

1996

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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

LEGISLATIVE INSTRUMENTS BILL 1996

SUPPLEMENTARY EXPLANATORY MEMORANDUM

Amendments and new clauses to be moved on behalf of the Government

(Circulated by authority of the Attorney-General,
the Honourable Daryl Williams AM QC MP)

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AMENDMENTS OF THE LEGISLATIVE INSTRUMENTS BILL 1996

OUTLINE OF AMENDMENTS

The amendments proposed by the Government will amend the *Legislative Instruments Bill 1996*.

The purpose of the Bill is set out in the Explanatory Memorandum. The purposes of the amendments are to :

- provide exemption from Parliamentary disallowance for Proclamations made under the *Quarantine Act 1908*.

- provide, in respect of such Proclamations, an extension of the normal sunset period of 5 years provided in the Bill to 15 years.

- provide that certain decisions and certifications by the regulatory review body be attached to the consultation statement that the rule-maker is to prepare.

- provide that certain certificates of the Attorney-General be tabled in the Parliament although not disallowable.

- amend Schedule 2 to add a reference to the *Disability Discrimination Act 1992* and make corrections to certain Acts listed in the Schedule.

- correct various technical and drafting matters.

FINANCIAL IMPACT STATEMENT

The amendments contain no financial impact.

NOTES ON AMENDMENTS AND NEW CLAUSES..

AMENDMENT 1

1 This amendment inserts an additional subclause into clause 27 to ensure that, where a legislative instrument is made, the rule-maker prepares a consultation statement even where the rule-maker is not required to comply with the mandatory consultation regime or undertakes voluntary consultation. Such consultation statement must contain the particulars of the consultation undertaken.

AMENDMENT 2

2 This amendment corrects an omission from subclause 27(2) by inserting a new paragraph 27(2)(ca) requiring a statement of any certificate by the regulatory review body under paragraphs 21(5)(a) or (b) to be included in the consultation statement that must be prepared for a legislative instrument.

AMENDMENT 3

3 This is a consequential amendment to paragraph 27(2)(i) as a result of Amendment 2 by inserting a reference to any certificate made by the regulatory review body under paragraphs 21(5)(a) or (b) in the paragraph.

AMENDMENT 4

4 This amendment to paragraph 27(2)(i) is a drafting amendment to correct ly specify the provisions in section 31 under which the regulatory review body could issue a certificate that it was satisfied the consultation requirements of the enabling legislation under which the legislative instrument was made constituted a comparable level of consultation as to that required by this Bill.

AMENDMENT 5

5 This is a consequential amendment to subclause 27(3) as a result of Amendment 2. This amendment inserts new paragraph 27(3)(ca) requiring a copy of any certificate by the regulatory review body under paragraphs 21(5)(a) or (b) to be attached to the consultation statement

AMENDMENT 6

6 This amendment is a drafting amendment which substitutes new paragraphs 27(3)(g) and (h) for paragraph 27(3)(g). The new paragraphs more clearly spell out the source of the certificate that must be attached to the consultation statement.

AMENDMENT 7

7 This amendment is a drafting amendment to more accurately describe the provision under which the exempt instrument is made.

AMENDMENT 8

8 This amendment inserts new subsection 29(6A) to require any certificate by the Attorney-General, under subsection 29(6) extending by 12 months the sunseting time for a legislative instrument for which the proper consultation processes had not been followed because the rule-maker was mistakenly satisfied that an exemption from consultation applied, to contain a statement of reasons for the issuing of the extension certificate and for the certificate to be tabled in the Parliament within 6 sitting days of its making.

AMENDMENT 9

9 This amendment makes similar provision as that made by amendment 8 in the circumstances where the rule-maker decides to make an instrument of short duration rather than undertake the consultation processes and a replacement instrument cannot be made within 12 months. Again the Attorney-General may, by certificate, extend the sunseting time. The amendment provides that such certificate must set out the reasons for issuing the certificate and be tabled.

AMENDMENT 10

10 This amendment replaces subsections 31(1) and 31(2) of the Bill to effect drafting changes to make the Bill more easily understood.

AMENDMENT 11

11 This amendment amends paragraph 32(1)(b) to include plans of management as instruments that need to comply with the requirements of Part 3 of the Bill.

AMENDMENT 12

12 This amendment inserts a new paragraph in clause 61 which provides exemption from disallowance in respect of Proclamations made under a number of sections of the *Quarantine Act 1908*.

AMENDMENTS 13 and 14

13 These amendments make drafting changes to subclauses 66 (2) and 66(3) as a consequence of amendment 15.

AMENDMENT 15

14 This amendment inserts new subclause 66(5A) providing for an extended period before sunseting of Proclamations made under a number of sections of the *Quarantine Act 1908* need be undertaken. The extension is from 5 - 15 years.

AMENDMENTS 16 and 17

15 These amendments make drafting changes to subclauses 66 (2) and 66(3) as a consequence of amendment 15.

AMENDMENT 18

16 This amendment inserts a new subsection 66(9) providing that where the Attorney-General issues a certificate extending the sunset period for a period not exceeding 12 months then that certificate must state the reasons for the issuing of the certificate and be tabled in the Parliament within 6 sitting days of the House after the issuing of the certificate.

AMENDMENTS 19, 20 and 21

17 These amendments correct a number of citations to Acts listed in Schedule 2 and inserts reference to the *Disability Discrimination Act 1992* to which the Bill should apply.

AMENDMENTS 22 and 23

18 These amendments make technical changes to the new subsection 59(4) of the *Federal Court of Australia Act 1976*.

