

Statute Stocktake (Regulatory and Other Laws) Act 2009

No. 111, 2009

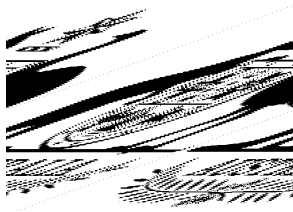
An Act to make various amendments of the statute law of the Commonwealth, to repeal certain Acts and provisions of Acts, and for related purposes

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

Contents

1	Short title	2
2	Commencement	2
3	Schedule(s)	2
Schedule 1—Amendments		3
Part 1—General amendments		3
	<i>Australian Wine and Brandy Corporation Act 1980</i>	3
	<i>Broadcasting Services Act 1992</i>	3
	<i>Civil Aviation (Carriers' Liability) Act 1959</i>	3
	<i>Civil Aviation (Carriers' Liability) Amendment Act 1991</i>	4
	<i>Dairy Adjustment Act 1974</i>	4
	<i>Dairy Legislation (Transitional Provisions and Consequential Amendments) Act 1986</i>	4
	<i>Hearing Services and AGHS Reform Act 1997</i>	4
	<i>Horticulture Marketing and Research and Development Services (Repeals and Consequential Provisions) Act 2000</i>	5
	<i>Industrial Chemicals (Notification and Assessment) Act 1989</i>	5
	<i>Rural Industries Research (Transitional Provisions and Consequential Amendments) Act 1985</i>	6
Part 2—Repeal of Part VB of the Trade Practices Act 1974 and related amendments		7
	<i>A New Tax System (Goods and Services Tax Transition) Act 1999</i>	7
	<i>Product Grants and Benefits Administration Act 2000</i>	7
	<i>Trade Practices Act 1974</i>	7
Part 3—Amendments relating to digital data services		11
	<i>Telecommunications Act 1997</i>	11
	<i>Telecommunications (Consumer Protection and Service Standards) Act 1999</i>	11
	<i>Telecommunications (Universal Service Levy) Act 1997</i>	20
	<i>Telstra Corporation Act 1991</i>	21
	<i>Trade Practices Act 1974</i>	21
Schedule 2—Repeal of Acts etc.		22

Part 1—Repeals	22
<i>APEC Public Holiday Act 2007</i>	22
<i>Delivered Meals Subsidy Act 1970</i>	22
<i>Home Nursing Subsidy Act 1956</i>	22
<i>Income Tax (Franking Deficit) Act 1987</i>	22
<i>Nursing Homes Assistance Act 1974</i>	22
<i>States Grants (Home Care) Act 1969</i>	22
<i>States Grants (Nurse Education Transfer Assistance) Act 1985</i>	23
<i>States Grants (Paramedical Services) Act 1969</i>	23
Part 2—Amendments consequential on repeals	24
<i>Aged or Disabled Persons Care Act 1954</i>	24
<i>Higher Education Funding Act 1988</i>	24
<i>National Health Act 1953</i>	24
Part 3—Matters relating to the repeal of the Income Tax (Franking Deficit) Act 1987	25



Statute Stocktake (Regulatory and Other Laws) Act 2009

No. 111, 2009

An Act to make various amendments of the statute law of the Commonwealth, to repeal certain Acts and provisions of Acts, and for related purposes

[Assented to 16 November 2009]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Statute Stocktake (Regulatory and Other Laws) Act 2009*.

2 Commencement

This Act commences on the day after it receives the Royal Assent.

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—Amendments

Part 1—General amendments

Australian Wine and Brandy Corporation Act 1980

1 Section 52

Repeal the section.

Broadcasting Services Act 1992

2 Section 94

Repeal the section.

3 Subsection 113(1)

Omit “(1) Subject to subsection (2), a subscription”, substitute “A subscription”.

4 Subsection 113(2)

Repeal the subsection.

5 Subsection 116(3)

Repeal the subsection.

6 Section 116C

Repeal the section.

