



Acts Interpretation Amendment (Legislative Instruments) Act 2005

No. 133, 2005

**An Act to amend the *Acts Interpretation Act 1901*,
and for related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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Acts Interpretation Amendment (Legislative Instruments) Act 2005

No. 133, 2005

An Act to amend the *Acts Interpretation Act 1901*, and for related purposes

[Assented to 15 November 2005]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Acts Interpretation Amendment
(Legislative Instruments) Act 2005*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	15 November 2005
2. Schedule 1, item 1	Immediately after the commencement of section 3 of the <i>Legislative Instruments Act 2003</i> .	1 January 2005
3. Schedule 1, items 2 to 5	Immediately after the commencement of Schedule 1 to the <i>Legislative Instruments (Transitional Provisions and Consequential Amendments) Act 2003</i> .	1 January 2005

Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendment of the Acts Interpretation Act 1901

1 After section 15AD

Insert:

15AE Legislative instruments etc.

Instruments that are described as legislative instruments

- (1) If a provision of a law requires or permits an instrument that is described as a legislative instrument to be made, then an instrument made under that provision:
 - (a) must be in writing; and
 - (b) is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.
- (2) However, the fact that a provision of a law requires or permits an instrument that is described as a legislative instrument to be made does not imply that an instrument made under that provision is or must be of legislative character (within the ordinary meaning of that term).

Instruments that are described as not being legislative instruments

- (3) If a provision of a law requires or permits an instrument that is described as not being a legislative instrument to be made, then an instrument made under that provision is not a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.
- (4) However, the fact that a provision of a law requires or permits an instrument that is described as not being a legislative instrument to be made does not imply that an instrument made under that provision is not, or must not be, of legislative character (within the ordinary meaning of that term).

No inference to be drawn from express statements

- (5) In determining whether an instrument made under a provision of a law is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*, no inference may be drawn from the fact

that an instrument made under another provision of that or any other law is described as a legislative instrument, or as not being a legislative instrument.

Example: In determining whether a Ministerial direction under a provision is a legislative instrument, no inference may be drawn from the fact that a Ministerial direction under another provision is described as being a legislative instrument.

Definition

(6) In this section:

law means an Act or regulations or any other instrument made under an Act.

2 Subsection 46(1)

Omit “within the meaning of”, substitute “for the purposes of”.

3 Subsection 46AA(1)

Omit “within the meaning of” (wherever occurring), substitute “for the purposes of”.

4 Paragraph 46B(1)(a)

Omit “within the meaning of”, substitute “for the purposes of”.

5 Subsection 46B(2)

Omit “within the meaning of”, substitute “for the purposes of”.

6 Subsection 46B(11)

Omit “39 and 40”, insert “39, 40 and 44”.

7 Before paragraph 46B(11)(a)

Insert:

(aa) the reference in section 37 of the *Legislative Instruments Act 2003* to registered were omitted, and the note to that section were repealed; and

8 After paragraph 46B(11)(c)

Insert:

(ca) references to registered were references to made; and

- (cb) references to subsection 38(1) of the *Legislative Instruments Act 2003* were references to subsection (9) of this section;
and
 - (cc) references to subsection 38(3) of the *Legislative Instruments Act 2003* were references to subsection (10) of this section;
and
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[Minister's second reading speech made in—
Senate on 23 June 2005
House of Representatives on 3 November 2005]

(101/05)
