

[CONFIDENTIAL]

(Rough Draft for Consideration Only.)

No. , 1933.

A BILL

To amend the Interpretation Act of 1897, as amended by the Local Government Act, 1919, and certain other Acts; and for purposes connected therewith or incidental thereto.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. (1) This Act may be cited as the " Interpretation Short title.
(Amendment) Act, 1933."

(2) The Interpretation Act of 1897, as amended by the Local Government Act, 1919, is in this Act referred to as the Principal Act and this Act shall be construed with the Principal Act.

(3) The Principal Act as amended by this Act may be cited as the Interpretation Act, 1897-1933.

2. The Principal Act is amended as follows:—

Amendment of Act. No. 4, 1897. Sec. 14A.

(a) by inserting after section fourteen the following new section:—

14A. (1) Every Act, whether passed before or after the commencement of this Act or the Interpretation (Amendment) Act, 1933, shall be read and construed subject to the Commonwealth of Australia Constitution Act, and so as not to exceed the legislative power of the State of New South Wales, to the intent that where any enactment thereof would, but for this section, have been construed as being in excess of that power, it shall nevertheless be a valid enactment to the extent to which it is not in excess of that power.

Construction of Acts to be subject to Commonwealth Constitution. Commonwealth, 1901, s. 15A. Vict. No. 3930.

(2) This section shall be applied as additional to and not in derogation or impairment of any saving provision contained in any such Act as is first referred to in this section.

(b) by inserting in section twenty-one to follow paragraph (h) the following new paragraphs:—

Sec. 21.

(i) "The Commonwealth" shall mean the Commonwealth of Australia.

"The Commonwealth." Commonwealth, 1901, sec. 17 (a).

(j) "The Commonwealth Constitution" shall mean the Commonwealth of Australia Constitution Act.

"Commonwealth Constitution." See *Ibid.* s. 17 (d).

(k) "Prescribed" shall mean prescribed by the Act or by regulations under the Act.

"Prescribed." Commonwealth, 1904, sec. 9.

(l) "Regulations" shall mean regulations under the Act.

"Regulations." *Ibid.*

(c) by inserting in section twenty-four to follow subsection (ii) the following new subsection:—

Sec. 24. "Commonwealth Act."

(IIA) An Act passed by the Parliament of the Commonwealth may be referred to by the term "Commonwealth Act."

Commonwealth, 1901, s. 38.

(d)

(d) by inserting after section twenty-five the following new section: Sec. 25A.

25A. Where in any Act reference is made to any other Act, and that other Act is subsequently amended, then unless the contrary intention appears the reference shall, from the date of the amendment, be deemed to be to that Act as so amended. References to amended Acts. Commonwealth, 1901, s. 10A.

(e) by inserting after section twenty-nine the following new sections: Sec. 29A.

29A. Where an act or omission constitutes an offence under two or more Acts, or both under an Act and at common law, whether any such Act was passed before or after the commencement of this Act or the Interpretation (Amendment) Act, 1933, the offender shall, unless the contrary intention appears, be liable to be prosecuted and punished under either or any of those Acts or at common law, but shall not be liable to be punished twice for the same offence. Offences under two or more laws. Imperial, 1889, s. 33. Commonwealth, 1901, s. 30.

29B. In any Act passed after the commencement of the Interpretation (Amendment) Act, 1933, the penalty, pecuniary or other, set out— Sec. 29B. Penalty at foot of secs. or subsecs.

- (a) at the foot of any section of any Act; or
- (b) at the foot of any subsection of any section of any Act, but not at the foot of the section, See Commonwealth, 1904, s. 3.

shall indicate that any contravention of the section or of the subsection respectively, whether by act or omission, shall be an offence against the Act, punishable upon conviction by a penalty not exceeding the penalty mentioned:

Provided that where the penalty is expressed to apply to a part only of the section or subsection, it shall apply to that part only, and provided further that notwithstanding anything in this section effect shall be given to the terms in which the penalty is set out as aforesaid and to the provisions of such section, subsection and Act. (f)

- (f) by inserting after section thirty-three the following new sections: Sec. 33A.

33A. Where an Act confers power to make, grant, or issue any instrument (being any regulations, rules, ordinances, or by-laws), then any instrument so made, granted or issued shall be read and construed subject to the Act under which it was made, and so as not to exceed the power to make, grant, or issue the same to the intent that where any such instrument would, but for this section, have been construed as being in excess of such power, it shall nevertheless be a valid instrument to the extent to which it is not in excess of that power.

Construction of rules, regulations and by-laws.
See Commonwealth, 1904, s. 9A.

33B. Where an Act passed after the commencement of the Interpretation (Amendment) Act, 1933, confers power to make regulations, ordinances, or by-laws, all regulations, ordinances, or by-laws made accordingly shall, unless the contrary intention appears— Sec. 33B.
Regulations, etc.
See Commonwealth, 1904, s. 10.

- (a) be published in the Gazette;
- (b) take effect from the date of such publication or from a later date specified in the regulations, ordinances or by-laws;
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations, ordinances, or by-laws have been laid before such House disallowing any regulation, ordinance, or by-law or part thereof, such regulation, ordinance, or by-law or part shall thereupon cease to have effect.

33c.

33c. (1) Where, in pursuance of the last preceding section or of any provision contained in any Act (whether passed before or after the commencement of this Act or the Interpretation (Amendment) Act, 1933), to the effect that if either House of Parliament passes a resolution of which notice has been given within a time in such Act mentioned or referred to disallowing any regulation, ordinance, or by-law or part thereof, such regulation, ordinance, or by-law or part shall thereupon cease to have effect, either House of Parliament disallows any regulation, ordinance, or by-law or part thereof, no regulation, ordinance, or by-law, being the same in substance as the regulation, ordinance, or by-law or part so disallowed, shall be made within six months after the date of the disallowance, unless the resolution disallowing the regulation, ordinance, or by-law or part has been rescinded by the House of Parliament by which it was passed.

Sec. 33c.
Disallowed regulations, etc., not to be remade unless motion rescinded.
Commonwealth, 1904, s. 10A.

(2) Any regulation, ordinance, or by-law made in contravention of this section shall be void and of no effect.

- (g) (i) by inserting in section thirty-six after the word "chapter" the words "and a Commonwealth Act by a reference to the Commonwealth together with its short title or a reference to the secular year in which it was passed and its number";
- (ii) by adding at the end of the same section the words "or in the case of a Commonwealth Act according to the copy of such Act printed by the Government Printer of the Commonwealth or any person printing for such Government or purporting so to be printed";

Sec. 36.
Citation of Commonwealth Acts.
See Commonwealth, 1901, s. 40.

(h).

(h) by inserting after section thirty-seven the following new section:—

38. Where an Act (whether passed before or after the commencement of this Act) confers power to make any regulations, rules, ordinances, or by-laws then unless the contrary intention appears sections eight, nine, twelve, and fifteen to twenty-nine (both inclusive) and 25A, 29A, 29B, thirty, thirty-one, thirty-two, 33A and thirty-five of this Act shall apply to any regulations, rules, ordinances, or by-laws made after the commencement of the Interpretation (Amendment) Act, 1933, as if the same were an Act and as if each such regulation, rule, ordinance, or by-law were a section of an Act.

Sec. 38.

Application of Act to regulations, etc.

Commonwealth, 1901, s. 2A, and 1904, s. 9A (a).
