

**Authorised Version No. 103**  
**Interpretation of Legislation Act 1984**

**No. 10096 of 1984**

Authorised Version incorporating amendments as at  
1 January 2012

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An Act to make fresh provision with respect to the construction and operation of, and the shortening of the language used in, Acts of Parliament and subordinate instruments, to repeal the **Acts Interpretation Act 1958**, to amend the **Property Law Act 1958**, the **Supreme Court Act 1958**, the **Subordinate Legislation Act 1962**, the **Constitution Act 1975**, the **Penalties and Sentences Act 1981** and certain other Acts and for other purposes.

**BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):**

**PART I—PRELIMINARY**

**1 Short title**

This Act may be cited as the **Interpretation of Legislation Act 1984**.

**2 Commencement**

This Act shall come into operation on 1 July 1984.

**3 Definitions**

In this Act, unless inconsistent with the context or subject-matter—

*amended*, in relation to a subordinate instrument,  
includes altered or varied;

*made*, in relation to a subordinate instrument,  
includes issued or granted;

*repealed*, in relation to a subordinate instrument,  
includes revoked or rescinded.

S. 3 def. of  
*statutory rule*  
substituted by  
No. 104/1994  
s. 35(Sch. 2  
item 3.1),  
repealed by  
No. 61/2004  
s. 6(2).

\* \* \* \* \*

S. 3 def. of  
*subordinate  
instrument*  
repealed by  
No. 61/2004  
s. 6(2).

\* \* \* \* \*

#### 4 Application, construction and repeal provisions

- (1) The provisions of this Act—
  - (a) unless a contrary intention appears in this Act or in the Act or subordinate instrument concerned, extend and apply to all Acts, whether passed before or after the commencement of this Act, and to all subordinate instruments, whether made before or after that commencement; and
  - (b) apply to the interpretation of this Act.
- (2) Nothing in this Act excludes the application to an Act or subordinate instrument of a rule of construction applicable thereto and not inconsistent with this Act.
- (3) The provisions of this Act which are expressed to apply to Acts passed or subordinate instruments made on or after the commencement of this Act shall not affect the construction of any Act passed or subordinate instrument made before that commencement although that Act or subordinate instrument is continued in force or amended by an

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Act passed or subordinate instrument made on or after that commencement.

- (4) The Acts mentioned in the Schedule to the extent to which they are in the Schedule expressed to be amended or repealed are hereby amended or repealed accordingly.

### **5 Act to bind Crown**

This Act binds the Crown, not only in right of the State of Victoria, but also, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

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## **PART II—PROVISIONS APPLICABLE TO ACTS**

### **6 Construction of Acts**

- (1) Every Act shall be construed as operating to the full extent of, but so as not to exceed, the legislative power of the State of Victoria, to the intent that where a provision of an Act, or the application of any such provision to any person, subject-matter or circumstance, would, but for this section, have been construed as being in excess of that power, it shall nevertheless be a valid provision to the extent to which it is not in excess of that power and the remainder of the Act and the application of that provision to other persons, subject-matters or circumstances shall not be affected.
- (2) The provisions of this section are in addition to, and not in derogation of, any provision of any Act relating to the construction, or extent of the operation, of that Act.

### **7 Sections to be substantive enactments**

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

### **8 Amendment or repeal in same session**

An Act may be amended or repealed in the session of Parliament in which it is passed.

### **9 Citation of Acts by number**

- (1) The Acts passed in each calendar year shall be numbered in regular arithmetical series, beginning with the number 1, in the order in which they receive or, for the purposes of section 69 of the **Constitution Act 1975**, are deemed to have received the Royal Assent.

S. 9  
substituted by  
No. 10214 s. 4.

- (2) It is sufficient to refer to an Act in—
- (a) any other Act;
  - (b) a subordinate instrument;
  - (c) a deed or other instrument; or
  - (d) any other document whatsoever—
- by—
- (e) in the case of an Act passed before 1 January 1986, the number of that Act only; and
  - (f) in the case of an Act passed on or after 1 January 1986, the calendar year in which it was passed and its number among the Acts of that year.
- (3) A failure to comply with subsection (1) in a calendar year (whether the calendar year 2006 or any earlier or later calendar year) does not affect the validity, operation or effect of an Act passed in that year.

S. 9(3)  
inserted by  
No. 13/2006  
s. 3.

## 10 Citation of Acts by title

S. 10  
substituted by  
No. 10214 s. 5.

- (1) An Act may be cited in —
- (a) that Act or any other Act;
  - (b) a subordinate instrument;
  - (c) a deed or other instrument;
  - (d) any other document whatsoever—
- by—
- (e) the short title authorized by that Act whether or not that Act or the provision of that Act authorizing that form of citation has come into operation or has been repealed; or

**s. 10A**

(f) if there is no short title authorized by that Act, the title appearing before the enacting words or, if there is a preamble, before the preamble, whether or not that Act has come into operation or has been repealed.

(2) The title of an Act appearing before the enacting words or, if there is a preamble, before the preamble, forms part of the Act if there is no short title authorized by the Act.

**S. 10(2A)**  
inserted by  
No. 2/2007  
s. 3.

(2A) The Clerk of the Parliaments must alter the title appearing before the enacting words (or, if there is a preamble, before the preamble) in a Bill that is to be presented to the Governor for the Royal Assent by substituting the word "Act" for the word "Bill".

**S. 10(2B)**  
inserted by  
No. 2/2007  
s. 3.

(2B) The alteration of a Bill to give effect to subsection (2A) is not to be taken to be an amendment of the Bill.

(3) If an Act passed on or after 1 September 1985 does not authorize its citation by a short title, the long title of the Bill for the Act does not form part of the Act.

**S. 10A**  
inserted by  
No. 10214 s. 6.

**10A Construction of power to fix commencement of Act**

(1) If an Act provides for the Act or a provision of the Act to come into operation on a day to be proclaimed, the Act confers power on the Governor in Council to fix by proclamation published in the Government Gazette a day for the Act or provision to come into operation.

(2) If an Act provides for the Act or provisions of the Act to come into operation on a day or days to be proclaimed, the Act confers power on the Governor in Council to fix by proclamation or proclamations published in the Government Gazette—

- (a) a day for the Act or provisions to come into operation; or
- (b) different days for different provisions of the Act to come into operation.
- (3) If an Act makes no provision for the commencement of a particular provision of the Act, the Act must be taken to provide for the provision to come into operation on a day to be proclaimed or on the first anniversary of the passing of the Act, whichever is the earlier.
- (4) If an Act makes no provision for the commencement of the Act or of more than one provision of the Act, the Act must be taken to provide for the Act or those provisions to come into operation on a day or days to be proclaimed or on the first anniversary of the passing of the Act, whichever is the earlier.

S. 10A(3)  
inserted by  
No. 13/2006  
s. 4(1).

S. 10A(4)  
inserted by  
No. 13/2006  
s. 4(1).

## 11 Time of commencement and date of passing of Acts

- (1) Subject to subsection (2) and to section 71 of the **Constitution Act 1975**, if a particular day is fixed (whether in the Act or in a proclamation made under the Act) for an Act or a provision of an Act to come into operation, the Act or provision comes into operation at the beginning of that day.
- (2) If an Act confers power on the Governor in Council to fix by proclamation published in the Government Gazette a day for the Act or a provision or provisions of the Act to come into operation, the publication of the proclamation in the Government Gazette is a condition precedent to the coming into operation of the Act or provision or provisions in question.
- (2A) If a proclamation fixing a day for the coming into operation of an Act or a provision or provisions of an Act is made on or before the fixed day but is not published in the Government Gazette until

S. 11(1)  
amended by  
No. 108/1994  
s. 10(a),  
substituted by  
No. 13/2006  
s. 4(2).

S. 11(2)  
amended by  
No. 95/1993  
s. 4(1)(a)–(e),  
substituted by  
No. 13/2006  
s. 4(2).

S. 11(2A)  
inserted by  
No. 13/2006  
s. 4(2).

after that day, the proclamation does not wholly fail but the Act or provision comes, or the provisions come, into operation at the beginning of the day on which the proclamation is so published.

S. 11(3)  
amended by  
No. 108/1994  
s. 10(b).

- (3) The date of the passing of an Act is the date on which the Act receives the Royal Assent.

S. 11(4)  
inserted by  
No. 95/1993  
s. 4(2),  
amended by  
No. 61/2004  
s. 3(a)(b).

- (4) A reference in an Act to the date of commencement of that Act or another Act or a portion containing 2 or more provisions of that Act or another Act is, if the whole of the Act or portion referred to did not come, or is not to come, into operation on the one day, a reference to the first day on or before which all the provisions of the Act or portion referred to have come, or will have come, into operation.

## 12 Time of expiry of temporary Acts

Where an Act or a provision of an Act is expressed to expire, lapse or otherwise cease to have effect on a particular day, or to remain or continue in force until a particular day, the Act or provision shall continue in operation until the last moment of that day.

S. 13  
substituted by  
No. 13/2006  
s. 5.

## 13 Exercise of powers between passing and commencement of Act

- (1) This section applies where an Act or a provision of an Act which does not come into operation immediately on the passing of the Act will, on its coming into operation, confer power or amend another Act so as to confer power under the other Act as so amended to—
- (a) make subordinate instruments or any other instruments of a legislative or administrative character; or

- (b) give notices; or
- (c) make appointments; or
- (d) establish a body; or
- (e) prescribe forms; or
- (f) do any other thing—

for the purposes of that Act or provision or that other Act.

- (2) Unless the contrary intention appears, the power may be exercised at any time after the passing of the Act but its exercise does not confer a right or impose an obligation on a person before the coming into operation of the Act or provision except insofar as is necessary or expedient for the purpose of—
  - (a) bringing the Act or provision into operation; or
  - (b) making the Act or provision or the other Act as amended fully effective at or after that coming into operation.
- (3) Without limiting subsection (2), an appointee may exercise a power, and a body may meet and exercise a power, under that subsection before the coming into operation of the Act or provision in the same manner and subject to the same conditions or limitations (if any) and with an entitlement to payment of the same remuneration or allowances (if any) as if the Act or provision were in operation.
- (4) For the purposes of any provision as to the duration of the term of office of an appointee (including a member of a body), that term does not begin until the coming into operation of the Act or provision despite the exercise of any power under this section before that coming into operation.

#### 14 Provision as to effect of repeal etc. of Acts

(1) Where an Act or a provision of an Act—

- (a) is repealed; or
- (b) expires, lapses or otherwise ceases to have effect—

any Act or provision of an Act that had been repealed by the first-mentioned Act or provision shall not, unless the contrary intention expressly appears, be construed as having been revived in consequence of the repeal, expiry, lapsing or ceasing to have effect of the first-mentioned Act or provision.

(2) Where an Act or a provision of an Act—

- (a) is repealed or amended; or
- (b) expires, lapses or otherwise ceases to have effect—

the repeal, amendment, expiry, lapsing or ceasing to have effect of that Act or provision shall not, unless the contrary intention expressly appears—

- (c) revive anything not in force or existing at the time at which the repeal, amendment, expiry, lapsing or ceasing to have effect becomes operative;
- (d) affect the previous operation of that Act or provision or anything duly done or suffered under that Act or provision;
- (e) affect any right, privilege, obligation or liability acquired, accrued or incurred under that Act or provision;
- (f) affect any penalty, forfeiture or punishment incurred in respect of an offence committed against that Act or provision; or

(g) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as is mentioned in paragraphs (e) and (f)—

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if that Act or provision had not been repealed or amended or had not expired, lapsed or otherwise ceased to have effect.

(2A) Without limiting subsection (2), if a provision of an Act that is of a savings or transitional nature (whether or not the Act describes it as such) or that validates anything that is or may otherwise be invalid or that requires a reference in an Act or subordinate instrument or other instrument or document to, or that relates to, an entity or a class of entity to be construed as a reference to another entity or class of entity—

**S. 14(2A)  
inserted by  
No. 13/2006  
s. 6(1).**

(a) is repealed; or

(b) expires, lapses or otherwise ceases to have effect—

the repeal, expiry, lapsing or ceasing to have effect of that provision does not, unless the contrary intention expressly appears, affect the operation of the savings or transitional provision or end the validating effect of the provision or affect the construction of that reference, as the case requires.

S. 14(3)  
amended by  
No. 13/2006  
s. 6(2).

- (3) References in subsections (1), (2) and (2A) to the repeal of an Act or of a provision of an Act shall be construed as including references to—
- (a) a repeal effected by implication; and
  - (b) a repeal effected by abrogating or limiting the effect of the Act or provision or excluding the application of the Act or provision to any person, subject-matter or circumstance.

### **15 Effect of repeal etc. of amending Act**

- (1) Where an Act or a provision of an Act, being an Act or provision that directly amended another Act or a subordinate instrument (whether by the insertion of words or expressions in that Act or subordinate instrument or the substitution of other words or expressions for words or expressions in that Act or subordinate instrument)—
- (a) is repealed; or
  - (b) expires, lapses or otherwise ceases to have effect—
- the repeal, expiry, lapsing or ceasing to have effect of that Act or provision shall not, unless the contrary intention expressly appears, affect in any way the direct amendments made in the other Act or in the subordinate instrument or the operation or effect of those amendments.
- (2) Subsection (1) applies to a direct amendment made to a provision of an Act by another provision of that Act in the same manner as it applies to a direct amendment made to an Act by another Act.

## 16 Repeal and re-enactment

Where an Act or a provision of an Act is repealed and re-enacted (with or without modification) then, unless the contrary intention expressly appears—

- (a) any reference in any Act or subordinate instrument to the repealed Act or provision shall be construed as a reference to the re-enacted Act or provision; and
- (b) insofar as any subordinate instrument made or other thing done under the repealed Act or provision, or having effect as if so made or done, could have been made or done under the re-enacted Act or provision, it shall have effect as if made or done under the re-enacted Act or provision.

## 17 Construction of references in Acts to other enactments

S. 17  
amended by  
No. 95/1993  
s. 5(1).

- (1) A reference in an Act to that Act or to any provision of that Act or to any other Act or to any provision of any other Act or to any subordinate instrument or provision of a subordinate instrument shall, unless the contrary intention appears, be construed—
  - (a) if the Act, subordinate instrument or provision in question has been amended, as a reference to the Act, subordinate instrument or provision as amended and in force for the time being;
  - (b) if the Act, subordinate instrument or provision in question has been re-enacted or re-made (with or without modification), as a reference to the Act, subordinate instrument or provision as re-enacted or re-made and in force for the time being;

- (c) if the Act, subordinate instrument or provision in question has been re-enacted or re-made (with or without modification) and subsequently amended, as a reference to the Act, subordinate instrument or provision as re-enacted or re-made and as subsequently amended and in force for the time being; and
- (d) if the Act, subordinate instrument or provision in question has been repealed and not re-enacted or re-made, as a reference to the Act, subordinate instrument or provision as in force immediately before its repeal.

S. 17(1A)  
inserted by  
No. 13/2006  
s. 7(1).

- (1A) A reference in an Act to any provision of that or any other Act or to any provision of a subordinate instrument must, if the provision in question has been renumbered or relocated, be construed as a reference to the provision as renumbered or relocated and in force for the time being, unless the contrary intention appears.

