

WORLD TRADE ORGANIZATION

RESTRICTED

ORGANISATION MONDIALE DU COMMERCE

IP/N/1/AUS/1/Add.3

1 June 1995

ORGANIZACIÓN MUNDIAL DEL COMERCIO

(95-1439)

**Council for Trade-Related Aspects
of Intellectual Property Rights**

Original: English/
anglais/
inglés

**NOTIFICATION OF LAWS AND REGULATIONS
UNDER ARTICLE 63.2 OF THE AGREEMENT¹**

Australia

Addendum

This addendum reproduces the text of the *Law and Justice Legislation Amendment Act*, No. 141 of 1994, which is part of Australia's notification of its copyright legislation in accordance with paragraph 2 of Article 63 of the Agreement on Trade-Related Aspects on Intellectual Property Rights, which was made by means of a communication from the Permanent Mission of Australia, dated 5 April 1995.

**Conseil des aspects des droits de propriété
intellectuelle qui touchent au commerce**

**NOTIFICATION DES LOIS ET REGLEMENTATIONS
AU TITRE DE L'ARTICLE 63.2 DE L'ACCORD¹**

Australie

Addendum

Par une communication de la Mission permanente de l'Australie en date du 5 avril 1995, l'Australie a notifié sa législation sur le droit d'auteur, conformément aux dispositions du paragraphe 2 de l'article 63 de l'Accord sur les aspects des droits de propriété intellectuelle qui touchent au commerce. Le présent addendum reproduit le texte de la *Law and Justice Legislation Amendment Act (Loi portant modification de la législation relative à l'administration de la justice)*, n° 141 de 1994.

**Consejo de los Aspectos de los Derechos de
Propiedad Intelectual relacionados con el Comercio**

**NOTIFICACIÓN DE LEYES Y REGLAMENTOS DE CONFORMIDAD
CON EL PÁRRAFO 2 DEL ARTÍCULO 63 DEL ACUERDO¹**

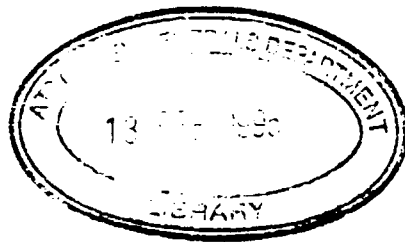
Australia

Addendum

En el presente addendum se reproduce el texto de la *Ley de Modificación de la Legislación sobre Administración de Justicia*, N° 141 de 1994, comprendida en la notificación que, por medio de una comunicación de la Misión Permanente australiana de fecha 5 de abril de 1995, ha hecho Australia de su legislación en materia de derecho de autor de conformidad con el párrafo 2 del artículo 63 del Acuerdo sobre los Aspectos de los Derechos de Propiedad Intelectual relacionados con el Comercio.

¹English only/Anglais seulement/En inglés solamente.

L1



Law and Justice Legislation Amendment Act (No. 2) 1994

No. 141 of 1994

**An Act to amend various Acts relating to law and justice,
and for related purposes**

[Assented to 28 November 1994]

The Parliament of Australia enacts:

Short title

1. This Act may be cited as the *Law and Justice Legislation Amendment Act (No. 2) 1994*.

5 Commencement

2.(1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

2

Law and Justice Legislation
Amendment (No. 2) No. 141, 1994

(2) Items 1 to 10 of Schedule 1 commence as follows:

(a) if the *Crimes (Search Warrants and Powers of Arrest) Amendment Act 1994* has commenced before the day on which this Act receives the Royal Assent—those items commence on the day on which this Act receives the Royal Assent;

5

(b) if paragraph (a) does not apply—those items commence immediately after the commencement of the *Crimes (Search Warrants and Powers of Arrest) Amendment Act 1994*.

(3) Items 17 to 20 of Schedule 1 commence 28 days after this Act receives the Royal Assent.

10

(4) Items 14 and 31 of Schedule 2 are taken to have commenced on 23 December 1991, immediately after the commencement of the *Copyright Amendment Act 1991*.

Amendments of Acts

3. The Acts referred to in Schedule 1 are amended as set out in that Schedule.

15

Minor amendments of Acts

4. The Acts referred to in Schedule 2 are amended as set out in that Schedule.

**Savings provision—amendment of section 11 of the
*Law Officers Act 1964***

20

5. This Act does not affect any appointment that was in force under section 11 of the *Law Officers Act 1964* immediately before the commencement of Item 11 of Schedule 1 of this Act.

