

FIRST PRINT

INTERPRETATION BILL 1986

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The objects of this Bill are—

- (a) to provide a new code for the interpretation of Acts of Parliament, regulations, by-laws, ordinances and other types of statutory rules to replace the Interpretation Act 1897;
- (b) to enact provisions to shorten Acts and statutory rules; and
- (c) to repeal the Interpretation Act 1897.

In particular, the Bill introduces the following new principles relating to the legislation of the State:

- (a) In interpreting a provision of an Act or statutory rule, a construction which would promote the purpose or object of the Act or statutory rule is to be preferred.
- (b) In interpreting a provision of an Act or statutory rule, consideration may be given, in certain circumstances, to material not forming part of the Act or statutory rule.
- (c) An Act will commence on the 28th day after the day on which Royal Assent is given, unless the Act otherwise expressly provides or unless the Act is commenced earlier by a proclamation made under the proposed Act for that purpose.
- (d) Pecuniary penalties for offences created by an Act or statutory rule may be specified by reference to "penalty units" rather than by reference to amounts of money.

- (e) Procedures for Parliamentary review of statutory rules will merely require a notice identifying the statutory rule to be laid before each House of Parliament rather than, as is presently the case, requiring that the rule itself be laid before each House of Parliament. A statutory rule will be disallowable from when it is published in the Gazette rather than, as is presently the case, only from when it is laid before Parliament.

The Bill also deals with the application of State laws within the coastal waters of the State.

A Table of the provisions of the Interpretation Act 1897 and the corresponding provisions of this Bill is set out in the Appendix to this Explanatory Note.

PART 1—PRELIMINARY

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act will, with minor exceptions, commence on a day to be appointed by the Governor-in-Council.

Clause 3 defines “instrument” and “statutory rule”. “Instrument” means any instrument (including a statutory rule) made under an Act. “Statutory rule” means a regulation, by-law, rule or ordinance that is made by the Governor, or that is required by law to be approved or confirmed by the Governor, or a rule of court.

Clause 4 provides that the proposed Act will bind the Crown. A similar clause is contained in the corresponding legislation of the Commonwealth, Victoria and Western Australia.

Clause 5 applies the proposed Act to all Acts and instruments (including the proposed Act) whether enacted or made before or after the commencement of the proposed Act, except in so far as a contrary intention appears. The clause also preserves rules of construction, such as common law rules, not inconsistent with the operation of the proposed Act. The clause differs from the corresponding provision of the Interpretation Act 1897 which preserves the application of previous interpretation legislation with respect to certain matters.

PART 2—WORDS AND EXPRESSIONS

Clause 6 provides that definitions in an Act or instrument apply to the construction of the Act or instrument except in so far as the context or subject-matter otherwise indicates or requires. The clause will render unnecessary the existing practice of including such a statement in the provisions of an Act or instrument that define words and expressions.

Clause 7 extends the meaning of a defined word or expression to other parts of speech and grammatical forms of the word or expression. The clause reflects the wording of provisions contained in the corresponding legislation of the Commonwealth and other States.

Clause 8 ensures that words that indicate a particular gender, and words that indicate singular or plural number, are not to be construed as being restricted to that gender or number.

Clause 9 re-enacts a provision of the Interpretation Act 1897 which defines the meaning of the words "may" and "shall". "May", if used to confer a power, indicates that the exercise of the power is discretionary. "Shall", if used to impose a duty, indicates that the duty must be performed.

Clause 10 provides that words and expressions used in an Act or instrument that repeals or amends another Act or instrument have the same meanings as they have in the other Act or instrument.

Clause 11 provides that words and expressions that occur in an instrument have the same meanings as they have in the Act or provision of the Act under which the instrument is made.

Clause 12 requires references in an Act or instrument to an officer, office, statutory body, locality, jurisdiction or other matter or thing to be construed as references to such an officer, office, statutory body in and for New South Wales or to such a locality, jurisdiction, or other matter or thing, in and of New South Wales. The clause is similar to the corresponding provisions of the Interpretation Act 1897, the Companies and Securities legislation and the Victorian legislation.

Clause 13 requires a reference in any Act or instrument to the Sovereign to be construed as a reference to the Sovereign for the time being and a reference to the Crown to be construed as a reference to the Crown in right of New South Wales. The clause adopts the definition of "Crown" contained in the Companies and Securities legislation.

Clause 14 requires a reference in any Act or instrument to the Governor to be construed as a reference to the Governor with the advice of the Executive Council, including a reference to the person for the time being lawfully administering the Government (for example, the Lieutenant Governor).

Clause 15 requires references in any Act or instrument to a Minister to be construed as references to the Minister administering the Act or instrument. The clause adopts provisions contained in the Companies and Securities legislation which identify the particular Minister being referred to in an Act or instrument where the Act, or the Act under which the instrument is made, is administered by more than one Minister.

Clause 16 requires references in any Act or instrument to British subjects to be read as including references to Australian citizens, and ensures that a rule of law that applies to a British subject will apply to an Australian citizen.

Clause 17 requires references in any Act or instrument to the Great Seal of the State or the Seal of the State to be construed as references to the Public Seal of the State.

Clause 18 requires a reference in any Act or instrument to a sitting day, in relation to a House of Parliament, to be construed as a reference to a day on which the House actually sits and requires a reference to a number of sitting days to be construed as including days within the same or within different sessions of Parliament. The effect of this clause is particularly important in the context of Parliamentary review of statutory rules (see clauses 40 and 41).

Clause 19 requires a reference in any Act or instrument to a particular officer or to the holder of a particular office to be construed as a reference to the person occupying or acting in the office for the time being.

Clause 20 defines the expressions "by-law", "ordinance", "prescribed", "regulation" and "rule" in relation to their use in any Act.

Clause 21 defines common words and expressions in relation to their use in any Act or instrument. Expressions defined include "affidavit", "Australia", "calendar month", "calendar year", "committal proceedings", "contravene", "definition", "document", "felony", "indictable offence", "individual", "Local Court", "Magistrate", "party", "person", "summary offence" and "writing".

PART 3—COMMENCEMENT OF ACTS AND INSTRUMENTS

Clause 22 requires a reference to the enactment of an Act or the passing of an Act to be read as a reference to the fact of the Act's having received the Royal Assent. The clause also makes the date of assent printed on an Act printed by the Government Printer admissible as evidence of the date of assent to the Act.

Clause 23 provides that an Act shall commence, unless it otherwise provides, 28 days after Royal Assent is given. The time for commencement may be abridged by fixing a particular day for commencement under the proposed Act. The clause sets out the extent of the power to appoint by proclamation a day on which an Act shall commence. The clause also provides that an Act may be referred to by its short title even though the provision containing the short title has not commenced. The clause further provides that a proclamation commencing an Act may be made, and shall have effect, even though the provision that provides for the making of the proclamation has not commenced when the proclamation is made.

Clause 24 provides that an Act or statutory rule which provides that the Act or rule shall commence on a particular day shall commence at the beginning of that day. The clause is similar to provisions contained in the corresponding legislation of Victoria and Western Australia.

Clause 25 enables the expression "commencement" of an Act to be used even though the Act concerned may provide that some provisions are to commence at different times. A provision to this effect was inserted into the Interpretation Act 1897 in 1984.

Clause 26 enables instruments of a legislative or administrative character to be made under an uncommenced Act that would, if it had commenced, confer a power to make such an instrument. The purpose of the clause is to enable certain acts to be done, such as the making of an appointment or a statutory rule, where the provision enabling the act to be done has been enacted but has not yet commenced.

PART 4—AMENDMENTS AND REPEALS

Clause 27 enables an Act to be repealed or amended in the same session of Parliament as that in which it was passed.

Clause 28 ensures that an Act or statutory rule that is repealed by some other Act or statutory rule is not revived merely because the repealing Act or statutory rule is subsequently repealed or amended or subsequently ceases to have effect.

Clause 29 continues repealed provisions of Acts or statutory rules in force if the provisions have been repealed by a law that has enacted new provisions in substitution for the repealed provisions and the new provisions are not yet in force.

Clause 30 sets out the effect of the repeal or amendment of an Act or statutory rule. The clause saves the previous operation of the Act or statutory rule and any rights, privileges and liabilities acquired, accrued or incurred under the repealed Act or rule. It requires a reference to a repeal or amendment to be construed as including a reference to an implied repeal or amendment of an Act or statutory rule, an abrogation or limitation of the effect of an Act or statutory rule and the exclusion of the application of an Act or statutory rule.

PART 5—CONSTRUCTION OF ACTS AND INSTRUMENTS

Clause 31 requires an Act or instrument to be construed as operating to the full extent of, but so as not to exceed, the Parliament's legislative power and, where it would otherwise be invalid, to be read down accordingly. A similar provision is contained in the Interpretation Act 1897.

Clause 32 requires an instrument to be construed as operating to the full extent of, but so as not to exceed, the power conferred by the Act under which it is made and, where it would otherwise be invalid, to be read down accordingly.

Clause 33 provides that, in interpreting a provision of an Act or statutory rule, a construction promoting the purpose or object of the Act or statutory rule shall be preferred to a construction that would not promote that purpose or object. A similar clause is contained in the corresponding legislation of the Commonwealth and Western Australia and in the Companies and Securities legislation.

Clause 34 enables extrinsic material to be considered in interpreting a provision of an Act or statutory rule. In particular—

- (a) it provides that material not forming part of an Act or statutory rule may be considered for the purpose of confirming the ordinary meaning of its text or resolving any ambiguity or absurdity that would otherwise arise;
- (b) it describes the kind of extrinsic material that may be considered in the interpretation of an Act or statutory rule; and
- (c) it sets out the matters to be considered when determining whether consideration should be given to extrinsic material (including the desirability of being able to rely on the ordinary meaning of the text of an Act or statutory rule and the need to avoid prolonging legal or other proceedings without compensating advantage) and the weight to be given to such material.

Clause 35 makes provision with respect to headings to provisions of Acts and instruments. Headings to Parts, Divisions, Subdivisions and Schedules are to be taken to be part of an Act or instrument while other headings, parenthetical matter referring to headings to provisions of Acts and instruments, marginal notes, footnotes and endnotes are not to be taken to be part of an Act or instrument.

Clause 36 sets out a method for the reckoning of a period of time allowed by an Act or instrument for the doing of any thing, and provides for the case where the last day of such a period falls on a Saturday, Sunday, public holiday or bank holiday. A provision, based on the corresponding legislation of Western Australia, is also included so as to enable a power to extend the period of time for the doing of any thing to be exercised even though the period of time has expired. In addition, the clause enables an application for an extension of such a period of time to be made even though the period of time has expired.

Clause 37 establishes that, for the purposes of any Act or instrument, the beginning of a person's birthday is the time at which a person attains a particular age.

Clause 38 requires a distance measured for the purposes of any Act or instrument passed or made after the commencement of the proposed Act to be measured in a straight line on a horizontal plane. For the purposes of any Act or instrument passed or made before the commencement of the proposed Act, distance is to be measured according to the shortest practicable route used in travelling, as is currently the situation under the Interpretation Act 1897.

PART 6—STATUTORY RULES AND CERTAIN OTHER INSTRUMENTS

Clause 39 requires a statutory rule to be published in the Gazette and specifies that it shall commence on Gazettal or on such later day as may be specified in the rule.

Clause 40 sets out the procedure for Parliamentary review of statutory rules. The clause—

- (a) requires tabling in Parliament of a written notice of the making of a statutory rule within 14 sitting days of the House after the rule has been published in the Gazette or, if it has not been so published, within 14 sitting days of its being made;
- (b) requires the written notice to identify a statutory rule which has been published in the Gazette and to specify the number, date and pages of the Gazette in which the rule was published; and
- (c) ensures that a statutory rule is not rendered invalid merely because a written notice concerning the rule is not laid before each House of Parliament in accordance with the clause.

Clause 41 enables either House of Parliament to pass a resolution disallowing the whole or any part of a statutory rule from the time the rule is published in the Gazette so long as notice of motion of the proposed disallowance is given within 15 sitting days of that House after written notice of the rule has been laid before it. At present, a statutory rule may not be disallowed until it has been laid before Parliament. On the passing of a resolution disallowing a statutory rule the rule shall cease to have effect. Any statutory rules repealed or amended by a disallowed rule will be revived or restored on and from the day the rule is disallowed.

Clause 42 enables a statutory rule to make provision for or with respect to a matter by applying, adopting or incorporating the provisions of an existing Act or statutory rule or any matter contained in any other publication. This clause adopts provisions contained in the corresponding Commonwealth legislation. The clause also enables a statutory rule to apply generally or specifically, to apply differently according to different factors and to authorise matters or things to be determined, applied or regulated by any specified person or body.