S. 17(2)  
inserted by  
No. 95/1993  
s. 5(2).

- (2) In this section—
  - (a) a reference to an Act includes a reference to—
    - (i) a Commonwealth Act; and
    - (ii) an Act or Ordinance of another State or of a Territory;
  - (b) a reference to a subordinate instrument includes a reference to an instrument of a legislative character made or to be made under or pursuant to the provisions of—
    - (i) a Commonwealth Act; and
    - (ii) an Act or Ordinance of another State or of a Territory.

## 18 References in Acts to provisions of subordinate instruments

S. 18  
amended by  
No. 12/1989  
s. 4(1)(Sch. 2  
item 63.1).

Where in an Act reference is made to a regulation, rule, by-law, local law, proclamation, Order in Council, order, scheme or other provision, the reference shall, unless the context otherwise requires, be construed as a reference to a regulation, rule, by-law, local law, proclamation, Order in Council, order, scheme or other provision (as the case requires) contained in a subordinate instrument made or to be made under or pursuant to the provisions of the Act in which the reference occurs.

## 19 Citation of references in Acts

(1) Where a provision of an Act refers—

(aaa) to a Chapter by a number, the reference shall, unless the context otherwise requires, be construed as a reference to the Chapter, designated by that number, of the Act in which the reference occurs;

S. 19(1)(aaa)  
inserted by  
No. 60/2000  
s. 4(1).

(aa) to a Part by a number, the reference shall, unless the context otherwise requires, be construed—

S. 19(1)(aa)  
inserted by  
No. 60/2000  
s. 4(1).

(i) if the Act contains Chapters, as a reference to the Part, designated by that number, of the Chapter in which the reference occurs; or

(ii) if the Act does not contain Chapters, as a reference to the Part, designated by that number, of the Act in which the reference occurs;

**s. 19**

**S. 19(1)(a)**  
**amended by**  
**No. 60/2000**  
**s. 4(2).**

- (a) to a section or Schedule by a number, the reference shall, unless the context otherwise requires, be construed as a reference to the section or Schedule, designated by that number, of or to the Act in which the reference occurs;
- (b) to a Schedule but does not refer to it by a number, the reference shall, unless the context otherwise requires, if there is only one Schedule to the Act in which the reference occurs, be construed as a reference to the Schedule to the Act in which the reference occurs; or
- (c) to a Division, Subdivision, subsection, paragraph, subparagraph, sub-subparagraph, clause, subclause, sub-subclause, item, column, table or form by a number, the reference shall, unless the context otherwise requires, be construed as a reference—
  - (i) to the Division, designated by that number, of the Part in which the reference occurs;
  - (ii) to the Subdivision, designated by that number, of the Division in which the reference occurs;
  - (iii) to the subsection, designated by that number, of the section in which the reference occurs;
  - (iv) to the paragraph, designated by that number, of the section, subsection, interpretation or Schedule in which the reference occurs;

- (v) to the paragraph, designated by that number, of the clause, subclause, item, column, table or form of or in the Schedule in which the reference occurs;
- (vi) to the subparagraph, designated by that number, of the paragraph in which the reference occurs;
- (vii) to the sub-subparagraph, designated by that number, of the subparagraph in which the reference occurs;
- (viii) to the table, designated by that number, of or in the section or subsection in which the reference occurs;
- (ix) to the clause, item, column, table or form, designated by that number, of or in the Schedule in which the reference occurs;
- (x) to the subclause, designated by that number, of the clause in which the reference occurs; or
- (xi) to the sub-subclause, designated by that number, of the subclause in which the reference occurs—

as the case requires.

(2) In subsection (1) **number** means—

- (a) a number expressed in words or figures;
- (b) a letter; or
- (c) a combination of a number so expressed and a letter.

s. 20  
amended by  
Nos 12/1989  
s. 4(1)(Sch. 2  
item 63.2),  
60/2000  
s. 4(3).

## **20 Construction of references in Acts to portions of Acts or subordinate instruments**

In an Act, a description or citation of a portion of that Act or of any other Act or of any subordinate instrument made under that Act or any other Act shall, unless the contrary intention appears, be construed as including the word, section, subsection, paragraph, subparagraph, regulation, rule, by-law, local law subregulation, subrule, clause, Chapter, Part, Schedule or other division mentioned or referred to as forming the beginning and as forming the end of the portion comprised in the description or citation.

## **21 Meaning of certain expressions in Acts**

- (1) Unless the contrary intention appears, a reference in an Imperial Act or an Act of the Governor and Legislative Council of the colony of New South Wales in force in Victoria on 1 July 1851—
  - (a) to the colony or the colony of New South Wales or the territory of New South Wales or the district of Port Phillip shall be construed as a reference to Victoria;
  - (b) to the Governor of the colony of New South Wales shall be construed as a reference to the Governor of Victoria;
  - (c) to the Colonial Secretary of the colony of New South Wales or the Superintendent of Port Phillip shall be construed as a reference to the responsible Minister of the Crown in Victoria for the time being administering the provision in which the reference occurs;
  - (d) to the Supreme Court of the colony of New South Wales or any judge of that Court or to any other court in that colony or to any judge, justice or other person presiding in any such court shall be construed as a

- reference to the court, judge or other person having a similar jurisdiction in Victoria;
- (e) to a justice of the peace in and for the colony of New South Wales shall be construed as a reference to a justice of the peace in and for Victoria;
  - (f) to any officer or other person in the public service of the colony of New South Wales shall be construed as a reference to an officer or other person having similar duties in the public service of Victoria; and
  - (g) to the Government Gazette of the colony of New South Wales shall be construed as a reference to the Victoria Government Gazette.
- (2) Unless the contrary intention appears, a reference in any Act (by whatsoever Parliament passed) in force in Victoria on 21 November 1856 to the Legislative Council shall be construed as a reference to the Legislative Council of Victoria and the Legislative Assembly of Victoria.
- (3) Unless the contrary intention appears, a reference in any Act to Her Majesty's navy or army or to Her Majesty's naval or military forces or to the naval or military forces of the Commonwealth or to naval or military service therewith shall be construed as including a reference to Her Majesty's air forces or the air forces of the Commonwealth or to service therewith, as the case requires.

## **21A Incorporation of amendments**

- (1) If an Act has been amended then in any reprinting of the Act the Government Printer must, unless the Chief Parliamentary Counsel otherwise approves, reprint the Act as so amended.

**S. 21A**  
inserted by  
**No. 104/1994**  
**s. 29.**

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- (2) There must be printed in a reprint of an Act—
- (a) a reference to each Act or subordinate instrument by which the reprinted Act is amended; and
  - (b) a reference (whether in a sidenote, footnote or endnote) to each provision of the reprinted Act that is amended and the provision of the Act or subordinate instrument by which the amendment is made.
- (3) In reprinting an Act the Government Printer may omit the indorsement on the Act of the date of its passing.
- (4) Nothing in subsection (3) affects the status of the indorsement as part of the Act.

S. 21A(3)  
inserted by  
No. 2/2007  
s. 4.

S. 21A(4)  
inserted by  
No. 2/2007  
s. 4.

**Note**

See **Constitution Act 1975**, section 69.

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**PART III—PROVISIONS APPLICABLE TO SUBORDINATE INSTRUMENTS**

**22 Subordinate instruments to be construed subject to legislative power of the State and to empowering Act**

- (1) Every subordinate instrument shall be construed as operating to the full extent of, but so as not to exceed—
- (a) the legislative power of the State of Victoria;  
or
  - (b) the power to make the subordinate instrument conferred by the Act under or pursuant to which it is made—

to the intent that where a provision of a subordinate instrument, or the application of any such provision to any person, subject-matter or circumstance, would, but for this section, have been construed as being in excess of that power, it shall nevertheless be a valid provision to the extent to which it is not in excess of that power and the remainder of the subordinate instrument and the application of that provision to other persons, subject-matters or circumstances shall not be affected.

- (2) The provisions of this section are in addition to, and not in derogation of, any provision of a subordinate instrument or of the Act under or pursuant to which a subordinate instrument is made relating to the construction, or extent of the operation, of that subordinate instrument.

**23 Construction of subordinate instruments**

Where an Act confers power to make a subordinate instrument, expressions used in a subordinate instrument made in the exercise of that power shall, unless the contrary intention appears, have the same respective meanings as

they have in the Act conferring the power as amended and in force for the time being.

#### **24 Time of commencement of subordinate instruments**

Where in respect of a subordinate instrument (not being a statutory rule) or a provision of such a subordinate instrument a particular day is fixed (whether in the subordinate instrument or in the Act under or pursuant to which the subordinate instrument is made) for it to come into operation, the subordinate instrument or the provision of the subordinate instrument comes into operation at the beginning of that day.

#### **25 Time of expiry of temporary subordinate instruments**

Where a subordinate instrument or a provision of a subordinate instrument is expressed to expire, lapse or otherwise cease to have effect on a particular day, or to remain or continue in force until a particular day, the subordinate instrument or provision shall continue in operation until the last moment of that day.

#### **26 Exercise of powers between making and commencement of subordinate instruments**

- (1) This section applies where a subordinate instrument or a provision of a subordinate instrument which does not come into operation immediately on the making of the subordinate instrument will, on its coming into operation, confer power or amend another subordinate instrument so as to confer power under the other subordinate instrument as so amended to—
- (a) make other subordinate instruments or any other instruments of a legislative or administrative character; or

S. 26  
substituted by  
No. 13/2006  
s. 8.

- (b) give notices; or
- (c) make appointments; or
- (d) establish a body; or
- (e) prescribe forms; or
- (f) do any other thing—

for the purposes of that subordinate instrument or provision or that other subordinate instrument.

- (2) Unless the contrary intention appears, the power may be exercised at any time after the making of the subordinate instrument but its exercise does not confer a right or impose an obligation on a person before the coming into operation of the subordinate instrument or provision except insofar as is necessary or expedient for the purpose of—
  - (a) bringing the subordinate instrument or provision into operation; or
  - (b) making the subordinate instrument or provision or the other subordinate instrument as amended fully effective at or after that coming into operation.
- (3) Without limiting subsection (2), an appointee may exercise a power, and a body may meet and exercise a power, under that subsection before the coming into operation of the subordinate instrument or provision in the same manner and subject to the same conditions or limitations (if any) and with an entitlement to payment of the same remuneration or allowances (if any) as if the subordinate instrument or provision were in operation.

- (4) For the purposes of any provision as to the duration of the term of office of an appointee (including a member of a body), that term does not begin until the coming into operation of the subordinate instrument or provision despite the exercise of any power under this section before that coming into operation.

**27 Implied power to repeal or amend subordinate instruments**

Where an Act confers power to make a subordinate instrument the power shall, unless the contrary intention expressly appears, be construed as including a power, exercisable in the same manner and subject to the same conditions or limitations (if any), to repeal or amend a subordinate instrument made in the exercise of that power.

**28 Provisions as to effect of repeal etc. of subordinate instruments**

- (1) Where a subordinate instrument or a provision of a subordinate instrument—
- (a) is repealed; or
  - (b) expires, lapses or otherwise ceases to have effect—

any subordinate instrument or provision of a subordinate instrument that had been repealed by the first-mentioned subordinate instrument or provision shall not, unless the contrary intention expressly appears, be construed as having been revived in consequence of the repeal, expiry, lapsing or ceasing to have effect of the first-mentioned subordinate instrument or provision.

(2) Where a subordinate instrument or a provision of a subordinate instrument—

- (a) is repealed or amended; or
- (b) expires, lapses or otherwise ceases to have effect—

the repeal, amendment, expiry, lapsing or ceasing to have effect of that subordinate instrument or provision shall not, unless the contrary intention expressly appears—

- (c) revive anything not in force or existing at the time at which the repeal, amendment, expiry, lapsing or ceasing to have effect becomes operative;
- (d) affect the previous operation of that subordinate instrument or provision or anything duly done or suffered under that subordinate instrument or provision;
- (e) affect any right, privilege, obligation or liability acquired, accrued or incurred under that subordinate instrument or provision;
- (f) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against that subordinate instrument or provision; or
- (g) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as is mentioned in paragraphs (e) and (f)—

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if that subordinate instrument or provision had not been repealed or amended or

had not expired, lapsed or otherwise ceased to have effect.

**S. 28(2A)**  
inserted by  
No. 13/2006  
s. 6(3).

(2A) Without limiting subsection (2), if a provision of a subordinate instrument that is of a savings or transitional nature (whether or not the subordinate instrument describes it as such) or that validates anything that is or may otherwise be invalid or that requires a reference in a subordinate instrument or Act or other instrument or document to, or that relates to, an entity or a class of entity to be construed as a reference to another entity or class of entity—

- (a) is repealed; or
- (b) expires, lapses or otherwise ceases to have effect—

the repeal, expiry, lapsing or ceasing to have effect of that provision does not, unless the contrary intention expressly appears, affect the operation of the savings or transitional provision or end the validating effect of the provision or affect the construction of that reference, as the case requires.

**S. 28(3)**  
amended by  
No. 13/2006  
s. 6(4).

(3) References in subsections (1), (2) and (2A) to the repeal of a subordinate instrument or of a provision of a subordinate instrument shall be construed as including references to—

- (a) a repeal effected by implication; and
- (b) a repeal effected by abrogating or limiting the effect of the subordinate instrument or provision or excluding the application of the subordinate instrument or provision to any person, subject-matter or circumstance.

## **29 Effect of repeal etc. of amending subordinate instrument**

- (1) Where a subordinate instrument or a provision of a subordinate instrument, being a subordinate instrument or provision that directly amended another subordinate instrument or an Act (whether by the insertion of words or expressions in that subordinate instrument or Act or the substitution of other words or expressions for words or expressions in that subordinate instrument or Act)—
- (a) is repealed; or
  - (b) expires, lapses or otherwise ceases to have effect—

the repeal, expiry, lapsing or ceasing to have effect of that subordinate instrument or provision shall not, unless the contrary intention expressly appears, affect in any way the direct amendments made in the other subordinate instrument or in the Act or the operation or effect of those amendments.

- (2) Subsection (1) applies to a direct amendment made to a provision of a subordinate instrument by another provision of that subordinate instrument in the same manner as it applies to a direct amendment made to a subordinate instrument by another subordinate instrument.

## **30 Repeal and re-making**

Where a subordinate instrument or a provision of a subordinate instrument is repealed and re-made (with or without modification) then, unless the contrary intention expressly appears—

- (a) any reference in any subordinate instrument or Act to the repealed subordinate instrument or provision shall be construed as a reference

to the re-made subordinate instrument or provision; and

- (b) insofar as any subordinate instrument made or other thing done under the repealed subordinate instrument or provision, or having effect as if so made or done, could have been made or done under the re-made subordinate instrument or provision, it shall have effect as if made or done under the re-made subordinate instrument or provision.