Transitional provision—warrants of apprehension

25

6. Paragraph 112(3)(b) of the *Service and Execution of Process Act 1992* as amended by this Act does not apply to a warrant of apprehension (within the meaning of Part 7 of that Act) issued before the commencement of item 19 of Schedule 1 to this Act.

**Savings provisions—amendments of sections 38 and 103 of the
*Copyright Act 1968***

30

7.(1) The amendments of sections 38 and 103 of the *Copyright Act 1968* do not affect any judicial determinations made before the day on which this Act receives the Royal Assent.

(2) If:

35

(a) on or after 23 December 1991 but before the day on which this Act receives the Royal Assent, a person did an act that infringed copyright, in relation to a dealing with an article, because of section 38 or 103 of the *Copyright Act 1968* as amended by this Act; and

Law and Justice Legislation
Amendment (No. 2) No. 141, 1994

3

- 5 (b) the person did the act on the basis of a belief that, for the purpose of the question whether the act constituted an infringement of the kind dealt with in that section, the fact that the person knew or ought reasonably to have known that the making of the article constituted an infringement of copyright was not relevant;
- that section is taken to have had effect, and (to the extent necessary) continues to have effect, in relation to the act as if the amendments of that section made by this Act had not been made.
-

4

*Law and Justice Legislation
Amendment (No. 2) – No. 141, 1994*

SCHEDULE 1

Section 3

AMENDMENTS OF ACTS

Crimes Act 1914

1. Subsection 3C(1):

Insert:

“‘**magistrate**’, in sections 3ZI, 3ZJ, 3ZK, 3ZN and 3ZW, has a meaning affected by section 3CA.”.

2. After section 3C:

Insert:

Nature of functions of magistrate

“3CA.(1) A function of making an order conferred on a magistrate by section 3ZI, 3ZJ, 3ZK, 3ZN or 3ZW is conferred on the magistrate in a personal capacity and not as a court or a member of a court.

“(2) Without limiting the generality of subsection (1), an order made by a magistrate under section 3ZI, 3ZJ, 3ZK, 3ZN or 3ZW has effect only by virtue of this Act and is not to be taken by implication to be made by a court.

“(3) A magistrate performing a function of, or connected with, making an order under section 3ZI, 3ZJ, 3ZK, 3ZN or 3ZW has the same protection and immunity as if he or she were performing that function as, or as a member of, a court (being the court of which the magistrate is a member).

“(4) The Governor-General may make arrangements with the Governor of a State, the Chief Minister of the Australian Capital Territory, the Administrator of the Northern Territory or the Administrator of Norfolk Island for the performance, by all or any of the persons who from time to time hold office as magistrates in that State or Territory, of the function of making orders under sections 3ZI, 3ZJ, 3ZK, 3ZN and 3ZW.”.

3. Subparagraph 3ZI(1)(f)(i):

Omit “court”, substitute “magistrate”.

4. Subsection 3ZI(2):

Omit “court”, substitute “magistrate”.

5. Subsections 3ZJ(6), (7) and (9), subparagraph 3ZJ(10)(e)(ii) and subsection 3ZJ(11):

Omit “court”, substitute “magistrate”.

*Law and Justice Legislation
Amendment (No. 2) No. 141, 1994*

5

SCHEDULE 1—continued

6. Subsection 3ZK(4):

Omit the subsection.

7. Subsection 3ZN(2), subparagraph 3ZN(3)(d)(ii) and subsection 3ZN(4):

Omit “court”, substitute “magistrate”.

8. Paragraph 3ZW(1)(b):

Omit “court”, substitute “magistrate”.

9. Subsection 3ZW(1):

Omit “a court of summary jurisdiction”, substitute “a magistrate”.

10. Subsection 3ZW(2):

Omit “court” (wherever occurring), substitute “magistrate”.

Law Officers Act 1964

11. Section 11:

Omit the section, substitute:

Acting Solicitor-General

“11.(1) The Governor-General may appoint a person to act as Solicitor-General:

- (a) during a vacancy in the Office of Solicitor-General whether or not an appointment has previously been made to the office; or
- (b) during any period, or during all periods, when the Solicitor-General is absent from duty or from Australia or is, for any reason, unable to perform the functions of the office.

