far as a contrary intention appears.

(III) In the application of subsection one of this section to an instrument made under an Act—

- 25 (a) “amended” includes altered or varied;
- (b) “re-enacted” includes re-made; and
- (c) “repealed” includes revoked or rescinded.

- (f) by inserting at the end of section twenty-seven the following new subsections :—

- 30 (ii) Any provision in an Act, regulation, rule or by-law (not being a provision, or a provision of an Act, regulation, rule or by-law, declared by an order in force under subsection three of this section to be a provision to which or an Act, regulation, rule or by-law to the provisions of which
- 35 this

Sec. 27.  
(Meaning  
of service  
by post.)

*Interpretation (Amendment).*

5 this subsection does not apply) under which a document, other than a summons, may be or is required to be served on or sent to any person by registered mail, registered post, certified mail or certified post shall be construed as authorising the service or sending of the document by post, other than registered mail, registered post, certified mail or certified post, but nothing in this subsection prevents the service or sending of the document in the manner prescribed by the provision.

10 (III) The Governor may, by order published in the Gazette, declare that the provisions of subsection two of this section do not apply to any specified provision of an Act, regulation, rule or by-law or to the provisions of any specified Act, regulation, rule or by-law.

(IV) Subsection two of this section—

20 (a) applies only to Acts passed, and to regulations, rules and by-laws made, before the commencement of the Interpretation (Amendment) Act, 1968; and

(b) so applies notwithstanding any provision of any such Act, regulation, rule or by-law.

25 (v) An order made under subsection three of this section does not affect the operation of subsection two of this section in relation to the service or sending of a document that had been posted before the order was made.

30 (g) by inserting at the end of section thirty-four the following new subsection :—

(II) Judicial notice shall be taken—

(a) of every regulation, rule or by-law—

35 (i) made or purporting to have been made, whether before or after the commencement of the Interpretation (Amendment)

Sec. 34.  
(Proclamations  
judicially  
noticed.)



*Interpretation (Amendment).*

(Amendment) Act, 1968, by the Governor under an Act passed before or after that commencement; or

5 (ii) made or purporting to have been made, whether before or after that commencement, by any other person or body under an Act so passed and required by the Act under which it is made to be approved or confirmed by the Governor,

10 where the regulation, rule or by-law is required by the Act under which it is made to be published in the Gazette and it is so published; and

15 (b) of the date of its publication.

(h) by omitting from section thirty-seven the words “, so far as may be necessary or expedient for the purpose of bringing the Act into operation at the date of the commencement thereof”; Sec. 37. (Exercise of statutory powers between passing and commencement of Act.)

20 (i) by inserting next after section thirty-seven the following new sections and headings :— New secs. 38-45.

STATUTORY BODIES.

25 38. (1) A corporation constituted by or under an Act— Statutory corporations.

- (a) has perpetual succession;
- (b) shall have a common seal;
- (c) may take proceedings and be proceeded against in its corporate name;
- (d)

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*Interpretation (Amendment).*

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- (d) may, for the purposes for which it is constituted, purchase, exchange, take on lease, hold, dispose of and otherwise deal with property; and
- 5 (e) may do and suffer all other things that bodies corporate generally may, by law, do and suffer and that are necessary for or incidental to the purposes for which it is constituted.
- 10 (II) The common seal of a corporation so constituted shall be kept by the president, chairman or other principal officer of the corporation and shall only be affixed to an instrument or document in the presence of at least two members of the corporation with an attestation by the signatures of those members of the fact and date of the affixing of the seal.
- 15 (III) All courts and persons acting judicially—
- 20 (a) shall take judicial notice of the seal of a corporation so constituted that has been affixed to any instrument or document; and
- (b) shall until the contrary is proved presume that the seal was properly affixed.
- 25 (IV) The foregoing provisions of this section—
- 30 (a) apply only in respect of a corporation constituted by or under an Act passed after the commencement of the Interpretation (Amendment) Act, 1968;
- (b) apply in addition to any other provisions relating to such a corporation that are contained in the Act by or under which it is constituted; and
- 35 (c) so apply, except in so far as a contrary intention appears.