S. 31  
amended by  
No. 95/1993  
s. 5(3).

### **31 Construction of references in subordinate instruments to other enactments**

- (1) A reference in a subordinate instrument to that subordinate instrument or to any provision of that subordinate instrument or to any other subordinate instrument or to any provision of any other subordinate instrument or to any Act or provision of an Act shall, unless the contrary intention appears, be construed—
  - (a) if the subordinate instrument, Act or provision in question has been amended, as a reference to the subordinate instrument, Act or provision as amended and in force for the time being;
  - (b) if the subordinate instrument, Act or provision in question has been re-made or re-enacted (with or without modification), as a reference to the subordinate instrument, Act or provision as re-made or re-enacted and in force for the time being;
  - (c) if the subordinate instrument, Act or provision in question has been re-made or re-enacted (with or without modification) and subsequently amended, as a reference to the subordinate instrument, Act or provision

as re-made or re-enacted and as subsequently amended and in force for the time being; and

- (d) if the subordinate instrument, Act or provision in question has been repealed and not re-enacted or re-made, as a reference to the Act, subordinate instrument or provision as in force immediately before its repeal.

- (1A) A reference in a subordinate instrument to any provision of that or any other subordinate instrument or to any provision of an Act must, if the provision in question has been renumbered or relocated, be construed as a reference to the provision as renumbered or relocated and in force for the time being, unless the contrary intention appears.

**S. 31(1A)**  
inserted by  
No. 13/2006  
s. 7(2).

- (2) In this section—

- (a) a reference to an Act includes a reference to—
- (i) a Commonwealth Act; and
  - (ii) an Act or Ordinance of another State or of a Territory;
- (b) a reference to a subordinate instrument includes a reference to an instrument of a legislative character made or to be made under or pursuant to the provisions of—
- (i) a Commonwealth Act; or
  - (ii) an Act or Ordinance of another State or of a Territory.

**S. 31(2)**  
inserted by  
No. 95/1993  
s. 5(4).

s. 32

S. 32  
amended by  
No. 4/1986  
s. 4,  
substituted by  
No. 6/1991  
s. 3.

### 32 Prescribing matters by reference to other documents<sup>1</sup>

(1) In this section—

S. 32(1) def. of  
*Code*  
amended by  
Nos 80/1990  
s. 98(2),  
48/1992  
s. 116(2),  
41/1995 s. 60,  
83/1996  
s. 38, 29/1997  
s. 9, 31/1998  
s. 26, 37/1999  
s. 58(Sch. 1  
item 2.1),  
30/2008  
s. 42(1),  
11/2010 s. 51.

*Code* means—

- (a) the **Companies (Victoria) Code**;
  - (b) the **Companies (Acquisition of Shares) (Victoria) Code**;
  - (c) the **Futures Industry (Victoria) Code**;
  - (d) the **Securities Industry (Victoria) Code**;
  - (e) the **Companies and Securities (Interpretation and Miscellaneous Provisions) (Victoria) Code**;
  - (f) any other Code to which the **Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Act 1981** applies;
  - (g) the ASIC Law of Victoria;
  - (h) the Corporations Law of Victoria;
  - (ha) the National Electricity (Victoria) Law;
  - (i) the **AFIC (Victoria) Code**;
  - (j) the **Financial Institutions (Victoria) Code**;
  - (ja) the National Gas (Victoria) Law;
- \*            \*            \*            \*            \*
- (l) the **Friendly Societies (Victoria) Code**;

*relevant day* means the day on which the  
**Interpretation of Legislation  
(Amendment) Act 1991** comes into  
operation.

\* \* \* \* \*

S. 32(1) def. of  
*statutory rule*  
repealed by  
No. 60/2000  
s. 5(1).

(2) If an Act (whether passed before or after the  
relevant day) authorises or requires provision to  
be made for or in relation to a matter by a  
subordinate instrument, the subordinate  
instrument, if made on or after the relevant day  
and unless the contrary intention appears in the  
Act under or pursuant to which it is made—

(a) may make provision for or in relation to that  
matter by applying, adopting or  
incorporating, with or without modification,  
the provisions of—

(i) an Act; or

(ia) a Commonwealth Act; or

S. 32(2)(a)(ia)  
inserted by  
No. 60/2000  
s. 5(2)(a).

(ii) a Code; or

(iii) a statutory rule; or

S. 32(2)(a)(iii)  
amended by  
No. 60/2000  
s. 5(2)(b).

(iv) a statutory rule (within the meaning of  
the Statutory Rules Publication Act  
1903 of the Commonwealth) made  
under a Commonwealth Act—

S. 32(2)(a)(iv)  
inserted by  
No. 60/2000  
s. 5(2)(b).

as in force at a particular time or as in force  
from time to time; and

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S. 32(2)(b)  
amended by  
No. 60/2000  
s. 5(3).

(b) must not make provision for or in relation to that matter by applying, adopting or incorporating any matter contained in a document (not being an Act, Commonwealth Act, Code, statutory rule or statutory rule made under a Commonwealth Act).

S. 32(3)  
amended by  
Nos 104/1994  
s. 30(1)(a),  
60/2000  
s. 5(3).

(3) If a subordinate instrument made on or after the relevant day is authorised or required to make, and does make, provision for or in relation to a matter by applying, adopting or incorporating any matter contained in a document (not being an Act, Commonwealth Act, Code, statutory rule or statutory rule made under a Commonwealth Act) whether as in force at a particular time or as in force from time to time—

S. 32(3)(a)  
substituted by  
No. 104/1994  
s. 30(1)(b).

(a) the Minister administering the Act under which the subordinate instrument was made must if the subordinate instrument is itself required to be laid before each House of the Parliament cause—

(i) a copy of the matter so applied, adopted or incorporated to be lodged with the Clerk of the Parliaments as soon as practicable after the subordinate instrument is required to be laid before each House of the Parliament; and

(ii) notice of the documents containing the matter so applied, adopted or incorporated and of the fact that a copy of the matter so applied, adopted or incorporated has been lodged with the Clerk of the Parliaments, to be published in the Government Gazette as soon as practicable after the copy of the matter has been lodged; and

- (iii) a copy of the notice published in the Government Gazette to be laid before each House of the Parliament as soon as practicable after it is published; and
- (b) a copy of the matter so applied, adopted or incorporated must be kept available for inspection during normal office hours by members of the public without charge—
- (i) in the case of a subordinate instrument that is a statutory rule, at the Department of the Minister administering the Act under which the subordinate instrument is made or at some other appropriate public office specified by the Minister by a notice published in the Government Gazette; and
- (ii) in the case of a subordinate instrument that is not a statutory rule, at the principal office of the body which made the subordinate instrument or at some other appropriate public office specified by the Minister administering the Act under which it is made by a notice published in the Government Gazette.
- (4) If a subordinate instrument made on or after the relevant day is authorised or required to make, and does make, provision for or in relation to a matter by applying, adopting or incorporating any matter contained in a document (not being an Act, Commonwealth Act, Code, statutory rule or statutory rule made under a Commonwealth Act) as in force from time to time and after the subordinate instrument is made the matter so applied, adopted or incorporated is at any time amended—

S. 32(3)(b)  
amended by  
No. 104/1994  
s. 30(1)(c).

S. 32(4)  
amended by  
No. 60/2000  
s. 5(3).

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S. 32(4)(a)  
substituted by  
No. 104/1994  
s. 30(2),  
amended by  
No. 30/2003  
s. 78 (as  
amended by  
No. 106/2003  
s. 23).

- (a) the Minister administering the Act under which the subordinate instrument was made must, if the subordinate instrument is itself required to be laid before each House of the Parliament, cause—
- (i) a copy of the matter as so amended to be lodged with the Clerk of the Parliaments as soon as practicable after that amendment is made; and
  - (ii) notice of the amendment and the documents containing that amendment and of the fact that a copy of the matter as so amended has been lodged with the Clerk of the Parliaments, to be published in the Government Gazette as soon as practicable after the copy of the matter has been lodged; and
  - (iii) a copy of the notice published in the Government Gazette to be laid before each House of the Parliament as soon as practicable after it is published; and

S. 32(4)(b)  
repealed by  
No. 104/1994  
s. 30(2).

\* \* \* \* \*

- (c) a copy of the matter as amended must be kept available for inspection during normal office hours by members of the public without charge—
- (i) in the case of a subordinate instrument that is a statutory rule, at the Department of the Minister administering the Act under which the subordinate instrument is made or at some other appropriate public office specified by the Minister by a notice

published in the Government Gazette;  
and

- (ii) in the case of a subordinate instrument that is not a statutory rule, at the principal office of the body which made the subordinate instrument or at some other appropriate public office specified by the Minister administering the Act under which it is made by a notice published in the Government Gazette.

- (5) A failure to comply with subsection (3) or (4) does not affect the validity, operation or effect of the subordinate instrument.

\* \* \* \* \* S. 32(6)–(8)  
amended by  
No. 95/1993  
s. 6,  
repealed by  
No. 104/1994  
s. 30(3).

\* \* \* \* \* S. 32(9)–(11)  
repealed by  
No. 104/1994  
s. 30(3).

- (12) Despite subsection (5), a person—  
(a) must not be convicted of an offence consisting of a contravention of a subordinate instrument made on or after the relevant day if it is proved that, at the time of the alleged contravention; and

- (b) is not prejudicially affected or made subject to any liability by a subordinate instrument made on or after the relevant day if it is proved that, at the relevant time—

a copy of any matter contained in a document (not being an Act, Commonwealth Act, Code, statutory rule or statutory rule made under a Commonwealth Act) applied, adopted or

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incorporated by the subordinate instrument could not be inspected as provided by this section.

S. 32(13)  
substituted by  
No. 104/1994  
s. 31.

- (13) Despite any rule of law to the contrary, where salaries, wages, fees, allowances or expenses payable to any person or class of persons may be prescribed, determined or fixed by a subordinate instrument, whether or not the power to prescribe is subject to conditions, restrictions or limitations, the salaries, wages, fees, allowances or expenses may be prescribed, determined or fixed by the subordinate instrument by reference in that subordinate instrument to the salaries, wages, fees, allowances or expenses prescribed, determined or fixed by or under any other Act or by or under any Commonwealth Act from time to time as payable to any other person or class of persons.

- (14) A document or matter is not applied, adopted or incorporated in a subordinate instrument by reason only that it is referred to in the subordinate instrument, or in another document or other matter applied, adopted or incorporated in the subordinate instrument, if the document or matter so referred to does not affect the operation of the subordinate instrument.

S. 32(15)  
repealed by  
No. 104/1994  
s. 30(3).

\* \* \* \* \*

### 33 Citation of references in regulations, rules, by-laws and local laws

S. 33(1)  
amended by  
No. 12/1989  
s. 4(1)(Sch. 2  
item 63.3).

- (1) Where a provision of a subordinate instrument containing a regulation, rule, by-law or local law refers—

S. 33(1)(aaa)  
inserted by  
No. 60/2000  
s. 6(1).

- (aaa) to a Chapter by a number, the reference shall, unless the context otherwise requires, be construed as a reference to the Chapter,

- designated by that number, of the subordinate instrument in which the reference occurs;
- (aa) to a Part by a number, the reference shall, unless the context otherwise requires, be construed—
- (i) if the subordinate instrument contains Chapters, as a reference to the Part, designated by that number, of the Chapter in which the reference occurs; or
- (ii) if the subordinate instrument does not contain Chapters, as a reference to the Part, designated by that number, of the subordinate instrument in which the reference occurs;
- (a) to a regulation, rule, by-law, local law or Schedule by a number, the reference shall, unless the context otherwise requires, be construed as a reference to the regulation, rule, by-law, local law or Schedule, designated by that number, of or to the subordinate instrument in which the reference occurs;
- (b) to a Schedule but does not refer to it by a number, the reference shall, unless the context otherwise requires, if there is only one Schedule to the subordinate instrument in which the reference occurs, be construed as a reference to the Schedule to the subordinate instrument in which the reference occurs; or
- (c) to a Division, Subdivision, subregulation, subrule, clause of a by-law, paragraph, subparagraph, sub-subparagraph, clause, subclause, sub-subclause, item, column,

**S. 33(1)(aa)**  
inserted by  
**No. 60/2000**  
s. 6(1).

**S. 33(1)(a)**  
amended by  
**Nos 12/1989**  
s. 4(1)(Sch. 2  
item 63.4),  
**60/2000**  
s. 6(2).

table or form by a number, the reference shall, unless the context otherwise requires, be construed as a reference—

- (i) to the Division, designated by that number, of the Part in which the reference occurs;
- (ii) to the Subdivision, designated by that number, of the Division in which the reference occurs;
- (iii) to the subregulation or clause, designated by that number, of the regulation in which the reference occurs;
- (iv) to the subrule or clause, designated by that number, of the rule in which the reference occurs;
- (v) to the clause, designated by that number, of the by-law or local law in which the reference occurs;
- (vi) to the paragraph, designated by that number, of the regulation, rule, by-law, local law, subregulation, subrule, clause of a by-law, local law, clause, subclause, interpretation or Schedule in which the reference occurs;
- (vii) to the paragraph, designated by that number, of the clause, subclause, item, column, table or form or in the Schedule in which the reference occurs;
- (viii) to the subparagraph, designated by that number, of the paragraph in which the reference occurs;

S. 33(1)(c)(v)  
amended by  
No. 12/1989  
s. 4(1)(Sch. 2  
item 63.5).

S. 33(1)(c)(vi)  
amended by  
No. 12/1989  
s. 4(1)(Sch. 2  
item 63.6) (as  
amended by  
No. 13/1990  
s. 38(1)(x)).

- (ix) to the sub-subparagraph, designated by that number, of the subparagraph in which the reference occurs;
  - (x) to the clause, item, column, table or form, designated by that number, of or in the Schedule in which the reference occurs;
  - (xi) to the subclause, designated by that number, of the clause in which the reference occurs; or
  - (xii) to the sub-subclause, designated by that number, of the subclause in which the reference occurs—
- as the case requires.

(2) In subsection (1) *number* means—

- (a) a number expressed in words or figures;
- (b) a letter;
- (c) a combination of a number so expressed and a letter.

**34 Construction of references in subordinate instruments to portions of subordinate instruments or Acts**

**S. 34**  
**amended by**  
**No. 60/2000**  
**s. 6(3).**

In a subordinate instrument, a description or citation of a portion of that subordinate instrument or of any other subordinate instrument or of any Act shall, unless the contrary intention appears, be construed as including the word, regulation, rule, by-law, subregulation, subrule, clause, section, subsection, paragraph, subparagraph, Chapter, Part, Schedule or other Division mentioned or referred to as forming the beginning and as forming the end of the portion comprised in the description or citation.

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**PART IV—PROVISIONS APPLICABLE TO ACTS AND  
SUBORDINATE INSTRUMENTS**

**35 Principles of and aids to interpretation**

In the interpretation of a provision of an Act or subordinate instrument—

- (a) a construction that would promote the purpose or object underlying the Act or subordinate instrument (whether or not that purpose or object is expressly stated in the Act or subordinate instrument) shall be preferred to a construction that would not promote that purpose or object; and
- (b) consideration may be given to any matter or document that is relevant including but not limited to—
  - (i) all indications provided by the Act or subordinate instrument as printed by authority, including punctuation;
  - (ii) reports of proceedings in any House of the Parliament;
  - (iii) explanatory memoranda or other documents laid before or otherwise presented to any House of the Parliament; and
  - (iv) reports of Royal Commissions, Parliamentary Committees, Law Reform Commissioners and Commissions, Boards of Inquiry or other similar bodies.