Clause 43 requires a power conferred by an Act to make a statutory rule to be construed as including power to repeal or amend a statutory rule made in the exercise of that power.

Clause 44 provides for judicial notice to be taken of instruments made by the Governor that have been published in the Gazette and of statutory rules (whether made or approved by the Governor) that have been so published.

Clause 45 is an evidentiary provision that requires a presumption to be made (in the absence of evidence to the contrary) that all conditions and preliminary steps precedent to the making of an instrument have been complied with.

PART 7—EXERCISE OF STATUTORY FUNCTIONS

Clause 46 provides that the powers conferred by an Act or instrument in relation to the appointment of a person will include the power to make an appointment by name or by reference to a particular officer or the title of a particular office. An appointment made by reference to a particular officer or the title of a particular office will be taken to be the appointment of the person occupying or acting in the office for the time being. The clause is similar to a provision contained in the corresponding Western Australian legislation.

Clause 47 enables a power conferred by an Act or instrument to appoint a person to an office to be exercised from time to time and provides that such a power includes a power (exercisable at any time) to remove or suspend the person appointed and a power to appoint a person to act in the place of a person so removed or suspended. A power to appoint a person will be capable of being exercised as occasion requires or in anticipation of a particular event or state of affairs.

Clause 48 enables a function conferred or imposed by an Act or instrument to be exercised from time to time, and to be exercised by a person occupying or acting in an office for the time being.

Clause 49 provides that a power conferred by an Act or instrument to delegate a function includes a power to delegate the function to a person by name or by reference to a particular officer or the title of a particular office. The clause sets out provisions of the kind that are currently included in Acts and instruments in relation to the delegation of functions.

PART 8—STATUTORY BODIES

Clause 50 sets out the powers of a statutory corporation. It gives a statutory corporation perpetual succession, power to take proceedings in its corporate name, power to deal with property and power to do all other things that bodies corporate may, by law, do.

Clause 51 requires judicial notice to be taken of the seal of a statutory corporation.

Clause 52 prevents an act or proceeding of a statutory body from being called into question on the ground of vacancies in its membership, defects in the appointment of its members, disqualification of its members or minor irregularities in the conduct of its meetings or the presence at or participation in its meetings of persons not entitled to be present at its meetings.

Clause 53 sets out the effect of the alteration of the name of a body or office or of the constitution of a body. If a name is changed, the body or office continues in existence and any reference in an Act or instrument or other instrument or document to the body or office is to be construed as a reference to the body or office under its new name. If the constitution is changed, the functions of the body are not altered, previously instituted legal or other proceedings are not affected and investigations and inquiries will be capable of being continued into any prior action by the body or any practices of the body. The provisions of this clause are adapted from similar provisions contained in the corresponding Commonwealth legislation.

PART 9—PENALTIES

Clause 54 sets out the effect of specifying a penalty at the foot of the section or subsection of an Act creating an offence. The effect is that a contravention of the section or subsection is an offence, punishable on conviction by a penalty not exceeding the penalty so specified. The clause is to apply to statutory rules in the same way as it applies to Acts, subject to any necessary modifications.

Clause 55 provides that an increase in a penalty is to apply only to offences committed after the commencement of the provision that makes the alteration. A reduction in a penalty is to apply to offences committed before the commencement of the amending provision but is not to affect any penalty imposed before that date. A similar clause was inserted into the Interpretation Act 1897 in 1984.

Clause 56 provides that a reference in an Act or statutory rule to a number of penalty units shall be read as a reference to an amount of money equal to the amount obtained by multiplying \$100 by that number of penalty units. The existence of this clause facilitates the use of penalty units to prescribe the pecuniary penalty for an offence. The amendment of the proposed section will be a means of amending the general level of penalties and maintaining relativity between offences. The system of penalty units presently operates in Victoria and is adopted in this State's credit legislation.

Clause 57 prohibits a person from being prosecuted and convicted for an act or omission under a law of this State and a law of the Commonwealth or of another State.

PART 10—APPLICATION OF STATE LAWS TO COASTAL WATERS

Clause 58 defines "adjacent area in respect of the State", "coastal waters of the State", "laws of the State" and "territorial sea of Australia" for the purposes of the proposed Part.

Clause 59 applies the laws of the State to the coastal waters of the State and the seabed and subsoil beneath, and the airspace above, the coastal waters of the State.

Clause 60 prevents the proposed Part from affecting a law which applies only, or does not apply, to a particular place or specified locality.

Clause 61 extends the jurisdiction of courts to the coastal waters of the State.

Clause 62 indicates that the power of Parliament to enact the proposed Part is supported by the legislative power of Parliament as extended by section 5 of the Coastal Waters (State Powers) Act 1980 of the Commonwealth.

Clause 63 preserves the application of those laws of the State that currently apply beyond the limits of the State.

PART 11—MISCELLANEOUS

Clause 64 states that every section of an Act has effect as a substantive enactment without introductory words (such as "Be it further enacted....").

Clause 65 provides for the manner in which Acts of Parliament may be referred to.

Clause 66 provides for the citation of State Acts, Commonwealth Acts, Acts of other States and British Acts.

Clause 67 provides for the citation of instruments by their citations or by reference to the Acts under which they are made and to their date of publication (if any) in the Gazette. Provision is also made for the citation of instruments made under the Acts of the Commonwealth, of other States and Territories and of Great Britain.

Clause 68 requires a reference in an Act or instrument to another Act or instrument to be read as a reference to that Act or instrument, as in force for the time being. A reference in an Act or instrument to an Act or instrument that has been repealed and re-enacted or re-made is to be read as a reference to the re-enacted Act or re-made instrument.

Clause 69 requires a reference in an Act or instrument to a publication to be read as a reference to the publication as it was when the provision containing the reference was enacted or made, unless the contrary intention appears.

Clause 70 enables a reference to a short title or citation of an Act or instrument that has been changed to be read as a reference to the short title or citation as changed.

Clause 71 provides that an Act or instrument that expires on a particular day shall expire at the end of that day. This clause adopts a similar provision contained in the corresponding Victorian legislation.

Clause 72 provides that an Act to continue a temporary Act takes effect from the date of the expiration of the temporary Act, even though the temporary Act may have expired while the continuing Act was still in the form of a Bill before Parliament. Where a continuing Act takes effect retrospectively under this clause, a person is not subject to any penalty for a contravention of the temporary Act during the period between the expiry of the temporary Act and the giving of Royal Assent to the continuing Act.

Clause 73 prevents a Private Act passed after the commencement of the proposed Act from affecting the rights of the Crown or of any person (other than a person at whose instance or for whose benefit the Private Act was enacted) or from imposing liabilities on the Crown or the person. The operation of previous provisions relating to Private Acts is saved.

Clause 74 states that a Private Act does not become a Public Act merely because it has been amended by or under a Public Act.

Clause 75 provides that it is sufficient compliance with an obligation under an Act or statutory rule to publish a notice or advertisement in the Gazette and in one or more newspapers if a summary of the notice or advertisement that was published in the Gazette is published in the newspaper. This clause re-enacts the operative provisions of the Publication of Statutory Advertisements and Notices Act 1920.

Clause 76 provides that where service by post is authorised or required under an Act or instrument it may be effected by prepaid letter sent by ordinary post, and further provides that service shall be taken to have been effected at the time when the letter would have been delivered in the ordinary course of post.

Clause 77 enables documents to be sent by ordinary post even though the Act or statutory rule under which the document is sent specifies that it be sent by registered mail or registered post or certified mail or certified post. The Governor may, by order, exclude any Act or statutory rule from the operation of the proposed provision. The clause preserves the operation of section 27 (II) of the Interpretation Act 1897 in relation to Acts and statutory rules enacted or made prior to 1969.

Clause 78 gives a body for the time being having power to make rules of court power to make rules for the purpose of any Act or statutory rule that permits or requires any thing to be done by or in accordance with rules of court, as well as power to make rules with respect to practice and procedure when a new jurisdiction is conferred or an existing jurisdiction is extended or varied.

Clause 79 provides that a person authorised by law, or by consent of parties, to conduct a hearing for the purpose of determining any matter or thing may receive evidence, examine witnesses and administer oaths to all witnesses lawfully called before the person. This clause extends to the situation where a hearing is to be conducted by a person other than the person who is to determine the matter the subject of the hearing.

Clause 80 provides that substantial compliance with a prescribed form is sufficient, but that a form must be completed in the manner prescribed by it for its completion. The clause is similar to a provision contained in the corresponding legislation of the Commonwealth.

Clause 81 gives effect to a Schedule of amendments to proposed section 16.

Clause 82 gives effect to a Schedule of repeals.

Clause 83 gives effect to a Schedule of savings and transitional provisions.

Schedule 1 amends proposed section 16. These amendments are contingent on the enactment of certain Commonwealth legislation. Similar amendments were included in the Statute Law (Miscellaneous Provisions) Act 1985.

Schedule 2 repeals certain enactments.

Schedule 3 contains savings and transitional provisions.

APPENDIX
TABLE OF CORRESPONDING PROVISIONS

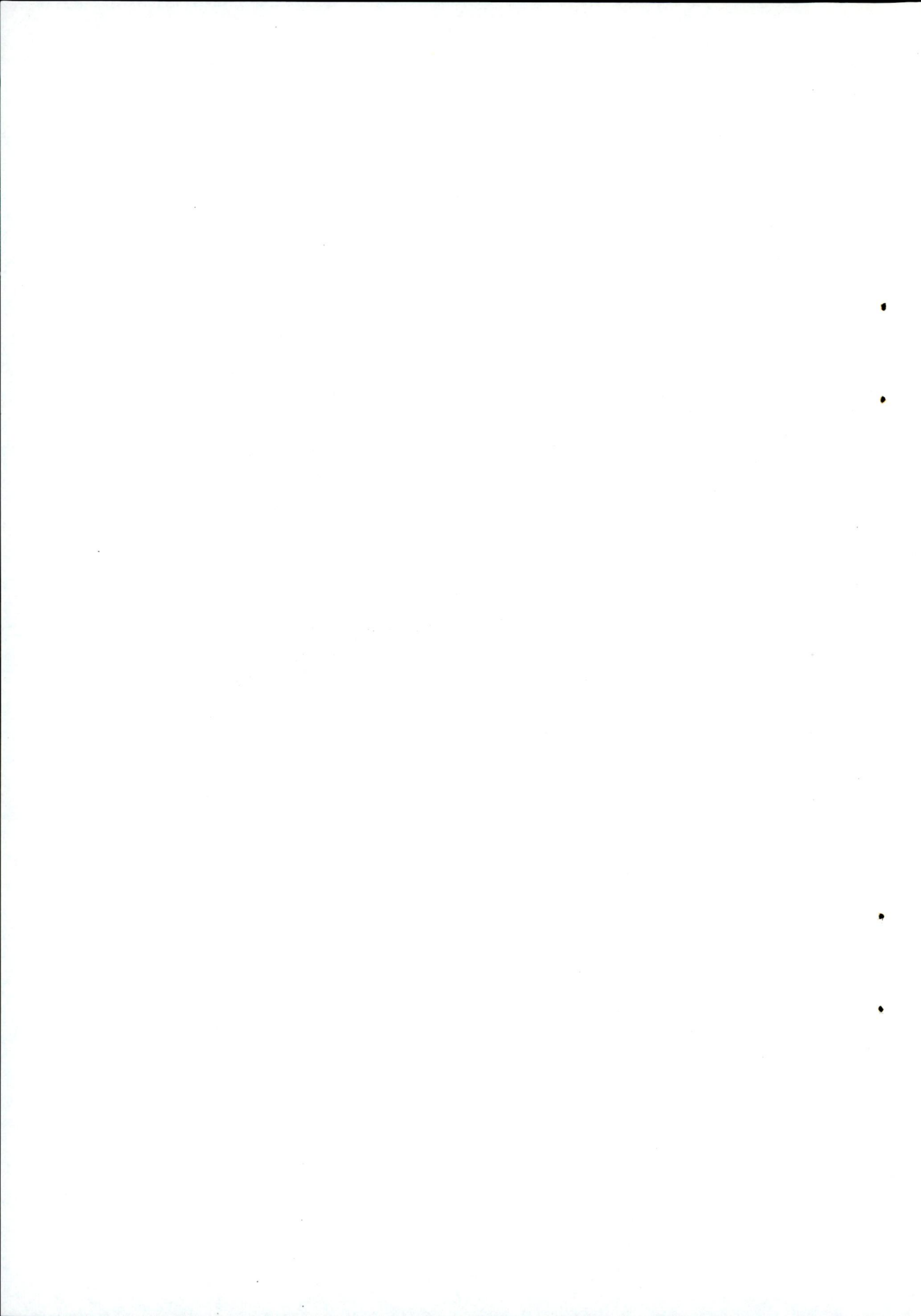
Section, Interpretation Act 1897	Clause, Interpretation Bill 1986
Sec. 5. Continuing Act to operate upon passing from expiration of continued Act	Cl. 72. Retrospective commencement of continuing Acts
Sec. 6. Effect of repeal of enactment	Cl. 28. Repealed Acts and statutory rules not revived
Sec. 7. Repealed enactment in force until substituted provisions operate	Cl. 29. Repealed Acts and statutory rules continue in force
Sec. 8. Effect of repeal	Cl. 30. Effect of amendments etc. of Acts and statutory rules
Sec. 9. Expiration of enactment	Cl. 30. Effect of amendments etc. of Acts and statutory rules
Sec. 10. Acts may be altered, &c., in same session	Cl. 27. Acts may be amended etc. in the same session of Parliament
Sec. 11. Every section a substantive enactment	Cl. 64. Every section of an Act a substantive enactment
Sec. 11A. Headings, marginal notes, footnotes, etc.	Cl. 35. Headings etc.
Sec. 12. Amending to be construed with amended Act	Cl. 10. Construction of amending Acts and instruments
Sec. 14. No private Act to affect the Crown or individuals not named	Cl. 73. Private Acts not to affect rights of the Crown etc.
Sec. 14A. Plenary construction of Acts	Cl. 31. Acts and instruments to be construed so as not to exceed the legislative power of Parliament
Sec. 15. References to the Sovereign, the Governor and "the Minister"	Cl. 13. Sovereign and Crown Cl. 14. Governor Cl. 15. Minister
Sec. 16. Mention of an officer in general terms	Cl. 19. Holders of offices
Sec. 17. Words "in and for New South Wales" to be implied	Cl. 12. References to New South Wales to be implied
Sec. 18. Expressions in instrument under an Act to have the same meaning as in the Act	Cl. 11. Words etc. in instruments under an Act have same meanings as in the Act

