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STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL (No. 1) 1984

EXPLANATORY MEMORANDUM

(Circulated by Authority of the Minister Representing  
the Attorney-General, the Minister for Communications,

The Honourable Michael Duffy, M.P.)



## Table of Contents

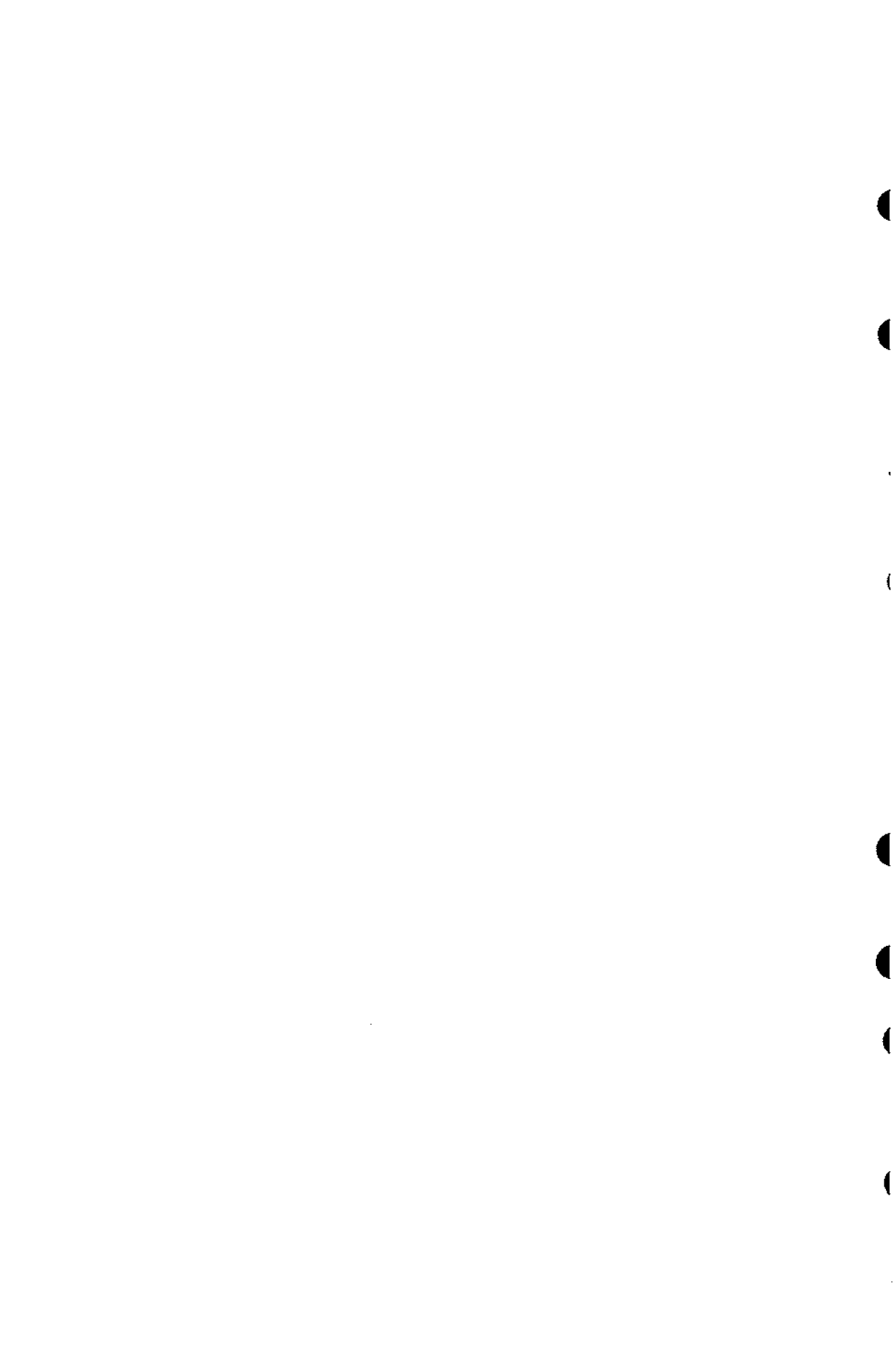
	Page
General Outline	1
Clause 1 - Short title	2
Clause 2 - Commencement	2
Clause 3 - Amendment of Acts	3
Clause 4 - Repeal of Hide and Leather Industries Legislation Repeal Act 1955.	4
Clause 5 - Transitional and Savings	5
Clause 6 - Operation of Student Assistance Act, &c.	6

### Schedule 1 - Amendment of Acts

Aboriginal Land Rights (Northern Territory) Act 1976	8
Acts Interpretation Act 1901	11
Administrative Appeals Tribunal Act 1975	12
Airports (Business Concessions) Act 1959	14
Apple and Pear Stabilization Act 1971	15
Australian Shipping Commission Act 1956	16
Australian Tourist Commission Act 1967	17
Australian Wine and Brandy Corporation Act 1980	18
Boy Scouts' Association Act 1924	19
Broadcasting and Television Act 1942	20
Christmas Island Act 1958	23
Commonwealth Employment Service Act 1978	24

	Page
Commonwealth Inscribed Stock Act 1911	25
Commonwealth Tertiary Education Commission Act 1977	28
Community Employment Act 1983	29
Complaints (Australian Federal Police) Act 1981	30
Coral Sea Islands Act 1969	32
Customs Act 1901	33
Customs and Excise Amendment Act 1982	38
Defence Service Homes Act 1918	39
Distillation Act 1901	41
Environment Protection (Alligator Rivers Region) Act 1978	42
Excise Act 1901	43
Excise Tariff Act 1921	45
Export Control Act 1982	46
Family Law Act 1975	47
Federal Court of Australia Act 1976	50
Industries Assistance Commission Act 1973	52
Insurance Act 1973	53
Insurance Amendment Act 1983	54
Judiciary Act 1903	55
Management and Investment Companies Act 1983	56
Maritime College Act 1978	59
Meat Inspection Act 1983	60
Migration Act 1958	61
National Health Act 1953	62
National Labour Consultative Council Act 1977	65

	Page
National Parks and Wildlife Conservation Act 1975	66
Navigation Act 1912	67
Overseas Telecommunications Act 1946	70
Postal and Telecommunications Amendment Act 1983	71
Postal Services Act 1975	72
Protection of the Sea (Civil Liability) Act 1981	73
Protection of the Sea (Prevention of Pollution from Ships) Act 1983	74
Radiocommunications (Transitional Provisions and Consequential Amendments) Act 1983	75
Science and Industry Endowment Act 1926	76
Sex Discrimination Act 1984	77
Spirits Act 1906	78
States Grants (Education Assistance - Participation and Equity) Act 1983	80
Statute Law (Miscellaneous Provisions) Act (No. 1) 1983	81
Student Assistance Act 1973	82
Trade Marks Act 1955	92



STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL (No. 1) 1984

General Outline

The amendments made by this Bill have a number of purposes such as the tidying up, correction or up-dating of legislation. Other amendments implement changes that are of minor policy significance or are of a routine administrative nature.

Clause 1 - Short title

Formal.

Clause 2 - Commencement

Sub-clause 2(2) provides that clauses 1 and 2 of the Bill come into operation on receiving Royal Assent.

Special provision for the commencement of some or all of the amendments to specified Acts contained in the First Schedule is made by sub-clauses 2(3) to 2(23). Reference to a special commencement provision is made in the notes on the relevant provision(s).

The remaining provisions of the Bill come into operation, in accordance with sub-clause 2(1), on the 28th day after the day on which the Act receives the Royal Assent.

Sub-clause 2(24) provides that where an amendment of an Act comes into operation, or is deemed to have come into operation, on a day (called the commencement day) other than the 28th day after the day on which the Bill receives Royal Assent, sections 3 and 8 insofar as they apply to that amendment, shall come into operation, or be deemed to have come into operation, on the commencement day.

3.

Clause 3 - Amendment of Acts

This clause provides that the Acts specified in Schedule 1 are amended as set out in that Schedule.

Clause 4 - Repeal

This clause repeals the Hide and Leather Industries Legislation Repeal Act 1955 the operation of which is exhausted. That Act created a trust account for the purpose of the collection and disposition of money resulting from the sale of assets of the former Australian Hide and Leather Industries Board. The last transaction in the trust account occurred in 1957 thus emphasising the exhaustion of the legislation.

Clause 5 - Transitional and Savings

Sub-clause 5(1) provides for the continued effect of acts done or decisions made under the provisions of an Act that has been amended or repealed and re-enacted by a provision of this Bill except as amended by clause 5.

The special transitional or savings provisions made by sub-clauses 5(2) to 5(7) are referred to in the notes on the relevant provisions to which they relate.