**36 Headings, Schedules, marginal notes and footnotes**

(1) Headings to—

- (a) Chapters, Parts, Divisions or Subdivisions into which an Act or subordinate instrument is divided; or

S. 36(1)(a)  
amended by  
No. 60/2000  
s. 7(1).

(b) Schedules to an Act or subordinate instrument—

form part of the Act or subordinate instrument.

(1A) Headings to Parts, Divisions or Subdivisions into which a Schedule to an Act or subordinate instrument is divided form part of the Act or subordinate instrument if—

**S. 36(1A)**  
inserted by  
**No. 60/2000**  
s. 7(2).

- (a) the Act is passed, or the subordinate instrument is made, on or after 1 January 2001; or
- (b) the heading is inserted into an Act passed, or subordinate instrument made, before 1 January 2001 by an Act passed, or subordinate instrument made, on or after that date.

(2) A Schedule to an Act or subordinate instrument forms part of the Act or subordinate instrument.

(2A) Headings to—

**S. 36(2A)**  
inserted by  
**No. 60/2000**  
s. 7(3).

- (a) sections, clauses, regulations, rules or items into which an Act or subordinate instrument, or a Schedule to an Act or subordinate instrument, is divided; or
- (b) tables, columns, examples, diagrams, notes (being notes at the foot of provisions and not marginal notes, footnotes or endnotes) or forms in an Act or subordinate instrument—

form part of the Act or subordinate instrument if—

- (c) the Act is passed, or the subordinate instrument is made, on or after 1 January 2001; or
- (d) the heading is inserted into an Act passed, or subordinate instrument made, before 1 January 2001 by an Act passed, or

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subordinate instrument made, on or after that date.

S. 36(2B)  
inserted by  
No. 61/2004  
s. 4.

(2B) Headings to—

(a) Orders into which a subordinate instrument containing rules or orders regulating the practice and procedure of a court or tribunal is divided; or

(b) Parts into which an Order referred to in paragraph (a) is divided—

form part of the subordinate instrument if—

(c) the subordinate instrument is made on or after 1 January 2001; or

(d) the heading is inserted into a subordinate instrument made before 1 January 2001 by a subordinate instrument made on or after that date.

S. 36(3)  
amended by  
No. 60/2000  
s. 7(4)(a)(b).

(3) No marginal note, footnote or endnote in an Act or subordinate instrument and no heading to a provision of an Act or subordinate instrument (not being a heading that forms part of the Act or subordinate instrument by force of subsection (1), (1A) or (2A)) shall be taken to form part of the Act or subordinate instrument.

S. 36(3A)  
inserted by  
No. 60/2000  
s. 7(5).

(3A) An example (being an example at the foot of a provision under the heading "**Example**" or "**Examples**"), diagram or note (being a note at the foot of a provision and not a marginal note, footnote or endnote) in an Act or subordinate instrument forms part of the Act or subordinate instrument if—

(a) the Act is passed, or the subordinate instrument is made, on or after 1 January 2001; or

- (b) the example, diagram or note is inserted into an Act passed, or subordinate instrument made, before 1 January 2001 by an Act passed, or subordinate instrument made, on or after that date.
- (3B) Punctuation in an Act or subordinate instrument forms part of the Act or subordinate instrument if—
- (a) the Act is passed, or the subordinate instrument is made, on or after 1 January 2001; or
- (b) the punctuation is inserted into an Act passed, or subordinate instrument made, before 1 January 2001 by an Act passed, or subordinate instrument made, on or after that date.
- (3C) A provision number in an Act or subordinate instrument (whether passed or made before, on or after 1 January 2001) forms part of the Act or subordinate instrument.
- (3D) An explanatory memorandum or table of provisions printed with an Act or subordinate instrument before the title of the Act or subordinate instrument does not form part of the Act or subordinate instrument.
- (3E) An index or other material printed with an Act or subordinate instrument after the endnotes to the Act or subordinate instrument does not form part of the Act or subordinate instrument.
- (4) Nothing in subsection (3) shall be construed as preventing in the interpretation of a provision of an Act or subordinate instrument, the consideration pursuant to section 35(b) of any marginal note, footnote, endnote or heading not forming part of that Act or subordinate instrument.
- S. 36(3B) inserted by No. 60/2000 s. 7(5).**
- S. 36(3C) inserted by No. 60/2000 s. 7(5).**
- S. 36(3D) inserted by No. 60/2000 s. 7(5).**
- S. 36(3E) inserted by No. 60/2000 s. 7(5).**
- S. 36(4) amended by No. 60/2000 s. 7(6).**

s. 36A

S. 36A  
inserted by  
No. 60/2000  
s. 8.

### 36A Examples

- (1) If an Act or subordinate instrument includes at the foot of a provision under the heading "**Example**" or "**Examples**" an example of the operation of the provision, the example—
  - (a) is not exhaustive; and
  - (b) may extend, but does not limit, the meaning of the provision.
- (2) This section applies to an example of a kind referred to in subsection (1) included in an Act or subordinate instrument if—
  - (a) the Act is passed, or the subordinate instrument is made, on or after 1 January 2001; or
  - (b) the example is inserted into an Act passed, or subordinate instrument made, before 1 January 2001 by an Act passed, or subordinate instrument made, on or after that date.

S. 36B  
inserted by  
No. 61/2004  
s. 5.

### 36B Location of penalties, examples and notes

- (1) In this section *legislative item* means a penalty, an example or a note.
- (2) A legislative item set out in an Act or subordinate instrument in relation to a provision of that Act or subordinate instrument is to be taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision if it would be at the foot of that provision if no other legislative item were set out in relation to that provision.

- (3) This section applies in relation to a legislative item even if—
- (a) that item was inserted by an amending Act or subordinate instrument that provided for its insertion before or after another specified legislative item and did not expressly provide for its insertion at the foot of the relevant provision; or
  - (b) the amending Act or subordinate instrument by which it was inserted described another specified legislative item as being at the foot of the relevant provision.
- (4) Without limiting its application, this section has effect for the purposes of section 111 of the **Sentencing Act 1991** and sections 36(3A) and 36A of this Act.

### 37 Gender and number

In an Act or subordinate instrument, unless the contrary intention appears—

- (a) words importing a gender include every other gender; and

\* \* \* \* \*

- (c) words in the singular include the plural; and

- (d) words in the plural include the singular.

### 38 Definitions

In all Acts and subordinate instruments, unless the contrary intention appears—

*Act* means an Act passed by the Parliament of Victoria;

S. 37(a)  
substituted by  
No. 95/1993  
s. 7.

S. 37(b)  
repealed by  
No. 95/1993  
s. 7.

s. 38

S. 38 def. of  
*ADI*  
inserted by  
No. 13/2006  
s. 9.

*ADI* means authorised deposit-taking institution  
within the meaning of the Banking Act 1959  
of the Commonwealth;

S. 38 def. of  
*Attorney-  
General*  
inserted by  
No. 13/2006  
s. 9.

*Attorney-General* means Attorney-General of  
Victoria;

S. 38 def. of  
*Australia*  
inserted by  
No. 60/2000  
s. 9.

*Australia*, when used in a geographical sense,  
includes the Territory of Christmas Island  
and the Territory of Cocos (Keeling) Islands,  
but does not include any other external  
Territory;

S. 38 def. of  
*Children's  
Court*  
inserted by  
No. 56/1989  
s. 286(Sch. 2  
item 10),  
repealed by  
29/2006  
s. 3(Sch. 1  
item 15.1).

\* \* \* \* \*

S. 38 def. of  
*bail justice*  
inserted by  
No. 51/1989  
s. 146(a)(i),  
substituted by  
No. 35/2002  
s. 25(3),  
amended by  
No. 70/2010  
s. 39.

*bail justice* means—

- (a) bail justice appointed under  
section 120A or 120C of the  
**Magistrates' Court Act 1989**; or
- (ab) acting bail justice appointed under  
section 120E of the **Magistrates'  
Court Act 1989**; or
- (b) bail justice by virtue of holding a  
prescribed office under section 121 of  
the **Magistrates' Court Act 1989**;

S. 38 def. of  
*Chief Judge*  
inserted by  
No. 13/2006  
s. 9.

*Chief Judge* means Chief Judge of the County  
Court;

**Chief Justice** means Chief Justice of the Supreme Court;

S. 38 def. of *Chief Justice* inserted by No. 13/2006 s. 9.

**Chief Magistrate** means Chief Magistrate of the Magistrates' Court;

S. 38 def. of *Chief Magistrate* inserted by No. 13/2006 s. 9.

**Children's Court** means The Children's Court of Victoria;

S. 38 new def. of *Children's Court* inserted by No. 29/2006 s. 3(Sch. 1 item 15.2).

**Colonial Secretary** and **Chief Secretary** mean the responsible Minister of the Crown for the time being administering the provision in which, or in respect of which, the expression is used or, if, for the time being, different Ministers are administering that provision in different respects, each of those Ministers to the extent that he or she is administering that provision in the relevant respect;

**commencement**, in relation to an Act or subordinate instrument or a provision of an Act or subordinate instrument, means the time at which the Act or subordinate instrument or provision comes into operation;

**Commonwealth** means the Commonwealth of Australia;

**Commonwealth Act** means an Act passed by the Parliament of the Commonwealth;

s. 38

S. 38 def. of  
*Consolidated  
Fund*  
amended by  
No. 18/1994  
s. 66(Sch. 2  
item 9).

***Consolidated Fund*** means the Consolidated Fund established under the **Financial Management Act 1994**;

***contravention***, in relation to an Act or subordinate instrument or a provision of an Act or subordinate instrument, includes a failure to comply with the Act or subordinate instrument or provision;

S. 38 def. of  
*coroner*  
inserted by  
No. 77/2008  
s. 129(Sch. 2  
item 13).

***coroner*** has the same meaning as in section 3(1) of the **Coroners Act 2008**;

S. 38 def. of  
*Coroners Court*  
inserted by  
No. 77/2008  
s. 129(Sch. 2  
item 13).

***Coroners Court*** means the Coroners Court of Victoria;

S. 38 def. of  
*Costs Court*  
inserted by  
No. 78/2008  
s. 24.

***Costs Court*** has the same meaning as it has in the **Supreme Court Act 1986**;

S. 38 def. of  
*Costs Judge*  
inserted by  
No. 78/2008  
s. 24.

***Costs Judge*** has the same meaning as it has in the **Supreme Court Act 1986**;

***County Court*** means The County Court in and for the State of Victoria;

S. 38 def. of  
*Court of Appeal*  
inserted by  
No. 109/1994  
s. 31.

***Court of Appeal*** means the division of the Supreme Court called the Court of Appeal<sup>2</sup>;

***Criminal Code of the Commonwealth*** means the Schedule to the Criminal Code Act 1995 of the Commonwealth;

S. 38 def. of *Criminal Code of the Commonwealth* inserted by No. 13/2006 s. 9.

***Crown*** means the Crown in right of Victoria;

***Deputy State Coroner*** means the Deputy State Coroner of the Coroners Court;

S. 38 def. of *Deputy State Coroner* inserted by No. 77/2008 s. 129(Sch. 2 item 13).

***document*** includes, in addition to a document in writing—

- (a) any book, map, plan, graph or drawing;
- (b) any photograph;
- (c) any label, marking or other writing which identifies or describes anything of which it forms part, or to which it is attached by any means whatsoever;
- (d) any disc, tape, sound track or other device in which sounds or other data (not being visual images) are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom;
- (e) any film (including microfilm), negative, tape or other device in which one or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom; and

s. 38

(f) anything whatsoever on which is marked any words, figures, letters or symbols which are capable of carrying a definite meaning to persons conversant with them;

S. 38 def. of *electronic communication* inserted by No. 13/2006 s. 9.

*electronic communication* has the same meaning as in the **Electronic Transactions (Victoria) Act 2000**;

S. 38 def. of *enactment* inserted by No. 13/2006 s. 9.

*enactment* means an Act or subordinate instrument or a provision of an Act or subordinate instrument;

S. 38 def. of *entity* inserted by No. 13/2006 s. 9.

*entity* includes a person and an unincorporated body;

S. 38 def. of *external Territory* inserted by No. 60/2000 s. 9.

*external Territory* means a Territory, not being an internal Territory, for the government of which as a Territory provision is made by any Commonwealth Act;

S. 38 def. of *Family Court* inserted by No. 13/2006 s. 9.

*Family Court* means Family Court of Australia;

S. 38 def. of *Federal Court* inserted by No. 13/2006 s. 9.

*Federal Court* means Federal Court of Australia;

S. 38 def. of *fee unit* inserted by No. 13/2006 s. 9.

*fee unit* has the meaning given by section 4 of the **Monetary Units Act 2004**;

**full name** and **proper full name**, in relation to a person who has a Christian or other given name and a surname, mean the christian or other name given to that person and the surname of that person;

**Government Gazette** means the Victoria Government Gazette published by authority;

**Government Printer** means Government Printer for Victoria;

**Note**

See **Constitution Act 1975** section 72.

**Governor** means the person for the time being administering the Government of Victoria;

**Governor in Council** means the Governor with the advice of the Executive Council;

**High Court** means High Court of Australia;

S. 38 def. of  
**Government  
Printer**  
inserted by  
No. 13/2006  
s. 9.

S. 38 def. of  
**High Court**  
inserted by  
No. 13/2006  
s. 9.

**Imperial Act** means an Act passed by—

- (a) the Parliament of England;
- (b) the Parliament of Great Britain;
- (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;

**individual** means a natural person;

S. 38 def. of  
**individual**  
inserted by  
No. 13/2006  
s. 9.

*infamous offence* and *infamous crime* include—

- (a) perjury; and
- (b) the commission of an act of bestiality or an attempt to commit an act of bestiality;

*insolvent under administration* means—

- (a) a person who is an undischarged bankrupt within the meaning of the Bankruptcy Act 1966 of the Commonwealth (or the corresponding provisions of the law of another jurisdiction); or
- (b) a person who has executed a deed of arrangement under Part X of the Bankruptcy Act 1966 of the Commonwealth (or the corresponding provisions of the law of another jurisdiction) if the terms of the deed have not been fully complied with; or
- (c) a person whose creditors have accepted a composition under Part X of the Bankruptcy Act 1966 of the Commonwealth (or the corresponding provisions of the law of another jurisdiction) if a final payment has not been made under that composition; or
- (d) a person for whom a debt agreement has been made under Part IX of the Bankruptcy Act 1966 of the Commonwealth (or the corresponding provisions of the law of another jurisdiction) if the debt agreement has not ended or has not been terminated; or

S. 38 def. of *insolvent under administration* inserted by No. 13/2006 s. 9, substituted by No. 4/2008 s. 31.

- (e) a person who has executed a personal insolvency agreement under Part X of the Bankruptcy Act 1966 of the Commonwealth (or the corresponding provisions of the law of another jurisdiction) but not if the agreement has been set aside or terminated or all of the obligations that the agreement created have been discharged;

***internal Territory*** means the Australian Capital Territory, the Jervis Bay Territory or the Northern Territory;

S. 38 def. of *internal Territory* inserted by No. 60/2000 s. 9.

***Jervis Bay Territory*** means the Territory referred to in the Jervis Bay Territory Acceptance Act 1915 of the Commonwealth;