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*Interpretation (Amendment).*

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5 39. (1) A person who is appointed to be a member of any body, whether incorporated or not, constituted by or under an Act ceases to hold office as a member of that body and there is a casual vacancy in his office—

Casual  
vacancies  
in member-  
ship of  
statutory  
bodies.

(a) if he dies;

10 (b) if he becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958;

(c) if he resigns his office in writing under his hand addressed to the person by whom he was appointed and the resignation is accepted by that person;

15 (d) if he becomes bankrupt, compounds with his creditors or makes any assignment of his estate for their benefit;

20 (e) if he is convicted in New South Wales of a felony or of a misdemeanour punishable by imprisonment for a period of twelve months or more, or if he is convicted elsewhere than in New South Wales of an offence that, if it were committed in New South Wales, would be a felony or a misdemeanour so punishable;

25 (f) if he ceases to hold the qualification, if any, by virtue of which he was eligible to be, and was, appointed to the body; or

30 (g) if he is removed from that office by the person by whom he was appointed.

       (ii) On the occurrence of a casual vacancy in the office of a member of a body referred to in subsection one of this section, the person or body by whom that member was appointed may, in like manner, if any, as applied to the appointment of the person whose office has been vacated, appoint another



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*Interpretation (Amendment).*

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5 another person to fill the vacant office for the  
residue of the term of office of the person whose  
office has been vacated, but, where the person whose  
office has been vacated was eligible to be appointed  
by reason of his holding some qualification or by  
reason of his being elected, or nominated or recom-  
mended for appointment, to the office, a person  
shall not be appointed under this subsection to fill  
10 the casual vacancy unless he has that qualification  
or is elected, or nominated or recommended for  
appointment, by the same person or body as elected,  
nominated or recommended the person whose office  
has been vacated.

15 (III) A person appointed, in accordance  
with subsection two of this section, to fill a vacant  
office for the residue of the term of office of a  
person whose office has been vacated is, if otherwise  
qualified, eligible for reappointment to that office  
on the expiration of the term for which he was  
20 appointed.

(IV) Subsection one of this section—

- 25 (a) applies only to a member of a body con-  
stituted under an Act passed after the  
commencement of the Interpretation  
(Amendment) Act, 1968;
- (b) applies in addition to any other provisions  
relating to such a body that are contained in  
the Act by or under which it is constituted;  
and
- 30 (c) so applies, except in so far as a contrary  
intention appears.

35 40. (1) Any act or proceeding of any body, Acts and  
proceedings  
of statutory  
bodies. whether incorporated or not, constituted by or  
under an Act is, notwithstanding that at the time  
when the act or proceeding was done, taken or  
commenced there was—

(a) a vacancy in the office of a member of the  
body; or

(b)



*Interpretation (Amendment).*

5 (b) any defect in the appointment, or any disqualification, of a member of a body, as valid as if the vacancy, defect or disqualification did not exist and the body were fully and properly constituted.

(II) Subsection one of this section—

10 (a) applies only in respect of a body constituted by or under an Act passed after the commencement of the Interpretation (Amendment) Act, 1968;

(b) applies in addition to any other provisions relating to such a body that are contained in the Act by or under which it is constituted; and

15 (c) so applies, except in so far as a contrary intention appears.

DELEGATED POWERS, ETC.

20 41. (i) Where the discharge, exercise or performance by a person of a responsibility, power, authority, duty or function under an Act or under an instrument made under an Act depends on his opinion, belief or state of mind and the responsibility, power, authority, duty or function is, in accordance with the Act or instrument, delegated, the delegate may, subject to any restriction imposed by the delegation, discharge, exercise or perform the responsibility, power, authority, duty or function on his own opinion, belief or state of mind, as the case may require.

Exercise or performance of delegated powers, authorities, duties or functions.

