



New South Wales

# Electronic Transactions Legislation Amendment (Government Transactions) Act 2017 No 25

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New South Wales

# **Electronic Transactions Legislation Amendment (Government Transactions) Act 2017 No 25**

Act No 25, 2017

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An Act to amend various Acts and regulations to provide for electronic service and publication of documents and the use of electronic forms; to amend the *Road Transport Act 2013* to provide for a trial of digital driver licences; and for other purposes. [Assented to 27 June 2017]

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Electronic Transactions Legislation Amendment (Government Transactions) Act 2017*.

**2 Commencement**

This Act commences on the date of assent to this Act.

## **Schedule 1 Amendments relating to electronic service of documents**

### **1.1 Adoption Act 2000 No 75**

#### **Section 197 Manner of giving notice**

Omit section 197 (1). Insert instead:

- (1) Any notice required to be given to a person under this Act may be given:
  - (a) personally or by post, or
  - (b) by email to an email address specified by the person for the service of documents of that kind, or
  - (c) by any other method authorised by the regulations for the service of documents of that kind.

### **1.2 Adoption Regulation 2015**

#### **[1] Clause 47 Notification of assessment of applicants for adoption**

Omit “served personally or by post” from clause 47 (1).

#### **[2] Clause 47 (1A)**

Insert after clause 47 (1):

- (1A) Notice that is required to be given to a person under this clause may be given:
  - (a) personally or by post, or
  - (b) by email to an email address specified by the person for the service of documents of that kind, or
  - (c) by any other method authorised by the regulations for the service of documents of that kind.

#### **[3] Clause 61 Notification of assessment of authorised carers who are applicants for adoption**

Omit “served personally or by post” from clause 61 (1).

#### **[4] Clause 61 (1A)**

Insert after clause 61 (1):

- (1A) Notice that is required to be given to a person under this clause may be given:
  - (a) personally or by post, or
  - (b) by email to an email address specified by the person for the service of documents of that kind, or
  - (c) by any other method authorised by the regulations for the service of documents of that kind.

### **1.3 Agricultural Tenancies Act 1990 No 64**

#### **Section 28 Service of documents**

Omit section 28 (1) (d). Insert instead:

- (d) by email to an email address specified by the person for the service of documents of that kind, or

- (e) by any other method authorised by the regulations for the service of documents of that kind.

#### **1.4 Architects Act 2003 No 89**

##### **Section 78 How notice is to be given**

Omit section 78 (1). Insert instead:

- (1) A requirement under this Act that a person be given notice is a requirement that the person be given notice in writing:
  - (a) personally or by post, or
  - (b) by email to an email address specified by the person for the service of notices of that kind, or
  - (c) by any other method authorised by the regulations for the service of notices of that kind.

#### **1.5 Assisted Reproductive Technology Act 2007 No 69**

##### **Section 67 How notice is to be given**

Omit section 67 (1). Insert instead:

- (1) A requirement under this Act that a person be given notice is a requirement that the person be given notice:
  - (a) personally or by post, or
  - (b) by email to an email address specified by the person for the service of notices of that kind, or
  - (c) by any other method authorised by the regulations for the service of notices of that kind.

#### **1.6 Biofuels Act 2007 No 23**

##### **[1] Schedule 2 Constitution and procedure of Expert Panel**

Omit “personally or by post” from clause 5 (1) (e).

Insert instead “personally, by post or by email to an email address provided by the member for that purpose”.

##### **[2] Schedule 2, clause 13**

Omit “facsimile or other transmission” from clause 13 (5).

Insert instead “electronic transmission”.

#### **1.7 Building and Construction Industry Security of Payment Act 1999 No 46**

##### **[1] Section 31 Service of notices**

Omit “or facsimile” from section 31 (1) (c).

