Statutory Interpretation – Legislative Literacy

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Introduction

Australia relies on legislation being properly applied and administered. Statutory interpretation is underpinned by legislative literacy – supported by law librarians. When we travel outside Australia we often come home and say, "Aren't we lucky to live here where we have the rule of law". But it isn't luck. We, and those before us, have worked hard to achieve and maintain this. We all have to LYL (Love Your Legislation). It supports and guides our daily lives enabling a society governed by the rule of law.

This paper is not about the rules of statutory interpretation that can easily be read in the texts.[2] The rules are important but the focus here is on unlocking legislation to discover its meaning. By discussing and sharing our experience of researching legislation we can achieve better legislative literacy.

The main subject is federal law. While conference participants come from all over Australia and overseas many federal topics and principles apply to all Australian state and territory legislation and comparative overseas legislation.

Five keys to unlock legislative literacy

We begin with five keys that have been identified as helping to unlock legislative literacy.

First is the separation of powers in the Constitution. The institutions of government are divided into three branches - the judiciary, executive and legislature.[3] This provides checks and balances. Any newspaper (like today's) can be read having regard to the separation of powers. For example, the *Royal Commissions Act* 1902 is relevant to the current Banking Royal Commission. The Governor-General signed the Letters Patent that contain the terms of reference for the Commission (available on its website).

I note here that 'legisprudence' is a recent term for the theoretical approach to the study of legislation. Jurisprudence is the study of the theory of law. Arguably 'execprudence' describes the theoretical approach to the study of the use of executive power.

Secondly, the importance of legislation in dispute resolution is acknowledged. A majority of cases in superior courts involve statutory interpretation. For example, by 15 April 2018 the High Court had handed down 15 decisions and 11 or 73% included statutory interpretation.

Thirdly, the understanding of an Act of Parliament comes from more than just reading a section of the Act. Recently a young friend of mine was debating whether to study law and was advised by a fellow public servant that "anyone can read a statute." While that is true on one level, if you want to understand it, legislative literacy is required. This involves knowledge of statutory interpretation rules and how they have been applied. If there is more than one way to read a provision - and there often is – you also need more (discussed in the fourth key).

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[1] This paper comes from slides presented at the Australian Law Librarians (ALLA) Conference, Global Impact-National Footprint, Darwin. 4 May 2018.

[2] See list of sources at end of paper.

[3] See graphic from federal parliament website: aph.gov.au

Fourthly, all professionals have knowledge, skills and attributes. Lawyers and library and information professionals gain knowledge and skills then practise and undertake ongoing learning. They are also trained in, and practise, attributes that they need as a professional. It is vital that they know how to access current, relevant information.

Fifthly, vision is needed to unlock legislation. It is a common mistake to concentrate only on a particular section being interpreted instead of standing back and seeing how that section fits into the legislation. By doing a "Google Earth" and noticing how the whole Act or regulation works, one can obtain a better understanding of a particular provision. By noticing the way the legislation works including its Parts and Divisions you can see the context of the section. Ask whether the same words have been used elsewhere. Check the amendments that have been made to the section. When were they made? Why? Has this section, or one like it, been discussed in a reported case?

Legislative literacy

Legislative literacy involves deep understanding gained through proper legal research and that is why law librarians are so important. If you are administering, applying, litigating or otherwise using legislation you must truly know it. An appreciation for it comes from understanding its context.

Recognition of the 'pressure points' in the legislation also helps. These are the provisions that are LFL (likely for litigation). They can be identified by reading parliamentary debates, parliamentary committee reports and media reports. Interest groups' submissions often indicate what is likely to be contested. If legislation has history there may well be court decisions interpreting these provisions. Other legislation with similar provisions may also have been litigated.

It is only when you can see legislation through other peoples' eyes that you gain real legislative literacy. With 'fresh eyes' you may realize that something you thought you knew isn't actually fully correct. Fresh eyes are particularly important if you are administering legislation and an accepted interpretation has become a cultural norm in the organization. Stereotyped assumptions and even bias can creep in.

Regulators' tools

Legislative literacy also comes from appreciating the tools used by legislators who pass legislation, regulations, instruments etc. so that regulators can achieve outcomes. While Acts must proceed through both the House of the Representatives and the Senate before becoming law, regulations need only be introduced and lie for 15 sitting days without challenge before they become law. [4] Increasingly other tools are being used such as declarations, orders, determinations, rules and codes. Some instruments are notifiable. [5] It is important to identity the character of the tool being used, as well as its currency, date etc.

