

LEGISLATIVE ASSEMBLY OF THE NT
TABLED DOCUMENTS

Interpretation Legislation Amendment Bill 2018

Briefing for Scrutiny Committee

Overview

Committee: SPSC
Paper No: TR1.1 Date: 10/9/18
Tabled By: Colleen Mackenzie
Signed: Julie Knight

- The *Interpretation Act* provides a list of rules for interpreting NT legislation.
- The amendments are designed to improve the clarity and functionality of the *Interpretation Act*. They don't represent any significant policy changes.

Interstate Equivalents

Cth	<i>Acts Interpretation Act 1901</i>
SA	<i>Acts Interpretation Act 1915</i>
WA	<i>Interpretation Act 1984</i>
NSW	<i>Interpretation Act 1987</i>
VIC	<i>Interpretation of Legislation Act 1984</i>
Tas	<i>Acts Interpretation Act 1931</i>
Qld	<i>Acts Interpretation Act 1954</i>
ACT	<i>Legislation Act 2001</i>

Clause 7, amending section 17

Section 17 provides a 'dictionary' of terms that are recognised across all NT Legislation. A definition here applies to all NT Acts, even if the term is not defined in that individual Act.

Clause 13, amending section 38D to 38DB, and Clauses 28-30, amending *Sentencing Act*

These clauses shift interpretation re matters of sentencing to the *Sentencing Act*.

Concerns were raised by the court as to how a fine could be calculated when the maximum penalty for the offence did not specify the fine. This has resulted in explicit cross-referencing in the amended provision to what was s 38DA of the *Interpretation Act* and will be s 28 of the *Sentencing Act* as amended (*Ostojic v Threlfo* [2016] NTCA 1 – I understand issues were raised).

Clause 9, amending Section 24

NSW Registrar of Births, Deaths and Marriages v Norrie [2014] HCA 11

- High Court recognised 'Not all human beings can be classified by sex as either male or female'
- NSW *Interpretation Act 1987* (NSW) – s 8 – recognises multiple genders.

Victoria has also since 1983 had a provision that provides 'words importing a gender include every other gender' – see s 37 of the *Interpretation of Legislation Act 1984* (Vic). In ACT section 145 of the *Legislation Act 2001* has a similar formulation.

In 2016, SA's Statutes Amendment (Gender Identity and Equity) Act 2016 amended s 26 of the *Acts Interpretation Act 1915* (SA) so that interpretation is still functional if a person does not identify as either male or female.

Our provisions is modelled on wording agreed to nationally by the Parliamentary Counsels Committee, and provides a robust, flexible definition that does not collapse in relation both to gender identity and people with sex characteristic differences.