Clause 6 - Operation of Student Assistance Act, &c

Sub-clause 6(1) provides that Part V of the Principal Act continues to operate in relation to an authorized person's decision if a request for reconsideration of that decision was made under section 22 of the Principal Act before the commencing day.

Sub-section 5(2) applies Part V of the Students Assistance Act 1973 as amended by the Bill to -

- . any application for reconsideration of a decision made that is received after that date; or
- . any request for reconsideration of a decision made after the commencement date.

Sub-clause 6(3) of the Bill preserves existing appointments of public servants as authorized persons under the Act notwithstanding that the section providing for such appointments has been repealed and a new provision substituted.

Sub-clause 6(4) preserves the appointment of a Chairman of a Tribunal on the terms and conditions applicable to the former office notwithstanding the change of title of office.

Sub-clause 6(5) provides that any act or decision of a Chairman of a Tribunal done or made before the commencing day shall be taken to have been done or made by the Chairperson of the Tribunal.

Sub-clause 6(6) defines 'commencing day' and 'Principal Act' for the purposes of this clause.

Amendments of Aboriginal Land Rights (Northern Territory)Act 1976

Sub-section 3(1) is amended in two respects. One amendment is the definition of "Commissioner" is omitted and substituted to reflect that the Act provides for more than one Commissioner pursuant to section 49. The other is the omission of the definition of Judge.

The proposed amendments of paragraph 11(1)(a), sub-sections 11(1AA), (1AB), (1AD) and 2 are consequential on the amendment of section 49.

The proposed amendments of section 33 and sub-section 34(3) effect drafting changes.

The proposed amendment of the Heading to Part V reflects that the Act provides for the appointment of more than one Commissioner.

The proposed amendment of section 49 provides for the Minister to determine the number of Aboriginal Land Commissioners pursuant to the Act.

The proposed amendments of sub-sections 50(1), (2), (3) and (4), section 51, sub-sections 52(1), (2), (3), 53(1) and (3) are consequential on the amendment of section 49.

The proposed amendment of sub-section 53(2) effects a drafting change.

Proposed sub-section 53(4) is inserted to clarify that a Judge includes a person appointed as an additional Judge, or a person acting as Judge.

The proposed amendments of section 53A, sub-sections 54(1), (2), (4), (5), paragraph 54(6)(a), sub-sections 54A(1), (2), paragraphs 54B(a), (b), 54C(1)(a), sections 55 and 56 are consequential on the amendment of section 49.

The proposed amendment of sub-section 57(1), (2) and (3) effect minor drafting changes as a consequence of the amendment of section 49.

The proposed amendments of sub-section 57(4) and paragraph 57(5)(a) are consequential on the amendment of section 49.

Proposed sub-section 57(7) is inserted to clarify that a person appointed as an Acting Commissioner, shall be a Judge, an additional Judge or an acting Judge of the Supreme Court of the Northern Territory or a Judge or acting Judge of a court created by the Parliament.

The proposed amendments of sections 58, 59, sub-sections 60(1), 61(1) and (2) are consequential on the amendment of section 49.

The proposed amendments of sub-sections 64(1), (2) and (3) effect drafting changes.

The proposed amendment of paragraph 74A(1)(b) is consequential on the amendment of section 49.

By virtue of sub-clause 2(3) the amendments made by this Act shall come into operation on the day on which this Act receives the Royal Assent.

Amendment of Acts Interpretation Act 1901

Section 34A provides that where, under an Act, the exercise of a power or function is dependent upon a person's state of mind in relation to a matter and that power or function has been delegated under that Act, that power or function may be exercised by the delegate upon the state of mind of the delegate in relation to that matter. The proposed amendment will expand the operation of the section to include situations in which the relevant power or function has been delegated to a person under another Act.

Amendments of Administrative Appeals Tribunal Act 1975

Section 16 dealing with the preservation of rights of a public servant appointed as a full-time member of the Administrative Appeals Tribunal, section 17 dealing with the operation of the Superannuation Act 1976 where a member is removed from office and section 18 applying the Judges' Pension Act 1968 to presidential members of the Tribunal are repealed.

A new section 16 is inserted which will apply the Judges' Pension Act 1968 to presidential members of the Tribunal.

Proposed sub-section 16(1) applies the Judges' Pension Act 1968 to presidential members of the Tribunal.

Proposed sub-sections 16(2) and (3) restrict the application of the Judges' Pension Act 1968 where the presidential member was a person who, immediately before his appointment, was a contributor to the Superannuation Fund 1976 unless the contributor had, within 3 months of the date of his appointment, elected to cease being eligible to contribute under the Superannuation Act 1976.

Proposed Sub-section 16(4) provides that where a member makes an election that the Superannuation Act 1976 cease to apply to him and no pension is payable to him or his dependants under that Act he is entitled, under section 80 of the Superannuation Act 1976, to a lump sum benefit based upon his contribution to the fund.

Proposed sub-section 16(5) prevents a person from receiving two pensions or other benefits as a result of having been in government employment and entitled to a pension or retiring allowances in respect of that employment before being appointed as a presidential member.

Proposed sub-section 16(6) clarifies that the section only applies to a person appointed as a full-time member of the Tribunal.

Amendment of Airports (Business Concessions) Act 1959

The proposed amendment of sub-section 15(1) will allow the Minister to delegate his power to grant an authority for the sale or supply of intoxicating liquor to a prescribed person or to a person included in a prescribed class of persons and to delegate his other powers under the Act to any other person.

The proposed amendment of sub-section 15(2) is a consequential amendment.

Amendments of Apple and Pear Stabilization Act 1971

Proposed sub-section 17(4A) provides that moneys standing to the credit of the Beurre Bose Stabilization Fund may be paid to the Australian Apple and Pear Corporation and not into the Consolidated Revenue Fund. It further provides that the Corporation shall not apply any moneys so paid for purposes other than research relating to the production, packing, handling, production or marketing of pears.

The proposed amendment of sub-section 17(7) is consequential on the inclusion of sub-section 17(4A) and excludes the Australian Apple and Pear Corporation from its operation.

Amendment of the Australian Shipping Commission Act

1956

The proposed amendment of sub-section 19A(6) effects a drafting change.

By virtue of sub-clause 2(4) the amendment made by this Act shall be deemed to have come into operation on 19 January 1984.

Amendments of Australian Tourist Commission Act 1967

The proposed amendment of sub-section 6(1) will increase the number of members of the Australian Tourist Commission from 10 to 12.

The proposed amendment of sub-section 6(4) clarifies the number of members remaining for appointment after the appointment of 2 persons under sub-section 6(3) as a consequence of the increased number of the Commission.

The proposed amendment of sub-section 14(5) provides for a consequential increase in the quorum for meetings of the Commission.

Amendments of Australian Wine and Brandy Corporation Act 1980

Section 14 of the Act provides that a term of office of the Corporation is a period of 3 years. The proposed amendment adds sub-sections 14(5) and (6) which allow the Minister to extend the period of appointment by up to maximum of two years; including the term of a person appointed to fill a casual vacancy.

Amendments of Boy Scouts' Association Act 1924

The proposed amendments of the Long title of the Act, the Preamble, sections 1 and 2 and the Short Title are consequential upon a name change of the Association from "Australian Boy Scouts" Association to the "Scout Association of Australia".

Amendments of Broadcasting and Television Act 1942

The proposed amendment of sub-section 4(1) omits the definition of "technical equipment".

Section 90AA deems a company to hold shares in another company where those shares are held on behalf of a superannuation fund to provide benefits for the employees of the first mentioned company. The proposed amendment of sub-section 90AA(2) omits a qualification to the section in respect of shares acquired before 12 December 1969.

Section 90C provides a limitation on the interests that a person can have in commercial broadcasting stations. The qualifications to that limitation contained in sub-sections 90C(4), (5), (6) and (7) are proposed to be omitted.

Section 90F provides a limitation on the number of directorships that a person can hold in commercial broadcasting stations. The proposed omissions of sub-sections 90F(3) and (4) remove a qualification to that limitation.

Section 90L provides that the articles of association of a company holding a commercial broadcasting licence will contain certain limitations on shareholdings in the company. The proposed amendment of sub-section 90L(5) omits a qualification to that limitation.

Section 90N provides that a trust which is the holder of shares in a company holding a commercial broadcasting licence shall not be recognised unless notice of the beneficial interests in the company are given to the company. The proposed amendments of paragraph 90N(2)(a) omit a qualification in relation to trust holdings prior to 31 December 1960 and makes a consequential drafting correction.

Sub-section 91AB(2) which indicates the basis upon which a person's interest in a company limited by guarantee is to be ascertained is omitted.