Civil Aviation (Carriers’ Liability) Act 1959

7 Subsection 8(3)

Omit “, the Montreal Protocol No. 3”.

Civil Aviation (Carriers’ Liability) Amendment Act 1991

8 Subsection 2(2)

Repeal the subsection.

9 Section 9

Repeal the section.

10 Subsections 11(1) and 13(1)

Repeal the subsections.

Dairy Adjustment Act 1974

11 Section 22

Repeal the section.

***Dairy Legislation (Transitional Provisions and
Consequential Amendments) Act 1986***

12 Section 16

Repeal the section.

13 Section 26

Repeal the section.

Hearing Services and AGHS Reform Act 1997

14 Subsection 2(2)

Repeal the subsection.

15 Schedule 1

Repeal the Schedule.

16 Repeal does not affect amendments

The repeal of:

- (a) subsection 2(2) of the *Hearing Services and AGHS Reform Act 1997* made by item 14 of this Part; and
- (b) Schedule 1 to the *Hearing Services and AGHS Reform Act 1997* made by item 15 of this Part;

does not affect the amendments made by Schedule 1 to the *Hearing Services and AGHS Reform Act 1997*.

***Horticulture Marketing and Research and Development
Services (Repeals and Consequential Provisions)
Act 2000***

17 Section 22

Repeal the section.

Industrial Chemicals (Notification and Assessment) Act 1989

18 Subsection 5(1) (definition of *eligible chemical*)

Repeal the definition.

19 Division 4 of Part 2

Repeal the Division.

20 Paragraph 102(1)(b)

Omit “, 20E(3)”.

21 Paragraph 110(1)(caa)

Repeal the paragraph.

**22 Transitional—inclusion of chemicals in the Australian
Inventory of Chemical Substances**

- (1) Despite the repeal of sections 20E and 20F of the *Industrial Chemicals (Notification and Assessment) Act 1989* made by item 19 of this Part, a chemical included in a section of the Inventory under section 20E of the old law continues to be included in that section of the Inventory, after the commencement of this item, as if it had been included in that section of the Inventory immediately after the commencement of section 11 of the old law.
- (2) Despite the repeal of section 20G of the *Industrial Chemicals (Notification and Assessment) Act 1989* made by item 19 of this Part, that section continues to apply, in relation to an application made under section 20D of the old law, as if that repeal had not happened.
- (3) In this item:
chemical has the same meaning as in the *Industrial Chemicals (Notification and Assessment) Act 1989*.

Inventory has the same meaning as in the *Industrial Chemicals (Notification and Assessment) Act 1989*.

old law means the *Industrial Chemicals (Notification and Assessment) Act 1989* as in force immediately before the commencement of this item.

Rural Industries Research (Transitional Provisions and Consequential Amendments) Act 1985

23 Section 7

Repeal the section.

Part 2—Repeal of Part VB of the Trade Practices Act 1974 and related amendments

A New Tax System (Goods and Services Tax Transition) Act 1999

24 Subsection 15L(3) (definition of *New Tax System changes*)

Repeal the definition, substitute:

New Tax System changes means the following:

- (a) the amendment of the former *Sales Tax (Exemptions and Classifications) Act 1992* made by this Act;
- (b) the ending of sales tax, as provided for in the former *A New Tax System (End of Sales Tax) Act 1999*;
- (c) the imposition of GST;
- (d) any other changes (including changes to Commonwealth, State or Territory laws) prescribed by the regulations for the purposes of this definition.

Product Grants and Benefits Administration Act 2000

25 Subparagraphs 47(3)(c)(ia) and (d)(ia)

Omit “or VB”.

Trade Practices Act 1974

26 Paragraph 2B(1)(aa)

Repeal the paragraph.

27 Paragraph 5(1)(d)

Repeal the paragraph.

Note: The heading to section 5 is altered by omitting “, VB”.

28 Paragraph 5(1)(f)

Omit “, (d)”.