##### **[2] Section 31 (1) (d) and (d1)**

Omit section 31 (1) (d). Insert instead:

- (d) by email to an email address specified by the person for the service of notices of that kind, or

- (d1) by any other method authorised by the regulations for the service of notices of that kind, or

## **1.8 Building Professionals Act 2005 No 115**

### **[1] Section 88 Service of documents**

Omit section 88 (1) (a) (iii). Insert instead:

- (iii) email to an email address specified by the person for the service of documents of that kind, or
- (iv) any other method authorised by the regulations for the service of documents of that kind, or

### **[2] Section 88 (1) (b) (ii) and (iii)**

Omit section 88 (1) (b) (ii). Insert instead:

- (ii) email to an email address specified by the body corporate for the service of documents of that kind, or
- (iii) any other method authorised by the regulations for the service of documents of that kind.

## **1.9 Companion Animals Act 1998 No 87**

### **Section 95A How notice is to be given to owners**

Omit section 95A (2). Insert instead:

- (2) Notice to which this section applies is to be given in writing to the owner concerned:
  - (a) personally or by post, or
  - (b) by email to an email address specified by the person for the service of documents of that kind, or
  - (c) by any other method authorised by the regulations for the service of documents of that kind.

## **1.10 Conveyancers Licensing Act 2003 No 3**

### **[1] Section 64 Disposal of unclaimed money in trust accounts**

Insert “or email” after “post” in section 64 (1) (a).

### **[2] Section 64 (3)**

Insert “, by email,” after “personally”.

### **[3] Section 64 (5A)**

Insert after section 64 (5):

- (5A) A statement or notice may only be sent by email to a person if the person has provided an email address for receiving statements or notices of that kind.

### **[4] Section 167 Service of notices and directions**

Omit “himself or herself” from section 167 (2) (a).

### **[5] Section 167 (2) (b)–(d)**

Omit “his or her” wherever occurring. Insert instead “the person’s”.

**[6] Section 167 (2) (d)**

Omit “him or her”. Insert instead “the person”.

**[7] Section 167 (2) (e) and (f)**

Insert at the end of section 167 (2) (d):

, or

- (e) by email to an email address specified by the person for the service of notices or directions of that kind, or
- (f) by any other method authorised by the regulations for the service of notices or directions of that kind.

**[8] Section 167 (3) (d) and (e)**

Insert at the end of section 167 (3) (c):

, or

- (d) by sending the document to an email address specified by the corporation for the service of documents of that kind, or
- (e) by any other method authorised by the regulations for the service of documents of that kind.

## **1.11 Co-operative Housing and Starr-Bowkett Societies Act 1998 No 11**

**[1] Schedule 1 General interpretative provisions**

Omit clause 36 (1) (a) (ii). Insert instead:

- (ii) by leaving it at, or sending it by post to, the address of the place of residence or place of business of the person last known to the person serving the document, or
- (iii) by email to an email address specified by the person for the service of documents of that kind, or
- (iv) by any other method authorised by the regulations for the service of documents of that kind, or

**[2] Schedule 1, clause 36 (1) (b) (ii)–(iv)**

Omit clause 36 (1) (b) (ii). Insert instead:

- (ii) by sending it by post to its registered office, or
- (iii) by email to an email address specified by the body corporate for the service of documents of that kind, or
- (iv) by any other method authorised by the regulations for the service of documents of that kind.

## **1.12 Dangerous Goods (Road and Rail Transport) Act 2008 No 95**

**[1] Section 39 Service of notices**

Omit “or facsimile transmission” from section 39 (1) (b).

**[2] Section 39 (1) (c) and (d)**

Insert at the end of section 39 (1) (b):

, or

- (c) by email to an email address specified by the person for the service of notices of that kind, or
- (d) by any other method authorised by the regulations for the service of notices of that kind.

### **1.13 Drug and Alcohol Treatment Act 2007 No 7**

**[1] Section 50 Service of documents**

Insert after section 50 (1) (a) (iii):

- (iv) sending it to an email address specified by the person for the service of documents of that kind, or
- (v) any other method authorised by the regulations for the service of documents of that kind, or

**[2] Section 50 (1) (b) (iii) and (iv)**

Insert after section 50 (1) (b) (ii):

- (iii) sending it to an email address specified by the body corporate for the service of documents of that kind, or
- (iv) any other method authorised by the regulations for the service of documents of that kind.