Regulation has been described in the pyramid of compliance that was developed in Australia by Braithwaite and Ayres.[6] A regulator hopes that most people will voluntarily comply. It may be necessary to use a 'carrot' as an inducement. If people breach they may need a warning. Then if they breach in a more serious way, eventually there may need to be a big stick for punishment, such as gaol.

Two examples describe various legislative methods that are used. Firstly, the case of *Maritime Union of Australia v Minister for Immigration and Border Protection* [2016]

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[4] See *Odgers Senate Practice* 14th ed chap 15 available on aph,gov,au website.

[5] See Office of Parliamentary Counsel *Instruments Handbook* Release 3.2, March 2018.

[6] The model was first put forward by Braithwaite in J Braithwaite, *To Punish or Persuade: Enforcement of Coal Mine Safety (*1985).

HCA 34 (31 August 2016) is described at Attachment A. Secondly, the *Australian Border Force Act 2015 is* an example of methods used to create a new organisation. That Act draws on other Acts[7], Rules[8] and Secretary Determinations.[9]

Responsive statutory interpretation

When Acts come before federal courts for interpretation in litigation the courts must interpret provisions that may be ambiguous and hotly contested. Statutory interpretation, like any branch of law, develops in response to new requirements.

The *Acts Interpretation Act 1901* (the *AIA*) was the second Act, and first substantive Act, passed by the new Commonwealth Parliament because of its importance and help in reading Commonwealth Acts. There are equivalent Acts in all states and territories.[10] In recent years there have been main two groups of amendments to the Commonwealth *AIA* – first in 1984 and again in 2011.[11] The amendments responded to new circumstances. In addition, the federal courts' approach to statutory interpretation has developed.

The French High Court will be remembered for giving strong leadership on statutory interpretation. Justice French (as he then was) joined the Federal Court in 1986 just two years after the *AIA* was amended and one year after the High Court decision in *Kiao v West* [12]. Chief Justice Kiefel joined the Federal Court in 1994 and the High Court in 2007. The *Migration Act 1958* amendments in 1989, and subsequently, led to extensive litigation in the federal courts involving statutory interpretation. This Act, among others, has been before the High Court many times in recent years.

The federal courts' approach to statutory interpretation is to always start with the text of the Act. Next they may look at the context and the purpose. [13] The history of a provision can be important and legal research is vital. For example, legislation may have been passed as a result of an international treaty obligation or a national scheme. Perhaps there had been a 'sunsetting'[14] provision or a de-regulation exercise. The use of similar provisions in other legislation may be considered. Legislative 'intent' is no longer considered.[15]

Statutory interpretation approaches must be monitored. For example, last year in *Aubrey v The Queen*[16] the High Court interpreted "inflicts" (harm) in s.35 (1)(b) of the NSW *Crimes Act 1900* with 21st century understanding of sex and disease. The legislation was interpreted as "always speaking", reflecting modern understanding.

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[7] *Australian Border Force Act 2015*, *Public Service Act 1999*, *Public Governance and Performance Accountability Act 2013, Law Enforcement Integrity Commissioner Act 2006*
[8] Oath and Affirmation, Secrecy and Disclosure, Alcohol and Drug Tests.
[9] Determination of IBP workers (Original determination 29 June 2015, Amended Determination 30 Sept 2016); Professional Standards 29 June 15; Employment Suitability and Security Screening 29 June 15; Integrity Measures 1 July 2015.
[10] *Interpretation Act 1987* (NSW); *Interpretation of Legislation Act 1984* (Vic); *Acts Interpretation Act 1954* (Qld); *Interpretation Act 1984* (WA); *Acts Interpretation Act 1915* (SA); *Acts Interpretation Act 1931* (Tas); *Interpretation Act 1978* (NT); *Interpretation Act 1967* (ACT).
[11] Anne Lehane and Robert Orr "Amendments to the Commonwealth Acts Interpretation Act" 73 *AIAL Forum* 40 (available online)
[12] (1985) 159 CLR 550
[13] This approach is explained in *Alcan (NT) Alumina Pty Ltd v Commissioner of Territory Revenue* (2009) 239 CLR 27.
[14] A sunset provision can state that the legislation will no longer be in force beyond a certain date or after a particular event has occurred unless an extension is agreed to. It can be part of a compromise to achieve passage of legislation.
[15] *Zheng v Cai* (2009) 239 CLR 446,455.
[16] [2017] HCA 18

Justice Basten of the NSW Court of Appeal edits the statutory interpretation part of the *Australian Law Journal* (*ALJ*) and has recently included an article on constructional choice.[17] How do I know this? Vima Devia, my law librarian at the Minter Ellison office in Canberra has been sending me alerts while I am at this conference in Darwin.

