

1990-91

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

(Presented and read a first time, 9 April 1991)

(SENATOR POWELL)

A BILL

for

An Act to amend the *Acts Interpretation Act 1901* to improve
the promptness with which undertakings given to the Senate Standing
Committee on Regulations and Ordinances are implemented

BE IT ENACTED by the Queen, and the Senate and the House of Representatives
of the Commonwealth of Australia, as follows:

Short title etc.

1. (1) This Act may be cited as the *Acts Interpretation (Ministerial Undertakings)*
Amendment Act 1991.

(2) The *Acts Interpretation Act 1901* is in this Act referred to as the Principal Act.

Commencement

2. This Act commences on the day on which it receives the Royal Assent.

3. The Principal Act is amended by inserting the following section after
section 48:

Implementation of ministerial undertakings

“48C. (1) In this section:

“**Chairman**” means the Chairman of the Committee, and includes the Deputy
Chairman or other member of the Committee when acting as Chairman;

“Committee” means the Senate Standing Committee on Regulations and Ordinances;

“defective instrument” means a disallowable instrument that is considered by the Committee to be at variance with one or more of the principles set out in the Committee's terms of reference;

“disallowed” includes disapproved or other action by either House of the Parliament that affects an instrument in its operation and disallowance is to be construed accordingly;

“enactment” means an Act or a legislative instrument made in pursuance of a provision of an Act;

“first certificate” means a certificate in writing under subsection (2) signed by the Chairman of the Committee;

“second certificate” means a certificate in writing under subsection (3) signed by the Chairman of the Committee;

“subordinate lawmaker” means a person, a group of persons or a delegate of a person or group of persons who singly or together, as the case may be, are empowered by an enactment to make an instrument that may be disallowed.

“(2) Where the Chairman on behalf of the Committee issues a first certificate to the effect that the Committee has received from a Minister or a subordinate lawmaker a written undertaking to repeal or amend a defective instrument, then the repeal or amendment, as the case may be, is to be made and come into effect not later than 6 months after the date of the undertaking.

“(3) Where the Chairman on behalf of the Committee issues a second certificate to the effect that a repeal or amendment of a defective instrument pursuant to a written undertaking has not been made and come into force within the period referred to in subsection (2), the defective instrument is, for the purposes of a relevant law relating to disallowance of the instrument, deemed to have been laid before each House of the Parliament on the first sitting day of that House after the date of the second certificate.

“(4) Where an instrument is one to which subsection (3) would apply but for the relevant law relating to its disallowance not providing that the instrument is to be laid before either House of Parliament, then, for the purposes of this section, the instrument is deemed to be a disallowable instrument for the purposes of 46A of this Act, and the date on which the second certificate is laid before each House of the Parliament is the date the defective instrument is deemed to be laid before that House.

“(5) A certificate under subsection (2) or (3) of this section is to be laid before each House of the Parliament on the first sitting day of that House after the date of the certificate.”.