Section 92 provides for the limitation of interests in commercial television stations and the proposed amendments of sub-sections 92(3), (4), (5) and (6) remove similar qualification to those mentioned above in relation to sub-sections 90C(4), (5), (6) and (7).

Section 92C deals with limitations on directorships in commercial television stations and the proposed amendments of sub-section 92C(2) and (3) remove similar qualifications to those mentioned above in relation to sub-sections 90F(3) and (4).

Section 92FAB deals with the aggregation of associate interests for the purpose of ascertaining the interest of a person in a commercial television station and its proposed omission removes such aggregation.

Section 92G deals with requirements in articles of association of companies holding commercial television licences and the proposed amendment of sub-section 92G(5) removes similar qualifications to those mentioned above in relation to sub-section 90L(5).

Section 92J deals with the holdings of trusts in commercial television licences and the amendments of paragraph 92J(2)(a) remove a qualification similar to that mentioned above in relation to paragraph 90H(2)(a) and makes a consequential drafting change.

The proposed amendments of the definitions of "broadcasting station" and "television station" in sub-section 116(5) make drafting corrections.

Amendments of Christmas Island Act 1958

The proposed amendment of sub-section 10(1) effects a drafting change.

Sub-section 10(5) is proposed to be amended in two ways. The first will extend the requirement for the tabling of regulations made under an Ordinance of the Territory to regulations made under an Ordinance of the Colony of Singapore in its application to the Territory, or any other law (not being an Act) in force in the Territory of Christmas Island. The second effects a drafting change.

Amendments of Commonwealth Employment Service Act 1978

The proposed amendment of section 12 substitutes new definitions for 'employees council' and 'employers organization'. The definition of employees' council removes reference to the Council of Australian Government Employee Organizations and reflects that body's affiliation with the Australian Council of Trade Unions.

The definition of employers' organization reflects the name change of that body.

The proposed amendments of paragraph 14(1)(b) and sub-section 19(3) are consequential upon the new definition of 'employees' council'.

The proposed amendment of section 21 is consequential upon the removal of references to the Second Division of the Public Service from the Public Service Act 1922.

Amendments of Commonwealth Inscribed Stock Act 1911

The proposed amendment of section 3 repeals and substitutes the definition of "stock" to provide the legal basis for the continued use of terms such as Treasury Bonds, Australian Savings Bonds to describe Commonwealth debt being issued on an "inscribed stock only" basis.

The proposed amendment of section 4 provides for the creation of further forms of inscribed stock as prescribed.

The proposed amendment of section 16 effects a drafting change.

Existing section 19 prohibiting the inscription of stock in the name of a trustee is repealed and substituted. Proposed sub-section 19(1) provides for the inscription of stock in the name of a trustee in that capacity. Proposed sub-section 19(2) provides the Registrar with protection from liability in respect of actions undertaken by the trustee in respect of such stock.

The proposed amendments of section 21, sub-section 22A(2) and 22A(4) effect drafting changes.

Proposed new section 22B provides for a wider range of unincorporated bodies to hold inscribed stock and specifies the terms under which such bodies may hold stock. Proposed

sub-section 22B(1) provides that stock may be inscribed in the name of unincorporated bodies. Sub-section 22B(2) provides for an application for stock to be in the prescribed form and contain particulars that are prescribed. It also provides that documents to be signed in relation to the inscribed stock shall be signed by two persons appointed by the unincorporated association for that purpose.

Proposed sub-section 22B(3) provides that any receipt in relation to inscribed stock is to issue to a person appointed by the unincorporated association for that purpose.

Proposed sub-section 22B(4) provides that a transaction is not to be effected unless all requirements on the unincorporated association are satisfied and that where that occurs the Registrar is protected from liability in respect of the transaction.

The proposed amendment of section 24 adds a new sub-section 24(2) which defines 'person' for the purposes of sub-section 24(1)(a).

The proposed amendments of section 27, sub-sections 29(2) and (3), sub-section 48(1) and sections 49 and 50 effect drafting changes.

Proposed new sub-section 51A(3) provides that bearer securities will not be created, issued or sold in any loan raising after the date of commencement of this amendment.

The proposed amendments of section 51BA and 51C effect drafting changes.

The proposed amendment of sub-section 51E adds new sub-section 51E(2) providing that inscribed stock issued in loans raised after this amendment comes into operation may not be exchanged for bearer securities. Rights of exchange in respect of existing loan holdings are not affected by this amendment.

The proposed amendments of section 51F, sub-section 52B(2), 52C(1) and 54(1) and section 57B effect drafting changes.

By virtue of sub-clause 2(5) the proposed amendments of this Act shall come into operation on a date to be fixed by Proclamation.

Amendment of Commonwealth Tertiary Education Commission Act 1977

The proposed amendment will substitute a new heading for Part II of the Act. This amendment is consequential upon the change made to the title of the Act by the Statute Law Revision Act 1981.

Amendments of Community Employment Act 1983

The proposed amendment of sub-section 4(1) will require that approval for projects for the creation of employment be given by instrument in writing.

By virtue of clause 2(5) the proposed amendment of sub-section 4(1) made by this Bill shall be deemed to have come into operation on 24 June 1983.

The proposed amendment of section 6 will allow the Minister responsible for a Department to delegate, by instrument in writing, to an officer of that Department the Minister's power to approve the incurring of expenditure for the carrying out of approved projects.

Proposed section 13 provides for the rescission of approvals for projects and saves any rights accrued or obligations incurred under the agreement prior to the date of cessation of the agreement.

Amendments of Complaints (Australian Federal Police) Act 1981

There are several proposed amendments of the secrecy provision, section 87, of the Act.

Proposed new paragraphs 87(1)(a) and (1)(e) will extend the application of the section to members of the Australian Federal Police and their support staff. At present the operation of the section is confined to members of the Investigation Division and the persons referred to in paragraphs 87(1)(b), (c) and (d), appointed to conduct an inquiry. The operation of the section is being broadened because information that is sought to be kept confidential is frequently available to other members of the Australian Federal Police in the normal course of their employment.

The proposed amendment of paragraph 87(1)(d) effects a drafting change.

Existing sub-section 87(2) prohibits the disclosure of information that was acquired by a person, defined in sub-section 87(1), in the course of, or for the purposes of, an investigation of a complaint or the holding of an inquiry. The disclosure of information obtained, for instance, by another investigator is not covered by the operation of the section. The purpose of the proposed amendment is to prevent the disclosure of prescribed information acquired by a person to whom the section applies or applied.

The proposed new sub-section 87(3A) will further modify the operation of sub-section 87(2). Proposed sub-section 87(3A) will allow the Commissioner to disclose information to persons or the public in general relating to the performance of the functions of, or an investigation or inquiry by, the Investigation Division, if in his opinion it is in the interests of the Australian Federal Police, or a person, or is otherwise in the public interest to do so. In exercising his discretion to disclose information the Commissioner is to have regard to the factors listed in proposed paragraphs 87(3A)(a), (b), (c) and (d).

Proposed new sub-section 87(7) defines 'prescribed information' for the purposes of proposed new sub-section 87(2).

Amendments of Coral Sea Islands Act 1969

The proposed new Preamble will re-define the boundaries of the geographic area used to define the Coral Sea Islands Territory. The re-defined area will contain all the islands which comprise the Territory while at the same time avoiding any overlap with current or proposed maritime jurisdiction delimitation boundaries that have been agreed to between Australia and other countries in the region.

Proposed new sub-sections 2(2) and (3) will provide for the conversion of the geographic co-ordinates, which define the Territory, to the Australian Geodetic Datum.

The proposed amendment of section 3 is consequential upon the new Preamble.

Amendments of Customs Act 1901

Section 4(1), the definition section, is amended in two ways. One the proposed amendment of 'Australian Installation' corrects a drafting error. The definition of 'Customs Acts' is repealed and substituted to clarify that it includes an instrument made under this Act or any other Act.

By virtue of sub-clause 2(7) the proposed amendment of the definition made by this Bill is deemed to have come into operation on 1 January 1983.

The proposed amendment of sub-section 72(1) will allow greater flexibility into the procedure of removing unentered goods into a warehouse or other place of security by allowing shipping companies to remove such goods.

The proposed amendment of sub-section 72(4) will broaden the provision enabling the collector to sell unentered goods where such goods have not, for practical reasons, been removed to a warehouse.

The proposed amendment of sub-section 72(5) is consequential on the amendment of sub-section 72(4).

The proposed omissions of sub-sections 86(4) and 87(3) are consequential upon the insertion of detailed notification procedures in proposed section 273 GAA.

The proposed insertion of sub-section 90(2) will ensure that wareholder licencees required to provide facilities required by paragraph 90(1)(c) will be notified of that requirement in writing.

