

CLAUSE NOTES

LEGISLATION PUBLICATION AMENDMENT BILL 2013

PART 1 PRELIMINARY

Clause 1: Short Title

This provides the short title to be used when citing the Act for any legal purpose.

Clause 2: Commencement

This Act commences on the day it receives Royal Assent.

PART 2 – LEGISLATION PUBLICATION ACT 1996 AMENDED

Clause 3: Principal Act

This Clause defines the term 'Principal Act' used in Part 2 of the Bill to mean the *Legislation Publication Act 1996*.

Clause 4: Section 3 amended (Interpretation)

This Clause inserts new definitions into section 3 of the Principal Act and defines the following terms:

- Original Act
- Original statutory rule
- State Archivist

Clause 5: Section 6 amended (Authorised versions of Acts and statutory rules)

This Clause amends section 6 of the Principal Act which deals with authorised versions of Acts and statutory rules.

Paragraph (a) provides that the authorised version of an Act that is not on the electronic database of legislation (provided for by section 5 of the Principal Act) is the version of the Act transmitted to the Archives Office (as defined in section 3 of the *Archives Act 1983*) rather than a copy kept among the records of the Supreme Court.

Paragraph (a) also provides that if an original Act, that has commenced but is not on the electronic database, has been amended then the authorised version is that original Act, as transmitted to the Archives Office, read and construed with any amendments that have been made to that original Act.

Paragraph (b) omits the reference in section 6(5) of the Principal Act to the current 'subsections (6) and (7)' of that section, and substitutes a reference to new 'subsections (6), (6A), (6B), (7) and (7A)'.

Paragraph (c) omits subsections (6), (6A) and (7) of section 6 of the Principal Act and inserts new subsections (6), (6A), (6B), (7) and (7A) to do the following:

- (6) This subsection provides that the authorised version of a statutory rule (other than a rule made by the judges of the Supreme Court) made before the commencement of the Principal Act but which is not on the electronic database (provided for by section 5 of the Principal Act) is the original statutory rule as transmitted to the Archives Office.
- (6A) This subsection provides that the authorised version of a statutory rule (other than a rule made by the judges of the Supreme Court) made after the commencement of the Principal Act but which is not on the electronic database (provided for by section 5 of the Principal Act) is the original statutory rule as transmitted to the Archives Office.

- (6B) This subsection deals with the authorised version of a statutory rule made by the judges of the Supreme Court, but which is not on the electronic database, and provides for it to be the original version of the rule as held by the Supreme Court and transmitted to the Archives Office.
- (7) This subsection deals with the authorised version of a statutory rule (other than a rule made by judges of the Supreme Court) and provides that if an original statutory rule, that is not on the electronic database, and has been amended then the authorised version is that original rule, as transmitted to the Archives Office, read and construed with any amendments that have been made to that original rule.
- (7A) This subsection deals the authorised version of a rule made by the judges of the Supreme Court which may have been amended. The subsection provides that if an original rule, that is not on the electronic database, has been amended then the authorised version is that original rule, held by the Supreme Court and transmitted to the Archives Office, read and construed with any amendments that have been made to that original rule.

Clause 6: Section 32 substituted

This Clause provides for the repeal of the existing section 32 of the Principal Act and its substitution with a new section 32 (dealing with the transmission of Acts to the Archives Office) and a new section 32A (dealing with the transmission of statutory and certain other rules to the Archives Office).

The new section 32 provides that as soon as practicable after the commencement of this amending Act the Registrar of the Supreme Court, after consulting the State Archivist, is to transmit to the Archives Office all original Acts held at that time among the records of the Supreme Court.

The section also provides that after the commencement of this amending Act the Clerk of the Legislative Council, after consulting the State Archivist, is to transmit to the Archives Office all future original Acts after they receive the Royal Assent.

The new section 32A deals with the transmission to the Archives Office of existing statutory and other rules held currently among the records of Department of Justice, Office of Parliamentary Counsel and the Supreme Court (subsections 1, 2 and 3) and statutory rules created after the commencement of this Act (subsections 4 and 5). In particular:

- (1) As soon as practicable after the commencement of this amending Act the Secretary, Department of Justice, after consulting the State Archivist, is to transmit to the Archives Office all original statutory rules (other than a rule made by the judges of the Supreme Court) held at that time among the records of the Department of Justice.
- (2) As soon as practicable after the commencement of this amending Act the Chief Parliamentary Counsel, after consulting the State Archivist, is to transmit to the Archives Office all original statutory rules (other than a rule made by the judges of the Supreme Court) held at that time among the records of the Office of Parliamentary Counsel.
- (3) As soon as practicable after the commencement of this amending Act the Registrar of the Supreme Court, after consulting the State Archivist, is to transmit to the Archives Office all original rules made by the judges of the Supreme Court held at that time among the records of the Supreme Court.
- (4) Each year before 31 January, the Chief Parliamentary Counsel must transmit to the Archives Office all original statutory rules, other than rules made the judges of the Supreme Court, made in the previous year.

- (5) Each year before 31 January, the Registrar of the Supreme Court must transmit to the Archives Office all original rules made by judges of the Supreme Court in the previous year.

PART 3 - RULES PUBLICATION ACT 1953 AMENDED

Clause 7: Principal Act

This Clause defines the term 'Principal Act' used in Part 3 of the Bill to mean the *Rules Publication Act 1953*.

Clause 8: Section 9 amended (Regulations)

This Clause amends section 9 of the *Rules Publication Act 1953* to remove 'filing and recording of statutory rules' as one of the matters identified explicitly for which Regulations under that Act may be made. The filing of statutory rules will be covered by the provisions of section 32A of the *Legislation Publication Act 1996* once this amendment Act commences.

PART 4 - RULES PUBLICATION REGULATIONS 2008 AMENDED

Clause 9: Principal Regulations

This Clause defines the term 'Principal Regulations' used in Part 4 of the Bill to mean the *Rules Publication Regulations 2008*.

Clause 10: Part 3 rescinded

This Clause rescinds Part 3 of the *Rules Publication Regulations 2008*, which consists of one clause (i.e. clause 9 of the Regulations) that deals with the filing and recording of statutory rules. This regulation is no longer required as the filing of statutory rules will be covered by the provisions of section 32A of the *Legislation Publication Act 1996* once this amendment Act commences. This clause is also consequential on the amendment in clause 8 of this Amending Act which removes 'filing and recording of statutory rules' as one of the matters identified explicitly for which Regulations under the *Rules Publication Act 1953* may be made.

PART 5 - MISCELLANEOUS

Clause 11: Further amendment of regulations not prevented

This Clause confirms that the amendment to the *Rules Publication Regulations 2008* provided for by clause 10 of this Act does not prevent further amendment to those Regulations or the rescission of the entire *Rules Publication Regulations 2008* at some future time.

Clause 12: Repeal of Act

This Clause provides for the repeal of this amending Act a year after this Act commences.