30 (ii) Subsection one of this section applies to a delegate discharging, exercising or performing a responsibility, power, authority, duty or function under an Act passed, or under an instrument made, before or after the commencement of the Interpretation (Amendment) Act, 1968, and whether the delegation was made before or after that commencement.

PROVISIONS

*Interpretation (Amendment).*

PROVISIONS RELATING TO CERTAIN STATUTORY  
INSTRUMENTS.

5 42. (I) A regulation under an Act passed after the commencement of the Interpretation (Amendment) Act, 1968, shall, except in so far as a contrary intention appears— Machinery for making regulations.

(a) be published in the Gazette;

10 (b) take effect on and from the date of publication or a later date specified in the regulation; and

(c) be laid before each House of Parliament within fourteen sitting days of that House after the date of publication.

15 (II) If either House of Parliament passes a resolution, of which notice has been given within fifteen sitting days of that House after a regulation referred to in subsection one of this section has been laid before it, disallowing the regulation or any part thereof, the regulation or part thereupon ceases to have effect. 20

(III) For the purposes of subsections one and two of this section, sitting days shall be counted, whether or not they occur during the same session.

25 (IV) The provisions of paragraph (c) of subsection one and the provisions of subsections two and three of this section shall, in respect of a regulation made after the commencement of the Interpretation (Amendment) Act, 1968, under an Act passed before that commencement and notwithstanding anything contained in any such Act, apply to and in respect of the laying before each House of Parliament, and the disallowance, of that regulation and any such Act so passed shall be deemed to be amended to the extent necessary to give effect to this subsection. 30 35

(v)



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*Interpretation (Amendment).*

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(v) In this section, "regulation" means regulation, rule or by-law—

- (a) that is made by the Governor; or
- (b) that is made by any other person or body and is required by the Act under which it is made to be approved or confirmed by the Governor.

5

10

43. (I) It shall be presumed, in the absence of evidence to the contrary, that all conditions and preliminary steps precedent to the making, whether before or after the commencement of the Interpretation (Amendment) Act, 1968, of an instrument made under an Act have been complied with and performed.

15

(II) In this section, "instrument" means instrument—

- (a) that is made by the Governor; or
- (b) that is made by any other person or body and is required by the Act under which it is made to be approved or confirmed by the Governor,

20

being an instrument that is required by this Act or the Act under which it is made to be published in the Gazette.

25

44. (I) The repeal, revocation, or rescission whether in whole or in part, of any regulation under an Act does not affect—

- (a) the previous operation of the regulation or anything duly suffered, done or commenced under the regulation;
- (b) any right, privilege, obligation or liability acquired, accrued or incurred under the regulation;

30

(c)



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*Interpretation (Amendment).*

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(c) any penalty, forfeiture or punishment incurred in respect of any offence against the regulation; or

5 (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment,

10 and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed or enforced as if the repeal, revocation or rescission had not occurred.

(II) Subsection one of this section—

15 (a) applies only to a repeal, revocation or rescission occurring after the commencement of the Interpretation (Amendment) Act, 1968; and

(b) so applies, except in so far as the contrary appears.

20 (III) In this section, “regulation” means regulation, rule or by-law—

(a) that is made by the Governor; or

25 (b) that is made by any other person or body and is required by the Act under which it is made to be approved or confirmed by the Governor,

being a regulation, rule or by-law that is required by this Act or the Act under which it is made to be published in the Gazette.

30 45. The penalty, pecuniary or other—

(a) specified at the end of a section of an Act; Method of imposing penalties.