Statutory interpretation in action

Many decisions of federal courts can be examined and discussed to underscore the importance of statutory interpretation and how it is done but time constraints limit us to the following High Court cases.

Minister for Immigration and Border Protection (MIBP) v Kumar [18]

MIBP v Kumar shows the operation of the *AIA* and how federal courts are called upon to examine a section's history to understand its operation.

Mr Kumar needed to apply for a new visa before his old visa expired. The *AIA* s.36(2) means that if a deadline expires on a weekend or public holiday you can have until the next day to meet the requirement. (An equivalent provision is in all state and territory Acts[19]).

Mr Kumar posted his application for a new visa on Friday. The old visa expired on Sunday and the application for the new visa was received by the department on Monday.

The requirements for the granting of visas are contained in a Schedule to Regulations made under the Migration Act 1958. The relevant criteria in this case were in cl 572.211(2) (the clause).

In 1994 there was a Full Federal Court decision *Manit Zangzinchai v Marilyn Milanta*[20] that had involved a similar argument about s.36(2). In that case the Court decided 2/1 (with Justice Burchett dissenting) that s.36(2) did not operate to change the visa criteria. Since that decision, in 2011, s.36 (2) had been amended.[21]

The primary decision maker refused the new visa and the merits review tribunal affirmed that decision so Mr Kumar sought judicial review of the tribunal's decision by the Federal Circuit Court.[22] Judge Street decided in favour of the Minister. He found that the clause did not prescribe or allow anything to be done, but rather identified a state of affairs that had to exist as a criteria for the making of the visa decision. This meant *AIA* s.36 (2) didn't apply. The judge saw his decision as being in line with the majority decision in *Zangzinchai.*[23]

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[17] Gordon Brysland and Suna Rizalar 'Constructional Choice' (2018) 92 *ALJ* 81. (The authors produce interpretation NOW! a monthly publication on recent developments in statutory interpretation on the ATO Legal Database).
[18] [2017] HCA 11; 91 ALJR 466; 343 ALR 33; 155 ALD 1.
[19] *Interpretation Act 1987* (NSW) s 36(2); *Interpretation of Legislation Act 1984* (Vic) s 44(3); *Acts Interpretation Act 1954* (Qld) s 38(2); *Interpretation Act 1984* (WA) s 61(1)(e); *Acts Interpretation Act 1915* (SA) s 27(2); *Acts Interpretation Act 1931* (Tas) s 29(3); *Interpretation Act 1978* (NT) s 28(2); *Interpretation Act 1967* (ACT) s 36(2).
[20] [1994] FCA 788; 53 FCR 35; 35 ALD 709.
[21] See n.16 above [at 11ff].
[22] *Id* [at 7-8].
[23] *Id* [at 10].

Mr Kumar appealed to the Federal Court where Justice North allowed his appeal. He distinguished *Zangzinchai b*ecause it was concerned with an earlier version of s.36 (2).

The Minister appealed to the High Court which decided 4/1 in his favour (Justice Nettle dissenting). The Court said that s.36 (2) didn't save the application. The section could not alter the rights and obligation imposed by the Act. There was no time limit for applying for the new visa.

In reaching its decision the plurality (Justices Bell, Keane and Gordon) examined the history of s.36 (2) including the 2011 amendment to the section. They examined the explanatory memorandum and considered the effect of the 2011 change. Justice Gageler agreed with them but wrote a separate decision,

Esso v Australian Workers Union (AWU) [24]

The case of *Esso v AWU* shows how ambiguity in a legislative provision leads the court to look closely at history and context to decide the meaning and operation of a provision. The 'plasticity' and 'shades of meaning and nuance'[25] that occur in legislative provisions require research – supported by law librarians![26]

Esso and the AWU were bargaining for an enterprise agreement for certain locations and the AWU organized industrial action. Under the *Fair Work Act 2009 (Cth)* industrial action undertaken during such negotiations can be protected industrial action that gives immunity from civil liability. This concept was introduced in amendments to the Act in 1993.[27] However the Act provides that a union cannot organise protected industrial action when it has contravened an order of the Fair Work Commission. The AWU argued that this action it organised was 'protected" while Esso argued that it was not protected.