S. 38 def. of *Jervis Bay Territory* inserted by No. 60/2000 s. 9.

***justice*** means a justice of the peace;

***land*** includes buildings and other structures permanently affixed to land, land covered with water, and any estate, interest, easement, servitude, privilege or right in or over land;

***law officer*** means the Attorney-General and includes any Minister of the Crown for the time being acting for or on behalf of the Attorney-General;

***Legislative Assembly*** means the Legislative Assembly of Victoria;

***Legislative Council*** means the Legislative Council of Victoria;

***Magistrates' Court*** means the Magistrates' Court of Victoria;

S. 38 def. of *Magistrates' Court* inserted by No. 51/1989 s. 146(a)(ii).

**Minister** means the responsible Minister of the Crown for the time being administering the provision in which, or in respect of which, the expression is used or, if, for the time being, different Ministers are administering that provision in different respects, each of those Ministers to the extent that he or she is administering that provision in the relevant respect, and where a Minister of the Crown is referred to by the title of his or her Ministerial office, the reference shall be construed as including a reference to a Minister of the Crown for the time being acting for or on behalf of that Minister;

S. 38 def. of *Northern Territory* inserted by No. 95/1993 s. 8.

**Northern Territory** means Northern Territory of Australia;

**oath** and **affidavit**, in relation to persons for the time being allowed by law to affirm or declare instead of swearing, include affirmation and declaration and, in relation to those persons, **swear** includes affirm and declare;

**Parliament** means the Parliament of Victoria;

S. 38 def. of *penalty unit* amended by Nos 10260 s. 114(Sch. 4 item 8), 49/1991 s. 119(7)(Sch. 4 item 10.1).

**penalty unit** shall be construed in accordance with section 110 of the **Sentencing Act 1991**;

**person** includes a body politic or corporate as well as an individual;

**Premier** means Premier of Victoria;

S. 38 def. of  
*Premier*  
inserted by  
No. 13/2006  
s. 9.

**prescribed** means prescribed by the Act in which  
the word is used or by a subordinate  
instrument made under or pursuant to that  
Act;

**public service** has the same meaning as in the  
**Public Administration Act 2004**;

S. 38 def. of  
*public service*  
inserted by  
No. 13/2006  
s. 9.

**rules of court** in relation to any court, means rules  
made by the authority having power to make  
rules or orders regulating the practice and  
procedure of that court;

**sheriff** has the same meaning as in the **Sheriff Act  
2009**;

S. 38 def. of  
*sheriff*  
inserted by  
No. 9/2009  
s. 77.

**sitting days**, in relation to either House of  
Parliament, means days on which the House  
actually sits;

**Standards Australia** means Standards Australia  
International Limited (ACN 087 326 690);

S. 38 def. of  
*Standards  
Australia*  
inserted by  
No. 60/2000  
s. 9.

**Standards Council of New Zealand** means the  
Standards Council continued in existence  
under section 3 of the Standards Act 1988 of  
New Zealand;

S. 38 def. of  
*Standards  
Council of  
New Zealand*  
inserted by  
No. 13/2006  
s. 9.

**State** means the State of Victoria;

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S. 38 def. of  
*State Coroner*  
inserted by  
No. 77/2008  
s. 129(Sch. 2  
item 13).

***State Coroner*** means the State Coroner of the  
Coroners Court;

S. 38 def. of  
*statutory  
declaration  
and solemn  
declaration*  
substituted by  
No. 57/1989  
s. 3(Sch.  
item 104.1),  
amended by  
No. 69/2009  
s. 54(Sch. Pt 2  
item 29).

***statutory declaration* and *solemn declaration***  
means a declaration under Division 4 of Part  
IV of the **Evidence (Miscellaneous  
Provisions) Act 1958**;

S. 38 def. of  
*statutory rule*  
inserted by  
No. 61/2004  
s. 6(1).

***statutory rule*** has the same meaning as in the  
**Subordinate Legislation Act 1994**;

S. 38 def. of  
*subordinate  
instrument*  
inserted by  
No. 61/2004  
s. 6(1).

***subordinate instrument*** means an instrument  
made under an Act—

- (a) that is a statutory rule; or
- (b) that is not a statutory rule but—
  - (i) contains regulations, rules,  
by-laws, proclamations, Orders  
in Council, orders or schemes; or
  - (ii) is of a legislative character;

***Supreme Court*** means The Supreme Court of the  
State of Victoria;

S. 38 def. of  
*Territory*  
inserted by  
No. 60/2000  
s. 9.

***Territory*** (when used in an Act passed, or  
subordinate instrument made, on or after  
1 January 2001 or inserted into an Act  
passed, or subordinate instrument made,  
before 1 January 2001 by an Act passed, or  
subordinate instrument made, on or after  
that date) means a Territory referred to in

section 122 of the Constitution of the Commonwealth and includes a Territory administered by the Commonwealth under a Trusteeship Agreement;

*Treasurer* means the Treasurer of Victoria;

*VCAT* means the Victorian Civil and Administrative Tribunal established by the **Victorian Civil and Administrative Tribunal Act 1998**;

S. 38 def. of VCAT inserted by No. 61/2004 s. 6(1).

*waterway* means a waterway as defined in section 3(1) of the **Water Act 1989**;

S. 38 def. of waterway inserted by No. 81/1989 s. 3(Sch. item 24).

*writing* includes all modes of representing or reproducing words, figures or symbols in a visible form and expressions referring to writing shall be construed accordingly.

### 38AAA References to Departments

S. 38AAA inserted by No. 13/2006 s. 10.

If—

- (a) reference is made in an Act or subordinate instrument to a particular Department; and
- (b) under the **Public Administration Act 2004** the name of the Department is changed—

the reference is, from the date when the name is changed and so far as it relates to any period on or after that date, to be taken to be a reference to the Department by its new name.

### 38AA References to Australian Standards, etc.

S. 38AA inserted by No. 60/2000 s. 10.

- (1) In an Act or subordinate instrument, a reference consisting of the words "Australian Standard" or the letters "AS" followed in either case by a number or a number accompanied by a reference to a calendar year is a reference to the standard so

s. 38A

numbered published by or on behalf of Standards Australia.

S. 38AA(1A)  
inserted by  
No. 13/2006  
s. 11.

- (1A) In an Act or subordinate instrument, a reference consisting of the expression "Australian/New Zealand Standard" or "AS/NZS" followed in either case by a number or a number accompanied by a reference to a calendar year is a reference to the standard so numbered published jointly by or on behalf of Standards Australia and the Standards Council of New Zealand.
- (2) In an Act or subordinate instrument, a reference to Standards Australia includes a reference to the Standards Association of Australia as constituted before 1 July 1999.
- (3) In an Act or subordinate instrument, a reference to the Standards Association of Australia, so far as it relates to any period on or after 1 July 1999, is a reference to Standards Australia.

S. 38A  
inserted by  
No. 80/1990  
s. 98(1),  
amended by  
No. 37/1999  
s. 58(Sch. 1  
item 2.2),  
substituted by  
No. 44/2001  
s. 3(Sch.  
item 67).

### 38A References to Corporations legislation

In an Act or subordinate instrument—

*ASC Law* has the same meaning as *ASIC Law*;

*ASC Regulations* has the same meaning as *ASIC Regulations* has when ASIC Regulations is used in relation to the ASIC Law;

*ASIC Law* has the meaning provided for by Part 11 of the **Corporations (Victoria) Act 1990**;

*ASIC Act* means the Australian Securities and Investments Commission Act 2001 of the Commonwealth;

***ASIC Regulations***—

- (a) when used in relation to the ASIC Law, has the meaning provided for by Part 11 of the **Corporations (Victoria) Act 1990**;
- (b) when used in relation to the ASIC Act, means regulations made, or that have effect as if they were made, under the ASIC Act;

***Corporations Act*** means the Corporations Act 2001 of the Commonwealth;

***Corporations Law*** has the meaning provided for by Part 3 of the **Corporations (Victoria) Act 1990**;

***Corporations legislation*** means the Corporations legislation to which Part 1.1A of the Corporations Act applies;

***Corporations Regulations***—

- (a) when used in relation to the Corporations Law, has the meaning provided for by Part 3 of the **Corporations (Victoria) Act 1990**;
- (b) when used in relation to the Corporations Act, means regulations made, or that have effect as if they were made, under the Corporations Act.

**38AB References to National Electricity Law**

In an Act or subordinate instrument—

***National Electricity (Victoria) Law*** means the provisions applying because of section 6 of the **National Electricity (Victoria) Act 2005**;

S. 38AB  
inserted by  
No. 29/1997  
s. 10.

S. 38AB def.  
of *National  
Electricity  
(Victoria) Law*  
amended by  
No. 8/2005  
s. 16(a).

s. 38B

S. 38AB def.  
of *National  
Electricity  
(Victoria)  
Regulations*  
amended by  
No. 8/2005  
s. 16(b).

*National Electricity (Victoria) Regulations*  
means the provisions applying because of  
section 7 of the **National Electricity  
(Victoria) Act 2005**.

S. 38B  
inserted by  
No. 48/1992  
s. 116(1).

**38B References to Financial Institutions legislation**

In an Act or subordinate instrument—

*AFIC (Victoria) Code* means the provision  
applying because of section 5 of the  
**Financial Institutions (Victoria) Act 1992**;

*AFIC (Victoria) Regulations* means the  
provisions applying by reason of section 6 of  
the **Financial Institutions (Victoria) Act  
1992**;

*Financial Institutions (Victoria) Code* means the  
provisions applying because of section 8 of  
the **Financial Institutions (Victoria) Act  
1992**;

*Financial Institutions (Victoria) Regulations*  
means the provisions applying because of  
section 9 of the **Financial Institutions  
(Victoria) Act 1992**.

S. 38BA  
inserted by  
No. 31/1998  
s. 27,  
substituted by  
No. 30/2008  
s. 42(2).

**38BA References to National Gas Law**

In an Act or subordinate instrument—

*National Gas (Victoria) Law* means the  
provisions applying because of section 7 of  
the **National Gas (Victoria) Act 2008**;

*National Gas (Victoria) Regulations* means the  
provision applying because of section 8 of  
the **National Gas (Victoria) Act 2008**.

\* \* \* \* \*

S. 38C  
inserted by  
No. 41/1995  
s. 61,  
repealed by  
No. 11/2010  
s. 52.

**38D References to Friendly Societies legislation**

S. 38D  
inserted by  
No. 83/1996  
s. 39.

In an Act or subordinate instrument—

*Friendly Societies (Victoria) Code* means the provisions applying because of section 5 of the **Friendly Societies (Victoria) Act 1996**;

*Friendly Societies (Victoria) Regulations* means the provisions applying because of section 6 of the **Friendly Societies (Victoria) Act 1996**.

**38E References to Health Practitioner Regulation National Law**

S. 38E  
inserted by  
No. 13/2010  
s. 49.

In an Act or a subordinate instrument—

*Health Practitioner Regulation National Law* means—

- (a) the Health Practitioner Regulation National Law—
  - (i) as in force from time to time, set out in the Schedule to the Health Practitioner Regulation National Law Act 2009 of Queensland; and
  - (ii) as it applies as a law of Victoria, another State or a Territory (with or without modification); or
- (b) the law of another State or a Territory that substantially corresponds to the law referred to in paragraph (a);

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***Health Practitioner Regulation National Law (Victoria)*** means the provisions applying because of section 4 of the **Health Practitioner Regulation National Law (Victoria) Act 2009**.

S. 38F  
inserted by  
No. 72/2010  
s. 48(Sch.  
item 13).

**38F References to Australian Consumer Law**

In an Act or subordinate legislation—

***Australian Consumer Law (Victoria)*** means the provisions applying because of Part 2 of the **Fair Trading Act 1999**.

S. 38G  
inserted by  
No. 80/2011  
s. 79(Sch.  
item 4).

**38G References to Education and Care Services National Law**

In an Act or subordinate instrument—

***Education and Care Services National Law (Victoria)*** means the provisions applying because of section 4 of the **Education and Care Services National Law Act 2010**.

**39 Parts of speech and grammatical forms**

Where a word or phrase is given a particular meaning in an Act or subordinate instrument, other parts of speech and grammatical forms of that word or phrase have, unless the contrary intention appears, corresponding meanings.

S. 39A  
inserted by  
No. 95/1993  
s. 9.

**39A Definitions inserted by amending Act or subordinate instrument**

If an Act or subordinate instrument amends a provision of another Act or another subordinate instrument that contains definitions by inserting another definition in that provision but does not specify where in that provision the definition is to be inserted, it must be taken to be inserted in the appropriate alphabetical position.

**39B Numbering consequential on insertion of new provisions**

S. 39B  
inserted by  
No. 6/1997  
s. 3.

- (1) If a section that is not divided into subsections is amended by the insertion of one or more subsections at the end of it, the section as in force immediately before the commencement of the amendment must be taken to be subsection (1) of that section and to be amended, by force of the amending provision, by the insertion of the expression "(1)" at the beginning of it.
- (2) If a statutory rule containing regulations or rules includes a regulation or rule that is not divided into subregulations or subrules and that regulation or rule is amended by the insertion at the end of it of one or more subregulations or subrules, the regulation or rule as in force immediately before the commencement of the amendment must be taken to be subregulation (1) of that regulation or subrule (1) of that rule (as the case requires) and to be amended, by force of the amending provision, by the insertion of the expression "(1)" at the beginning of it.
- (3) If a clause of a Schedule to an Act or statutory rule that is not divided into subclauses is amended by the insertion of one or more subclauses at the end of it, the clause as in force immediately before the commencement of the amendment must be taken to be subclause (1) of that clause and to be amended, by force of the amending provision, by the insertion of the expression "(1)" at the beginning of it.
- (4) This section applies only to amendments made by an Act passed, or statutory rule made, on or after the commencement of the **Interpretation of Legislation (Amendment) Act 1997**.

#### 40 Exercise of powers and performance of duties

Unless the contrary intention appears, where an Act or subordinate instrument confers a power or imposes a duty, the power may be exercised and the duty shall be performed—

- (a) from time to time as occasion requires; and
- (b) if conferred or imposed on the holder of an office or position as such, by the person for the time being holding, acting in or performing the duties of the office or position;

#### 41 Power to appoint

- (1) If an Act or subordinate instrument confers on a person or body (*the appointer*) a power to appoint a person to an office, the power, unless the contrary intention appears, includes a power—
  - (a) to appoint a person to act in the office until—
    - (i) a person is appointed to the office; or
    - (ii) during a vacancy in the office;
  - (b) to remove a person appointed to the office;
  - (c) to suspend a person appointed to the office and to appoint another person temporarily in the place of the person so suspended;
  - (d) if the holder of the office is absent or, for any other reason, unable to perform the functions and duties of the office, to appoint a person to act in place of the holder;
  - (e) if the holder of the office is, for any reason, unable to perform a particular function or duty on a particular occasion or in relation to a particular matter, to appoint a person to perform that function or duty on that occasion or in relation to that matter.