“(2) A person who is appointed to act in the Office of Solicitor-General must be eligible for appointment to that office.

“(3) The Governor-General may:

- (a) determine the terms and conditions of appointment of a person acting as Solicitor-General; and
- (b) at any time terminate such an appointment.

“(4) The validity of anything done by or in relation to a person purporting to act under subsection (1) must not be called into question on the ground that:

- (a) the occasion for the appointment had not arisen; or

Law and Justice Legislation
Amendment (No. 2) — No. 141, 1994

SCHEDULE 1—continued

- (b) there is a defect or irregularity in or in connection with the appointment; or
- (c) the appointment has ceased to have effect; or
- (d) the occasion for him or her to act had not arisen or had ceased.

Note: See section 33A of the *Acts Interpretation Act 1901* for further provisions relating to acting appointments.

Service and Execution of Process Act 1992

12. After subsection 9(8):

Insert:

“(8A) Without limiting the operation of this section, if the process, order or document is not an initiating process or subpoena, service may be effected at the address for service of the company or registered body in the proceedings concerned in accordance with any applicable rules of court.”.

13. Section 10:

Add at the end:

“(4) Without limiting the operation of this section, if the process, order or document is not an initiating process or subpoena, service may be effected at the address for service of the body corporate in the proceedings concerned in accordance with any applicable rules of court.”.

14. Paragraph 11(3)(a):

Omit the paragraph, substitute:

- “(a) it was sent by pre-paid post to the person’s last known address, or the person’s address for service in the proceedings concerned;
- (ab) it was addressed to the person, or, if it was sent to an address for service that is the office of a solicitor, to that solicitor:”.

15. Paragraph 11(4)(a):

Omit “. addressed to the company, registered body or other body corporate.”.

16. After paragraph 11(4)(a):

Insert:

- “(ab) it was addressed to the company, registered body or other body corporate, or, if the address for service is the office of a solicitor, to that solicitor:”.

SCHEDULE 1—continued

17. After section 85:

Insert:

Notification when persons are released or remanded on bail

“85A.(1) If the person named in the warrant has been:

(a) taken before a magistrate under section 83; and

(b) released or remanded on bail under that section or section 84;

the Commissioner of the police force of which the police officer who apprehended the person is a member must cause the clerk of the court that issued the warrant, or the authority that issued the warrant, to be notified without delay of the release or remand.

“(2) As soon as practicable after being so notified, the clerk, or the authority, must notify the police force of each other State that was notified of the issue of the warrant that:

(a) if the person has been released under paragraph 83(3)(a) or (4)(a) or subsection 83(7)—that the person has been released and can only be re-apprehended if the warrant or a copy of the warrant is produced when the person is re-apprehended; or

(b) in any other case—that the warrant has been executed.”.

18. Before paragraph 92(3)(a):

Insert:

“(aa) references in section 85A to the clerk of a court are taken to be references to the secretary (however described) of a tribunal; and”.

19. Subsections 112(3) and (4):

Omit the subsections, substitute:

“(3) The warrant of apprehension:

(a) must be substantially in accordance with the prescribed form; and

(b) must be addressed to all police officers in the State in which it is believed the person may be.

“(4) If the person’s liability to pay the fine is fully discharged after the warrant of apprehension has been issued and before it is executed, the clerk of the court by which the fine was imposed must, as soon as practicable, take such steps as are reasonable to withdraw the warrant.”.

20. Subsection 113(1):

Omit the subsection, substitute:

“(1) The person in respect of whom a warrant of apprehension has been issued may be apprehended by a police officer to whom it is addressed.”.

*Law and Justice Legislation
Amendment (No. 2) No. 141, 1994*

SCHEDULE 1—continued

Trade Practices Act 1974

21. Subsection 65F(9):

Omit the subsection. substitute:

“(9) A person who contravenes subsection (8) is guilty of an offence punishable on conviction by a fine not exceeding 30 penalty units.

Note: Penalty units are defined in section 4AA of the *Crimes Act 1914*. If a body corporate is convicted of the offence, subsection 4B(3) of that Act allows a court to impose a fine of an amount not greater than 5 times the maximum fine that the court could impose on an individual convicted of the same offence.”.