Proposed new sub-section 96A(14) will require any refusal to give permission for goods to be delivered and exported or a revocation of such permission to be notified in writing and including the reasons for the decision and the material facts upon which the decision was reached.

By virtue of sub-clause 2(8) the amendment of this section shall come into operation on the date of commencement of section 22 of the Customs and Excise Amendment Act 1982 or 28 days after this Act receives the Royal Assent whichever is the later.

The proposed amendment of sub-section 97(1) effects a drafting change.

The proposed omissions of sub-section 111(5) and 111A(3) are consequential upon the insertion of detailed notification procedures in proposed section 273 GAB.

The proposed insertion of sub-section 111D(2) will ensure that requirements placed upon depot licencees are notified to them in writing.

By virtue of sub-clause 2(9) the amendment of the three preceeding sub-sections shall come into operation on the date of commencement of section 25 of the Customs and Excise Amendment Act 1982 or 28 days after this Act receives the Royal Assent whichever is the later.

The proposed omissions of sub-sections 133(3) and (4) are consequential upon the insertion of detailed review procedures in proposed section 273J.

By virtue of sub-clause 5(2) any application made for review under section 133 before the commencement of section 273J shall continue as if sub-sections 133(3) and (4) had not been repealed.

The proposed amendments of sub-sections 157(2), (3), (6), (7), (8) and (9) and sub-sections 158(1), (2)(a), (2)(b), (2)(c), (3), (4), (5) and (6) replace references to "Comptroller" by references to "Collector" as the person who is to exercise the function required by those sections.

The proposed amendment of paragraph 161A(3)(c) corrects a drafting error.

The proposed amendments of sub-section 175(1) add definitions of 'prescribed flight' and 'prescribed voyage' for the purposes of Part X of the Act and makes a drafting change to the definition of 'prescribed ship'.

The proposed amendments of sub-sections 175(2) and (3) clarify that it is an offence for a domestic vessel or aircraft to transfer goods to another vessel or aircraft which is to undertake an international voyage or flight even though that vessel or aircraft will not be calling at any Australian port or airport as the case may be.

The proposed amendment of sub-section 183CR(2) is consequential on the insertion of detailed notification procedures in proposed section 273GAA.

The proposed amendment of sub-section 183CS(3) is consequential upon the insertion of section 273K providing a general statement as to review rights.

Proposed section 273 GAA provides for the notification of certain decisions taken by the Minister, the Comptroller or a Collector, as the case may be, under a large number of the provisions of the Act as set out in sub-sections 273GAA(2) to (6) inclusive. Sub-sections 273GAA(7) to (10) clarify that notice of a decision is to incorporate the reasons for the decision and evidence or other material upon which the decision is based.

Proposed section 273GAB provides for the notification of certain decisions relating to depot licences. Sub-sections 273GAB(2) to (4) clarify that a notice of a relevant decision is to include the reasons for the decision and the evidence or other material upon which the decision is based.

The proposed amendment to paragraphs 273GA(1)(a), (1)(d), (1)(e), (1)(f), (1)(h), (1)(ha) and (1)(j) are drafting changes only.

The proposed omission repeal of sub-section 273GA(4) is consequential on the amendments of sub-section 273GA(1) and the insertion of section 273K.

By virtue of sub-clause 5(2) any application made for review under this sub-section before the commencement of section 273K shall continue as if sub-section 273GA(1) had not been repealed.

The proposed amendment of sub-section 273H(1) is a drafting change.

The proposed insertion of sub-section 273H(2) applies the definition of 'decision', in the Administrative Appeals Tribunal Act, to the section.

Proposed section 273J re-enacts in a relocated position, the existing provisions of sub-sections 133(3) and (4).

Proposed section 273K is a general provision relating to a statement of appeal rights to be sent to a person at the time of notifying a decision taken under sections 273GA, 273H, or 273J.

Amendments of Customs and Excise Amendment Act 1982

The proposed omissions of sub-section 70(3) and Schedule 2, Part III are consequential on the subsequent amendments to section 72 of the Act.

By virtue of sub-clause 2(10) this amendment is deemed to have come into operation on 23 September, 1982.

Amendments of Defence Service Homes Act 1918

There are a number of proposed amendment of the definitions in section 4 of the Act.

First, the proposed amendment of the definition of 'Australian Soldier' clarifies the preamble to the definition by substituting the commonly understood terms 'the First World War', and 'the Second World War' for their existing counter-parts. The proposed amendment also includes a specific reference to warlike operations in Korea and Malaya.

Second, the proposed amendments of paragraphs (d), (e), (f), and (g) of the definition of "Eligible person" are consequential upon the proposed amendments of the definition of "Australian Soldier".

Third, the proposed amendments of the definitions of "Munition worker" and 'War worker' are also consequential upon the proposed amendment of the definition of 'Australian Soldier'.

Sub-section 4(2) is repealed and replaced as a consequence of the specific inclusion of the reference to warlike operations in Korea and Malaya in the definition of 'Australian Soldier'. The proposed amendment removes the necessity to classify warlike operations as wars in a separate provision.

By virtue of sub-clause 5(3) regulations made under the repealed sub-section continue in force as if made under the new sub-section.

The proposed amendment of paragraph 50B(2)(b) is a consequential drafting change.

Proposed new paragraph 59B(2)(ba) will bring the audit report requirements of the Act into line with the legislation of other Commonwealth Statutory Authorities.

Amendments of Distillation Act 1901

Section 6 of the Act defines a number of terms for the purposes of the Act. There are two proposed amendments of section 6. One is a new definition of 'Australian Brandy'. The other is to the definition of 'Wine' to bring it into harmony with that used in the National Health and Medical Research Council Standards for wines. That definition has been adopted by State Government.

Section 57B is repealed and substituted to provide a new definition of 'fortifying spirit' which achieves harmony with State legislation.

The proposed amendment of paragraph 59(1)(b) is consequential on the insertion of new section 57B.

The proposed omissions of sub-sections 59(2), (2A), (2B), and (4) are consequential on the new definition in section 57B.

Proposed new sub-section 59(2) substitutes old sub-section 59(3) relating to the production of Australian Wine for the export trade but removes the limitation on the alcoholic content of such wine.

By virtue of sub-clause 2(11) the amendments made by this Act are to come into operation on a day to be fixed by Proclamation.

Amendments of Environment Protection (Alligator Rivers Region)Act 1978

The proposed amendment of section 3 of the Act omits the definition of 'Director of Territory Parks and Wildlife' and inserts the definition of 'Director of Conservation of the Northern Territory'. The change is required because the office of Director of Territory Parks and Wildlife was abolished and the office of Director of Conservation of the Northern Territory was created when the Conservation Commission Act 1980 of the Northern Territory came into operation.

The proposed amendments of paragraph 33(b) are consequential upon the proposed amendment of section 3.

Amendments of Excise Act 1901

There are two proposed amendments to the definition section, section 4, of the Act. One is to redefine 'Excise Acts' so as to clarify that regulations made under the Act form part of the Act for the purposes of incorporation with other Excise Acts.

A new definition of Excise Tariff is proposed to be included which refers to Acts imposing duties of excise and operating as well as such Acts which have not commenced to operate.

A new Part XV - Regulations and Departmental By-Laws is proposed to be inserted. The proposed provisions are similar in effect to sections in the Customs Act 1901.

Section 163A is repealed and substituted. New sub-section 163A(1) defines "by-law" and "proposed item of an Excise Tariff" for the purposes of the Part. New sub-section 163A(2) provides that a reference to an item of an Excise Tariff also refers to sub items.

By virtue of sub-clause 5(4) the validity of "Departmental By-laws" made under the repealed section 163A remain in force at the commencement of the new section.

Proposed section 165 empowers the Minister to make by-laws in relation to items of the Excise Tariff.

Proposed section 166 empowers the Minister to specify goods in a by-law and any conditions that are to apply to that item.

Proposed section 167 allows the Minister to make a by-law for an item of the Excise Tariff but only so far as the by-law applies to goods entered into home consumption before the item was repealed from the Excise Tariff.

Proposed section 168 makes provision for the Gazettal of any by-law made and the date of effect of such by-law.

Proposed section 169 prohibits the making of a by-law imposing duty where the effect of the by-law is to retrospectively increase the rate of duty payable on goods that have already entered home consumption.

Proposed section 170 allows the making of a by-law with immediate effect in respect of a proposed Excise Tariff, or an amended Excise Tariff, which is currently before the Parliament.

Amendments of Excise Tariff Act 1921

Proposed new sub-section 6B(14) provides that determinations made for the Import Parity Price of Bass Strait stabilized Crude petroleum oil are not to be treated as Statutory Rules.