S. 41  
substituted by  
No. 84/1997  
s. 51.

- (2) The following paragraphs apply in relation to an appointment of a person (*the appointee*) made under subsection (1)—
- (a) the appointer—
    - (i) may determine the terms and conditions of the appointment, including remuneration and allowances (if any);
    - (ii) may terminate the appointment at any time;
  - (b) the appointment ceases to have effect if the appointee resigns in writing delivered to the appointer;
  - (c) while the appointee is acting in the office under subsection (1) (except paragraph (e)), then, subject to the terms and conditions of the appointment—
    - (i) the appointee has and may exercise all the powers, and shall perform all the functions and duties, of the holder of the office; and
    - (ii) this or any other Act applies in relation to the appointment as if the appointee were the holder of the office;
  - (d) while the appointee is appointed to perform a function or duty on a particular occasion or in relation to a particular matter, then, subject to the terms and conditions of the appointment—
    - (i) the appointee has and may exercise all the powers of the holder of the office necessary for performing that function or duty; and
    - (ii) this or any other Act applies in relation to the appointment as if the appointee were the holder of the office.

s. 41AA

- (3) If the power of a person or body to make an appointment to an office is exercisable only on the recommendation, or subject to the approval or consent, of some other person or body, the power to make an appointment to act in the office, or to remove or suspend, is only exercisable on the recommendation, or subject to the approval or consent, of that other person or body, unless the contrary intention appears.
- (4) Despite the substitution of section 41 of this Act by section 51 of the **Law and Justice Legislation (Further Amendment) Act 1997**, that section 41, as in force immediately before the commencement of that section 51, continues to apply to and in respect to anything done under that section 41 before that commencement.

S. 41AA  
inserted by  
No. 84/1997  
s. 51.

#### 41AA Acting appointments

If a provision of an Act (other than section 41 of this Act) or of a subordinate instrument confers on a person or body (*the appointer*) a power to appoint a person (*the appointee*) to act in a particular office, then, except so far as the Act or subordinate instrument otherwise provides—

- (a) the appointment may be expressed to have effect only in the circumstances specified in the instrument of appointment or in relation to a particular function or duty or on a particular occasion or in relation to a particular matter;
- (b) the appointer—
  - (i) may determine the terms and conditions of the appointment, including remuneration and allowances (if any);
  - (ii) may terminate the appointment at any time;

- (c) if the office is, or becomes, vacant while the appointee is acting, the appointee may, subject to paragraph (a), continue to act until—
- (i) the appointer otherwise directs; or
  - (ii) a person is appointed to the office or the vacancy is filled—
- whichever first occurs;
- (e) the appointment ceases to have effect if the appointee resigns in writing delivered to the appointer;
- (f) while the appointee is acting in the office, then, subject to the terms and conditions of the appointment—
- (i) the appointee has and may exercise—
    - (A) all the powers, and shall perform all the functions and duties, of the holder of the office; or
    - (B) all the powers of the holder of the office necessary for performing the particular function or duty for which the appointment is made—as the case requires; and
  - (ii) this or any other Act applies in relation to the appointment as if the appointee were the holder of the office.

**41A Power to make instrument includes power to revoke or amend**

**S. 41A  
inserted by  
No. 10214 s. 7.**

If an Act or subordinate instrument confers power to make, issue or grant an instrument (not being a subordinate instrument) the power shall, unless the contrary intention appears, be construed as including a power, exercisable in the same manner and subject to the same conditions or limitations

(if any), to repeal, revoke, rescind, amend, alter or vary an instrument made in the exercise of that power.

#### **42 Exercise of delegated powers**

- (1) Where the discharge, exercise or performance by a person of a responsibility, power, authority, duty or function under an Act or subordinate instrument is dependent upon the opinion, belief or state of mind of that person in relation to a matter and the responsibility, power, authority, duty or function is, in accordance with the Act or subordinate instrument, delegated, the delegate may, unless the contrary intention appears, discharge, exercise or perform the responsibility, power, authority, duty or function upon the delegate's own opinion, belief or state of mind (as the case requires) in relation to that matter.
- (2) Subsection (1) applies in relation to a delegation made under an Act or subordinate instrument, whether the delegation was made before or after the commencement of this Act.

S. 42A  
inserted by  
No. 10214 s. 8.

#### **42A Construction of power to delegate**

- (1) If an Act or subordinate instrument confers on a person or body a power to delegate the discharge, exercise or performance of a responsibility, power, authority, duty or function under that or any other Act or subordinate instrument, then, unless the contrary intention appears—
  - (a) the delegation does not prevent the discharge, exercise or performance of the responsibility, power, authority, duty or function by the person or body;
  - (b) the delegation may be made subject to such conditions or limitations as the person or body may specify; and

- (c) a responsibility, power, authority, duty or function so delegated, when discharged, exercised or performed by the delegate, shall, for the purposes of the Act or subordinate instrument, be taken to have been discharged, exercised or performed by the person or body.
- (2) If an Act or subordinate instrument confers power to delegate to the holder of an office or position, then, unless the contrary intention appears, a delegation may be made to any person for the time being acting in or performing the duties of that office or position.

#### **43 Measurement of distances**

In the measurement of a distance for the purposes of an Act or subordinate instrument, the distance shall, unless the contrary intention appears, be measured in a straight line on a horizontal plane.

#### **44 Time**

- (1) Where in an Act or subordinate instrument a period of time is expressed to begin on, or to be reckoned from, a particular day, that day shall not be included in the period.
- (2) Where in an Act or subordinate instrument a period of time is expressed to end on, or to be reckoned to, a particular day, that day shall be included in the period.
- (3) Where the time limited by an Act or subordinate instrument for the doing of any act or thing expires or falls on a day that is a holiday, the time so limited shall extend to, and the act or thing may be done, on the day next following that is not a holiday.

s. 44

(4) In subsection (3) *holiday* means—

- (a) a Saturday or Sunday;
- (b) a day appointed under the **Public Holidays Act 1993** as a public holiday in the place in which the act or thing is to be or may be done.

S. 44(4)(b)  
substituted by  
No. 119/1993  
s. 16(2).

S. 44(4)(c)  
repealed by  
No. 119/1993  
s. 16(2).

\* \* \* \* \*

S. 44(5)  
amended by  
No. 57/1989  
s. 3(Sch.  
item 104.2).

(5) Subject to section 4 of the **Summer Time Act 1972**, whenever an expression of time occurs in an Act or subordinate instrument, the time referred to shall, unless the contrary intention appears, be deemed to be standard time throughout Victoria as declared by section 43 of the **Supreme Court Act 1986**<sup>3</sup>.

(6) In an Act or subordinate instrument, unless the contrary intention expressly appears—

- (a) a reference to midnight, in relation to a particular day, shall be construed as a reference to the point of time at which that day ends;
- (b) a reference to a month shall be construed as a reference to a calendar month;
- (c) a reference, without qualification, to a year shall be construed as a reference to a period of twelve months;
- (d) a reference to a financial year shall be construed as a reference to the period of twelve months ending at midnight on 30 June; and
- (e) a reference to a calendar year shall be construed as a reference to the period of twelve months ending at midnight on 31 December.

- (7) In a provision of an Act or subordinate instrument the expression "now", "heretofore" or "hereafter" shall be construed as referring to the time when the provision in which the expression occurs came into operation.

#### **45 Construction of "may" and "shall"**

- (1) Where in this Act or any Act passed or subordinate instrument made on or after the commencement of this Act the word "may" is used in conferring a power, that word shall be construed as meaning that the power so conferred may be exercised, or not, at discretion.
- (2) Where in this Act or any Act passed or subordinate instrument made on or after the commencement of this Act the word "shall" is used in conferring a power, that word shall be construed as meaning that the power so conferred must be exercised.
- (3) The provisions of this section shall have effect notwithstanding any rule of construction to the contrary and any such rule is hereby abrogated with respect to this Act and any Act passed or subordinate instrument made on or after the commencement of this Act.

#### **46 References to the Sovereign**

In an Act or subordinate instrument a reference to the Sovereign reigning at the time of the passing of the Act or making of the subordinate instrument shall, unless the contrary intention appears, be construed as a reference to the Sovereign for the time being.

#### **46A Construction of provisions relating to entities representing, or not representing, the Crown**

- (1) If, in an Act or subordinate instrument, it is provided that an entity represents the Crown, that entity has, for all purposes, the status, privileges

S. 46A  
inserted by  
No. 13/2006  
s. 12.

and immunities of the Crown, unless the contrary intention appears.

- (2) If, in an Act or subordinate instrument, it is provided that an entity does not represent the Crown, that entity does not have, for any purpose, the status, privileges and immunities of the Crown, unless the contrary intention appears.
- (3) The fact that no provision of a kind referred to in subsection (1) or (2) is made by any Act or subordinate instrument with respect to a particular entity does not of itself give rise to any implication as to whether or not the entity has, or does not have, the status, privileges and immunities of the Crown for any purpose.
- (4) In this section *Crown* includes the State.

#### **47 Reference to officer in general terms**

In an Act or subordinate instrument a reference in general terms to a person holding or occupying a particular office or position shall, unless the contrary intention appears, be construed as a reference to all persons who at any time hold, occupy, act in or perform the duties of that office or position for the time being.

#### **48 References to officers, localities etc.**

In an Act or subordinate instrument, unless the contrary intention appears—

- (a) a reference to an officer or office shall be construed as a reference to such an officer or office in and for Victoria; and
- (b) a reference to a locality, jurisdiction or other matter or thing shall be construed as a reference to such locality, jurisdiction or other matter or thing in and of Victoria.

#### 49 Service by post

- (1) Where an Act or subordinate instrument authorizes or requires a document to be served by post (whether the expression "serve" or the expression "give", "send" or "deliver" or any other expression is used), the service shall—
  - (a) unless the contrary intention appears, be deemed to be effected by properly addressing, prepaying and posting the document as a letter to the person on whom it is to be served; and
  - (b) unless the contrary is proved, be deemed to have been effected at the time at which the letter would be delivered in the ordinary course of post.
- (2) Where an Act or subordinate instrument authorizes or requires a document to be served by registered post or by certified mail (whether the expression "serve" or the expression "give", "send" or "deliver" or any other expression is used), the service shall—
  - (a) unless the contrary intention appears, be deemed to be effected by properly addressing, prepaying and posting the document as a letter either by the registered post or through the certified mail service to the person on whom it is to be served; and
  - (b) unless the contrary is proved, be deemed to have been effected at the time at which the letter would ordinarily be delivered by registered post or through the certified mail service, as the case requires.

S. 49(2)  
amended by  
No. 95/1993  
s. 10.

## 50 Rules of court

Where an Act or subordinate instrument confers any jurisdiction on a court or other tribunal or extends or varies the jurisdiction of a court or other tribunal, the authority having for the time being power to make rules or orders regulating the practice and procedure of that court or tribunal may, unless the contrary intention appears, make such rules or orders (including rules or orders with respect to costs) as appear to the authority to be necessary for regulating the practice and procedure of that court or tribunal in the exercise of the jurisdiction so conferred, extended or varied.

## 51 Provisions as to offences under two or more laws

- (1) Where an act or omission constitutes an offence under two or more laws, the offender shall, unless the contrary intention expressly appears, be liable to be prosecuted under either or any or all of those laws but shall not be liable to be punished more than once for the same act or omission.
- (2) In subsection (1) *law* means—
  - (a) an Act or a provision of an Act;
  - (b) a subordinate instrument or a provision of a subordinate instrument; or
  - (c) common law.

S. 51A  
inserted by  
No. 51/1989  
s. 146(b),  
repealed by  
No. 49/1991  
s. 119(7)  
(Sch. 4  
item 10.2).

\* \* \* \* \*

## 52 Summary proceedings

If an Act or subordinate instrument—

- (a) authorises or requires a proceeding or matter to be heard and determined—
  - (i) summarily; or
  - (ii) by or before the Magistrates' Court; or
- (b) uses any other words that imply that a proceeding or matter is to be heard and determined by or before the Magistrates' Court; or
- (c) does not provide a form or mode of procedure for the hearing and determination of a proceeding or matter—

then, unless the contrary intention appears, the proceeding or matter must be heard and determined only by or before the Magistrates' Court.

## 53 Strict compliance with prescribed forms not necessary

Where a form is prescribed by an Act or subordinate instrument for any purpose, any form in or to the like effect of the prescribed form shall, unless the contrary intention appears, be sufficient in law.

## 54 Construction of references to Acts

- (1) A reference in an Act or subordinate instrument to an Imperial Act shall, unless the contrary intention appears, be construed as a reference—
  - (a) in the case of Acts included in any revised edition of the statutes printed by authority, to that edition;

S. 52  
substituted by  
No. 49/1991  
s. 119(7)  
(Sch. 4  
item 10.2).

s. 54

- (b) in the case of Acts not so included but included in the edition prepared under the direction of the Record Commission, to that edition; and
- (c) in any other case, to a copy of the Act printed by the Queen's Printer or under the superintendence or authority of Her Majesty's Stationery Office.

(2) A reference in an Act or subordinate instrument to an Act of an Australasian State shall, unless the contrary intention appears, be construed as a reference to a copy of the Act printed by the government printer of that Australasian State.

S. 54(2A)  
inserted by  
No. 104/1994  
s. 32(1).

(2A) A document, whether made before, on or after the commencement of the **Subordinate Legislation Act 1994**, purporting to be a copy of an Act or subordinate instrument printed by the government printer of any Australasian State is on the mere production of that document admissible as evidence thereof before all courts and persons acting judicially within Victoria.

S. 54(2B)  
inserted by  
No. 100/1995  
s. 28(1).

(2B) A document made after the commencement of section 28 of the **Miscellaneous Acts (Omnibus Amendments) Act 1995** purporting to be a copy of a reprint of an Act or a statutory rule printed by the Government Printer for Victoria is on the mere production of that document admissible as evidence thereof before all courts and persons acting judicially within Victoria.

S. 54(2C)  
inserted by  
No. 100/1995  
s. 28(1).

(2C) A document, whether made before, on or after the commencement of section 28 of the **Miscellaneous Acts (Omnibus Amendments) Act 1995**, purporting to be a copy of a reprint of an Act or a statutory rule printed by the Government Printer of any Australasian State (other than Victoria) is, if the law of that State includes a provision corresponding to subsection

(2B) of this section, on the mere production of that document admissible as evidence thereof before all courts and persons acting judicially within Victoria.

- (3) In this section the expressions *Act*, *Australasian State* and *government printer* have the same meanings as they have respectively in Divisions 4 and 6 of Part III of the **Evidence (Miscellaneous Provisions) Act 1958**.

S. 54(3) amended by Nos 104/1994 s. 32(2), 100/1995 s. 28(2), 69/2009 s. 54(Sch. Pt 2 item 29).

#### 54A Style changes

- (1) Schedule 1 sets out style changes in Acts and statutory rules.
- (2) The Chief Parliamentary Counsel, in preparing an Act or statutory rule for reprinting or other publication, may authorise an alteration to be made to text or other matter forming part of the Act or statutory rule to give effect to the style changes set out in Schedule 1.
- (3) An alteration made to an Act under subsection (2) has effect for all purposes, other than section 21A(2) of this Act, as if it had been made by an Act.
- (4) An alteration made to a statutory rule under subsection (2) has effect for all purposes, other than section 18(2) of the **Subordinate Legislation Act 1994**, as if it had been made by a statutory rule.