The issue was when the order had to be made by the Commission to make the action protected. Subsection 413(5) that specifies the common requirements for industrial action to qualify as protected industrial action was the subsection being considered.

Esso initiated action in the Fair Work Division of the Federal Court seeking declarations that because the AWU had contravened an order the action was not protected. [28] Judge Jessup decided in favour of the AWU because he felt bound by a very recent decision of Justice Barker in *Australian Mines and Metals Association v Australian Maritime Union (AMMA)*[29] that the order had to be current.[30]

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[24] [2017] HCA 54; 92 ALJR 106; 350 ALR 404; 271 IR 210.

[25] *Momcilovic v The Queen* (2011) 245 CLR 1,50 (per French CJ) cited by Brysland and Rizalar n.17.

[26] See Fiona MacDowall, Research Librarian, Melbourne Law School Academic Research Service, 'Legislative History Research and Data Visualisation' 2018 ALLA Conference.

[27] n.24 [at 1].

[28] n.24 [at 18].

[29] [2015] FCA 677 (3 July 2015); 147 ALD 398; (2015) 251 IR 75.

[30] [2015] FCA 758 (24 July 2015); 253 IR 304; n.24 [at 19].

Esso appealed to the Full Federal Court that decided in the AWU's favour that the order had to be current at the time of the action.[31] That is, a union only loses its entitlement to organise industrial action while the contravened order remains in operation. When the order ceases to operate then the disentitlement to organise industrial action also ceases.

The High Court decided 4/1 in Esso's favour (Kiefel CJ, Keane, Nettle and Edelman JJ (the plurality); Gageler J. in dissent) holding that the disentitlement to organise industrial action continues to apply for the remainder of the period of enterprise bargaining. That is, even though the operation of the order of the Commission that has been contravened has ceased to operate, the disentitlement to organise industrial action continues.

The plurality stated that s.413 (5) was poorly drafted and ambiguous. The ambiguity could have been avoided with a few extra words but since that was not done it was necessary to look at history and context.[32] The plurality considered the legislative history, the context and past contraventions of earlier orders. Justice Gageler analysed the context in detail. The decisions epitomise current statutory interpretation.

Citizenship cases

The final group of cases for discussion is from the so-called '2017 Australian parliamentary eligibility crisis'. They are some of the citizenship and 'office of profit' cases that have come before the High Court over recent months following the general election on 2 July 2017 after the dissolution of both houses of parliament on 9 May 2017.

Section 44 of the Constitution has been in force since the Constitution came into effect on 1 January 1901.[33] It lists matters that preclude a person from being a member of parliament including bankruptcy, dual citizenship and holding an office of profit under the crown. A pocket edition of the Constitution costs less than $5 and it rarely changes! These requirements have obviously been litigated before[34] and have been taught in Australian law schools for many years.

Under the *Commonwealth Electoral Act 1918* the validity of any election or return may be disputed only by petition addressed to the Court of Disputed Returns. The High Court of Australia is the Court of Disputed Returns and it has jurisdiction either to try the petition or to refer it for trial to the Federal Court.

In late October 2017 the High Court handed down its decision in the 'citizenship seven' cases[35]. Following that decision other senators, including Senator Jacquie Lambie and Senator Skye Kakoschke-Moore, found they held British citizenship by descent and resigned from parliament. The following High Court cases concern successors t senators who were found to be ineligible.

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[31] *ESSO v AWU* [2016] FCAFC 72; [2016] 258 IR. The decision in the appeal in the *AMMA* case was handed down by the same bench on the same day: n.24 [at 20].
[32] n.24 [at 29].
[33] See Commonwealth of Australia Constitution Act 1901 in the Federal Register of Legislation. Notes to the Act include table of amendments.
[34] e.g. *Sykes v Cleary* (1992) 176 CLR 77, *Sue v Hill* (1999) 199 CLR 362
[35] In the matters of questions referred to the court of disputed returns pursuant to s.376 of the *Commonwealth Electoral Act 1918* (Cth) concerning Senator the Hon Matthew Canavan, Mr Scott Ludlum, Ms Larissa Waters, Senator Malcolm Roberts, The Hon Barnaby Joyce MP, Senator the Hon Fiona Nash and Senator Nick Xenophon [2017] HCA 45.