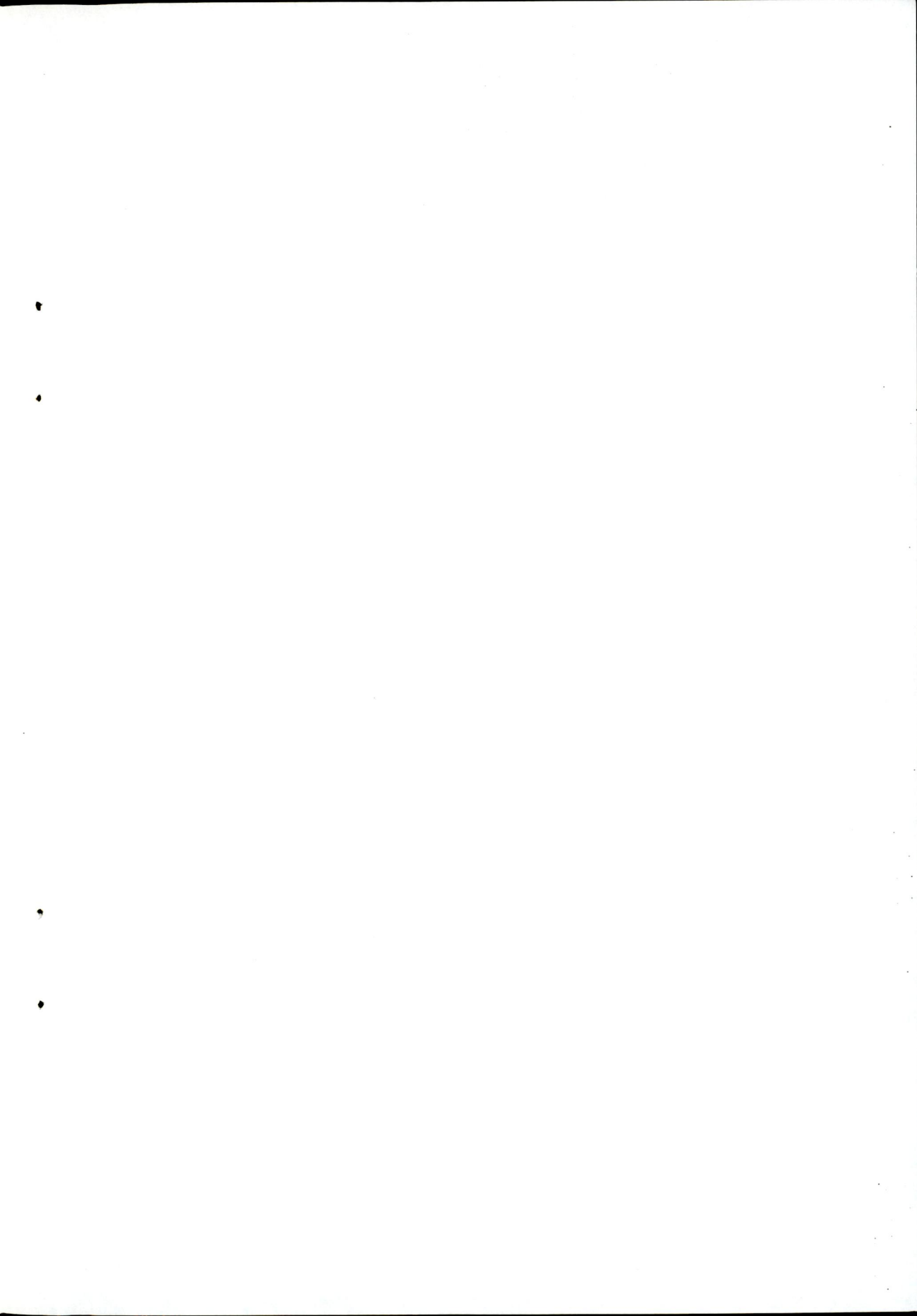
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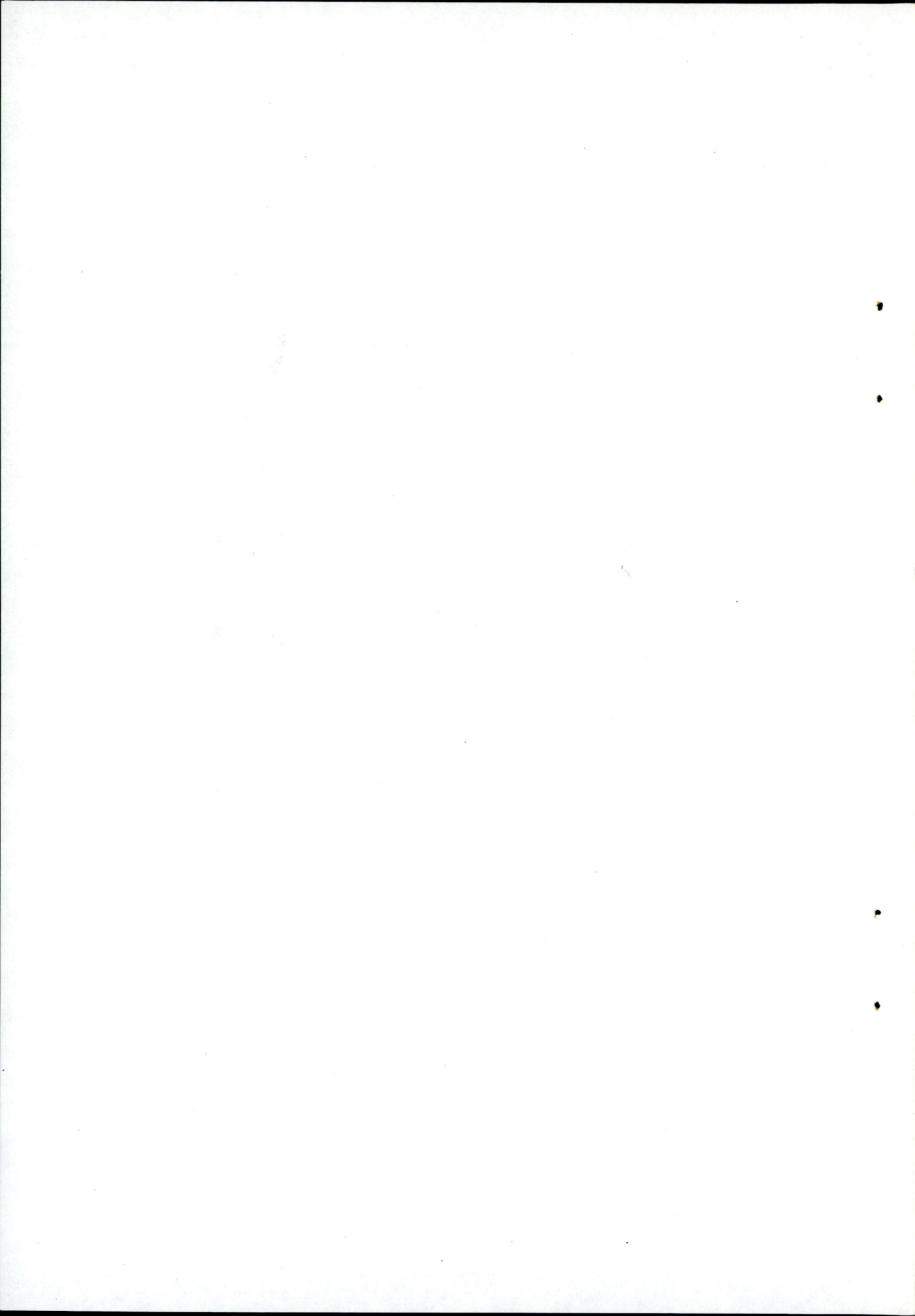
Section, Interpretation Act 1897	Clause, Interpretation Bill 1986
Sec. 19. References to "writing"	Cl. 21. Meaning of commonly used words and expressions
Sec. 20. "Statutory declaration"	Cl. 21. Meaning of commonly used words and expressions
Sec. 21. Meaning of words	Cl. 21. Meaning of commonly used words and expressions
Sec. 21A. References in New South Wales laws to British subjects	Cl. 16. British subjects and aliens
Sec. 21B. Age	Cl. 27. Age
Sec. 23. Meaning of "may" and "shall"	Cl. 9. Meaning of may and shall
Sec. 24. References to Acts, etc.	Cl. 65. References to Acts generally
Sec. 25. References to amended or substituted Acts or statutory instruments	Cl. 68. References to amended Acts and instruments
Sec. 26. Rules of Court	Cl. 78. Rules of court
Sec. 27. Meaning of service by post	Cl. 76. Service by post Cl. 77. Registered post etc. not necessary in the case of Acts and statutory rules passed etc. before 24.4.1969
Sec. 29. "Felony"	Cl. 21. Meaning of commonly used words and expressions
Sec. 29A. Cognate words	Cl. 7. Cognate words
Sec. 30. Grant of power to make appointments	Cl. 47. Powers of appointment imply certain incidental powers
Sec. 31. Exercise of powers and duties	Cl. 48. Exercise of statutory functions
Sec. 32. Powers conferred by Acts	Cl. 48. Exercise of statutory functions Cl. 43. Implied power to amend or repeal statutory rules and orders
Sec. 33. Powers to determine to include authority to administer oath	Cl. 79. Authority to administer oaths
Sec. 35. Computation of distance and reckoning of time	Cl. 36. Reckoning of time Cl. 38. Measurement of distance
Sec. 36. Citation of Acts	Cl. 66. Citation of particular Acts
Sec. 36A. References to "commencement"	Cl. 25. References to commencement of Acts and instruments
Sec. 37. Exercise of certain powers between passing and commencement of Act	Cl. 26. Exercise of certain powers between enactment and commencement of Acts
Sec. 38. Statutory corporations	Cl. 50. Statutory corporations
Sec. 39. Acts and proceedings of statutory bodies	Cl. 52. Proceedings of statutory bodies

TABLE OF CORRESPONDING PROVISIONS—*continued*

Section, Interpretation Act 1897	Clause, Interpretation Bill 1986
Sec. 40. Exercise or performance of delegated powers, authorities, duties or functions	Cl. 49. Delegation of functions
Sec. 41. Machinery for making regulations	Cl. 39. The making of statutory rules
Sec. 42. Regulations, etc.—conditions precedent	Cl. 45. Presumption of validity of certain instruments
Sec. 43. Effect of repeal of regulations	Cl. 30. Effect of amendments etc. of Acts and statutory rules
Sec. 44. Method of imposing penalties	Cl. 54. Method of imposing penalties
Sec. 45. Effect of alterations in penalties	Cl. 55. Alteration of penalties