The proposed amendment of the Schedule omits the definition of 'Departmental By-laws'.

By virtue of sub-clause 5(5) "Departmental By-laws" made under the omitted definition remain in force after the commencement of this provision.

Amendment of Export Control Act 1982

The proposed amendment of section 3 omits the definition of 'Department' consequential on the definition of 'Department' which was inserted in the Acts Interpretation Act 1901.

Amendments of Family Law Act 1975

There are several proposed amendments of sub-section 4(1) in which the word 'jurisdiction' is substituted for 'country' wherever occurring -

- . the definition of 'matrimonial cause' sub-paragraph 4(1)(ca)(iii) and paragraph (eb), and
- . the definition of 'overseas maintenance agreement',

Section 4(1) is also proposed to be amended by the definitions of 'overseas country' and 'prescribed overseas country' being replaced by similar definitions of 'overseas jurisdiction' and 'prescribed overseas jurisdiction'. The proposed substitution of the word 'jurisdiction' is intended to import more clearly the concept of a geographical area subject to the authority of one legislature, or one body of law in respect of family law. For example, each of the States of the United States of America is a distinct jurisdiction for family law purposes.

The proposed amendment of paragraph 37A(1)(n) clarifies that Rules of Court made pursuant to section 123 may prescribe powers of the Court which may be exercised by Registrars in addition to those provided to paragraphs 37A(1)(a) to (m).

The proposed new sub-paragraph 44(1B)(a)(ii) confers a power on an appropriate officer of a Family Court of a State to nominate a suitable person or organisation to assist the parties to a

marriage of less than 2 years duration who are contemplating divorce to consider a reconciliation.

The references to 'country' or 'countries' in section 60, sub-sections 64(9) and (10), sub-sections 69(1) and (2), paragraph 89(b), sub-sections 104(2), (3), (6), (7), (8) and (9), sub-sections 110(2) and (3) and sub-paragraph 110(2)(aa)(i) are being replaced by references to 'jurisdiction' or 'jurisdictions'. The reason for these proposed amendments is the same as the reason for the proposed amendments of sub-section 4(1).

The proposed amendment of paragraph 87(10)(b) corrects a typographical error.

The proposed amendments of sub-section 110(1) omit the definitions of 'country with restricted reciprocity' and 'reciprocating country' and substitutes definitions, in similar terms, of 'jurisdiction with restricted reciprocity' and 'reciprocating jurisdiction'.

Section 114 provides power for the Court to grant injunctions for a large number of matters. Sub-section 114(6) prohibits double jeopardy proceedings where the same action gives rise to breach of the section and another breach of the law. The proposed amendment is intended to clarify that the sub-section applies to contraventions or failures to comply with injunctions or orders made under the section.

By virtue of sub-clause 2(12) -

- . the proposed amendment of section 37A shall come into operation, or be deemed to have come into operation, as the case requires, on the commencement of Part III of the Family Law Amendment Act 1983;
- . the proposed amendments of section 44 and 87 shall be deemed to have come into operation on 25 November 1983; and
- . the other proposed amendments of the Family Law Act shall come into operation on a date to be fixed by Proclamation.

Amendments of Federal Court of Australia Act 1976

Proposed new sub-section 24(1A) provides that an appeal shall not be brought to the Court from an interlocutory judgment except by leave of the Court.

By virtue of sub-clause 5(6) appeals instituted without leave of the Court before the commencement of sub-section 24(1A) are not affected by the prohibition in that sub-section.

Sub-section 25(2) is omitted and substituted to make it clear that a single judge of the Court has power to determine an application for an extension of time within which an appeal to the Court may be instituted.

Proposed new section 35A provides that the Registrar, District Registrars and Deputy Registrars may, at the direction of the Court or a Judge, exercise the powers of the Court specified in new paragraphs 35A(1)(a) to (h).

Proposed sub-section 35A(2) limits the power of the Registrar, District Registrars or Deputy Registrars to make an order as to costs except in relation to applications heard by a Registrar.

Proposed sub-section 35A(3) clarifies that Registrars are empowered to exercise the powers granted by sub-section 35A(1) notwithstanding that the Act or Rules of Court make different provision.

Proposed sub-section 35A(4) ensures that a Registrar is not subject to direction or control in the exercise of his powers under sub-section 35A(1).

Proposed sub-section 35A(5) provides for a party to seek a review by the Court of any powers exercised by a Registrar.

Proposed sub-section 35A(6) empowers the Court to undertake a review of the exercise of powers by a Registrar and to hear any application for a review.

Proposed sub-section 35A(7) provides for the transfer of the exercise of powers under sub-section 35A(1) from a Registrar to the Court where it is inappropriate for a Registrar to exercise those powers.

Proposed sub-section 38A(8) is a definition section.

Amendment of Industries Assistance Commission Act 1973

The proposed amendment of sub-section 17(7) replaces a reference to Commissioner with a reference to a person.

By virtue of sub-clause 2(13) the proposed amendment of the Act made by the Bill shall be deemed to have come into operation on 1 December 1983.

Amendment of Insurance Act 1973

Paragraph 4(a) is omitted and substituted to bring the wording of the provision for determining whether bodies corporate are related to each other into line with comparable provisions in the Companies Act 1981 and the Life Insurance Act 1945.

Amendment of Insurance Amendment Act 1983

The proposed amendment of Schedule 3 of the Act effects a drafting change.

By virtue of sub-clause 2(14) the amendments made by this Act shall be deemed to have come into operation on 19 January, 1984.

Amendments of Judiciary Act 1903

The proposed amendment of paragraph 39(2)(d) provides that an arbitrator on whom the jurisdiction, or part of the jurisdiction of a State Court of Summary Jurisdiction, is conferred by a prescribed State Law, may exercise federal jurisdiction within the limits of the jurisdiction conferred by State law.

The proposed amendment of paragraph 398(2)(a) is consequential upon the passing of Conciliation and Arbitration Amendment Act (No. 2) 1983 which abolished the position of Public Service Arbitrator and his jurisdiction.

Proposed sub-section 44(2A) enables the High Court to remit to the Federal Court matters within its jurisdiction arising under section 75(iii) of the Constitution.

By virtue of sub-clause 2(15) the amendment of sub-section 44(2) shall come into operation on 1 June 1984 or Royal Assent, whichever is the later.

The proposed amendment of sub-section 44(3) is a consequential amendment.

Amendments of Management and Investment Companies Act 1983

The proposed amendment of sub-section 3(1) inserts a definition of "prescribed business entity" which sets out five criteria for determining such an entity, any three of which must be satisfied in a particular case.

The proposed amendment of sub-section 3(3) is consequential on the amendment of sub-section 38(5)

The proposed amendment of paragraph 6(1)(a) is consequential upon the insertion of the definition of prescribed business entity.

The proposed amendment of paragraph 15(1)(d) is consequential on the insertion of the definition of prescribed business entity and will have the effect that the Management and Investment Companies Licensing Board will have the power to delegate the certification of business entities which satisfies all the criteria of the definition.

Sub-section 17(4) which validates decisions of the Board in certain circumstances is repealed as it is an unsuitable legislative provision.

The proposed amendments of sub-sections 18(1), (2), paragraph 20(2)(d) and sub-section 21(1) are consequential on the amendment of sub-section 38(5).

The proposed amendments of sub-section 21(3) and paragraph 23(1)(d) are consequential on the insertion of the definition of prescribed business entity.

The proposed amendments of sub-sections 29(3) and (5) are designed to overcome the practical difficulties of convening full Board meetings at very short intervals to comply with the requirements that decisions on applications for certification be made within 10 business days of the receipt of the application or of further information. Those certification decisions that can be made by the Board's delegate will still be required to be made within 10 business days.

The proposed amendment of sub-sections 29(6) and 30(2) are consequential on the insertion of the definition of prescribed business entity.

The proposed amendment of sub-section 38(2) is consequential on the amendment of sub-section 38(5).

The proposed amendment of sub-section 38(5) is to ensure that licensed MICs cannot raise greater amounts of tax concessional capital than are approved by the Board. Under the existing provision, it may be possible for a licensed MIC to issue shares for the full amount of its approved capital but to issue those shares at a premium. Under the proposed amendments to the Income

Tax Assesment Act which will allow tax deductibility for approved equity investments in MICs, including the share premium element, investors may have been able to claim a tax concession for a larger amount than had been approved by the Board.

The proposed repeal of section 40 will not remove the necessity for Banks to comply with the controls exercised by the Reserve Bank of Australia. However such a provision is inappropriate in the Management and Investment Companies Act 1983.