22. After subsection 65Q(7):

Insert:

“(7A) An authorised officer or a person assisting the authorised officer must, before any person enters the premises under a warrant issued under subsection (5):

- (a) announce that he or she is authorised to enter the premises; and
- (b) give any person at the premises an opportunity to allow entry to the premises.

“(7B) An authorised officer or a person assisting the authorised officer is not required to comply with subsection (7A) if he or she believes on reasonable grounds that immediate entry to the premises is required to ensure:

- (a) the safety of a person (including the authorised officer and the person assisting the authorised officer); or
- (b) that the effective execution of the warrant is not frustrated.”.

23. Subsections 65Q(9) and (10):

Omit the subsections. substitute:

“(9) A person who refuses or fails to comply with a notice under this section to the extent that the person is capable of complying with it is guilty of an offence.

Penalty: 40 penalty units.

“(9A) A person who, in purported compliance with such a notice, furnishes information or gives evidence that, to the person’s knowledge, is false or misleading in a material particular is guilty of an offence.

Penalty: Imprisonment for 12 months.

SCHEDULE 1—continued

“(10) A person who refuses or fails to provide an authorised officer acting in accordance with subsection (2) with all reasonable facilities and assistance for the effective exercise of the authorised officer’s powers under that subsection is guilty of an offence.

Penalty: Imprisonment for 2 years.

Note: Penalty units are defined in section 4AA of the *Crimes Act 1914*. Under subsection 4D(1) of that Act, these penalties are only maximum penalties for the offences. Subsection 4B(2) of that Act allows a court to impose an appropriate fine instead of, or in addition to, a term of imprisonment. If a body corporate is convicted of one of the offences, subsection 4B(3) of that Act allows a court to impose a fine of an amount not greater than 5 times the maximum fine that the court could impose on an individual convicted of the same offence.”.

24. Subsection 65R(2):

Omit the subsection, substitute:

“(2) A person who contravenes subsection (1) is guilty of an offence punishable on conviction by a fine not exceeding 30 penalty units.

Note: Penalty units are defined in section 4AA of the *Crimes Act 1914*. If a body corporate is convicted of the offence, subsection 4B(3) of that Act allows a court to impose a fine of an amount not greater than 5 times the maximum fine that the court could impose on an individual convicted of the same offence.”.

25. After section 87B:

Insert:

Enforcement of undertakings—Secretary to the Department

“87C.(1) The Secretary to the Department may accept a written undertaking given by a person for the purposes of this section in connection with a matter in relation to which the Secretary has a power or function under this Act.

“(2) The person may withdraw or vary the undertaking at any time, but only with the consent of the Secretary to the Department.

“(3) If the Secretary to the Department considers that the person who gave the undertaking has breached any of its terms, the Secretary may apply to the Court for an order under subsection (4).

“(4) If the Court is satisfied that the person has breached a term of the undertaking, the Court may make all or any of the following orders:

- (a) an order directing the person to comply with that term of the undertaking;
- (b) an order directing the person to pay to the Commonwealth an amount up to the amount of any financial benefit that the person has obtained directly or indirectly and that is reasonably attributable to the breach;

10

Law and Justice Legislation
Amendment (No. 2) No. 141, 1994

SCHEDULE 1—continued

- (c) any order that the court considers appropriate directing the person to compensate any other person who has suffered loss or damage as a result of the breach;
- (d) any other order that the Court considers appropriate.”.

26. After subsection 172(1):

Insert:

“(1A) Without limiting subsection (1), that subsection includes the power to make regulations enabling a person who is alleged to have contravened section 65R to pay to the Commonwealth, as an alternative to prosecution, a specified penalty, not exceeding one-fifth of the maximum penalty that could be imposed on the person under that section.”.