29 Paragraph 6(2)(b)

Omit “75AU, 75AV, 75AW, 75AX, 75AY,”.

Note: The heading to section 6 is altered by omitting “, VB”.

30 Paragraph 6(2)(b)

Omit “and 75AYA”.

31 Subsection 6(2B)

Repeal the subsection.

32 Part VB

Repeal the Part.

33 Subsection 75B(1)

Omit “75AU, 75AYA or”.

34 Subparagraph 76(1)(a)(ii)

Repeal the subparagraph.

35 Subsection 76A(2)

Omit “75AYA or”.

Note: The heading to section 76A is altered by omitting “75AYA or”.

36 Subsections 76B(2), (3), (4) and (5)

Omit “75AYA or”.

Note: The heading to section 76B is altered by omitting “75AYA or”.

37 Subparagraph 78(a)(ii)

Repeal the subparagraph.

Note: The heading to section 78 is altered by omitting “or section 75AU or 75AYA”.

38 Paragraph 80(1)(a)

Repeal the paragraph, substitute:

- (a) a contravention of a provision of Part IV, IVA, IVB, V or VC;

39 Subsection 80(1A)

Omit “, 75AU or 75AYA”.

40 Section 80B

Repeal the section.

41 Paragraphs 84(1)(b) and 84(3)(b)

Omit “, VB”.

42 Subsection 86C(4) (paragraph (a) of the definition of *contravening conduct*)

Omit “75AU, 75AYA or”.

43 Part XIAA

Repeal the Part.

44 Subsection 155AA(3) (subparagraph (a)(ii) of the definition of *protected Part VB information*)

Omit “a matter arising under Part VB”, substitute “a matter that arose under Part VB before its repeal by item 32 of Schedule 1 to the *Statute Stocktake (Regulatory and Other Laws) Act 2009*”.

45 Subsection 155AA(3) (at the end of paragraph (b) of the definition of *protected Part VB information*)

Add “before its repeal by item 32 of Schedule 1 to the *Statute Stocktake (Regulatory and Other Laws) Act 2009*”.

46 Subparagraph 163A(1)(a)(ia)

Repeal the subparagraph.

47 Schedule (heading)

Omit “versions of Parts IV and VB”, substitute “version of Part IV”.

48 Part 2 of the Schedule

Repeal the Part.

49 Application of items 47 and 48

If, at the time when this item commences, item 5 of Schedule 4 to the *Trade Practices Amendment (Australian Consumer Law) Act 2009* has commenced, then a reference to the Schedule in the heading of item 47 or 48 of this Part is taken to be a reference to Schedule 1.

50 Transitional—Repeal of subparagraph 163A(1)(a)(ia) of the *Trade Practices Act 1974*

- (1) Despite the repeal of subparagraph 163A(1)(a)(ia) of the *Trade Practices Act 1974* made by item 46 of this Part, that subparagraph continues to apply, so that a declaration about the operation or effect of Part VB of the old law cannot be sought, as if that repeal had not happened.
- (2) In this item:
old law means the *Trade Practices Act 1974* as in force immediately before the commencement of this item.

Part 3—Amendments relating to digital data services

Telecommunications Act 1997

51 Paragraph 3(2)(b)

Repeal the paragraph.

52 Section 7 (definition of *digital data service provider*)

Repeal the definition.

53 Subsection 105(5)

Repeal the subsection.

54 Subsections 105(6) and (7)

Omit “, (5)”.

Telecommunications (Consumer Protection and Service Standards) Act 1999

55 Section 4

Omit:

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|---------------------------------------|
| (c) prescribed carriage services; and |
| (d) digital data services. |

Substitute:

- | |
|-----------------------------------|
| (c) prescribed carriage services. |
|-----------------------------------|

56 Subsection 5(2) (definition of *approved digital data service plan*)

Repeal the definition.

57 Subsection 5(2) (definition of *digital data service*)

Repeal the definition.

58 Subsection 5(2) (definition of *digital data service charge*)

Repeal the definition.