INTERPRETATION BILL 1986

NEW SOUTH WALES



TABLE OF PROVISIONS

PART 1—PRELIMINARY

1. Short title
2. Commencement
3. Interpretation
4. Act binds Crown
5. Application of Act

PART 2—WORDS AND EXPRESSIONS

6. Definitions to be read in context
7. Cognate words
8. Gender and number
9. Meaning of may and shall
10. Construction of amending Acts and instruments
11. Words etc. in instruments under an Act have same meanings as in the Act
12. References to New South Wales to be implied
13. Sovereign and Crown
14. Governor
15. Minister
16. British subjects and aliens
17. Public Seal of the State
18. Sitting days
19. Holders of offices
20. References to statutory rules etc.
21. Meaning of commonly used words and expressions

PART 3—COMMENCEMENT OF ACTS AND INSTRUMENTS

22. References to enactment etc. of Acts
23. Commencement of Acts
24. Time of commencement of Acts and statutory rules
25. References to commencement of Acts and instruments
26. Exercise of certain powers between enactment and commencement of Acts

PART 4—AMENDMENTS AND REPEALS

27. Acts may be amended etc. in the same session of Parliament
28. Repealed Acts and statutory rules not revived
29. Repealed Acts and statutory rules continue in force
30. Effect of amendments etc. of Acts and statutory rules

PART 5—CONSTRUCTION OF ACTS AND INSTRUMENTS

31. Acts and instruments to be construed so as not to exceed the legislative power of Parliament
32. Instruments to be construed so as not to exceed the powers conferred by the Acts under which they are made
33. Regard to be had to purposes or objects of Acts and statutory rules
34. Use of extrinsic material in the interpretation of Acts and statutory rules
35. Headings etc.
36. Reckoning of time
37. Age
38. Measurement of distance

PART 6—STATUTORY RULES AND CERTAIN OTHER INSTRUMENTS

39. The making of statutory rules
40. Notice of statutory rules to be tabled
41. Disallowance of statutory rules
42. Matters for which statutory rules may make provision
43. Implied power to amend or repeal statutory rules and orders
44. Judicial notice of statutory rules
45. Presumption of validity of certain instruments

PART 7—EXERCISE OF STATUTORY FUNCTIONS

46. Appointments may be made by name or by office
47. Powers of appointment imply certain incidental powers
48. Exercise of statutory functions
49. Delegation of functions

PART 8—STATUTORY BODIES

50. Statutory corporations
51. Judicial notice of seals
52. Proceedings of statutory bodies
53. Alterations of names and constitutions

PART 9—PENALTIES

54. Method of imposing penalties
55. Alteration of penalties
56. Penalty units
57. Double jeopardy

PART 10—APPLICATION OF STATE LAWS TO COASTAL WATERS

58. Interpretation
59. Application of laws of the State to coastal waters
60. Laws with specific application not to apply
61. Extent of jurisdiction in relation to coastal waters

- 62. Constitutional basis
- 63. Saving

PART 11—MISCELLANEOUS

- 64. Every section of an Act a substantive enactment
- 65. References to Acts generally
- 66. Citation of particular Acts
- 67. Citation of instruments etc.
- 68. References to amended Acts and instruments
- 69. References to publications other than Acts or instruments
- 70. References to changed short titles and citations
- 71. Time of expiry of temporary Acts and instruments
- 72. Retrospective commencement of continuing Acts
- 73. Private Acts not to affect rights of the Crown etc.
- 74. Private Acts amended by Public Acts do not thereby become Public Acts
- 75. Publication of statutory notices
- 76. Service by post
- 77. Registered post etc. not necessary in the case of Acts and statutory rules passed etc. before 24.4.1969
- 78. Rules of court
- 79. Authority to administer oaths
- 80. Compliance with forms
- 81. Amendments to sec. 16
- 82. Repeals
- 83. Savings and transitional provisions

SCHEDULE 1—AMENDMENTS TO SECTION 16

SCHEDULE 2—REPEALS

SCHEDULE 3—SAVINGS AND TRANSITIONAL PROVISIONS

INTERPRETATION BILL 1986

NEW SOUTH WALES



No. , 1986

A BILL FOR

An Act relating to the interpretation, construction, application and operation of the legislation of New South Wales; to enact certain provisions of a common or general nature; to make provision with respect to the exercise of certain statutory functions; and for other purposes.

Interpretation 1986

BE 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:

5

PART 1

PRELIMINARY

Short title

1. This Act may be cited as the "Interpretation Act 1986".

Commencement

- 10 2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Subject to this section, this Act shall commence on such day as may be appointed by the Governor and notified by proclamation published in the Gazette.

- 15 (3) Section 23 shall commence on such day, being a day occurring after the day appointed and notified under subsection (2), as may be appointed by the Governor and notified by proclamation published in the Gazette.

(4) Section 81 and Schedule 1 shall commence—

- (a) on the day appointed and notified under subsection (2); or
 20 (b) on the day fixed by proclamation for the purposes of section 2 (2) of the Australian Citizenship Amendment Act 1984 of the Commonwealth,

whichever is the later.

Interpretation

- 25 3. (1) In this Act—

"instrument" means an instrument (including a statutory rule) made under an Act, and includes an instrument made under any such instrument;

"statutory rule" means—

- 30 (a) a regulation, by-law, rule or ordinance—
 (i) that is made by the Governor; or

(ii) that is made by a person or body other than the Governor, but is required by law to be approved or confirmed by the Governor; or

(b) a rule of court.

5 (2) In this Act—

(a) a reference to a function includes a reference to a power, authority and duty; and

(b) a reference to the exercise of a function includes, in relation to a duty, a reference to the performance of the duty.

10 Act binds Crown

4. This Act binds the Crown in right of New South Wales and, in so far as the legislative power of Parliament permits, the Crown in all its other capacities.

Application of Act

15 5. (1) This Act applies to all Acts and instruments (including this Act) whether enacted or made before or after the commencement of this Act.

(2) This Act applies to an Act or instrument except in so far as the contrary intention appears in this Act or in the Act or instrument concerned.

20 (3) Wherever appropriate, this Act applies to a portion of an Act or instrument in the same way as it applies to the whole of an Act or instrument.

(4) Nothing in this Act excludes the application to an Act or instrument of a rule of construction applicable to it and not inconsistent with this Act.

(5) This section does not authorise a statutory rule to exclude or modify
25 the operation of Part 6 (statutory rules and certain other instruments).

PART 2

WORDS AND EXPRESSIONS

Definitions to be read in context

6. Definitions that occur in an Act or instrument apply to the
5 construction of the Act or instrument except in so far as the context or
subject-matter otherwise indicates or requires.

Cognate words

7. If an Act or instrument defines a word or expression, other parts of
speech and grammatical forms of the word or expression have corresponding
10 meanings.

Gender and number

8. In any Act or instrument—

- (a) a word or expression that indicates one or more particular genders shall be taken to indicate every other gender;
- 15 (b) a reference to a word or expression in the singular form includes a reference to the word or expression in the plural form;
- (c) a reference to a word or expression in the plural form includes a reference to the word or expression in the singular form;
- 20 (d) a reference to a person does not exclude a reference to a corporation merely because elsewhere in the Act or instrument there is particular reference to a corporation (in whatever terms expressed); and
- (e) a reference to a person does not exclude a reference to an individual merely because elsewhere in the Act or instrument there is particular reference to an individual (in whatever terms expressed).

25 Meaning of may and shall

9. (1) In any Act or instrument, the word “may”, if used to confer a power, indicates that the power may be exercised or not, at discretion.

(2) In any Act or instrument, the word “shall”, if used to impose a duty, indicates that the duty must be performed.

Construction of amending Acts and instruments

10. Words and expressions that occur in an Act or instrument that amends or repeals some other Act or instrument have the same meanings as they have in the other Act or instrument.

5 Words etc. in instruments under an Act have same meanings as in the Act

11. Words and expressions that occur in an instrument have the same meanings as they have in the Act, or in the relevant provisions of the Act, under which the instrument is made.

References to New South Wales to be implied

12. (1) In any Act or instrument—

(a) a reference to an officer, office or statutory body is a reference to such an officer, office or statutory body in and for New South Wales; and

15 (b) a reference to a locality, jurisdiction or other matter or thing is a reference to such a locality, jurisdiction or other matter or thing in and of New South Wales.

(2) In any Act or instrument, a reference to a body constituted by or under an Act or instrument need not include the words “New South Wales” or “of New South Wales” merely because those words form part of the
20 body’s name or title.

Sovereign and Crown

13. In any Act or instrument—

(a) a reference to the Sovereign (whether the words “Her Majesty” or “His Majesty” or any other words are used) is a reference to the
25 Sovereign for the time being; and

(b) a reference to the Crown is a reference to the Crown in right of New South Wales.

Governor

14. In any Act or instrument, a reference to the Governor is a reference
30 to the Governor with the advice of the Executive Council, and includes a reference to any person for the time being lawfully administering the Government.

Minister**15. (1)** In any Act or instrument—

- (a) a reference to a Minister is a reference to a Minister of the Crown;
and
- 5 (b) a reference to a particular Minister includes a reference to any other Minister who is acting for or on behalf of the Minister.

(2) In any Act, a reference to “the Minister” is a reference to—

- (a) the Minister administering the Act;
- 10 (b) if different Ministers are administering the Act in different respects—the Minister administering the Act in the relevant respect; or
- (c) if different Ministers are administering different portions of the Act—the Minister administering the relevant portion of the Act.

(3) In any instrument, a reference to “the Minister” is a reference to—

- 15 (a) the Minister administering the Act under which the instrument is made;
- (b) if different Ministers are administering that Act in different respects—the Minister administering that Act in the respect in relation to which the instrument is made; or
- 20 (c) if different Ministers are administering different portions of that Act—the Minister administering the portion of that Act under which the instrument is made.

British subjects and aliens**16. (1)** In any Act or instrument—

- 25 (a) a reference to a British subject, or to a natural-born or naturalised subject of Her Majesty or to any other similar expression, is a reference to—
- (i) an Australian citizen; or
- (ii) any other person who, under the Australian Citizenship Act 1948 of the Commonwealth, has the status of a British subject
- 30 or the status of a British subject without citizenship; and
- (b) a reference to an alien is a reference to a person who is an alien within the meaning of the Australian Citizenship Act 1948 of the Commonwealth.

Interpretation 1986

(2) If a rule of law applies to or in relation to, or has effect with respect to, a British subject, the rule of law shall apply to or in relation to, or have effect with respect to—

- (a) an Australian citizen; and
- 5 (b) any other person who, under the Australian Citizenship Act 1948 of the Commonwealth, has the status of a British subject or the status of a British subject without citizenship,

as if the Australian citizen or other person were a British subject.

10 (3) If a rule of law applies to or in relation to, or has effect with respect to, an alien, the rule of law shall apply to or in relation to, or have effect with respect to, a person who is an alien within the meaning of the Australian Citizenship Act 1948 of the Commonwealth.

Public Seal of the State

17. In any Act or instrument, a reference to—

- 15 (a) the Great Seal of the State; or
- (b) the Seal of the State,

shall be read as a reference to the Public Seal of the State.

Sitting days

18. In any Act or statutory rule—

- 20 (a) a reference to a sitting day, in relation to a House of Parliament, is a reference to a day on which the House actually sits; and
- (b) a reference to a number of sitting days, in relation to a House of Parliament, is a reference to that number of sitting days, regardless of whether those days occur within the same or within different
- 25 sessions of Parliament.

Holders of offices

19. (1) In any Act or instrument, a reference to a particular officer or to the holder of a particular office includes a reference to the person for the time being occupying or acting in the office concerned.

- 30 (2) The office of chairperson, chairman or chairwoman may be referred to by whichever of those words is appropriate in relation to the particular holder of that office.

*Interpretation 1986***References to statutory rules etc.**

20. In any Act—

“by-law” means a by-law made under the Act in which that word occurs;

5 “ordinance” means an ordinance made under the Act in which that word occurs;

“prescribed” means prescribed by, or by a statutory rule made under, the Act in which that word occurs;

“regulation” means a regulation made under the Act in which that word occurs;

10 “rule” means a rule made under the Act in which that word occurs.