Re Nash [No 2] [36]

The High Court decision in late October 2017 declared a vacancy for NSW for the place for which Ms Nash was returned and the vacancy was to be filled by a special count of the ballot papers. That count indicated that Hollie Hughes was entitled to be elected and the Commonwealth Attorney-General asked the High Court to declare her elected. However she notified the Court of a question over her eligibility.

After the election, the Attorney-General had appointed Hughes to the federal Administrative Appeals Tribunal (AAT). She was a member of the Tribunal from 1 July until 27 October when the High Court's 'citizenship seven' decision was handed down and she immediately resigned from the AAT. The AAT office was an office of profit under the Crown.

The issue before the Court was whether Hughes was eligible to be appointed.

On 15 November the High Court heard submissions on this issue and declared Hughes to be ineligible, reserving its reasons. The reasons were given on 6 December. The Court unanimously held that the words "incapable of being chosen" in section 44 refer to the whole "process of being chosen", the "end-point" of which is a declaration that a candidate has been elected, and no declaration as to this seat had been made. The *Commonwealth Electoral Act 1918* establishes the structure by which the choice by the people is to be made and the processes established by the Act do not end with polling. They are brought to an end only with the declaration of the result of the election and of the names of the candidates elected and they are not completed when an unqualified candidate is returned. A candidate has to be eligible throughout the process and Hughes could not be declared elected since she was ineligible during part of the process because of her tribunal appointment.

The effect of this decision was that a recount excluding both Nash and Hughes occurred and Senator James Molan was chosen.

Re Lambie[37]

When Senator Jacquie Lambie was found ineligible under s.44(i) in the 'citizenship seven' case the second listed person for the Jacqui Lambie Network in Tasmania was Steven Martin, who was the mayor of Devonport, Tasmania. This raised the question whether an office in local government was an 'office of profit' under the Crown' under s.44. Kate McCulloch, of the One Nation Party, was heard on the reference because if Mr Martin was ineligible she would win on the recount.

It was agreed before the High Court that the position was an "office" and a position "of profit." The decision turned on whether the offices of mayor and of councillor of a local government corporation established under the *Local Government Act 1993 (Tas)* answer the description of offices of profit "under" the executive government of Tasmania.

The High Court, sitting as the court of disputed returns hearing a reference from the Senate heard the case on 6 February 2018 and immediately decided unanimously that Mr Martin was not ineligible under s.44.

[36] [2017] HCA 52 (6 December 2017)
[37] [2018] HCA 6 (14 March 2018); 92 ALJR 285; 351 ALR 559

The court's reasons show detailed statutory interpretation. The plurality considered the history of section 44 going back to federation. Justice Edelmann, who wrote a separate decision agreeing with the plurality, also examined the history and context of the provision.

Re Kakoschke-Moore[38]

In 2016 election Skye Kakoschke –Moore was elected third on the Nick Xenophon team for South Australia. Tim Storer was elected fourth. Ms Kakoschke-Moore resigned from the Senate in November when the British Home Office confirmed that she was a British citizen at the time of nomination. The Senate referred the matter to the High Court.

Ms Kakoschke-Moore resigned from the Senate on 22 November 2017 and submiited a form on 30 November to renounce her British citizenship. She was notified on 6 December that her renunciation was effective from that date. Meanwhile, on 6 November, Tim Storer resigned from the party.

Ms Kakoschke –Moore argued that since she was no longer a Brutish citizen she could fill the vacancy and the court could declare her elected. Alternatively she argued she could participate in a special count. Finally, she argued that Mr Storer should be excluded form the special count.

The Court decided that Ms Kakoscke-Moore was incapable of being chosen on 2 July so it could not declare elected. As the special count is completing that electoral process she could not participate in the special count which is not a new electoral process. The Court applied their decision in *Re Nash (No.2)* (above).

The Court interpreted the *Commonwealth Electoral Act 1918* to answer the question about Mr Storer's eligibility to fill the vacancy although he was no longer a member of the party. It held that the Act leaves the relationship between the party and the candidate a matter for them and does not affect voter intention. Mr Storer was found to be eligible and he is now a Senator for South Australia.