S. 54A inserted by No. 2/2007 s. 5.

#### 55 Construction of references to British subjects etc.

- (1) In this section—

\* \* \* \* \*

S. 55(1)(a) repealed by No. 61/1986 s. 4(a).

(b) *law of Victoria* means—

- (i) an Act;
- (ii) a subordinate instrument; and
- (iii) an instrument having effect by virtue of a subordinate instrument.

S. 55(2)  
substituted by  
No. 61/1986  
s. 4(b).

(2) A reference in any law of Victoria to a British subject or to a natural-born or naturalised subject of Her Majesty or to any other similar expression shall be construed as a reference to an Australian citizen or any other person—

- (a) whose name was, at any time within the three months immediately before 26 January 1984, enrolled on—
  - (i) an electoral roll for an electoral district of the Legislative Assembly; or
  - (ii) an electoral roll maintained under any one of the Commonwealth Acts known as the Commonwealth Electoral Act 1918, the Australian Capital Territory Representation (House of Representatives) Act 1973 and the Northern Territory Representation Act 1922; or—
- (b) who had not attained the full age of 18 years before that date but whose name could have been so enrolled at any such time if the person had attained that age before that date; or
- (c) who had not attained the full age of 18 years before that date but whose name could have been so enrolled at any such time but for the operation of section 48(2) of the **Constitution Act 1975** if the person had attained that age before that date; or

(d) whose name could have been so enrolled at any such time but before the operation of section 48(2) of the **Constitution Act 1975**.

- (3) Where a rule of law applies to or in relation to or has effect with respect to a British subject, that rule of law shall apply to or in relation to or shall have effect with respect to an Australian citizen and a person to whom subsection (2)(a), (b), (c) or (d) applies as if that Australian citizen or person were a British subject.

S. 55(3)  
substituted by  
No. 61/1986  
s. 4(b).

\* \* \* \* \*

S. 55(4)  
repealed by  
No. 61/1986  
s. 4(b).

## 56 Construction of provisions relating to bankrupt or insolvent members of public bodies

Where in an Act or subordinate instrument it is provided that a person who is or becomes bankrupt or is or becomes insolvent shall not be capable of holding or continuing to hold the office of member of a municipal council or other public statutory body, that incapacity shall extend to any person whose property is or becomes subject to control under the law relating to bankruptcy.

## 57 Application of laws of Victoria in certain off-shore areas<sup>4</sup>

- (1) Subject to this section and to section 794 of the **Offshore Petroleum and Greenhouse Gas Storage Act 2010** and the regulations made under that section, the provisions of the laws in force in Victoria whether written or unwritten and as in force from time to time and the provisions of any instrument made under any of those laws apply in the offshore area.

S. 57(1)  
amended by  
No. 10/2010  
s. 800(Sch. 6  
item 7.1).

Interpretation of Legislation Act 1984  
No. 10096 of 1984

Part IV—Provisions Applicable to Acts and Subordinate Instruments

**s. 57**

**S. 57(2)**  
amended by  
No. 10/2010  
s. 800(Sch. 6  
item 7.2).

(2) The provisions referred to in subsection (1) apply to and in relation to—

**S. 57(2)(a)**  
amended by  
No. 10/2010  
s. 800(Sch. 6  
item 7.2).

(a) any act done or omitted to be done at a place in the offshore area which is within the outer limits of the coastal waters of Victoria;

**S. 57(2)(b)**  
amended by  
No. 10/2010  
s. 800(Sch. 6  
item 7.2).

(b) any act done or omitted to be done in the offshore area by a person connected with Victoria; and

**S. 57(2)(c)**  
amended by  
No. 10/2010  
s. 800(Sch. 6  
item 7.2).

(c) any matter, thing or circumstance existing or arising in the offshore area which involves or relates to persons connected with Victoria—

as if the offshore area were part of Victoria.

(3) This section does not operate—

**S. 57(3)(a)**  
amended by  
No. 10/2010  
s. 800(Sch. 6  
item 7.2).

(a) to apply in the offshore area the provisions of any law of the Commonwealth; or

**S. 57(3)(b)**  
substituted by  
No. 56/1999  
s. 10(1),  
amended by  
No. 10/2010  
s. 800(Sch. 6  
item 7.2).

(b) to apply the provisions of the criminal laws of the State to or in relation to the offshore area or the sea-bed or subsoil beneath or the airspace above that offshore area; or

**S. 57(3)(c)**  
inserted by  
No. 56/1999  
s. 10(1).

(c) to apply the provisions of the criminal laws of the State to or in relation to the coastal waters of Victoria or the sea-bed or subsoil beneath or the airspace above those waters.

(4) Subject to this section, the several courts of Victoria are invested with jurisdiction in all matters arising under the provisions of the laws applied by this section.

(5) For the purposes of proceedings for an offence against the law of Victoria an averment in an indictment, charge-sheet or complaint that—

S. 57(5) amended by Nos 57/1989 s. 3(Sch. item 104.3), 68/2009 s. 97(Sch. item 71).

(a) a person was at a specified time or in respect of a specified period a person connected with Victoria—

\* \* \* \* \*

S. 57(5)(b)(c) repealed by No. 56/1999 s. 10(2).

shall be evidence and, in the absence of evidence to the contrary, conclusive evidence of the fact averred.

(6) In this section—

(a) *offshore area* means so much of the area described in item 2 of Schedule 1 to the Offshore Petroleum and Greenhouse Gas Storage Act 2006 of the Commonwealth in relation to Victoria as is within the outer limits of the continental shelf and includes the space above and below that area;

S. 57(6)(a) substituted by No. 56/1999 s. 10(3)(a), amended by No. 10/2010 s. 800(Sch. 6 item 7.3).

(b) *coastal waters of Victoria* has the same meaning as the expression *coastal waters of the State* has in relation to Victoria under the Coastal Waters (State Powers) Act 1980 of the Commonwealth;

S. 57(6)(b) amended by No. 11/2002 s. 3(Sch. 1 item 38).

(ba) *cooperative scheme* has the same meaning as that expression has in the **Crimes at Sea Act 1999**;

S. 57(6)(ba) inserted by No. 56/1999 s. 10(3)(b).

(bb) *continental shelf* has the same meaning as in the Seas and Submerged Lands Act 1973 (Commonwealth);

S. 57(6)(bb) inserted by No. 56/1999 s. 10(3)(b).

s. 58

S. 57(6)(bc)  
inserted by  
No. 56/1999  
s. 10(3)(b).

- (bc) *criminal laws* means the substantive criminal law, and the law of criminal investigation, procedure and evidence, within the meaning of the cooperative scheme;
- (c) *person connected with Victoria* means a person who—
- (i) is domiciled in Victoria;
  - (ii) is permanently or temporarily resident in Victoria;
  - (iii) being a body corporate has a place of business in or carries on business in Victoria or is registered in or incorporated or established under a law of Victoria;
  - (iv) is on or is operating from a ship, boat or vessel of any kind licensed or registered or required to be licensed or registered under a law of Victoria; or
  - (v) is on or operating from a rig or other structure or installation of any kind in the adjacent area the operation or function of which is regulated by a law of the Commonwealth or of Victoria.

S. 58  
inserted by  
No. 108/1994  
s. 11.

## 58 Declaration of validity of certain laws

- (1) Each provision of an Act or subordinate instrument enacted or made, or purporting to have been enacted or made, before the commencement of the Australia Acts—
- (a) has the same effect as it would have had; and
  - (b) is as valid as it would have been—
- if the Australia Acts had been in operation at the time of its enactment or making, or purported enactment or making.

- (2) In this section, *Australia Acts* means—
- (a) the Australia Act 1986 of the Commonwealth; and
  - (b) the Australia Act 1986 of the United Kingdom.

**59 Transitional provision—Interpretation of Legislation (Further Amendment) Act 2006**

S. 59  
inserted by  
No. 13/2006  
s. 13.

The amendment of this Act made by section 12 of the **Interpretation of Legislation (Further Amendment) Act 2006** does not affect the rights of the parties in any proceeding commenced before the commencement of that Act.

Pt 5 (Heading  
and ss 60–64)  
inserted by  
No. 64/2010  
s. 28.

S. 60  
inserted by  
No. 64/2010  
s. 28.

## PART V—AUTHORISED VERSIONS

### 60 Definitions

In this Part—

*authorised electronic version* means an electronic version authorised by the Chief Parliamentary Counsel in accordance with section 62;

*authorised version* means—

- (a) an authorised electronic version;
- (b) a printed copy of an authorised electronic version in accordance with section 63;

*electronic version* means a version of legislation published on the Victorian Legislation Website by the Chief Parliamentary Counsel;

*legislation* means—

- (a) an Act;
  - Note**  
*Act* is defined in section 38.
- (b) a statutory rule;
  - Note**  
*Statutory rule* is defined in section 38.
- (c) a consolidation of an Act as amended from time to time prepared by the Chief Parliamentary Counsel;
- (d) a consolidation of a statutory rule as amended from time to time prepared by the Chief Parliamentary Counsel;

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***Victorian Legislation Website*** means  
www.legislation.vic.gov.au.

**61 Effect of Part**

This Part is in addition to, and does not derogate from, section 54.

S. 61  
inserted by  
No. 64/2010  
s. 28.

**62 Authorisation of electronic version**

- (1) The Chief Parliamentary Counsel may authorise an electronic version.
- (2) An electronic version is an authorised electronic version if—
  - (a) it is in the format authorised by the Chief Parliamentary Counsel;
  - (b) the words "Authorised Version" appear at the beginning of the version;
  - (c) the words "Authorised by the Chief Parliamentary Counsel" appear at the foot of each page of the version.
- (3) An electronic version which does not comply with subsection (2) is not an authorised electronic version.

S. 62  
inserted by  
No. 64/2010  
s. 28.

**63 Printed copy of authorised electronic version**

A printed copy of an authorised electronic version is an authorised version only if it is printed directly from the authorised electronic version.

S. 63  
inserted by  
No. 64/2010  
s. 28.

**64 Evidentiary provisions**

- (1) An authorised version is on the mere production of that authorised version admissible as evidence thereof before all courts and persons acting judicially within Victoria.

S. 64  
inserted by  
No. 64/2010  
s. 28.

Interpretation of Legislation Act 1984  
No. 10096 of 1984  
Part V—Authorised Versions

s. 64

- 
- (2) It is presumed, unless the contrary is proved, that a document purporting to be an authorised version is what it purports to be.

**Note**

*Document* is defined in section 38.

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SCHEDULE 1

Section 54A

Sch. 1  
inserted by  
No. 2/2007  
s. 6.

STYLE CHANGES

- 1 For an expression specified in column 1 of the Table **substitute** the expression specified opposite it in column 2 of the Table—

Table

<i>column 1</i> <i>old style</i>	<i>column 2</i> <i>new style</i>
Sub-division	Subdivision
sub-section	subsection
sub-paragraph	subparagraph
sub-sub-paragraph	sub-subparagraph
sub-clause	subclause
sub-sub-clause	sub-subclause
sub-regulation	subregulation
sub-rule	subrule

- 2 For a Division or Subdivision heading that is not formatted using a style under which only the first letter of the initial word and of any proper noun is capitalised **substitute** that heading formatted using that style.
- 3 For a note at the foot of a provision that is not formatted under the heading "Note" or "Notes" **substitute** that note under the heading "Note" or "Notes" (according to whether there is more than one note at the foot of the provision).
- 4 In a note that is reformatted in accordance with clause 3 **omit** the expression "Note:" and any number contained within that expression and insert that number (if any) at the beginning of the note.

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- 5 **Omit** any double quotation marks around a defined word or defined expression.

**Note**

Defined words and expressions are printed in bold italics.

- 6 **Omit** the full stop immediately following the provision number at the beginning of a provision.

Sch.  
repealed by  
No. 104/1994  
s. 35(Sch. 2  
item 3.2).

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## ENDNOTES

### 1. General Information

The **Interpretation of Legislation Act 1984** was assented to on 22 May 1984 and came into operation on 1 July 1984: section 2.

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## 2. Table of Amendments

This Version incorporates amendments made to the **Interpretation of Legislation Act 1984** by Acts and subordinate instruments.

### **Interpretation of Legislation (Further Amendment) Act 1985, No. 10214/1985**

*Assent Date:* 3.12.85  
*Commencement Date:* S. 4 on 1.1.86: s. 2(2); rest of Act on 1.9.85: s. 2(1).  
*Current State:* All in Act of operation

### **Penalties and Sentences Act 1985, No. 10260/1985**

*Assent Date:* 10.12.85  
*Commencement Date:* S. 114(Sch. 4 item 8) on 1.6.86: Government Gazette 30.4.86 p. 1116  
*Current State:* This information relates only to the provision/s amending the **Interpretation of Legislation Act 1984**

### **Interpretation of Legislation (Amendment) Act 1986, No. 4/1986**

*Assent Date:* 25.3.86  
*Commencement Date:* 25.3.86  
*Current State:* All of Act in operation

### **Constitution (British Subjects) Act 1986, No. 61/1986**

*Assent Date:* 16.9.86  
*Commencement Date:* 27.5.87: Government Gazette 27.5.87 p. 1235  
*Current State:* All of Act in operation

### **Local Government (Consequential Provisions) Act 1989, No. 12/1989**

(as amended by No. 13/1990)

*Assent Date:* 9.5.89  
*Commencement Date:* S. 4(1)(Sch. 2 items 63.1–63.6) on 1.11.89: Government Gazette 1.11.89 p. 2798  
*Current State:* This information relates only to the provision/s amending the **Interpretation of Legislation Act 1984**

### **Magistrates' Court Act 1989, No. 51/1989**

*Assent Date:* 14.6.89  
*Commencement Date:* S. 146 on 1.9.90: Government Gazette 25.7.90 p. 2216  
*Current State:* This information relates only to the provision/s amending the **Interpretation of Legislation Act 1984**

### **Children and Young Persons Act 1989, No. 56/1989**

*Assent Date:* 14.6.89  
*Commencement Date:* S. 286(Sch. 2 item 10) on 31.1.91: Special Gazette (No. 9) 31.1.91 p. 2  
*Current State:* This information relates only to the provision/s amending the **Interpretation of Legislation Act 1984**

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**Magistrates' Court (Consequential Amendments) Act 1989, No. 57/1989**

*Assent Date:* 14.6.89  
*Commencement Date:* S. 4(1)(a)–(e)(2) on 1.9.89: Government Gazette 30.8.89 p. 2210; rest of Act on 1.9.90: Government Gazette 25.7.90 p. 2217  
*Current State:* All of Act in operation

**Water (Consequential Amendments) Act 1989, No. 81/1989**

*Assent Date:* 5.12.89  
*Commencement Date:* 1.11.90: Government Gazette 15.8.90 p. 2473  
*Current State:* All of Act in operation

**Corporations (Victoria) Act 1990, No. 80/1990**

*Assent Date:* 11.12.90  
*Commencement Date:* All of Act (except s. 98(2)) on 1.1.91: Special Gazette (No. 69) 21.12.90 p. 1; s. 98(2) on 22.5.91: Government Gazette 22.5.91 p. 1338  
*Current State:* All of Act in operation

**Interpretation of Legislation (Amendment) Act 1991, No. 6/1991**

*Assent Date:* 16.4.91  
*Commencement Date:* 16.4.91  
*Current State:* All of Act in operation