Meaning of commonly used words and expressions

21. (1) In any Act or instrument—

15 “affidavit”, in the case of persons for the time being allowed by law to affirm, declare or promise, includes affirmation, declaration and promise;

“amend”, in relation to an Act or instrument, includes alter and vary;

“Australia” means the Commonwealth of Australia but, when used in a geographical sense, does not include an external Territory;

20 “Australia Acts” means the Australia Act 1986 of the Commonwealth and the Australia Act 1986 of the United Kingdom;

“British Act” or “Imperial Act” means an Act of the British Parliament;

“British Parliament” or “Imperial Parliament” means—

(a) the Parliament of England;

(b) the Parliament of Great Britain;

25 (c) the Parliament of the United Kingdom of Great Britain and Ireland; or

(d) the Parliament of the United Kingdom of Great Britain and Northern Ireland,

as the case requires;

Interpretation 1986

- “calendar month” means a period commencing at the beginning of a day of one of the 12 named months and ending—
- (a) immediately before the beginning of the corresponding day of the next named month; or
 - 5 (b) if there is no such corresponding day, at the end of the next named month;
- “calendar year” means a period of 12 months commencing on 1 January;
- “committal proceedings” means proceedings for the purpose of deciding whether a person charged with an offence should be committed for trial or sentence;
- 10 “Commonwealth” means the Commonwealth of Australia but, when used in a geographical sense, does not include an external Territory;
- “Commonwealth Constitution” means the Constitution of the Commonwealth;
- 15 “Consolidated Fund” means the fund formed as referred to in section 39 of the Constitution Act 1902;
- “contravene” includes fail to comply with;
- “date of assent”, in relation to an Act, means the day on which the Act receives the Royal Assent;
- 20 “definition” means a provision of an Act or instrument (however expressed) that—
- (a) gives a meaning to a word or expression; or
 - (b) limits or extends the meaning of a word or expression;
- “document” includes—
- 25 (a) any paper or other material on which there is writing or on which there are marks, symbols or perforations having a meaning for persons qualified to interpret them; and
 - (b) any disc, tape or other article from which sounds, images or messages are capable of being reproduced;
- 30 “estate” includes interest, charge, right, title, claim, demand, lien and encumbrance, whether at law or in equity;
- “Executive Council” means the Executive Council of New South Wales;

Interpretation 1986

- “external Territory” means a Territory, not being an internal Territory, for the government of which as a Territory provision is made by a Commonwealth Act;
- 5 “felony” means an indictable offence that is punishable by penal servitude;
- “foreign country” means any country (whether or not an independent sovereign state) outside Australia and its external Territories;
- “Gazette” means the New South Wales Government Gazette;
- “Government” means the Government of New South Wales;
- 10 “Government Printer” means the Government Printer of New South Wales, and includes any other printer authorised by or on behalf of the Government to print any Act or instrument or other document;
- “High Court” means the High Court of Australia;
- 15 “indictable offence” means an offence for which proceedings may be taken on indictment, whether or not proceedings for the offence may also be taken otherwise than on indictment;
- “individual” means a natural person;
- “internal Territory” means the Australian Capital Territory, the Jervis Bay Territory or the Northern Territory;
- 20 “Jervis Bay Territory” means the Territory referred to in the Jervis Bay Territory Acceptance Act 1915 of the Commonwealth;
- “justice” means a Justice of the Peace;
- “land” includes messuages, tenements and hereditaments, corporeal and incorporeal, of any tenure or description, and whatever may be the estate or interest therein;
- 25 “Legislative Assembly” means the Legislative Assembly of New South Wales;
- “Legislative Council” means the Legislative Council of New South Wales;
- “Local Court” means a Local Court established under the Local Courts Act 1982;
- 30 “Magistrate” means a Magistrate appointed under the Local Courts Act 1982;
- “make”, in relation to an instrument, includes issue and grant;

Interpretation 1986

- “midnight”, in relation to a particular day, means the point of time at which that day ends;
- “minor” means an individual who is under the age of 18 years;
- 5 “misdemeanour” means an indictable offence that is not punishable by penal servitude;
- “month” means a calendar month;
- “named month” means January, February, March, April, May, June, July, August, September, October, November or December;
- “Northern Territory” means the Northern Territory of Australia;
- 10 “oath”, in the case of persons for the time being allowed by law to affirm, declare or promise, includes affirmation, declaration and promise;
- “office” includes position;
- “Parliament” means the Parliament of New South Wales;
- 15 “party” includes an individual, a corporation and a body corporate or politic;
- “penalty” includes forfeiture and punishment;
- “person” includes an individual, a corporation and a body corporate or politic;
- “Police Force” means the Police Force of New South Wales;
- 20 “proclamation” means a proclamation of the Governor published in the Gazette;
- “property” means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property of any description, including money, and includes things in action;
- 25 “Public Service” means the Public Service of New South Wales;
- “repeal”, in relation to an instrument, includes revoke and rescind;
- “rules of court”, in relation to a court or tribunal, means rules made by the person or body having power to make rules or orders regulating the practice and procedure of the court or tribunal;
- 30 “sign” includes the affixing of a seal and the making of a mark;
- “State” means a State of the Commonwealth;

Interpretation 1986

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- “statutory declaration” means a declaration made by virtue of any Act authorising a declaration to be made instead of an oath;
- “summary offence” means an offence that is not an indictable offence;
- 5 “swear”, in the case of persons for the time being allowed by law to affirm, declare or promise, includes affirm, declare and promise;
- “Territory” means a Territory of the Commonwealth;
- “the State” means the State of New South Wales;
- “United Kingdom” means the United Kingdom of Great Britain and Northern Ireland;
- 10 “writing” includes printing, photography, photocopying, lithography, typewriting and any other mode of representing or reproducing words in visible form.
- (2) In any Act passed before the commencement of this Act, and in any instrument made under such an Act—
- 15 “Colony”, in relation to any part of Australia, means the State or Territory that corresponds to that part of Australia;
- “court of summary jurisdiction” means any justice or justices, or any magistrate by whatever name called, to whom jurisdiction is given under any Act;
- 20 “the Colony” means the State of New South Wales.
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PART 3

COMMENCEMENT OF ACTS AND INSTRUMENTS

References to enactment etc. of Acts

25 22. (1) In any Act or instrument, a reference to the enactment of an Act or the passing of an Act is a reference to the fact of the Act's having received the Royal Assent.

(2) The date purporting to be the date of assent to an Act, as appearing on a copy of the Act that has been printed by the Government Printer, is admissible in any legal proceedings as evidence of the date of assent to the
30 Act.

Interpretation 1986

Commencement of Acts

23. (1) An Act shall commence, or shall be deemed to have commenced—

- 5 (a) except as provided by paragraphs (b) and (c)—on the day occurring 28 days after the date of assent to the Act;
- (b) if the Act provides for its commencement, whether by proclamation under the Act or otherwise—on the day or days specified in, or ascertained in accordance with, that provision; or
- 10 (c) if a day is appointed for its commencement by a proclamation under subsection (2)—on the day so appointed.

(2) The Governor may, by proclamation, appoint a day for the commencement of an Act that does not provide for its commencement, being a day that occurs—

- (a) no earlier than the date of assent to the Act; and
- 15 (b) no later than the day occurring 28 days after the date of assent to the Act.

(3) A power to appoint by proclamation a day on which an Act shall commence does not include power to appoint a day prior to the day on which the proclamation appointing the day is published in the Gazette.

- 20 (4) A power to appoint by proclamation a day on which an Act shall commence does not include power to appoint different days for different portions of the Act unless express provision is made in the Act for that purpose.

25 (5) A proclamation appointing a day on which an Act shall commence does not fail merely because the proclamation is not published in the Gazette until after that day but, in that event, the Act shall not commence on that day but shall commence—

- (a) except as provided by paragraph (b)—on the day on which the proclamation is published in the Gazette; or
- 30 (b) in the case of a proclamation under subsection (2)—
- (i) on the day on which the proclamation is published in the Gazette; or

Interpretation 1986

(ii) on the day on which the Act would have commenced had the proclamation not been made,

whichever is the earlier.

(6) An Act may be referred to by its short title even though the provision that specifies the short title has not commenced.

(7) If an Act provides for its commencement, whether by proclamation under the Act or otherwise—

(a) that provision has effect for the purposes of subsection (1) (b); and

(b) in the case of an Act that provides for its commencement by proclamation under the Act—such a proclamation may be made and shall have effect,

even though that provision has not commenced.

Time of commencement of Acts and statutory rules

24. If an Act or statutory rule provides that it shall commence, or be deemed to have commenced, on a particular day, it shall commence, or be deemed to have commenced, at the beginning of that day.

References to commencement of Acts and instruments

25. If an Act or instrument provides that all of its provisions, with specified exceptions, shall commence at the same time, a reference in any other Act or instrument to the commencement of the firstmentioned Act or instrument shall be read as a reference to the commencement of all of its provisions, with those specified exceptions.

Exercise of certain powers between enactment and commencement of Acts

26. (1) If an Act (in this section referred to as “the Act concerned”) that does not commence on its enactment would, had it commenced—

(a) confer a power; or

(b) amend some other Act in such a manner that the other Act, as amended, would confer a power,

that must or may be exercised by the making of an instrument of a legislative or administrative character, then—

(c) such an instrument may be made; and

Interpretation 1986

(d) any thing may be done for the purpose of enabling such an instrument to be made or of bringing such an instrument into effect, before the Act concerned commences, as if the Act concerned had commenced.

5 (2) A provision of an instrument made by virtue of subsection (1) shall take effect—

(a) on the day on which the Act concerned commences; or

(b) on the day on which the provision would have taken effect had the Act concerned commenced when the instrument was made,

10 whichever is the later.

(3) If—

(a) this section applies to an Act that would, had it commenced, amend some other Act as referred to in subsection (1) (b); and

(b) the other Act has not commenced,

15 this section has effect as if the references in subsections (1) and (2) to the commencement of the Act concerned were references to the commencement of the other Act, as amended by the Act concerned.

PART 4

AMENDMENTS AND REPEALS

20 **Acts may be amended etc. in the same session of Parliament**

27. An Act may be amended or repealed in the same session of Parliament as that in which it was passed.

Repealed Acts and statutory rules not revived

25 28. An Act or statutory rule that has been repealed by some other Act or statutory rule is not revived merely because the other Act or statutory rule is subsequently amended or repealed or subsequently ceases to have effect.

Repealed Acts and statutory rules continue in force

29. If an Act or statutory rule repeals some or all of the provisions of some other Act or statutory rule and enacts new provisions in substitution for the repealed provisions, the repealed provisions continue in force until
5 the new provisions commence.

Effect of amendments etc. of Acts and statutory rules

30. (1) The amendment or repeal of an Act or statutory rule does not affect—

- 10 (a) the previous operation of the Act or statutory rule or any thing duly suffered, done or commenced under the Act or statutory rule;
- (b) any right, privilege, obligation or liability acquired, accrued or incurred under the Act or statutory rule;
- (c) any penalty incurred in respect of any offence arising under the Act or statutory rule; or
- 15 (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability or penalty,

and any such penalty may be imposed and enforced, and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, as if the Act or statutory rule had not been amended or repealed.

20 (2) Without limiting the effect of subsection (1), the amendment or repeal of an Act or statutory rule does not affect—

- (a) the proof of any past act or thing;
- (b) any right, privilege, obligation or liability saved by the operation of the Act or statutory rule; or
- 25 (c) any amendment or validation made by the Act or statutory rule.

(3) This section applies to the amendment or repeal of an Act or statutory rule in addition to, and without limiting the effect of, any provision of the Act or statutory rule by which the amendment or repeal is effected.

30 (4) In this section, a reference to the amendment or repeal of an Act or statutory rule includes—

- (a) a reference to the expiration of the Act or statutory rule;
- (b) a reference to an amendment or repeal of the Act or statutory rule effected by implication;

- (c) a reference to the abrogation, limitation or extension of the effect of the Act or statutory rule; and
 - (d) a reference to—
 - (i) the exclusion from the application of the Act or statutory rule;
5 or
 - (ii) the inclusion within the application of the Act or statutory rule,
of any person, subject-matter or circumstance.
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PART 5

CONSTRUCTION OF ACTS AND INSTRUMENTS

10 **Acts and instruments to be construed so as not to exceed the legislative power of Parliament**

31. (1) An Act or instrument shall be construed as operating to the full extent of, but so as not to exceed, the legislative power of Parliament.

15 (2) If any provision of an Act or instrument, or the application of any provision to any person, subject-matter or circumstance, would, but for this section, be construed as being in excess of the legislative power of Parliament—

- (a) it shall be a valid provision to the extent to which it is not in excess of that power; and
- 20 (b) the remainder of the Act or instrument, and the application of the provision to other persons, subject-matters or circumstances, shall not be affected.

(3) This section applies to an Act or instrument in addition to, and without limiting the effect of, any provision of the Act or instrument.

25 **Instruments to be construed so as not to exceed the powers conferred by the Acts under which they are made**

32. (1) An instrument shall be construed as operating to the full extent of, but so as not to exceed, the power conferred by the Act under which it is made.