(b) specified at the end of a subsection of a section of an Act, but not at the end of the section; or

(c)

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*Interpretation (Amendment).*

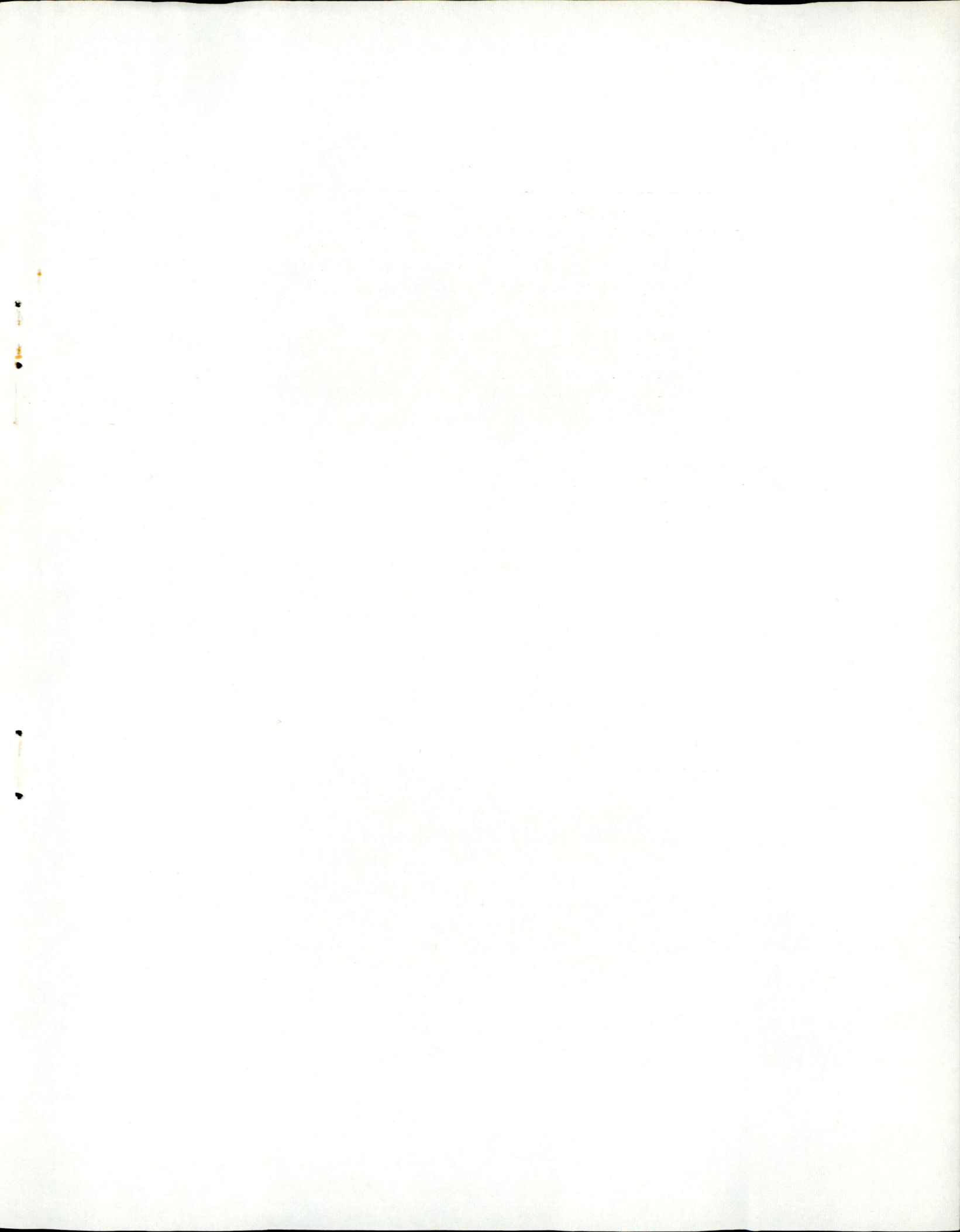
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- (c) specified at the end of a section of an Act or subsection of a section of an Act and expressed to apply to part only of the section or subsection,
- 5 indicates that a contravention of the section, subsection or part, respectively, whether by act or omission, is an offence against the Act, punishable upon conviction by a penalty not exceeding the penalty so specified.
- 10 **3.** Notwithstanding any other provision of this Act the <sup>Saving.</sup> provisions of this Act do not affect any proceedings commenced or completed before, or pending at, the commencement of this Act.

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BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1968





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