*Law and Justice Legislation
Amendment (No. 2) No. 141, 1994*

11

SCHEDULE 2

Section 4

MINOR AMENDMENTS OF ACTS

Copyright Act 1968

- 1. Subsection 8A(2):**
Omit "he", substitute "the person".
- 2. Subsection 10(1) (definition of "authorized officer"):**
Omit "his", substitute "his or her".
- 3. Subsection 10(1) (definition of "handicapped reader"):**
Omit "his" (twice occurring), substitute "his or her".
- 4. Subsection 10(1) (definition of "sufficient acknowledgement"):**
Omit "his", substitute "his or her".
- 5. Paragraph 10(3)(h):**
 - (a) Omit "he" (wherever occurring), substitute "he or she".
 - (b) Omit "himself" (wherever occurring), substitute "himself or herself".
- 6. Section 11:**
Omit "he", substitute "he or she".
- 7. Paragraph 26(2)(b):**
Omit "he", substitute "he or she".
- 8. Subsection 27(4):**
Omit "he", substitute "he or she".
- 9. Paragraph 28(1)(b):**
Omit "his" (twice occurring).
- 10. Subsection 28(3):**
Omit "he", substitute "he or she".
- 11. Paragraph 32(2)(e):**
Omit "his", substitute "his or her".
- 12. Subsection 35(4):**
Omit "his", substitute "his or her".

12

*Law and Justice Legislation
Amendment (No. 2) — No. 141, 1994*

SCHEDULE 2—continued

13. Subsection 35(6):

Omit “his”, substitute “his or her”.

14. Subsection 38(1):

Omit “importer” (first occurring), substitute “person”.

15. Paragraph 39(2)(a):

Omit “he”, substitute “he or she”.

16. Paragraph 39(2)(b):

(a) Omit “he”, substitute “he or she”.

(b) Omit “him”, substitute “him or her”.

17. Subsection 47(1):

Omit “his making”, substitute “the making by the person of”.

18. Subsection 47(3):

Omit “him”, substitute “the owner”.

19. Subsection 47(6):

Omit “he”, substitute “he or she”.

20. Paragraph 49(1)(b):

Omit “him”, substitute “him or her”.

21. Subparagraphs 49(1)(b)(i) and (ii):

Omit “he”, substitute “he or she”.

22. Subsection 49(2):

Omit “his”, substitute “his or her”.

23. Paragraph 49(5)(b):

Omit “he”, substitute “he or she”.

24. Paragraph 51(1)(d):

Omit “he” (wherever occurring), substitute “the person”.

25. Subsection 51A(4):

Omit “he”, substitute “he or she”.

26. Subsection 59(4):

Omit “him” (wherever occurring), substitute “him or her”.

*Law and Justice Legislation
Amendment (No. 2) No. 141, 1994*

13

SCHEDULE 2—continued

- 27. Subsection 70(1):**
Omit “his making”. substitute “the making by the person of”.
- 28. Subsection 70(3):**
Omit “him”, substitute “the owner”.
- 29. Subsection 70(6):**
Omit “he”. substitute “he or she”.
- 30. Subsection 82(2):**
Omit “he”, substitute “he or she”.
- 31. Subsection 103(1):**
Omit “importer” (first occurring), substitute “person”.
- 32. Subsection 107(1):**
Omit “his making”, substitute “the making by the person of”.
- 33. Subsection 107(3):**
Omit “him”, substitute “the owner”.
- 34. Subsection 107(6):**
Omit “he”, substitute “he or she”.
- 35. Paragraph 108(1)(a):**
Omit “him”, substitute “the owner”.
- 36. Paragraph 109(1)(a):**
Omit “him”, substitute “the owner”.
- 37. Subsection 116(1):**
Omit “he” (wherever occurring), substitute “he or she”.
- 38. Paragraphs 119(a), (b) and (c):**
Omit “he” (wherever occurring), substitute “he or she”.
- 39. Section 125:**
Omit “he”. substitute “he or she”.
- 40. Paragraph 126(b):**
 - (a) Omit “he”. substitute “he or she”.
 - (b) Omit “his”, substitute “his or her”.

14

*Law and Justice Legislation
Amendment (No. 2) No. 141, 1994*

SCHEDULE 2—continued

41. Subsection 127(1):

- (a) Omit “his”, substitute “his or her”.
- (b) Omit “he”, substitute “he or she”.

42. Paragraph 129(2)(c):

Omit “he”, substitute “he or she”.

43. Section 131:

- (a) Omit “his”, substitute “his or her”.
- (b) Omit “he”, substitute “he or she”.

44. Paragraphs 135(2)(a) and (b):

Omit “he”, substitute “he or she”.

45. Subsection 135(6):

Omit “him”, substitute “him or her”.

46. Paragraph 135(8)(d):

Omit “him”, substitute “him or her”.

47. Subsection 140(1):

Omit “he”, substitute “he or she”.