Interpretation 1986

(2) If any provision of an instrument, or the application of any such provision to any person, subject-matter or circumstance, would, but for this section, be construed as being in excess of the power conferred by the Act under which it is made—

- 5 (a) it shall be a valid provision to the extent to which it is not in excess of that power; and
- (b) the remainder of the instrument, and the application of the provision to other persons, subject-matters or circumstances, shall not be affected.
- 10 (3) This section applies to an instrument in addition to, and without limiting the effect of, any provision of the instrument or of the Act under which it is made.

Regard to be had to purposes or objects of Acts and statutory rules

15 33. In the interpretation of a provision of an Act or statutory rule, a construction that would promote the purpose or object underlying the Act or statutory rule (whether or not that purpose or object is expressly stated in the Act or statutory rule or, in the case of a statutory rule, in the Act under which the rule was made) shall be preferred to a construction that would not promote that purpose or object.

20 Use of extrinsic material in the interpretation of Acts and statutory rules

34. (1) In the interpretation of a provision of an Act or statutory rule, if any material not forming part of the Act or statutory rule is capable of assisting in the ascertainment of the meaning of the provision, consideration may be given to that material—
- 25 (a) to confirm that the meaning of the provision is the ordinary meaning conveyed by the text of the provision (taking into account its context in the Act or statutory rule and the purpose or object underlying the Act or statutory rule and, in the case of a statutory rule, the purpose or object underlying the Act under which the rule was made); or
- 30 (b) to determine the meaning of the provision—
- (i) if the provision is ambiguous or obscure; or

Interpretation 1986

5 (ii) if the ordinary meaning conveyed by the text of the provision (taking into account its context in the Act or statutory rule and the purpose or object underlying the Act or statutory rule and, in the case of a statutory rule, the purpose or object underlying the Act under which the rule was made) leads to a result that is manifestly absurd or is unreasonable.

(2) Without limiting the effect of subsection (1), the material that may be considered in the interpretation of a provision of an Act, or a statutory rule made under the Act, includes—

- 10 (a) all matters not forming part of the Act that are set out in the document containing the text of the Act as printed by the Government Printer;
- 15 (b) any relevant report of a Royal Commission, Law Reform Commission, committee of inquiry or other similar body that was laid before either House of Parliament before the provision was enacted or made;
- (c) any relevant report of a committee of Parliament or of either House of Parliament before the provision was enacted or made;
- 20 (d) any treaty or other international agreement that is referred to in the Act;
- (e) any explanatory note or memorandum relating to the Bill for the Act, or any other relevant document, that was laid before, or furnished to the members of, either House of Parliament by a Minister before the provision was enacted or made;
- 25 (f) the speech made to a House of Parliament by a Minister on the occasion of the moving by that Minister of a motion that the Bill for the Act be read a second time in that House;
- (g) any document (whether or not a document to which a preceding paragraph applies) that is declared by the Act to be a relevant document for the purposes of this section; and
- 30 (h) any relevant material in the Minutes of Proceedings or the Votes and Proceedings of either House of Parliament or in any official record of debates in Parliament or either House of Parliament.

Interpretation 1986

(3) In determining whether consideration should be given to any material, or in considering the weight to be given to any material, regard shall be had, in addition to any other relevant matters, to—

- 5 (a) the desirability of persons being able to rely on the ordinary meaning conveyed by the text of the provision (taking into account its context in the Act or statutory rule and the purpose or object underlying the Act or statutory rule and, in the case of a statutory rule, the purpose or object underlying the Act under which the rule was made); and
- 10 (b) the need to avoid prolonging legal or other proceedings without compensating advantage.

Headings etc.

35. (1) Headings to provisions of an Act or instrument, being headings to—

- 15 (a) Parts, Divisions or Subdivisions into which the Act or instrument is divided; or
- (b) Schedules to the Act or instrument,

shall be taken to be part of the Act or instrument.

(2) Except as provided by subsections (3) and (4)—

- 20 (a) a heading to a provision of an Act or instrument (not being a heading referred to in subsection (1));
- (b) matter within a provision of an Act or instrument (being matter in parentheses that merely sets out a heading to or describes the effect of some other provision of the Act or instrument or of some other Act or instrument); or
- 25 (c) a marginal note, footnote or endnote in an Act or instrument,

shall be taken not to be part of the Act or instrument.

30 (3) A heading to a provision of an Act or instrument (not being a heading referred to in subsection (1)) shall be taken to be part of the Act or instrument if, immediately before 1 February 1981 (being the date on which section 3 of the Interpretation (Amendment) Act 1980 commenced), it was part of the Act or instrument.

Interpretation 1986

(4) A heading to a provision of an Act or instrument (not being a heading referred to in subsection (1)), or a marginal note, footnote or endnote in an Act or instrument, shall be taken to be part of the Act or instrument if—

- 5 (a) it is referred to expressly, otherwise than by means of matter within some other provision of the Act or instrument (being matter in parentheses that merely sets out a heading to or describes the effect of the firstmentioned provision) or by means of a symbol, in some other part of the Act or instrument; or
- 10 (b) not being so referred to, it is a heading, marginal note, footnote or endnote to a table or form in the Act or instrument.

(5) This section does not limit the application of section 34 in relation to the use of any heading, marginal note, footnote or endnote in the interpretation of the provision to which the heading, marginal note, footnote or endnote relates.

15 Reckoning of time

36. (1) If in any Act or instrument a period of time, dating from a given day, act or event, is prescribed or allowed for any purpose, the time shall be reckoned exclusive of that day or of the day of that act or event.

20 (2) If the last day of a period of time prescribed or allowed by an Act or instrument for the doing of any thing falls—

- (a) on a Saturday or Sunday; or
- (b) on a day that is a public holiday or bank holiday in the place in which the thing is to be or may be done,

25 the thing may be done on the first day following that is not a Saturday or Sunday, or a public holiday or bank holiday in that place, as the case may be.

(3) If in any Act or instrument a period of time is prescribed or allowed for the doing of any thing and a power is conferred on any person or body to extend the period of time—

- 30 (a) that power may be exercised; and
- (b) if the exercise of that power depends on the making of an application for an extension of the period of time—such an application may be made,

after the period of time has expired.

Age

37. For the purposes of any Act or instrument, a person attains an age in years at the beginning of the person's birthday for that age.

Measurement of distance

5 38. In the measurement of any distance—

- (a) for the purposes of any Act passed before the commencement of this Act, or any instrument made under such an Act, the distance shall be measured according to the nearest route ordinarily used in travelling; and
- 10 (b) for the purposes of any Act passed after the commencement of this Act, or any instrument made under such an Act, the distance shall be measured in a straight line on a horizontal plane.

PART 6**STATUTORY RULES AND CERTAIN OTHER INSTRUMENTS****15 The making of statutory rules**

39. (1) A statutory rule—

- (a) shall be published in the Gazette; and
 - (b) shall take effect on the day on which it is so published or, if a later day is specified in the rule for that purpose, on the later day so specified.
- 20

(2) Subsection (1) does not prevent a statutory rule from specifying different days for the commencement of different portions of the rule.

- (3) If an Act provides for the making of a statutory rule by a person or body other than the Governor, but the rule is required by law to be approved or confirmed by the Governor, subsection (1) does not apply to the rule unless it has been approved or confirmed as so required.
- 25

Interpretation 1986

(4) The Governor may, by order published in the Gazette, exclude any specified class of statutory rules from the application of this section, but may do so only—

- 5 (a) in respect of statutory rules made under Acts passed before the commencement of this Act; and
- (b) if, immediately before the commencement of this Act, section 41 of the Interpretation Act 1897 did not apply to statutory rules of that class.

10 (5) This section does not apply to the Standing Rules and Orders of the Legislative Council and Legislative Assembly.

Notice of statutory rules to be tabled

40. (1) Written notice of the making of a statutory rule shall be laid before each House of Parliament—

- 15 (a) in the case of a rule that has been published in the Gazette—within 14 sitting days of that House after the day on which it is so published; or
- (b) in any other case—within 14 sitting days of that House after it is made.

20 (2) A written notice shall identify the statutory rule to which it relates and—

- (a) in the case of a rule that has been published in the Gazette—specify the number, date and page or pages of the Gazette in which it was published; or
- (b) in any other case—be accompanied by a copy of the rule.

25 (3) A written notice shall identify a statutory rule by reference to—

- (a) the Act under which it is made; and
- (b) its citation (if any),

but need not refer to this Act merely because of the operation of section 26 or 43 in relation to the making of the statutory rule.

30 (4) Failure to lay a written notice before each House of Parliament in accordance with this section does not affect the validity of a statutory rule, but such a notice must nevertheless be laid before each House.

Interpretation 1986

(5) Any provision of an Act that relates to the laying before each House of Parliament of statutory rules made under the Act is of no effect.

(6) This section does not apply to the Standing Rules and Orders of the Legislative Council and Legislative Assembly.

5 Disallowance of statutory rules

41. (1) Either House of Parliament may pass a resolution disallowing a statutory rule—

- (a) at any time before the relevant written notice is laid before the House; or
- 10 (b) at any time after the relevant written notice is laid before the House, but only if notice of the resolution was given within 15 sitting days of the House after the relevant written notice was so laid.

(2) On the passing of a resolution disallowing a statutory rule, the rule shall cease to have effect.

15 (3) The disallowance of a statutory rule has the same effect as a repeal of the rule.

(4) If—

- (a) a statutory rule ceases to have effect by virtue of its disallowance; and
- 20 (b) the rule amended or repealed some other Act or statutory rule that was in force immediately before the rule took effect,

the disallowance of the rule has the effect of restoring or reviving the other Act or statutory rule, as it was immediately before it was amended or repealed, as if the rule had not been made.

25 (5) The restoration or revival of an Act or statutory rule pursuant to subsection (4) takes effect on the day on which the statutory rule by which it was amended or repealed ceases to have effect.

(6) This section applies to a portion of a statutory rule in the same way as it applies to the whole of a statutory rule.

30 (7) Any provision of an Act that relates to the disallowance of statutory rules made under the Act is of no effect.

(8) This section does not apply to the Standing Rules and Orders of the Legislative Council and Legislative Assembly.

(9) This section does not limit any provision of an Act (for example, section 14A (6) of the Constitution Act 1902) that provides that a statutory rule shall not cease to have effect upon its disallowance by either House of Parliament unless it has previously been disallowed by the other House of Parliament.

Matters for which statutory rules may make provision

42. (1) If an Act authorises or requires provision to be made for or with respect to any matter by a statutory rule, such a rule may make provision for or with respect to that matter by applying, adopting or incorporating, with or without modification, the provisions of any Act or statutory rule or of any other publication, whether of the same or of a different kind.

(2) A statutory rule may—

15 (a) apply generally or be limited in its application by reference to specified exceptions or factors;

(b) apply differently according to different factors of a specified kind; or

(c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,

20 or may do any combination of those things.

(3) This section applies to a statutory rule in addition to, and without limiting the effect of, any provision of the Act under which the rule is made.

(4) The Governor may, by order published in the Gazette, exclude any specified class of statutory rules from the application of subsection (1) or (2), but may do so only in respect of statutory rules made under Acts passed before the commencement of this Act.

Implied power to amend or repeal statutory rules and orders

43. (1) If an Act confers a power on any person or body to make a statutory rule, the power includes power to amend or repeal any statutory rule made in the exercise of that power.

Interpretation 1986

(2) If an Act or statutory rule confers a power on any person or body to make an order (whether or not the order must be in writing), the power includes power to amend or repeal any order made in the exercise of that power.

5 (3) If the power of a person or body to make a statutory rule or order is exercisable only on the recommendation, or with the approval or consent, of some other person or body, the power to amend or repeal a statutory rule or order made in the exercise of that power is exercisable only on the
10 recommendation, or with the approval or consent, of that other person or body.

Judicial notice of statutory rules

44. Judicial notice shall be taken—

- (a) of every instrument made by the Governor that has been published in the Gazette; and
15 (b) of every statutory rule (whether or not made by the Governor) that has been published in the Gazette,

and of the date of publication in the Gazette of every such instrument and statutory rule.

Presumption of validity of certain instruments

20 45. (1) It shall be presumed, in the absence of evidence to the contrary, that all conditions and preliminary steps precedent to the making of an instrument have been complied with and performed.

(2) In this section—

“instrument” means an instrument—

- 25 (a) that is made by the Governor; or
(b) that is made by a person or body other than the Governor, but is required by law to be approved or confirmed by the Governor,
and that is required by law to be published in the Gazette.
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PART 7

EXERCISE OF STATUTORY FUNCTIONS

Appointments may be made by name or by office

46. (1) If an Act or instrument confers a power on any person or body—

- 5 (a) to appoint a person to an office;
 (b) to appoint a person or body to exercise a function; or
 (c) to appoint a person or body to do any other thing,

the person or body may make the appointment by appointing a person or body by name or by appointing a particular officer or the holder of a particular office by reference to the title of the office concerned.