**Sentencing Act 1991, No. 49/1991**

*Assent Date:* 25.6.91  
*Commencement Date:* 22.4.92: Government Gazette 15.4.92 p. 898  
*Current State:* All of Act in operation

**Financial Institutions (Victoria) Act 1992, No. 48/1992**

*Assent Date:* 30.6.92  
*Commencement Date:* S. 116 on 22.7.92: Government Gazette 22.7.92 p. 1874  
*Current State:* This information relates only to the provision/s amending the **Interpretation of Legislation Act 1984**

**Interpretation of Legislation (Amendment) Act 1993, No. 95/1993**

*Assent Date:* 16.11.93  
*Commencement Date:* All of Act (except s. 4(1)(3)) on 16.11.93: s. 2(1); s. 4(1)(3) on 1.9.85: s. 2(2)  
*Current State:* All of Act in operation

**Public Holidays Act 1993, No. 119/1993**

*Assent Date:* 7.12.93  
*Commencement Date:* 7.12.93  
*Current State:* All of Act in operation

**Financial Management Act 1994, No. 18/1994**

*Assent Date:* 10.5.94  
*Commencement Date:* Pt 1 (ss 1–8), ss 60, 61 on 10.5.94: s. 2(1); rest of Act on 1.7.94: s. 2(2)  
*Current State:* All of Act in operation

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**Subordinate Legislation Act 1994, No. 104/1994**

*Assent Date:* 13.12.94  
*Commencement Date:* 1.1.95: s. 2  
*Current State:* All of Act in operation

**Constitution (Amendment) Act 1994, No. 108/1994**

*Assent Date:* 20.12.94  
*Commencement Date:* All of Act (except s. 11) on 20.12.94: s. 2(1); s. 11 immediately after the commencement of the Australia Act 1986 of the Commonwealth-0500 Greenwich Mean Time on 3.3.86  
*Current State:* All of Act in operation

**Constitution (Court of Appeal) Act 1994, No. 109/1994**

*Assent Date:* 20.12.94  
*Commencement Date:* Pt 1 (ss 1, 2) on 20.12.94: s. 2(1); rest of Act on 7.6.95: Special Gazette (No. 41) 23.5.95 p. 1  
*Current State:* All of Act in operation

**Consumer Credit (Victoria) Act 1995, No. 41/1995**

*Assent Date:* 14.6.95  
*Commencement Date:* Ss 60, 61 on 1.11.96: Government Gazette 29.8.96 p. 2274  
*Current State:* This information relates only to the provision/s amending the **Interpretation of Legislation Act 1984**

**Miscellaneous Acts (Omnibus Amendments) Act 1995, No. 100/1995**

*Assent Date:* 5.12.95  
*Commencement Date:* S. 28 on 5.6.96: s. 2(6)  
*Current State:* This information relates only to the provision/s amending the **Interpretation of Legislation Act 1984**

**Friendly Societies (Victoria) Act 1996, No. 83/1996**

*Assent Date:* 23.12.96  
*Commencement Date:* Ss 38, 39 on 1.10.97: Special Gazette (No. 122) 1.10.97 p. 1  
*Current State:* This information relates only to the provision/s amending the **Interpretation of Legislation Act 1984**

**Interpretation of Legislation (Amendment) Act 1997, No. 6/1997**

*Assent Date:* 22.4.97  
*Commencement Date:* 22.4.97: s. 2  
*Current State:* All of Act in operation

**National Electricity (Victoria) Act 1997, No. 29/1997**

*Assent Date:* 27.5.97  
*Commencement Date:* Ss 9, 10 on 13.12.98: Special Gazette (No. 148) 11.12.98 p. 1  
*Current State:* This information relates only to the provision/s amending the **Interpretation of Legislation Act 1984**

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**Law and Justice Legislation (Further Amendment) Act 1997, No. 84/1997**

*Assent Date:* 2.12.97  
*Commencement Date:* S. 51 on 2.12.97: s. 2(1)  
*Current State:* This information relates only to the provision/s  
amending the **Interpretation of Legislation Act 1984**

**Gas Pipelines Access (Victoria) Act 1998, No. 31/1998**

*Assent Date:* 19.5.98  
*Commencement Date:* Ss 26, 27 on 1.7.99: Government Gazette 1.7.99  
p. 1521  
*Current State:* This information relates only to the provision/s  
amending the **Interpretation of Legislation Act 1984**

**Financial Sector Reform (Victoria) Act 1999, No. 37/1999**

*Assent Date:* 8.6.99  
*Commencement Date:* S. 58(Sch. 1 item 2) on 15.6.01: Government Gazette  
14.6.01 p. 1273  
*Current State:* This information relates only to the provision/s  
amending the **Interpretation of Legislation Act 1984**

**Crimes at Sea Act 1999, No. 56/1999**

*Assent Date:* 21.12.99  
*Commencement Date:* S. 10 on 31.3.01: Government Gazette 29.3.01 p. 523  
*Current State:* This information relates only to the provision/s  
amending the **Interpretation of Legislation Act 1984**

**Interpretation of Legislation (Amendment) Act 2000, No. 60/2000**

*Assent Date:* 8.11.00  
*Commencement Date:* 1.1.01: s. 2  
*Current State:* All of Act in operation

**Corporations (Consequential Amendments) Act 2001, No. 44/2001**

*Assent Date:* 27.6.01  
*Commencement Date:* S. 3(Sch. item 67) on 15.7.01: s. 2  
*Current State:* This information relates only to the provision/s  
amending the **Interpretation of Legislation Act 1984**

**Statute Law (Further Revision) Act 2002, No. 11/2002**

*Assent Date:* 23.4.02  
*Commencement Date:* S. 3(Sch. 1 item 38) on 24.4.02: s. 2(1)  
*Current State:* This information relates only to the provision/s  
amending the **Interpretation of Legislation Act 1984**

**Criminal Justice Legislation (Miscellaneous Amendments) Act 2002, No. 35/2002**

*Assent Date:* 18.6.02  
*Commencement Date:* S. 25(3) on 19.6.02: s. 2(1)  
*Current State:* This information relates only to the provision/s  
amending the **Interpretation of Legislation Act 1984**

**Fair Trading (Amendment) Act 2003, No. 30/2003 (as amended by No. 106/2003)**

*Assent Date:* 27.5.03  
*Commencement Date:* S. 78 on 28.5.03: s. 2(1)  
*Current State:* This information relates only to the provision/s  
amending the **Interpretation of Legislation Act 1984**

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**Interpretation of Legislation (Amendment) Act 2004, No. 61/2004**

*Assent Date:* 12.10.04  
*Commencement Date:* 13.10.04: s. 2  
*Current State:* All of Act in operation

**National Electricity (Victoria) Act 2005, No. 8/2005**

*Assent Date:* 27.4.05  
*Commencement Date:* S. 16 on 1.7.05: Special Gazette (No. 120) 28.6.05 p. 2  
*Current State:* This information relates only to the provision/s amending the **Interpretation of Legislation Act 1984**

**Interpretation of Legislation (Further Amendment) Act 2006, No. 13/2006**

*Assent Date:* 11.4.06  
*Commencement Date:* 12.4.06: s. 2  
*Current State:* All of Act in operation

**Statute Law (Further Revision) Act 2006, No. 29/2006**

*Assent Date:* 6.6.06  
*Commencement Date:* S. 3(Sch. 1 item 15) on 7.6.06: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Interpretation of Legislation Act 1984**

**Interpretation of Legislation Amendment Act 2007, No. 2/2007**

*Assent Date:* 6.3.07  
*Commencement Date:* 6.3.07: s. 2  
*Current State:* All of Act in operation

**Motor Car Traders Amendment Act 2008, No. 4/2008**

*Assent Date:* 4.3.08  
*Commencement Date:* S. 31 on 1.12.08: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Interpretation of Legislation Act 1984**

**National Gas (Victoria) Act 2008, No. 30/2008**

*Assent Date:* 17.6.08  
*Commencement Date:* S. 42 on 1.7.08: Special Gazette (No. 184) 1.7.08 p. 1  
*Current State:* This information relates only to the provision/s amending the **Interpretation of Legislation Act 1984**

**Coroners Act 2008, No. 77/2008**

*Assent Date:* 11.12.08  
*Commencement Date:* S. 129(Sch. 2 item 13) on 1.11.09: s. 2  
*Current State:* This information relates only to the provision/s amending the **Interpretation of Legislation Act 1984**

**Courts Legislation Amendment (Costs Court and Other Matters) Act 2008, No. 78/2008**

*Assent Date:* 11.12.08  
*Commencement Date:* S. 24 on 31.12.09: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **Interpretation of Legislation Act 1984**

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**Sheriff Act 2009, No. 9/2009**

*Assent Date:* 24.3.09  
*Commencement Date:* S. 77 on 1.10.09: Government Gazette 1.10.09 p. 2539  
*Current State:* This information relates only to the provision/s amending the **Interpretation of Legislation Act 1984**

**Criminal Procedure Amendment (Consequential and Transitional Provisions) Act 2009, No. 68/2009**

*Assent Date:* 24.11.09  
*Commencement Date:* S. 97(Sch. item 71) on 1.1.10: Government Gazette 10.12.09 p. 3215  
*Current State:* This information relates only to the provision/s amending the **Interpretation of Legislation Act 1984**

**Statute Law Amendment (Evidence Consequential Provisions) Act 2009, No. 69/2009**

*Assent Date:* 24.11.09  
*Commencement Date:* S. 54(Sch. Pt 2 item 29) on 1.1.10: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Interpretation of Legislation Act 1984**

**Offshore Petroleum and Greenhouse Gas Storage Act 2010, No. 10/2010**

*Assent Date:* 23.3.10  
*Commencement Date:* S. 800(Sch. 6 item 7) on 1.1.12: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Interpretation of Legislation Act 1984**

**Credit (Commonwealth Powers) Act 2010, No. 11/2010**

*Assent Date:* 30.3.10  
*Commencement Date:* Ss 51, 52 on 1.7.10: Government Gazette 24.6.10 p. 1273  
*Current State:* This information relates only to the provision/s amending the **Interpretation of Legislation Act 1984**

**Statute Law Amendment (National Health Practitioner Regulation) Act 2010, No. 13/2010**

*Assent Date:* 30.3.10  
*Commencement Date:* S. 49 on 1.7.10: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Interpretation of Legislation Act 1984**

**Justice Legislation Further Amendment Act 2010, No. 64/2010**

*Assent Date:* 28.9.10  
*Commencement Date:* S. 28 on 1.1.11: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **Interpretation of Legislation Act 1984**

**Bail Amendment Act 2010, No. 70/2010**

*Assent Date:* 19.10.10  
*Commencement Date:* S. 39 on 1.1.11: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Interpretation of Legislation Act 1984**

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**Fair Trading Amendment (Australian Consumer Law) Act 2010, No. 72/2010**

*Assent Date:* 19.10.10  
*Commencement Date:* S. 48(Sch. item 13) on 1.1.11: Special Gazette  
(No. 502) 20.12.10 p. 1  
*Current State:* This information relates only to the provision/s  
amending the **Interpretation of Legislation Act 1984**

**Children's Services Amendment Act 2011, No. 80/2011**

*Assent Date:* 21.12.11  
*Commencement Date:* S. 79(Sch. item 4) on 1.1.12: Special Gazette  
(No. 423) 21.12.11 p. 2  
*Current State:* This information relates only to the provision/s  
amending the **Interpretation of Legislation Act 1984**

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### 3. Explanatory Details

<sup>1</sup> S. 32: Section 4 of the **Interpretation of Legislation (Amendment) Act 1991**, No. 6/1991 reads as follows:

#### 4 Validation of existing subordinate instruments

- (1) Subject to subsection (4) and despite anything to the contrary in section 32(3) of the **Interpretation of Legislation Act 1984** (as in force immediately before the commencement of this Act), a subordinate instrument within the meaning of that Act that was made before that commencement and that has not been, and does not purport to have been, revoked, whether directly or indirectly, is not to be taken to be, or to have ever been, void and of no effect by reason only of a failure to comply with section 32(2)(a) of that Act in relation to that subordinate instrument.
- (2) The Legal and Constitutional Committee may report a failure referred to in subsection (1) to each House of the Parliament and the subordinate instrument shall be disallowed if each House passes a resolution in accordance with subsection (3).
- (3) Section 32 of the **Interpretation of Legislation Act 1984** (as amended by this Act) applies to a resolution to disallow a subordinate instrument under this section in the same manner and to the same extent as it applies to a resolution under section 32 of that Act as so amended and in force for the time being.

- (4) A question concerning the validity of a subordinate instrument arising in proceedings commenced before the commencement of this Act must be determined as if this section had not been enacted.

<sup>2</sup> S. 38 def. of *Court of Appeal*: Sections 29 and 30 of the **Constitution (Court of Appeal) Act 1994**, No. 109/1994 read as follows:

### **29 Proceedings before Full Court**

- (1) The **Constitution Act 1975**, the **Supreme Court Act 1986** and the **Crimes Act 1958** and any other Act amended by this Act as respectively in force immediately before the commencement of this section continue to apply, despite the enactment of this Act, to a proceeding the hearing of which by the Full Court of the Supreme Court commenced before the commencement of this section.
- (2) If the Court of Appeal so orders, anything required to be done by the Supreme Court in relation to or as a consequence of a proceeding after the Full Court has delivered judgement in that proceeding, may be done by the Court of Appeal.

### **30 References to Full Court**

A reference in an Act or an instrument made under an Act or in any other document to the Full Court of the Supreme Court or to the Supreme Court sitting as the Full Court is to be taken to include a reference to the Court of Appeal.

<sup>3</sup> S. 44(5): Section 43 of the **Supreme Court Act 1986**, No. 110/1986 reads as follows:

**S. 43 (Heading) inserted by No. 17/2005 s. 7(1).**

### **43 Standard time in Victoria**

**S. 43(1) substituted by No. 17/2005 s. 7(2).**

- (1) Standard time throughout Victoria is the time that is 10 hours in advance of Co-ordinated Universal Time.

#### **Note**

Under section 8AA of the National Measurement Act 1960 of the Commonwealth the Chief Metrologist is required to maintain Co-ordinated Universal Time (UTC) as determined by the International Bureau of Weights and Measures.

- (2) If—
  - (a) an expression of time occurs in an instrument; or
  - (b) the doing or not doing of anything at a certain time has an effect in law—the time is standard time as provided in subsection (1) unless it is otherwise specifically stated.

<sup>4</sup> S. 57: Section 11 of the **Crimes at Sea Act 1999**, No. 56/1999 reads as follows:

### **11 Application of repeal and amendments**

- (1) In this section *commencement day* means the day on which this Act comes into operation.
- (2) Although section 9 repeals the **Crimes (Offences at Sea) Act 1978**, that Act continues to apply, in relation to acts and omissions that took place before the commencement day, as if the repeal had not happened.
- (3) The amendments of the **Interpretation of Legislation Act 1984** made by section 10 apply to acts and omissions that take place on or after the commencement day.

- (4) For the purposes of this section, if an act or omission is alleged to have taken place between two dates, one before and one after the commencement day, the act or omission is alleged to have taken place before the commencement day.