59 Subsection 5(2) (definition of *digital data service obligation*)

Repeal the definition.

60 Subsection 5(2) (definition of *digital data service provider*)

Repeal the definition.

61 Subsection 5(2) (definition of *draft digital data service plan*)

Repeal the definition.

62 Subsection 5(2) (definition of *general digital data service*)

Repeal the definition.

63 Subsection 5(2) (definition of *general digital data service area*)

Repeal the definition.

64 Subsection 5(2) (definition of *general digital data service obligation*)

Repeal the definition.

65 Subsection 5(2) (definition of *general digital data service provider*)

Repeal the definition.

66 Subsection 5(2) (definition of *special digital data service*)

Repeal the definition.

67 Subsection 5(2) (definition of *special digital data service area*)

Repeal the definition.

68 Subsection 5(2) (definition of *special digital data service obligation*)

Repeal the definition.

69 Subsection 5(2) (definition of *special digital data service provider*)

Repeal the definition.

70 Section 8

Omit:

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| (b) the digital data service obligation and digital data cost; and |
|--|

71 Section 8

Omit:

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|---------------------------------------|
| (c) prescribed carriage services; and |
| (d) digital data services. |

Substitute:

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|-----------------------------------|
| (c) prescribed carriage services. |
|-----------------------------------|

72 Section 8

Omit:

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|--|
| (a) the specification of the universal service obligation and digital data service obligation; |
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Substitute:

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| (a) the specification of the universal service obligation; |
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73 Section 8

Omit:

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|--|
| (b) the determination of universal service areas and digital data service areas; |
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Substitute:

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| (b) the determination of universal service areas; |
|---|

74 Section 8

Omit:

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|--|
| (d) the determination of primary universal service providers and digital data service providers; |
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Substitute:

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|---|
| (d) the determination of primary universal service providers; |
|---|

75 Section 8

Omit:

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|--|
| (g) requirements for the approval of, and compliance with, digital data service plans of digital data service providers; |
|--|

76 Section 8

Omit:

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|---|
| (i) the determination of the digital data cost for supplying services in fulfilment of the digital data service obligation; |
|---|

77 Section 8

Omit:

- | |
|---|
| (j) the regulation of universal service charges and digital data service charges; |
|---|

Substitute:

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|--|
| (j) the regulation of universal service charges; |
|--|

78 Subparagraph 8A(a)(iii)

Omit “and”.

79 Subparagraph 8A(a)(iv)

Repeal the subparagraph.

80 Paragraph 8A(b)

Omit “and the digital data service obligation described in section 10”.

81 Paragraph 8A(c)

Omit “, and the digital data service obligation described in section 10,”.

82 Paragraph 8A(e)

Omit “and digital data service obligation”.

83 Subsection 8D(2)

Repeal the subsection, substitute:

- (2) The Minister may determine different periods under paragraph (1)(b) in respect of one or more universal service subsidies.

84 Divisions 3, 8, 10 and 12 of Part 2

Repeal the Divisions.

85 Subsection 20B(3)

Repeal the subsection.

86 Subsections 20J(1) to (3)

Repeal the subsections, substitute:

- (1) Within the period of 45 days after the end of a claim period, or such other period as is determined in writing by the Minister, a carrier or carriage service provider who is a universal service provider for the claim period may give to the ACMA a claim for a levy credit for that period.
- (2) A person's **levy credit** for a claim period is the total of all amounts of universal service subsidy to which the person is entitled for the period.
- (3) A claim must be in a form approved in writing by the ACMA, and must include details of:
 - (a) the provider's entitlement to universal service subsidy for the claim period; and
 - (b) how that entitlement has been worked out.The claim must include such other information (if any) as is required by the approved form.

87 Section 20M

Repeal the section, substitute:

20M ACMA may inquire into correctness of claim

The ACMA may make whatever inquiries it thinks necessary or desirable in order to determine whether or not a claim by a universal service provider for a levy credit for a claim period correctly states the provider's entitlement to universal service subsidy for the period.