Amendment of Maritime College Act 1978

Section 16 which deals with the remuneration of the members of the Council of the College is proposed to be repealed. That provision was inserted because remuneration for members of the Australian Maritime College was considered a special case which ought not come within the purview of the Academic Salaries Tribunal. However, the College is no longer considered special and the proposed amendment brings the College into line with the other Commonwealth higher education institutions.

Amendments of the Meat Inspection Act 1983

Sub-section 21(1) prohibits a person, during the course of trade or commerce, from taking meat that is intended for human consumption from a State or Territory, or into a State or Territory unless the meat is, under the regulations, fit for human consumption. Sub-section 21(2) provides the same thing in relation to meat intended for use as animal food.

The proposed amendments of sub-sections 21(1) and (2) will prohibit trade and commerce in meat, if the meat is, under the regulations, unfit for human consumption or for use as animal food. The proposed amendments will allow trade or commerce in a class of meat for which no standard has been prescribed by the regulations.

Amendment of Migration Act 1958

The proposed amendment of paragraph 67(1)(aa) will allow greater options as to the non collection of fees for services in cases where hardship would occur.

Amendments of National Health Act 1953

Proposed new section 105AAA and the proposed amendments of section 105AC provide an internal review mechanism of decisions of the Permanent Head under sections 13, 14 or 20 of the Act and decisions under Part II of the National Health Regulations. The proposed amendments are aimed at reducing the large number of appeals presently being made to the Administrative Appeals Tribunal under the Isolated Patients' Travel and Accommodation Assistance Scheme. The proposed amendments will bring the appeal provisions of this scheme into line with similar appeal provisions in other legislation.

Proposed sub-section 105AAA(1) defines 'reviewable decision' for the purposes of the section.

Proposed sub-section 105AAA(2) provides that a person affected by a reviewable decision who is dissatisfied with the decision may within 28 days of receiving notice of the decision request the Permanent Head to reconsider the decision.

Proposed sub-section 105AAA(3) provides that reasons for the request shall be set out in the request.

Proposed sub-section 105AAA(4) provides that the Permanent Head shall, upon receipt of a request, reconsider the decision and either affirm, revoke or vary the decision.

Proposed sub-section 105AAA(5) provides that where a Permanent Head does not affirm, revoke or vary a decision before the end of 60 days after the day on which he received the request, he shall at the end of the 60 days be deemed to have affirmed the decision.

Proposed sub-section 105AAA(6) provides that, where the Permanent Head affirms, revokes or varies a decision, he shall, by notice, inform a person of the result, setting out in the notice his reasons and material on which those reasons and findings were based.

Proposed sub-section 105AAA(7) provides for applications to the Administrative Appeals Tribunal for a review of decisions made under sub-section 105AAA(4).

By virtue of sub-clause 5(7) the new procedures do not apply to any reviewable decision made before the date of commencement of these amendments.

The proposed amendment of sub-section 105AC(1) provides for a change consequential upon proposed new section 105AAA.

Proposed sub-section 105AC(1AA) provides that where a notice in writing of a reviewable decision under section 105AAA is given to a person it shall contain a statement of possible review and reconsideration procedures available to that person.

Sub-section 105AC(1B) is omitted and substituted to provide that, where a Permanent Head affirms or varies a decision under proposed sub-section 105AAA(4) or the Minister affirms, revokes or varies a decision under sub-section 105AAB(4), a notice informing the person of the decision shall include a statement that subject to the Administrative Appeals Tribunal Act 1975 that person may apply to the Administrative Appeals Tribunal for a review of the decision.

The proposed amendment of sub-section 105AC(2) provides for a change consequential upon proposed sub-section 105AC(1AA).

The proposed amendments of sub-sections 110(2) and 115(1) remove references to the Director.

The proposed amendment of sub-section 112AC(2) removes the reference to the Permanent Head. The existing provisions provide for Departmental membership of the Medical Services, Dental Services and Pharmaceutical Services Committees of Inquiry established in each State under the Act. The proposed amendments will remove this membership.

The proposed omission of sub-section 115(2) is a consequential amendment .

National Labour Consultative Council Act 1977

The proposed amendment of section 9 is consequential upon the removal of references to the Second Division of the Public Service from the Public Service Act 1922.

Amendments of National Parks and  
Wildlife Conservation Act 1975

The proposed amendments of sub-section 3(1) omit the definition of 'Territory Commission' and insert a new definition of 'Conservation Commission' in that sub-section. The reason for this change is that the Territory Commission has been replaced by the Conservation Commission of the Northern Territory as a result of the operation of the Conservation Commission Act 1980 of the Northern Territory.

The proposed amendments of paragraph 8D(3)(a), sub-sections 11(3), (10), (11) and (14), paragraph 11(21)(b) and sub-section 16(4) are consequential upon the proposed changes to sub-section 3(1). In these provisions references to the 'Territory Commission' are omitted and replaced with references to the 'Conservation Commission'.

Amendments of the Navigation Act 1912

There are a number of amendments to this Act.

The proposed amendment of sub-section 187A(1) will insert a definition of 'International Code of Signals' for the purposes of Part IV of the Act.

The proposed amendment of sub-section 191A(2) corrects a drafting error.

The proposed new sub-section 206C(2) provides that sub-section 6(3) does not apply to a safety certificate issued under Division 2B in respect of a ship in accordance with the Safety Convention. Sub-section 6(3) provides that substantial compliance with a prescribed form is sufficient.

The proposed amendment of sub-section 230(1) inserts a reference to orders, since orders may impose a penalty for the improper use of signals.

Proposed new sub-section 258(7) provides for penalties in relation to a person who is guilty of an offence against the regulations made by virtue of section 258. The level of penalties is in the range used in similar provisions in other legislation.

The proposed amendment of paragraph 269A(1)(a) inserts a reference to orders, so as to pick up the operation of any relevant orders made pursuant to the Act.

The proposed amendment of paragraphs 283D(1)(a), 283E(1)(a) and sub-section 283J(1) delete the reference to 'Inter-Governmental Maritime Consultive Organization' and substitutes a reference to that organization's current title.

The proposed amendments of sub-section 392(1) and paragraph 394(4)(b) are consequential upon the insertion of a penalty provision in section 258. These amendments give effect to an agreement by State and Federal Marine Ministers to simplify and provide for uniformity with respect to the penalties for a breach of the Convention on the International Regulations for Prevention of Collisions at Sea. Also the proposed amendments of sub-section 392(1) and paragraph 394(4)(b) correct a reference in those provisions to a sub-section in section 68.

Proposed new sub-section 425(7) expresses a contrary intention for the purposes of section 49A of the Acts Interpretation Act 1901.

The proposed amendment of sub-section 426(3) substitutes a reference to the Minister for the time being administering the Act. This is a matter of administrative convenience.

By virtue of sub-clause 2(16) the proposed amendments of paragraphs 283D(1)(a) and 283E(1)(a) and sub-section 283J(1) shall come into operation, or be deemed to have come into operation, as the case requires, on the commencement of section 76 of the Navigation Amendment Act 1980.

Amendments of Overseas Telecommunications Act 1946

The omission of sub-section 18(7) reflects that the Remuneration Tribunal will determine the salary of the general manager.

The proposed amendment of sub-section 18(8) will allow the Commission to determine the salary of officers of the Commission.

Sub-section 24(1) providing for the retirement of officers of the Commission is omitted and substituted by sub-sections 24(1) and (1A). Proposed new sub-section 24(1) allows the Commission to retire an officer who has attained the age of 60 years.

Proposed new sub-section 24(1A) allows an officer to elect to retire from the service upon attaining the age of 55 years.

The new provisions place officers of the Commission in the same position as officers of the Commonwealth Public Service.

Amendment of Postal and Telecommunications Amendment Act 1983

The proposed amendment of the Schedule corrects a grammatical error.

By virtue of sub-clause 2(17) the proposed amendment of the Act made by this Bill shall be deemed to have come into operation on 22 December 1983.

Amendments of Postal Services Act 1976

There are two proposed amendments of section 75 of the Act dealing with the borrowing rights of the Postal Commission. Proposed new sub-section 75(3A) provides that a borrowing by the Commission may be effected by the issue of securities of such kinds as are prescribed.

Proposed sub-section 75(4A) provides that where a borrowing is made by the issue of prescribed securities the repayment of the borrowing and interest is guaranteed by the Commonwealth.

The abovementioned provisions reflect similar provisions inserted in the Overseas Telecommunications Act 1946 by the Statute Law (Miscellaneous Provisions) Act (No. 1) 1983.

Section 83, which requires the Commission to keep proper accounts of its transactions, is amended by inserting proposed sub-section 83(2) exempting the Commission from the payment of stamp duty or similar tax of the Commonwealth, a State or a Territory in respect of any borrowing effected by the issue of a security or the redemption thereof.