Sources

Useful sources that have been listed are in no particular order. The common law rules are discussed in statutory interpretation texts.[39] The *AIA* has been discussed above. The Australian Parliament House website has many useful resource documents including explanatory memoranda, bills digests etc. Similarly the Office of Parliamentary Counsel website and Department of Prime Minister and Cabinet websites are also very useful. For comparative law I recommend trusted sources.

Conclusion

Love your legislation. Study it, know its contours, see how it changes, value its strengths and recognise its weaknesses so that it may be made stronger to serve us all.

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[38] [2018] HCA 10 (21 March 2018)
[39] Pearce and Geddes *Statutory Interpretation in Australia* 8th ed;
Perry Herzfeld & Thos Prince *Statutory Interpretation principles* Thomson Reuters 2014

Attachment A

Maritime Union of Australia v Minister for Immigration and Border Protection [2016] HCA 34 (31 August 2016)

'The legal minuet between the Minister and the Parliament'[40]and the Federal and High Court.

Appellants: union whose members are employed in the offshore oil industry.

Question Before the HCA: whether the Minister's determination exceeded power.

HCA Decision (unanimous): The framework of the power within the legislation showed an established scheme for visas, and exemptions. The amending sections created an extension of the scheme that the determination could not entirely negate so it exceeded the power.

Date	**Action**	**Effect**	**HCA dec'n para no.**
1982 - May 2012	*Migration Act 1958* and regulations applied	non citizens need a visa to work in the offshore oil industry (resource installation) but workers on some vessels excluded (s.5(13)).	2
18 May 2012	*Allseas Construction SA v Minister for Immigration and Citizenship* [2012] FCA 329	McKerracher J. holds that workers on 2 pipe laying vessels in the Gorgon and Jansz gas fields don't need a visa because those vessels are excluded by s.5(13) i.e. not in the migration zone.	3
30 May 2013	Migration Amendment (Offshore Resources Activity) Bill 2013 introduced	Department of Immigration and Citizenship taskforce on how best to apply *Migration Act* to workers in offshore maritime zones leads to new bill (see explanatory memorandum and Regulation Impact Statement).	4
29 June 2013 Royal Assent (To commence 29 June 2014)	Migration Amendment (Offshore Resources Activity) (ORA) Act 2013 amends *Migration Act*. Adds sections 41(2B) and (2C) and section 9A. Required migration regulation changes delayed.	All people in the offshore resource industry need a work visa. Migration zone is extended to include participation in, or support of, operations or activities regulated or licensed under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (Cth) and the *Offshore Minerals Act 1994* (Cth).	5

[40] *Plaintiff S297/2013 v Minister for Immigration and Border Protection* [2014] HCA 24 (20 June 2014) at [6]

Sept 2013	Labor government loses office		15
27 March 2014	Migration Amendment (Offshore Resources Activity) Repeal Bill 2014 introduced	Repeal because of increase in regulatory burden. Bill passed the House but not the Senate.	15
29 May 2014	Migration Amendment (Offshore Resources Activity) Regulation	Prescribes three existing temporary visas for the purpose of the new s. 41(2B)(b) of the Migration Act. Changes made to expiry arrangements for Maritime Crew visas so they remain valid for a potentially indefinite period.	16
16 July 2014	Regulation disallowed	Greens motion to disallow passes so regulation has no effect. ORA Act now in force again so any persons working in an offshore resources activity within the meaning of s. 9A, who are not Australian citizens, require a permanent visa.	16
17 July 2014	Ministerial determination under s.9A(6) IMMI 14/077	Exempts the whole of the defined content of "offshore resources activity" in s 9A(5)(a) and (b). (legislative instrument cannot be disallowed).	17
15 Sept 2014	*Maritime Union of Australia v Assistant Minister for Immigration and Border Protection* [2014] FCA 993	Buchanan J holds Minister's determination valid.	
26 March 2015	*Maritime Union of Australia v Assistant Minister for Immigration and Border Protection* [2015] FCAFC 45	Minister's determination held invalid.	18
27 March 2015	Ministerial determination IMMI 15/073	Minister's determination revoked after challenge.	18
30 March 2015	Ministerial declaration as to special purpose visas	Minister's declaration revoked after challenge.	18
2 Dec 2015	Ministerial determination IMMI 15/140	Minister excepts from s. 9A(5)(a) and (b) all operations and activities to the extent that they use any vessel or structure that is not an Australian resources installation.	19
31 August 2016	HCA decision handed down	Ministerial determination IMMI 15/140 invalid.	35