88 Subsection 20N(2)

Repeal the subsection, substitute:

- (2) The assessment must set out the universal service subsidy to which the person is entitled for that period.

89 Subsection 20U(1)

Omit "(2), (3) and (4)", substitute "(2) and (3)".

90 Subsection 20U(4)

Repeal the subsection.

91 Paragraph 20V(b)

Omit “20U(2), (3) and (4)”, substitute “20U(2) and (3)”.

92 Paragraph 22(1)(b)

Omit “20U(2), (3) or (4)”, substitute “20U(2) or (3)”.

93 Subparagraph 22(3)(a)(i)

Omit “, or a digital data service provider,”.

94 Paragraph 22A(1)(b)

Repeal the paragraph.

95 Paragraph 23(1)(e)

Omit “provider;”, substitute “provider.”.

96 Paragraph 23(1)(f)

Repeal the paragraph.

97 Sections 159A and 159B

Repeal the sections.

98 Transitional—the ACMA’s record-keeping rules

Paragraph 529(4)(b) of the *Telecommunications Act 1997* continues to apply on and after the day on which this item commences in relation to the keeping of records:

- (a) created before the day on which the item commences; and
- (b) that contain information that is relevant to the performance of functions, or the exercise of powers, conferred on the Australian Communications and Media Authority;

as if the reference to Part 2 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* in that paragraph included a reference to Part 2 of that Act as in force immediately before the commencement of this item.

99 Application—claims for levy credit

- (1) The repeal and substitution of subsections 20J(1), (2) and (3) of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* made by item 86 of this Part applies, in relation to a digital data

service provider, to all claim periods starting on 1 July 2009, and to all later claim periods.

- (2) In this item:

claim period has the same meaning as in the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

digital data service provider has the same meaning as in the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (as in force immediately before the commencement of this item).

100 Transitional—claims for levy credit

- (1) Despite the repeal and substitution of subsections 20J(1), (2) and (3) of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* made by item 86 of this Part:

- (a) a determination under subsection 20J(1) of the old law that was in force immediately before the commencement of this item has effect, after that commencement, as if it had been made under subsection 20J(1) of the new law; and
- (b) a form approved by the Australian Communications and Media Authority under subsection 20J(3) of the old law has effect, under the new law, as if it had been approved under subsection 20J(3) of the new law.

- (2) In this item:

new law means the *Telecommunications (Consumer Protection and Service Standards) Act 1999* as in force immediately after the commencement of this item.

old law means the *Telecommunications (Consumer Protection and Service Standards) Act 1999* as in force immediately before the commencement of this item.

101 Transitional—information obtained from or relating to a digital data service provider

- (1) Despite the amendment of subparagraph 22(3)(a)(i) of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* made by item 93 of this Part, subsection 22(3) of that Act continues to apply in relation to information (other than information prescribed for the purposes of paragraph 22(3)(a) of that Act) that was

obtained from, or relates to, a digital data service provider for a claim period.

- (2) In this item:

claim period has the same meaning as in the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

digital data service provider has the same meaning as in the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (as in force immediately before the commencement of this item).

102 Transitional—digital data service providers may request information

- (1) Despite the repeal of paragraph 22A(1)(b) of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* made by item 94 of this Part, section 22A of that Act continues to apply in relation to a person who was a digital data service provider for a claim period ending before 1 July 2009 as if that person were an eligible person for the purposes of that section.

- (2) In this item:

claim period has the same meaning as in the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

digital data service provider has the same meaning as in the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (as in force immediately before the commencement of this item).

Telecommunications (Universal Service Levy) Act 1997

103 Title

Omit “, prescribed carriage services and digital data services”, substitute “and prescribed carriage services”.

Telstra Corporation Act 1991

104 Part 2C (heading)

Repeal the heading, substitute:

Part 2C—Re-affirmation of the universal service obligation and the customer service guarantee

105 Paragraph 8CM(1)(a)

Omit “, payphones and digital data services”, substitute “and payphones”.