48. Subsection 140(2):

Omit “he” (wherever occurring), substitute “he or she”.

49. Subsection 141(1):

Omit “his”, substitute “his or her”.

50. Subsection 141(2):

Omit “he” (wherever occurring), substitute “he or she”.

51. Paragraph 141(4)(b):

Omit “his” (wherever occurring), substitute “his or her”.

52. Subsection 142(2):

Omit “he”, substitute “he or she”.

53. Subsection 143(1):

Omit “he”, substitute “the member”.

Law and Justice Legislation
Amendment (No. 2) No. 141, 1994

15

SCHEDULE 2—continued

54. Subsection 143(3):

Omit “*Tribunals*”, substitute “*Tribunal*”.

55. Subsection 143(4):

Omit “he”, substitute “he or she”.

56. Subsection 144(1):

Omit “his”, substitute “his or her”.

57. Subsection 144A(1):

(a) Omit “he” (first occurring), substitute “the member”.

(b) Omit “his”, substitute “his or her”.

58. Paragraphs 144A(1)(a) and (b):

Omit “he”, substitute “he or she”.

59. Paragraphs 144A(2)(a) and (b):

Omit “he”, substitute “he or she”.

60. Section 144B:

Omit “he”, substitute “he or she”.

61. Section 145:

Repeal the section, substitute:

Resignation

“145. A member may resign the office of member by giving a signed notice of resignation to the Governor-General.”.

62. Paragraph 146(4)(a):

Omit “he”, substitute “he or she”.

63. Subsection 146(5):

Omit “he”, substitute “he or she”.

64. Subsection 152(12):

Omit “him”, substitute “him or her”.

65. Subsection 152(19):

Omit “him” (wherever occurring), substitute “the broadcaster”.

SCHEDULE 2—continued

66. Subsection 154(1):

Omit “he”, substitute “he or she”.

67. Paragraph 155(1)(b):

Omit “he”, substitute “he or she”.

68. Paragraph 156(1)(c):

Omit “he”, substitute “he or she”.

69. Subsection 157(1):

Omit “him” (wherever occurring), substitute “him or her”.

70. Subsection 157(2):

Omit “he”, substitute “he or she”.

71. Subsection 157(3):

Omit “he”, substitute “he or she”.

72. Subsection 158(1):

- (a) Omit “he” (first occurring), substitute “the person”.
- (b) Omit “he” (second occurring), substitute “he or she”.
- (c) Omit “he” (last occurring), substitute “he or she”.

73. Paragraph 158(2)(b):

- (a) Omit “he” (first occurring), substitute “the person concerned”.
- (b) Omit “he” (second occurring), substitute “he or she”.

74. Subsection 158(3):

Omit “he”, substitute “he or she”.

75. Subsection 159(1):

Omit “he” (wherever occurring), substitute “he or she”.

76. Paragraph 159(2)(b):

- (a) Omit “he” (first occurring), substitute “the person concerned”.
- (b) Omit “he” (second occurring), substitute “he or she”.

77. Subsection 159(3):

Omit “he”, substitute “he or she”.

78. Subsection 159(4):

Omit “he” (wherever occurring), substitute “he or she”.

SCHEDULE 2—continued

79. Subsection 159(5):

Omit “he”, substitute “he or she”.

80. Subsection 159(6):

Omit “he” (wherever occurring), substitute “he or she”.

81. Subsection 163A(1):

Omit “his”, substitute “his or her”.

82. Subsection 171(1):

Omit “his”, substitute “his or her”.

83. Subsection 172(3):

Omit “he”, substitute “he or she”.

84. Paragraph 173(a):

Omit “his”, substitute “his or her”.

85. Paragraph 182A(3)(e):

Omit “him”, substitute “him or her”.

86. Subsection 183(3):

Omit “he”, substitute “he or she”.

87. Subsection 183(4):

(a) Omit “him”, substitute “him or her”.

(b) Omit “he”, substitute “he or she”.

88. Subsection 183(7):

Omit “him”, substitute “him or her”.

89. Section 191:

Omit “his”, substitute “the person’s”.

90. Section 192:

Omit “his”, substitute “the person’s”.

91. Subsection 194(1):

Omit “him”, substitute “him or her”.

92. Subsection 194(3):

Omit “his”, substitute “his or her”.