(2) Any appointment of a particular officer or the holder of a particular office shall be taken to be the appointment of the person for the time being occupying or acting in the office concerned.

Powers of appointment imply certain incidental powers

15 47. (1) If an Act or instrument confers a power on any person or body to appoint a person to an office—

- (a) the power may be exercised from time to time, as occasion requires; and
 (b) the power includes—

- 20 (i) power to remove or suspend, at any time, a person so appointed;
 (ii) power to appoint some other person to act in the office of a person so removed or suspended;
 25 (iii) power to appoint a person to act in a vacant office, whether or not the office has ever been filled; and
 (iv) power to appoint a person to act in the office of a person who is absent from that office, whether because of illness or otherwise.

(2) The power to make an appointment under subsection (1) (b) may be 30 exercised—

- (a) as occasion requires;

Interpretation 1986

- (b) in anticipation of a particular event, so as to provide that the appointment shall take effect when that event occurs; or
- (c) in anticipation of a particular state of affairs, so as to provide that the appointment shall have effect while that state of affairs exists.

5 Exercise of statutory functions

48. (1) If an Act or instrument confers or imposes a function on any person or body, the function may be exercised (or, in the case of a duty, shall be performed) from time to time as occasion requires.

10 **(2)** If an Act or instrument confers or imposes a function on a particular officer or the holder of a particular office, the function may be exercised (or, in the case of a duty, shall be performed) by the person for the time being occupying or acting in the office concerned.

Delegation of functions

15 **49. (1)** If an Act or instrument confers a power on any person or body to delegate a function, the person or body may, in accordance with the Act or instrument, delegate the function to a person or body by name or to a particular officer or the holder of a particular office by reference to the title of the office concerned.

(2) A delegation—

- 20 (a) may be general or limited;
- (b) shall be in, or be evidenced by, writing signed by the delegator or, if the delegator is a body, by a person authorised by the body for that purpose; and
- (c) may be revoked, wholly or partly, by the delegator.

25 **(3)** A delegated function may be exercised only in accordance with any conditions to which the delegation is subject.

(4) A delegate may, in the exercise of a delegated function, exercise any other function that is incidental to the delegated function.

30 **(5)** A delegated function that purports to have been exercised by a delegate shall, until the contrary is proved, be taken to have been duly exercised by the delegate.

Interpretation 1986

(6) A delegated function that is duly exercised by a delegate shall be taken to have been exercised by the delegator.

(7) If—

- 5 (a) the exercise of a function by a person or body is, by virtue of an Act or instrument, dependent on the opinion, belief or state of mind of the person or body in relation to any matter; and
- (b) the person or body has delegated the function to some other person or body,

10 the function may be exercised by the delegate on the opinion, belief or state of mind of the delegate in relation to any such matter.

(8) If a function is delegated to a particular officer or the holder of a particular office—

- 15 (a) the delegation does not cease to have effect merely because the person who was the particular officer or the holder of the particular office when the function was delegated ceases to be that officer or the holder of that office; and
- (b) the function may be exercised (or, in the case of a duty, shall be performed) by the person for the time being occupying or acting in the office concerned.

20 (9) A function that has been delegated may, notwithstanding the delegation, be exercised by the delegator.

(10) This section applies to a sub-delegation of a function in the same way as it applies to a delegation of a function, but only in so far as the Act or instrument that authorises the delegation of the function also authorises
25 the sub-delegation of the function.

PART 8

STATUTORY BODIES

Statutory corporations

50. (1) A statutory corporation—

- 30 (a) has perpetual succession;

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Interpretation 1986

- (b) shall have a seal;
 - (c) may take proceedings and be proceeded against in its corporate name;
 - 5 (d) may, for the purpose of enabling it to exercise its functions, purchase, exchange, take on lease, hold, dispose of and otherwise deal with property; and
 - (e) may do and suffer all other things that bodies corporate may, by law, do and suffer and that are necessary for, or incidental to, the exercise of its functions.
- 10 (2) The seal of a statutory corporation (being a corporation that has 2 or more members) shall be kept by the president, chairperson or other principal officer of the corporation and shall be affixed to a document only—
- (a) in the presence of at least 2 members of the corporation; and
 - 15 (b) with an attestation by the signatures of those members of the fact of the affixing of the seal.
- (3) Every document requiring authentication by a statutory corporation may be sufficiently authenticated without the seal of the corporation—
- 20 (a) in the case of a corporation that has 2 or more members—if it is signed by the president, chairperson or other principal officer of the corporation or by any member of the staff of the corporation authorised to do so by the president, chairperson or other principal officer;
 - 25 (b) in the case of a corporation sole—if it is signed by the person by whom the corporation is constituted or by any member of the staff of the corporation authorised to do so by that person; or
 - (c) in the case of a corporation that has no members—if it is signed by the person for the time being managing the affairs of the corporation or by any member of the staff of the corporation authorised to do so by that person.
- 30 (4) This section applies to a statutory corporation in addition to, and without limiting the effect of, any provision of the Act by or under which the corporation is constituted.

Judicial notice of seals

51. (1) Judicial notice shall be taken of the seal of a statutory corporation.

(2) In any legal proceedings, the seal of a statutory corporation, when
5 affixed to a document, shall, until the contrary is proved, be presumed to
have been duly affixed to the document.

Proceedings of statutory bodies

52. (1) Any act or proceeding of a statutory body shall not be called into
question merely because of—

- 10 (a) any vacancies in the membership of the body;
(b) any defects in the appointment of any members of the body;
(c) any disqualifications of any members of the body;
(d) any minor irregularities in the manner in which any meetings of the
body have been convened or conducted; or
15 (e) the presence or participation at any meetings of the body of any
persons not entitled to be present or to participate at those meetings.

(2) This section applies to a statutory body in addition to, and without
limiting the effect of, any provision of the Act by or under which the body
is constituted.

20 Alterations of names and constitutions

53. (1) If an Act or statutory rule alters the name of a body or office—

- (a) the body or office continues in existence under its new name so that
its identity is not affected; and
25 (b) a reference in any Act or instrument, or in any other document, to
the body or office under its former name shall, except in relation to
matters that occurred before the alteration took place, be read as a
reference to the body or office under its new name.

(2) If an Act or statutory rule alters the constitution of a body—

- 30 (a) the body continues in existence as newly constituted so that its
identity is not affected;
(b) the alteration does not affect any functions of the body;

- 5 (c) the alteration does not affect any legal or other proceedings instituted or to be instituted by or against the body and any legal or other proceedings that might have been continued or commenced by or against the body as previously constituted may be continued or commenced by or against the body as newly constituted; and
- 10 (d) the alteration does not affect any investigation or inquiry being or proposed to be undertaken by any other person or body into any action taken or practice engaged in by the body before the alteration took place and any investigation or inquiry that might have been continued or commenced into any such action or practice may be continued or commenced as if the action had been taken or the practice had been engaged in by the body as newly constituted.
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PART 9 PENALTIES

15 **Method of imposing penalties**

54. (1) The penalty—

- (a) specified at the end of a section of an Act (whether or not the section is divided into subsections);
- 20 (b) specified at the end of a subsection of a section of an Act, but not at the end of the section; or
- (c) specified at the end of a section of an Act or subsection of a section of an Act and expressed in such a way as to indicate that it applies to part only of the section or subsection,

25 indicates that a contravention of the section, subsection or part, respectively, is an offence against the Act, punishable on conviction by a penalty not exceeding the penalty so specified.

(2) If—

- (a) a section of an Act, or a subsection of a section of an Act, provides that a person is guilty of an offence under specified circumstances; and
- 30 (b) a penalty is specified at the end of the section or subsection and expressed in such a way as to indicate that it applies to the section or subsection,

a contravention of the section or subsection renders the person liable, on conviction, to a penalty not exceeding the penalty so specified.

(3) This section applies to a statutory rule in the same way as it applies to an Act, subject to any necessary modification.

5 Alteration of penalties

55. (1) If an Act or statutory rule increases the penalty for an offence, the penalty as increased applies only to offences committed after the commencement of the provision of the Act or statutory rule increasing the penalty.

10 (2) If an Act or statutory rule reduces the penalty for an offence, the penalty as reduced extends to offences committed before the commencement of the provision of the Act or statutory rule reducing the penalty, but the reduction does not affect any penalty imposed before that commencement.

15 (3) In this section, a reference to a penalty includes a reference to a maximum penalty and a minimum penalty.

Penalty units

56. A reference in any Act or statutory rule to a number (whether fractional or whole) of penalty units shall be read as a reference to an amount of money equal to the amount obtained by multiplying \$100 by that number of penalty units.

20

Double jeopardy

57. If an act or omission constitutes an offence under both—

- (a) an Act or statutory rule; and
 - (b) a law of the Commonwealth or a law of some other State or Territory,
- 25

and a penalty has been imposed on the offender in respect of the offence under a law referred to in paragraph (b), the offender is not liable to any penalty in respect of the offence under the Act or statutory rule referred to in paragraph (a).

PART 10

APPLICATION OF STATE LAWS TO COASTAL WATERS

Interpretation

58. In this Part—

- 5 “adjacent area in respect of the State” means the area the boundary of which is described under the heading referring to the State in Schedule 2 to the Petroleum (Submerged Lands) Act 1967 of the Commonwealth, as in force immediately before the commencement of the Coastal Waters (State Powers) Act 1980 of the Commonwealth;
- 10 “coastal waters of the State” means—
- (a) the part or parts of the territorial sea of Australia that is or are within the adjacent area in respect of the State, other than any part referred to in section 4 (2) of the Coastal Waters (State Powers) Act 1980 of the Commonwealth; or
 - 15 (b) any sea that is on the landward side of any part of the territorial sea of Australia and is within the adjacent area in respect of the State, but is not within the limits of the State;
- “laws of the State” means the laws (whether written or unwritten and whether substantive or procedural) that are from time to time in force
- 20 in the State, but does not include laws of the Commonwealth;
- “territorial sea of Australia” means the territorial sea of Australia within the limits referred to in section 4 (1) of the Coastal Waters (State Powers) Act 1980 of the Commonwealth.

Application of laws of the State to coastal waters

- 25 59. The laws of the State apply in and in relation to—
- (a) the coastal waters of the State; and
 - (b) the sea-bed and subsoil beneath, and the airspace above, the coastal waters of the State,
- as if the coastal waters of the State, as extending from time to time, were
- 30 within the limits of the State.

Laws with specific application not to apply

60. (1) Nothing in this Part renders a provision of the laws of the State applicable in a particular place—

- 5 (a) in so far as the provision is incapable of applying in or in relation to that place;
- (b) if those laws expressly provide that the provision does not extend or apply in or in relation to that place; or
- (c) if those laws expressly provide that the provision applies only in a specified locality in the State that does not include that place.

10 (2) A provision of the laws of the State shall not be taken to be a provision to which subsection (1) applies merely because it is limited in its application to acts, matters and things within the territorial or adjacent waters (however described) of the State.

Extent of jurisdiction in relation to coastal waters

15 61. (1) All persons who have functions conferred or imposed on them by law for the purposes of or in connection with a provision of the laws of the State shall have and may exercise all or any of those functions for the purposes of or in connection with that provision, as applying by virtue of this Part, as if the coastal waters of the State, as extending from time to
20 time, were within the limits of the State.

(2) The several courts of the State are invested with jurisdiction in all matters arising under the provisions of the laws of the State, as applying by virtue of this Part, as if the coastal waters of the State, as extending from time to time, were within the limits of the State.

25 Constitutional basis

62. In addition to any other power under which the provisions of this Part may be enacted, the provisions of this Part are enacted under the legislative power of Parliament as extended by section 5 of the Coastal Waters (State Powers) Act 1980 of the Commonwealth.

Saving

63. Nothing in this Part limits any other law that provides for the application of the laws of the State, or any part of those laws, beyond the limits of the State.

5

PART 11**MISCELLANEOUS****Every section of an Act a substantive enactment**

64. Every section of an Act has effect as a substantive enactment without introductory words.

10 References to Acts generally

65. An Act passed by Parliament, or by any earlier legislature of New South Wales, may be referred to by the word "Act" alone.

Citation of particular Acts

66. (1) An Act may be cited—

15 (a) by its short title; or

(b) by reference to—

(i) the year in which it was passed or, in the case of an Act passed before 1897, by reference to the regnal year in which it was passed; and

20 (ii) its number.

(2) A Commonwealth Act may be cited—

(a) by its short title; or

(b) in such other manner as is sufficient in a Commonwealth Act, together with a reference to the Commonwealth.