Note: The heading to section 8CM is altered by omitting “**and digital data service obligation**”.

106 Paragraph 8CM(1)(b)

Repeal the paragraph, substitute:

- (b) that the universal service obligation described in section 9 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* should be fulfilled as efficiently and economically as practicable.

Trade Practices Act 1974

107 Paragraph 151CM(1)(c)

Omit “charges); and”, substitute “charges).”.

108 Paragraph 151CM(1)(d)

Repeal the paragraph.

109 Subsection 151CM(5) (definition of *digital data service provider*)

Repeal the definition.

Schedule 2—Repeal of Acts etc.

Part 1—Repeals

APEC Public Holiday Act 2007

1 The whole of the Act

Repeal the Act.

Delivered Meals Subsidy Act 1970

2 The whole of the Act

Repeal the Act.

Home Nursing Subsidy Act 1956

3 The whole of the Act

Repeal the Act.

Income Tax (Franking Deficit) Act 1987

4 The whole of the Act

Repeal the Act.

Nursing Homes Assistance Act 1974

5 The whole of the Act

Repeal the Act.

States Grants (Home Care) Act 1969

6 The whole of the Act

Repeal the Act.

***States Grants (Nurse Education Transfer Assistance) Act
1985***

7 The whole of the Act

Repeal the Act.

States Grants (Paramedical Services) Act 1969

8 The whole of the Act

Repeal the Act.

Part 2—Amendments consequential on repeals

Aged or Disabled Persons Care Act 1954

9 Subsection 2(1) (sub-subparagraph (d)(ii)(C) of the definition of *eligible person*)

Omit “or the *Nursing Homes Assistance Act 1974*”.

10 Subsection 2(1) (paragraph (d) of the definition of *hostel*)

Omit “or the *Nursing Homes Assistance Act 1974*”.

11 Subsection 10C(3)

Omit “or the *Nursing Homes Assistance Act 1974*”.

Higher Education Funding Act 1988

12 Subsections 18(3) and (4)

Repeal the subsections.

National Health Act 1953

13 Subsection 105AAB(8)

Repeal the subsection.

Part 3—Matters relating to the repeal of the Income Tax (Franking Deficit) Act 1987

14 Application of item 4 of Schedule 2

The repeal made by item 4 of Schedule 2 applies:

- (a) so far as it affects assessments—to assessments for the 2006-07 income year and all later income years; and
- (b) otherwise—to acts done or omitted to be done, or states of affairs existing, after 14 September 2006.

15 Making and amending assessments, and doing other things, in relation to past matters

Even though the *Income Tax (Franking Deficit) Act 1987* is repealed by item 4 of this Schedule, the repeal is disregarded for the purpose of doing any of the following under any Act or legislative instrument (within the meaning of the *Legislative Instruments Act 2003*):

- (a) making or amending an assessment (including under a provision that is itself repealed or amended);
- (b) exercising any right or power, performing any obligation or duty or doing any other thing (including under a provision that is itself repealed or amended);

in relation to any act done or omitted to be done, any state of affairs existing, or any period ending, before the repeal applies.

16 Repeal is disregarded for the purposes of dependent provisions

If the operation of a provision (the *subject provision*) of any Act or legislative instrument (within the meaning of the *Legislative Instruments Act 2003*) made under any Act depends to any extent on the *Income Tax (Franking Deficit) Act 1987*, or a provision of that Act, the repeal of that Act by item 4 of this Schedule is disregarded so far as it affects the operation of the subject provision.

17 No limitation on the operation of section 8 of the Acts Interpretation Act 1901

Items 15 and 16 of this Schedule do not limit the operation of section 8 of the *Acts Interpretation Act 1901*.

*[Minister's second reading speech made in—
House of Representatives on 24 June 2009
Senate on 26 October 2009]*

(130/09)