Amendments of Protection of the Sea (Civil Liability) Act 1981

Section 16 provides for the issue of an insurance certificate by the Minister or his delegate in respect of a ship registered in Australia or in a country that is not a country to which the Civil Liability Convention applies. Sub-section 15(3) requires an insurance certificate that is in force to be carried on board the ship to which it relates and provides for both the ship's Master and owner to commit an offence if it is not so carried. It is possible that each could commit an offence during the period between the issue of the certificate and its delivery to the ship. The proposed amendment of paragraphs 16(4)(b) provides that an insurance certificate issued in respect of a ship comes into force on the day specified in the certificate.

The proposed amendments of the paragraph 16(4)(c) provides that an insurance certificate will remain in force until a date specified in the certificate.

The proposed amendment of sub-paragraph 16(4)(c)(i) is a consequential amendment.

Amendments of the Protection of the Sea (Prevention of Pollution  
from Ships) Act 1983

Section 9 prohibits the discharge of oil or oily mixtures into the sea and provides substantial penalties for breaches. Sub-section 9(4) provides exceptions to the prohibition . The proposed amendments of paragraphs 9(4)(e) and (f) clarify that those exceptions do not operate where the discharge occurs in a special area.

Amendment of Radiocommunications (Transitional Provisions and  
Consequential Amendments) Act 1983

The proposed amendment of the Schedule corrects a drafting error.

By virtue of sub-clause 2(18) this proposed amendment shall come into operation, or be deemed to have come into operation, as the case requires, on the commencement of the 1983 Act.

Amendment of Science and Industry Endowment Act 1926

The proposed amendment omits 'for Finance' from sub-section 10(2). The effect of this amendment will be to apply the definition of 'the Minister' in the Acts Interpretation Act 1901 to the sub-section.

Amendments of Sex Discrimination Act 1984

The definition of 'Commonwealth employee' in paragraph sub-section 4(1) is being widened to include persons appointed under the Commonwealth Electoral Act 1918.

Section 92 prohibits a person from disclosing particulars of a complaint made under the Act except in the circumstances outlined in sub-section 92(2). The section does not indicate any penalty for breach of the section and the proposed amendment of sub-section 92(1) makes such provision.

By virtue of sub-clause 2(19) the proposed amendments of the Sex Discrimination Act 1984 shall come into operation on the commencement of that Act.

Amendments of Spirits Act 1906

Section 3 defines a number of terms for the purposes of the Act. The proposed amendments delete definitions of 'Pure Australian Standard Brandy', 'Australian Blended Brandy', 'Australian Standard Malt Whisky', 'Australian Blended Whisky' and 'Australian Standard Rum', and insert definitions of 'Brandy', 'Rum' and 'Whisky' recommended by the National Health and Medical Research Council and adopted by State Governments.

The proposed amendments of section 7 are consequential amendments resulting from the new definitions.

The proposed amendments of paragraph 9(a) and (b) are consequential amendments.

The proposed amendment of section 10 is also a consequential amendment.

Section 11 is repealed and substituted by a new section 11 which limits the imported spirits which are required to be stored in wood to brandy, whisky and rum and reduces the period of such storage from 3 to 2 years.

Section 12 is repealed and substituted by a new section 12 which operates in relation to Australian brandy, whisky and rum in the same way as new section 11 operates for imported spirits.

The proposed amendment of section 13 inserts a methanol content test which, if exceeded, causes the spirits to be methylated for uses other than human consumption.

By virtue of sub-clause 2(20) the amendments made by this Act shall come into operation on a date to be fixed by Proclamation.

Amendment of States Grants (Education Assistance - Participation  
and Equity) Act 1983

The proposed amendment of section 28 corrects a spelling error.

By virtue of sub-clause 2(21) the proposed amendment of the Act shall be deemed to have come into operation on 21 December 1983.

Amendment of Statute Law (Miscellaneous Provisions) Act (No.1)

1983

The proposed amendment of the Parliamentary Allowances Act 1952 in Schedule 1 corrects a drafting error.

By virtue of sub-clause 2(22) the proposed amendment of the Act shall be deemed to have come into operation on 4 June 1982.

Amendments of Student Assistance Act 1973

There are many proposed amendments to this Act. Most of the changes relate to the addition of new Division 5 of Part V, which will be inserted to give the Administrative Appeals Tribunal ("the AAT") jurisdiction to review decisions following a review by a Student Assistance Review Tribunal (a "SART"). A number of other changes are made to the existing review procedures.

The definition of "student assistance to which this Act applies" in section 5 is amended to a definition of "student assistance"

Section 6 is repealed and substituted to require that the persons appointed by the Minister as authorized persons shall be in the Public Service.

The proposed amendments of paragraphs 11(b) and 15(b) and the definition of "member" in sub-section 17(1) remove language denoting gender.

A new definition of "Chairperson" is inserted in sub-section 17(1).

The proposed new definition of "primary decision" in sub-section 17(1) refers to the decision which is the subject of a review by a SART. This definition is consequential on the insertion of proposed Division 5 of Part V.

The proposed sub-section 17(3) is consequential on the proposed new section 22.

The proposed new sub-section 17(5) defines "senior authorized person" in relation to an authorized person, having regard to the respective classifications of the two persons. This definition is consequential on the proposed new section 22.

Proposed new section 17A relocates and makes consequential amendments to the present section 30A which allows an application for review of a decision to be made by another person on behalf of the person seeking the review. The effect of the relocation is that section 30A is moved from Part VI of the Act to Part V.

The proposed amendments of sub-sections 18(2), (3), (4) and 20(2) and proposed new section 21 remove language denoting gender from provisions relating to the establishment of SARTs.

Proposed amendments of sub-sections 18(2) and (4) also effect drafting changes.

The proposed change in the Heading of Division 3 of Part V is consequential on the proposed new section 22 and the proposed new Division 3A.

Section 22 providing for reconsideration of a decision by an authorized person is repealed and substituted to allow

consideration by a senior authorized person. Proposed new sub-section 22(1) provides that a person may request that the decision of an authorized person be considered by a senior authorized person.

Proposed new sub-section 22(2) substantially re-enacts the existing provisions that the request shall contain the grounds on which the request is made.

Proposed new sub-section 22(3) requires a consideration of a decision to be made as soon as practicable but at least within 60 days of the request. A senior authorized person is able to affirm, vary or set aside a decision.

Proposed new sub-section 22(4) provides that a decision resulting from the consideration operates from the date of the original decision unless the senior authorized person otherwise directs.

Proposed new sub-section 22(5) provides that an authorized person who considers a decision pursuant to a request made under sub-section (1) shall give the person who made the request a notice informing that person of the result of the consideration, the findings of fact and materials on which it was based and the reasons for it.

Proposed Division 3A of Part V comprises sections 23 to 25, and deals with a request to a SART for review of a primary decision and the completion of certain procedures.

Proposed new sub-sections 23(1) and 23(1A) provide for the circumstances in which a person who made a request under proposed section 22 may request that the primary decision be referred to a SART for review. Sub-section 23(1) provides for the situation where the applicant is dissatisfied with the result of the consideration under proposed section 22. Sub-section 23(1A) provides for the situation where notice of the a consideration is not received within a stipulated time.

The proposed amendment of sub-section 23(2) effects a consequential drafting change.

Sub-section 23(3) is amended to refer to the "primary decision" and paragraphs 23(3)(a), (b) and (c) are amended to remove language denoting gender.

Section 24 is repealed and substituted to provide that an authorized person receiving a request for review by a SART is to forward the request for review and related documents to the Chairperson of a Tribunal within 14 days.

The existing Heading of Division 4 of Part IV is relocated to insert it after the proposed new section 25.

Section 25 is repealed and substituted to provide for preliminary actions by the Chairperson of the SART. Proposed new paragraph 5(1)(a) requires a SART Chairperson who receives a request for a

review to arrange for such a review. Proposed new paragraph 25(1)(b) will require the Chairperson to give a student requesting review, at least 14 days before the review, copies of the documents forwarded to the Chairperson under section 24 and a notice of relevant Departmental documents that are available for inspection or purchase under section 9 of the Freedom of Information Act 1982.

Proposed new sub-section 25(2) will provide that a Chairperson is not to make available copies of documents giving information from the Australian Taxation Office, documents giving details of another person's income, or other documents that the Chairperson considers should be regarded as confidential.

The proposed amendments of sections 25A and 25B clarify which references to "decision" are references to primary decisions and remove gender denoting language.

The proposed amendment of sub-section 26(1) and paragraphs 26(1)(a), (b), and (c) clarify which references to "decision" are references to "primary decision".