SCHEDULE 2—continued

93. Subsection 197(1):

- (a) Omit “him” (wherever occurring), substitute “him or her”.
- (b) Omit “his”, substitute “his or her”.

94. Subsection 197(2):

- (a) Omit “he” (wherever occurring), substitute “he or she”.
- (b) Omit “his”, substitute “his or her”.

95. Section 198:

Omit “his”, substitute “his or her”.

96. Subsection 199(3):

Omit “he”, substitute “the person”.

97. Subsection 199(4):

- (a) Omit “he”, substitute “the person”.
- (b) Omit “him”, substitute “the person”.

98. Subsection 199(5):

Omit “his”, substitute “his or her”.

99. Subsection 201(1):

Omit “his”, substitute “his or her”.

100. Subsection 202(1):

Omit “he”, substitute “he or she”.

101. Subsection 202(3):

- (a) Omit “him”, substitute “him or her”.
- (b) Omit “his”, substitute “his or her”.

102. Subsection 202(4):

Omit “he”, substitute “he or she”.

103. Paragraphs 203E(1)(a) and (b):

Omit “he”, substitute “he or she”.

104. Subsection 203E(4):

Omit “he”, substitute “he or she”.

105. Subsection 203E(6):

Omit “him”, substitute “him or her”.

*Law and Justice Legislation
Amendment (No. 2) No. 141, 1994*

19

SCHEDULE 2—continued

106. Subsection 211(3):

Omit “his”, substitute “his or her”.

107. Subsection 213(6):

Omit “his”, substitute “his or her”.

108. Subsection 213(7):

Omit “his”, substitute “his or her”.

109. Subparagraph 219(1)(b)(i):

(a) Omit “he”, substitute “he or she”.

(b) Omit “his”, substitute “his or her”.

110. Subparagraph 219(1)(b)(ii):

(a) Omit “he” (wherever occurring), substitute “he or she”.

(b) Omit “him”, substitute “him or her”.

111. Paragraph 239(4)(b):

Omit “his” (wherever occurring), substitute “his or her”.

112. Subsection 248(4):

Omit “his” (wherever occurring), substitute “his or her”.

Judiciary Act 1903

113. Paragraph 23(2)(b):

Omit “he”, substitute “he or she”.

114. Section 45:

Omit “he”, substitute “he or she”.

115. Paragraph 50(1)(a):

Omit “his”, substitute “his or her”.

116. Paragraph 55B(2)(a):

Omit “he”, substitute “he or she”.

117. Paragraph 55B(2)(b):

(a) Omit “he”, substitute “he or she”.

(b) Omit “his”, substitute “his or her”.

20

*Law and Justice Legislation
Amendment (No. 2) No. 141, 1994*

SCHEDULE 2—continued

118. Subsection 55B(3):

Omit "his", substitute "his or her".

119. Subsection 55B(5):

Omit "he", substitute "he or she".

120. Subsection 55B(6):

Omit "he", substitute "he or she".

121. Subsection 55B(8):

Omit "him", substitute "him or her".

122. Subsection 55C(2):

Omit "he", substitute "he or she".

123. Paragraph 55C(5)(a):

Omit "his", substitute "his or her".

124. Subsection 55C(7):

Omit "he", substitute "the Registrar".

125. Section 61:

Omit "him", substitute "him or her".

126. Section 62:

Omit "him", substitute "him or her".

127. Section 63:

Omit "him", substitute "him or her".

128. Subsection 68(6):

Omit "he" (wherever occurring), substitute "he or she".

129. Subsection 68(7):

Omit "he", substitute "he or she".

130. Paragraphs 69(2A)(a) and (b):

Omit "his", substitute "his or her".

131. Subsection 69(3):

(a) Omit "his", substitute "his or her".

(b) Omit "himself", substitute "himself or herself".

(c) Omit "he", substitute "he or she".

*Law and Justice Legislation
Amendment (No. 2) No. 141, 1994*

21

SCHEDULE 2—continued

132. Subsection 71(1):

- (a) Omit “his”, substitute “his or her”.
- (b) Omit “he”, substitute “he or she”.

133. Subsection 71A(2):

- (a) Omit “his”, substitute “the defendant’s”.
- (b) Omit “him” (twice occurring), substitute “the defendant”.

134. Subsection 72(1):

Omit “he”, substitute “he or she”.