25 **(3)** An Act or Ordinance of some other State or Territory may be cited—

(a) by its short title; or

Interpretation 1986

(b) in such other manner as is sufficient in an Act or Ordinance of that other State or Territory,
together with a reference to that other State or Territory.

(4) A British Act may be cited—

- 5 (a) by its short title; or
(b) in such other manner as is sufficient in a British Act,
together with a reference to the United Kingdom.

Citation of instruments etc.

67. (1) An instrument may be referred to—

- 10 (a) by its citation; or
(b) by reference to—
(i) in the case of an instrument that has been published in the Gazette—the number, date and page or pages of the Gazette in which it was published; or
15 (ii) in any other case—the date on which it was made,
together with a reference to the Act under which it was made.

(2) An instrument made under a Commonwealth Act may be referred to—

- (a) by its citation; or
20 (b) in such other manner as is sufficient in a Commonwealth Act,
together with a reference to the Commonwealth.

(3) An instrument made under an Act or Ordinance of some other State or Territory may be referred to—

- (a) by its citation; or
25 (b) in such other manner as is sufficient in an Act or Ordinance of that other State or Territory,
together with a reference to that other State or Territory.

(4) An instrument made under a British Act may be referred to—

- (a) by its citation; or

(b) in such other manner as is sufficient in a British Act,
together with a reference to the United Kingdom.

References to amended Acts and instruments

5 **68. (1)** In any Act or instrument, a reference to some other Act or instrument extends to the other Act or instrument, as in force for the time being.

(2) Subclause (1) applies to a reference to an Act or instrument—

(a) whether or not the reference includes a reference to subsequent amendments of the Act or instrument; and

10 (b) whether or not the reference is to a mode of citation that includes 2 calendar years.

(3) Notwithstanding subsection (1), in any Act or instrument—

15 (a) a reference to an Act that has been repealed and re-enacted, with or without modification, extends to the re-enacted Act, as in force for the time being; and

(b) a reference to an instrument that has been repealed and re-made, with or without modification, extends to the re-made instrument, as in force for the time being,

20 and a reference to a provision of the repealed Act or instrument extends to the corresponding provision of the re-enacted Act or the re-made instrument, as the case may be.

(4) In this section—

(a) a reference to an Act includes a reference to—

(i) a Commonwealth Act;

25 (ii) an Act or Ordinance of some other State or Territory; and

(iii) a British Act; and

(b) a reference to an instrument includes a reference to an instrument made under such an Act or Ordinance.

References to publications other than Acts or instruments

69. (1) In any Act or instrument, a reference to a publication other than an Act or instrument is a reference to the publication—

- 5 (a) if a particular day is specified for that purpose in the Act or instrument—as in force or current on that particular day; or
- (b) in any other case—as in force or current on the day on which the provision containing the reference took effect.

(2) Notwithstanding subsection (1), a reference in any Act or instrument to a publication extends to the publication, as in force for the time being—

- 10 (a) if that intention appears in the Act or instrument; and
- (b) where that intention appears in the instrument—if the Act under which the instrument is made provides that such instruments may apply, adopt or incorporate publications, as in force for the time being.

15 References to changed short titles and citations

70. If the short title or citation of an Act or instrument is changed, a reference to the short title or citation in any other Act or instrument or in a document of any kind shall be read as a reference to the short title or citation as changed.

20 Time of expiry of temporary Acts and instruments

71. If an Act or instrument is expressed to expire, lapse or otherwise cease to have effect on a particular day, or to remain in force until a particular day, the Act or instrument shall continue in operation until the end of that day.

25 Retrospective commencement of continuing Acts

72. (1) If a Bill for an Act to continue a temporary Act has been introduced into Parliament and is still pending at the expiration of the temporary Act, the Act shall, on the date of its assent, be deemed to have taken effect in continuing the temporary Act on the expiration of the temporary Act.

30

(2) This section does not make any person liable to any penalty for or in respect of a contravention of the temporary Act that occurs after the expiration of the temporary Act and before the date of assent to the Act by which the temporary Act is continued.

Private Acts not to affect rights of the Crown etc.

73. (1) A Private Act that is passed after the commencement of this Act shall not be construed so as—

- 5 (a) to affect, in a manner prejudicial to the Crown or any other person (other than a person at whose instance or for whose special benefit the Act is passed or some other person claiming by, through or under such a person), the rights of the Crown or any such other person existing before the passing of the Act; or
- 10 (b) to impose liabilities on the Crown or any other person (other than a person at whose instance or for whose special benefit the Act is passed or some other person claiming by, through or under such a person) in respect of any thing done or omitted to be done before the passing of the Act.

(2) Without limiting the effect of section 30—

- 15 (a) the provisions of section 17 of the Act 16 Victoria No. 1 continue to apply in relation to the rights of the Crown and any other person, being rights that would, but for those provisions, be affected by the passing of Private Acts to which that Act applied before the commencement of this Act; and
- 20 (b) the provisions of section 14 of the Interpretation Act 1897 continue to apply in relation to the rights of the Crown and any other person, being rights that would, but for those provisions, be affected by the passing of Private Acts to which that Act applied before the commencement of this Act,
- 25 notwithstanding the repeal of those Acts by this Act.

Private Acts amended by Public Acts do not thereby become Public Acts

74. A Private Act does not become a Public Act merely because it has been amended by or under a Public Act.

Publication of statutory notices

30 75. If an Act or statutory rule requires a notice or advertisement to be published in the Gazette and in one or more newspapers or journals, it is sufficient compliance with the requirement if—

- (a) the notice or advertisement is published in the Gazette; and

Interpretation 1986

(b) there is published in each newspaper or journal—

(i) a summary of the notice or advertisement; or

(ii) a statement to the effect that the notice or advertisement has been published in the Gazette,

5 together with a reference to the number, date and page or pages of the Gazette in which the notice or advertisement has been published.

Service by post

76. If an Act or instrument authorises or requires any document to be served by post (whether the word “serve”, “give” or “send” or any other
10 word is used), service of the document—

(a) may be effected by properly addressing, prepaying and posting a letter containing the document; and

(b) shall, until the contrary is proved, be taken to have been effected at
15 the time when the letter would have been delivered in the ordinary course of post.

Registered post etc. not necessary in the case of Acts and statutory rules passed etc. before 24.4.1969

77. (1) Any Act or statutory rule under which a document (other than a summons) may be or is required to be served on a person by registered
20 mail, registered post, certified mail or certified post (whether the word “serve”, “give” or “send” or any other word is used) shall be taken to authorise the service of the document by post (other than registered mail, registered post, certified mail or certified post) in addition to any other means by which the Act or statutory rule authorises the document to be
25 served.

(2) Subsection (1)—

(a) applies only to Acts and statutory rules enacted or made before 24 April 1969 (being the day on which the Interpretation (Amendment) Act 1969 commenced); and

30 (b) so applies notwithstanding any provision of any such Act or statutory rule.

(3) The Governor may, by order published in the Gazette, declare that subsection (1) does not apply to any specified Act or statutory rule or to any specified provision of any specified Act or statutory rule.

(4) An order in force under subsection (3) does not affect the operation of subsection (1) in relation to the service of a document that was posted before the order was made.

Rules of court

5 78. (1) The power of a person or body to make rules of court includes power to make rules of court for the purposes of any Act or statutory rule that permits or requires any thing to be done by or in accordance with rules of court.

(2) If an Act or statutory rule—

10 (a) confers any jurisdiction on a court or tribunal; or

(b) extends or varies the jurisdiction of a court or tribunal,

the person or body having power to make rules or orders regulating the practice and procedure of the court or tribunal may make rules or orders (including rules or orders with respect to costs) regulating the practice and
15 procedure of the court or tribunal in the exercise of the jurisdiction so conferred, extended or varied.

Authority to administer oaths

79. Any person or body authorised by law, or by consent of parties, to conduct a hearing for the purpose of the determination (by that or any other
20 person or body) of any matter or thing shall have authority—

(a) to receive evidence; and

(b) to examine witnesses, and to administer oaths to witnesses, who have been lawfully called before that person or body.

Compliance with forms

25 80. (1) If an Act or statutory rule prescribes a form, strict compliance with the form is not necessary but substantial compliance is sufficient.

(2) If a form prescribed by an Act or instrument requires the form to be completed in a specified manner, or requires specified information to be included in, attached to or furnished with the form, the form is not duly
30 completed unless it is completed in that manner and unless it includes, or has attached to or furnished with it, that information.

Amendments to sec. 16

81. Section 16 is amended in the manner set forth in Schedule 1.

Repeals

82. Each Act specified in Schedule 2 is, to the extent indicated in that Schedule, repealed.

Savings and transitional provisions

83. Schedule 3 has effect.

 SCHEDULE 1

(Sec. 81)

10

AMENDMENTS TO SECTION 16

Section 16 (**British subjects and aliens**)—

(1) Section 16 (1) (a) (ii), (2) (b)—

15

Omit “, under the Australian Citizenship Act 1948 of the Commonwealth,” wherever occurring, insert instead “would, had the relevant Commonwealth law continued in force, be a person who”.

(2) Section 16 (1) (b), (3)—

After “who” wherever occurring, insert “would, had the relevant Commonwealth law continued in force, be a person who”.

(3) Section 16 (1) (b), (3)—

20

Omit “the Australian Citizenship Act 1948 of the Commonwealth” wherever occurring, insert instead “that law”.

(4) Section 16 (4)—

After section 16 (3), insert:

25

(4) In this section, a reference to the relevant Commonwealth law is a reference to—

(a) the Australian Citizenship Act 1948 of the Commonwealth, as in force immediately before the commencement of this subsection; and

(b) the regulations in force immediately before the commencement of this subsection under the Australian Citizenship Act 1948 of the Commonwealth, as so in force.

30

Interpretation 1986

SCHEDULE 2

(Sec. 82)

REPEALS

- Acts Shortening Act of 1852 16 Vic. No. 1—the unrepealed portion
- 5 Acts Shortening Act of 1858 22 Vic. No. 12—the unrepealed portion
- Interpretation Act 1897 No. 4—the whole Act
- Crimes Act 1900 No. 40—so much of the First Schedule as amends Act 16 Vic. No. 1 and Act 22 Vic. No. 12
- 10 Fines and Penalties Act 1901 No. 16—so much of the Schedule as amends Act 16 Vic. No. 1
- Justices Act 1902 No. 27—so much of the First Schedule as amends Act 16 Vic. No. 1
- Local Government Act 1919 No. 41—sections 577 and 579 and the words “by proclamation” in section 575
- Publication of Statutory Advertisements and Notices Act 1920 No. 32—the whole Act
- 15 Minors (Property and Contracts) Act 1970 No. 60—so much of the First Schedule as amends Act No. 4, 1897
- Miscellaneous Acts (Local Courts) Amendment Act 1982 No. 168—so much of Schedule 1 as amends Act No. 4, 1897
- Statute Law (Miscellaneous Amendments) Act 1984 No. 153—Schedule 7
- 20 Statute Law (Miscellaneous Provisions) Act 1985 No. 231—Schedule 11

SCHEDULE 3

(Sec. 83)

SAVINGS AND TRANSITIONAL PROVISIONS

Commencement of certain Acts

- 25 1. (1) Section 3 (II) of the Interpretation Act 1897 continues to apply to an Act enacted before the appointed day as if this Act had not been enacted.

(2) In this clause—

“the appointed day” means the day appointed and notified under section 2 (3).

Orders under sec. 27 (III) of the Interpretation Act 1897

- 30 2. An order in force immediately before the commencement of this Act under section 27 (III) of the Interpretation Act 1897 shall be deemed to be an order made under section 77 (3) of this Act.

*Interpretation 1986*SCHEDULE 3—*continued*SAVINGS AND TRANSITIONAL PROVISIONS—*continued***Instruments under sec. 37 of the Interpretation Act 1897**

3. Section 37 of the Interpretation Act 1897 continues to apply to an instrument made by virtue of section 37 (1) of that Act before the commencement of this Act as if this Act had not been enacted.

5 Regulations under sec. 41 of the Interpretation Act 1897

4. Section 41 of the Interpretation Act 1897 continues to apply to a regulation (within the meaning of that section) published in the Gazette before the commencement of this Act as if this Act had not been enacted.

References to the tabling of statutory rules

- 10 5. A reference in any Act to the laying of a statutory rule before either or both Houses of Parliament includes a reference to the laying before either or both Houses of Parliament of a written notice of the making of the statutory rule, as referred to in section 40.

Ordinances under sec. 577 of the Local Government Act 1919

- 15 6. Section 577 of the Local Government Act 1919 continues to apply to an ordinance (within the meaning of that Act) published in the Gazette before the commencement of this Act as if this Act had not been enacted.