Sub-section 26(2) is repealed and substituted to provide that written reasons for a decision are to be given, setting out findings of fact and evidence on which those findings are based and giving reasons for the decision. All parties to the proceedings are to receive a copy of the statement.

Proposed sub-section 26(3) provides that a primary decision as varied by a SART, or a SARTs decision substituted for a primary decision, shall be deemed to be a decision of an authorized person..

The proposed amendment of sub-section 27(1) clarifies that the reference to "decision" is a reference to "primary decision".

The proposed amendment of sub-section 27(2) removes a masculine pronoun and replaces it with a neutral term.

The proposed amendments of sub-section 27(5) remove language denoting gender and clarify which references to "decision" are references to "primary decision".

The proposed amendment of section 28 removes the prohibition on legal practitioners appearing before a SART.

The proposed amendments of paragraphs 29(2)(b), (c), 29(3)(b) and sub-section 29(3) are consequential upon the insertion of new section 24.

The proposed amendments of section 29A and sub-section 30(1) remove language denoting gender.

A new Division 5 of Part V dealing with reviews by the AAT is inserted.

Proposed new section 30AA defines a number of expressions used in new Division 5. The most important definition is that of "reviewable decision", which refers to the decision to be reviewed by the AAT.

Proposed new section 30AB provides for an application to be made to the AAT for the review of a matter reviewed by a SART. Jurisdiction is thereby conferred on the AAT in relation to Student Assistance Act matters.

Proposed sub-section 30AC(1) provides that paragraph 25(3)(a) of the Administrative Appeals Tribunal Act (AAT Act) shall not prevent the application of that Act to reviewable decisions under the Student Assistance Act framework.

Proposed sub-section 30AC(2) deems the Permanent Head of the administering Department to be the decision maker for the purposes of AAT review rather than the authorized person, the senior authorized person or the SART.

Proposed sub-section 30AC(3) deems the interest of the Permanent Head of the administering Department to be affected by a reviewable decision.

Proposed sub-section 30AC(4) makes inapplicable section 28 of the AAT Act. Section 28 would have had the effect that a person may obtain a statement setting out the views of the Permanent Head of

the administering Department. However, the applicant will have, or is entitled to receive, the detailed statement under sub-section 22(4) of the reasons on the consideration or the opinion of the Permanent Head.

Proposed sub-section 30AC(5) makes inapplicable sub-sections 29(1) to (6) of the AAT Act which deal with applications to the AAT for a review, including the time limits applicable. Proposed sub-section 30AC(5) makes provision for the form of the application to the AAT for the review of the reviewable decisions under the Student Assistance Act and will require an application for review to be lodged within the prescribed time.

Proposed sub-section 30AC(6) defines "prescribed time" for the purposes of proposed paragraph 30AC(5)(d). A request to the AAT must be lodged by the Permanent Head of the administering Department within 28 days after the relevant authorised person received the section 26 statement setting out the reasons for the decision of the SART, and by any other person within 28 days of receiving the section 26 statement.

Proposed sub-section 30AC(7) provides that, where the Permanent Head applies to the AAT for a review of the SART decision, the person who requested the review of the primary decision is a party to the proceeding before the AAT.

Proposed sub-section 30AC(8) modifies the application of section 37 of the AAT Act, which deals with the lodging of material relating to a reviewable decision. Section 37 of the AAT Act shall apply as if paragraph 37(1)(a) of that Act referred to the section 26 statement and to either the section 22 statement or a statement by the Permanent Head of the administering Department.

Proposed sub-section 30AC(9) makes inapplicable sub-section 43(6) of the AAT Act, to a reviewable decision and will, instead, provide that a decision of the AAT on a matter under the Student Assistance Act shall have the same force as a decision of an authorized person.

Proposed sub-section 30AC(10) enables regulations to be made under the AAT Act to prescribe the number of copies of documents to be lodged pursuant to proposed paragraphs 30AC(8)(a) and (b).

Proposed new sub-section 30AC(11) overrides any restrictions that paragraph 25(6)(b) of the AAT Act might otherwise impose on the modification, by proposed section 30AC, on the operation of the AAT Act.

The proposed amendments of section 31, sub-section 32(1) section 33 and paragraph 36(a) are consequential on the new definition of student assistance.

The proposed amendment of sub-section 34(2) replaces a masculine pronoun with a neutral term.

The proposed amendments of sub-section 35(1) and paragraph 36(a) effect drafting changes.

By virtue of sub-clause 2(23) the amendments of the Act shall come into operation on a date to be fixed by Proclamation.

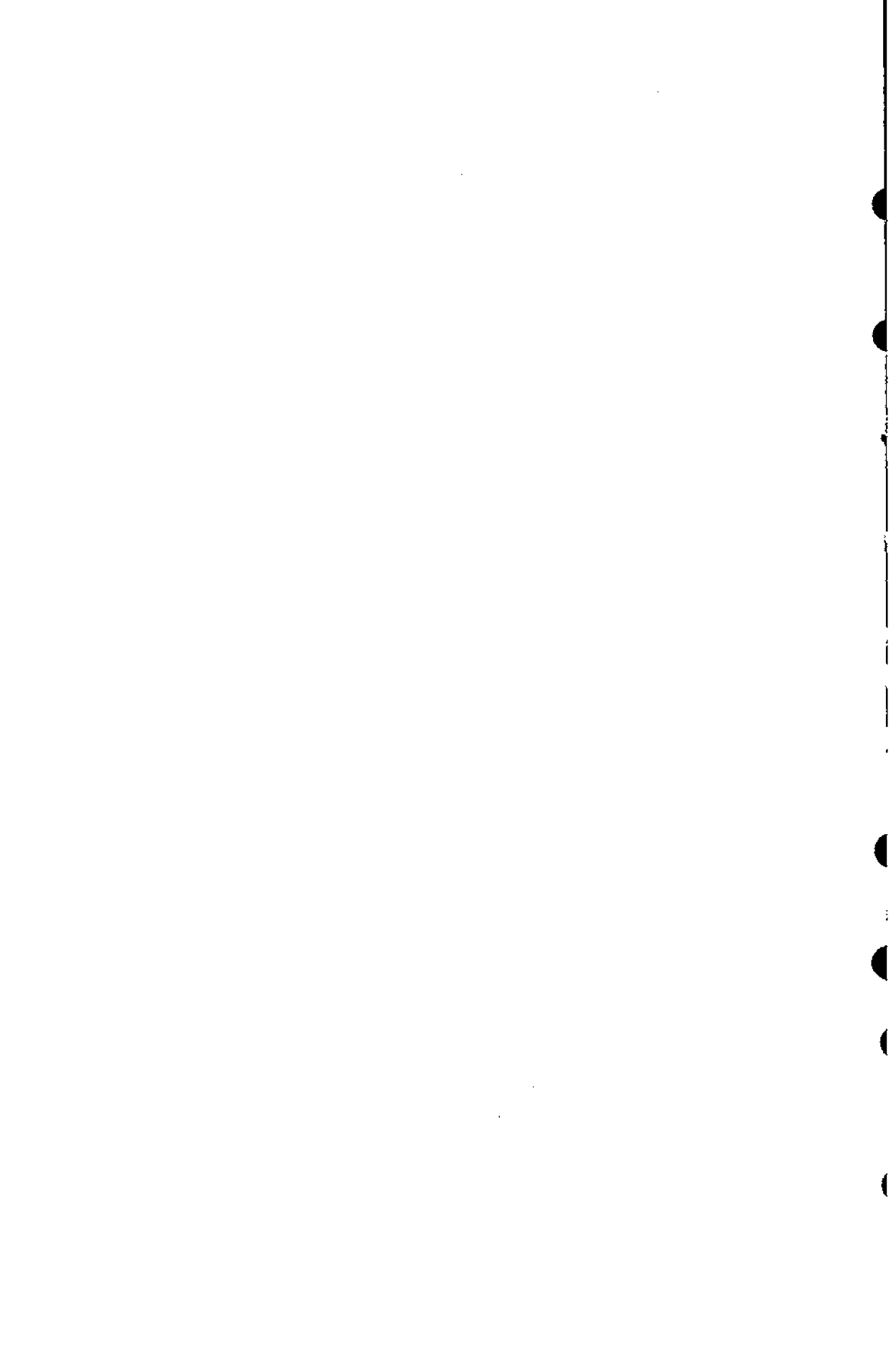
Amendment of Trade Marks Act 1955

The proposed amendment of sub-section 36(3) provides for an appeal from a decision of the Registrar under sub-section 36(1). Sub-section 36(1) empowers the Registrar, in certain circumstances, to require that trade marks shall be entered in the Register as associated trade marks. At present sub-section 36(3) only allows for appeals from decisions of the Registrar under sub-sections 36(1A) and (2).









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