135. Subsection 72(2):

- (a) Omit “he”, substitute “he or she”.
- (b) Omit “him”, substitute “him or her”.
- (c) Omit “himself”, substitute “himself or herself”.

136. Subsection 72(3):

Omit “him”, substitute “him or her”.

137. Subsection 74(1):

Omit “his”, substitute “his or her”.

138. Subsection 74(2):

- (a) Omit “his”, substitute “his or her”.
- (b) Omit “him”, substitute “him or her”.
- (c) Omit “he”, substitute “he or she”.

139. Subsection 76(2):

- (a) Omit “he”, substitute “he or she”.
- (b) Omit “his”, substitute “his or her”.

140. Subsection 77E(1):

Omit “his”, substitute “his or her”.

141. Paragraph 77E(2)(b):

Omit “him”; substitute “the defendant”.

142. Paragraph 77G(b):

Omit “him”, substitute “him or her”.

143. Subsection 77H(2):

Omit “his”, substitute “his or her”.

SCHEDULE 2—continued

144. Subsection 77K(2):

Omit “or he”.

145. Subsection 77L(2):

Omit “his”, substitute “his or her”.

146. Subsection 77R(2):

(a) Omit “him”, substitute “him or her”.

(b) Omit “he”, substitute “he or she”.

147. Subsection 77V(2):

Omit “he” (wherever occurring), substitute “he or she”.

148. Subsection 77V(3):

Omit “his”, substitute “his or her”.

149. Paragraph 78B(3)(b):

Omit “he” (wherever occurring), substitute “he or she”.

150. Schedule:

(a) Omit “his”, substitute “his or her (*as the case may be*)”.

(b) Omit “him”, substitute “him or her (*as the case may be*)”.

Law Officers Act 1964

151. Subsection 6(2):

Omit “he”, substitute “he or she”.

152. Subsection 6(3):

Omit “his”, substitute “his or her”.

153. Subsection 7(3):

Omit “*Tribunals*”, substitute “*Tribunal*”.

154. Section 8:

Repeal the section, substitute:

Resignation

“8. The Solicitor-General may resign the office of Solicitor-General by giving a signed notice of resignation to the Governor-General.”.

SCHEDULE 2—continued

155. Subsection 9(1):

Omit "his", substitute "his or her".

156. Paragraph 10(a):

Omit "his", substitute "his or her".

157. Paragraph 10(c):

Omit "his" (twice occurring), substitute "his or her".

158. Paragraph 11(2)(a):

Omit "his", substitute "his or her".

159. Subparagraph 12(a)(viii):

Omit "him", substitute "him or her".

160. Paragraph 12(b):

(a) Omit "his", substitute "his or her".

(b) Omit "him", substitute "him or her".

161. Section 13:

(a) Omit "his", substitute "his or her".

(b) Omit "he", substitute "he or she".

162. Subsection 16(1):

Omit "his", substitute "his or her".

163. Subsection 16(2):

(a) Omit "his" (first, second and third occurring), substitute "his or her".

(b) Omit "he" (wherever occurring), substitute "he or she".

164. Paragraph 16(2)(a):

Omit "his".

165. Subsection 16(3):

(a) Omit "his", substitute "his or her".

(b) Omit "he", substitute "he or she".

166. Paragraph 16A(1)(b):

Omit "he", substitute "he or she".

SCHEDULE 2—continued

167. Subsection 16A(2):

Omit "his", substitute "his or her".

168. Paragraph 16A(2)(b):

Omit "his", substitute "his or her".

169. Subsection 16A(9):

Omit "he", substitute "he or she".

170. Subsection 16A(11) (definition of "qualifying service"):

(a) Omit "his", substitute "his or her".

(b) Omit "he", substitute "he or she".

171. Subsection 16A(11) (definition of "salary as Solicitor-General"):

Omit "his", substitute "his or her".

172. Subsection 17(1):

Omit "his" (twice occurring), substitute "his or her".

173. Subsection 17(2):

Omit "his" (twice occurring), substitute "his or her".

NOTE ABOUT SECTION HEADING

1. On the commencement of item 10 of Schedule 1 to this Act, the heading to section 3ZW of the *Crimes Act 1914* is altered by omitting "Court of summary jurisdiction" and substituting "Magistrate".

[Minister's second reading speech made in—

Senate on 30 June 1994

House of Representatives on 16 November 1994]