### **1.14 Electricity (Consumer Safety) Act 2004 No 4**

**[1] Section 52 Service or giving of documents**

Omit section 52 (1) (a) (iii). Insert instead:

- (iii) sending it to an email address specified by the person for the giving or service of documents of that kind, or
- (iv) any other method authorised by the regulations for the giving or service of documents of that kind, or

**[2] Section 52 (1) (b) (ii) and (iii)**

Omit section 52 (1) (b) (ii). Insert instead:

- (ii) sending it to an email address specified by the body corporate for the giving or service of documents of that kind, or
- (iii) any other method authorised by the regulations for serving or giving documents of that kind.

### **1.15 Exhibited Animals Protection Act 1986 No 123**

**[1] Section 30 Suspension and cancellation**

Omit “personally or by post” from section 30 (1).



**[2] Section 51**

Omit the section. Insert instead:

**51 Service of notices**

A notice that the Secretary is required or permitted, by or under this Act, to cause to be served on a person may be served:

- (a) personally, or
- (b) by means of a letter addressed to the person at the person's address last known to the Secretary, or
- (c) by email to an email address specified by the person for the service of notices of that kind, or
- (d) by any other method authorised by the regulations for the service of notices of that kind.

**1.16 Fair Trading Act 1987 No 68**

**[1] Section 88 Service of notices etc**

Omit "himself or herself" from section 88 (1) (a) (i).

**[2] Section 88 (1) (a) (ii)–(iv)**

Omit "his or her" wherever occurring. Insert instead "the person's".

**[3] Section 88 (1) (a) (iv)**

Omit "him or her". Insert instead "the person".

**[4] Section 88 (1) (a) (v) and (vi)**

Insert after section 88 (1) (a) (iv):

- (v) by email to an email address specified by the person for the service of notices or directions of that kind, or
- (vi) by any other method authorised by the regulations for the service of notices or directions of that kind, or

**[5] Section 88 (1) (b) (iv) and (v)**

Insert at the end of section 88 (1) (b) (iii):

- , or
- (iv) by sending the document to an email address specified by the body corporate for the service of notices or directions of that kind, or
- (v) by any other method authorised by the regulations for the service of notices or directions of that kind.

**1.17 Funeral Funds Act 1979 No 106**

**Section 87**

Omit the section. Insert instead:

**87 Giving of notice**

The Minister or Secretary may, for the purposes of this Act and the regulations, give a person notice of any matter or thing:

- (a) by serving written notice of that matter or thing on the person personally or by post, or
- (b) by email to an email address specified by the person for the service of notices of that kind, or
- (c) by any other method authorised by the regulations for the service of notices of that kind.

### **1.18 Holiday Parks (Long-term Casual Occupation) Act 2002 No 88**

#### **[1] Section 47 Service of documents**

Insert after section 47 (1) (c):

- (c1) by email to an email address specified by the occupant for the service of documents of that kind, or

#### **[2] Section 47 (2) (c1)**

Insert after section 47 (2) (c):

- (c1) by email to an email address specified by the park owner or park manager for the service of documents of that kind, or

### **1.19 Home Building Act 1989 No 147**

#### **[1] Section 127 Power to obtain information**

Omit “personally or by post” from section 127 (2).

#### **[2] Section 127 (2A)**

Insert after section 127 (2):

- (2A) Notice under this section may be served on a person:
  - (a) personally or by post, or
  - (b) by email to an email address specified by the person for the service of notices of that kind, or
  - (c) by any other method authorised by the regulations for the service of notices of that kind.

### **1.20 Industrial Relations Act 1996 No 17**

#### **[1] Section 385 Inspectors’ powers—employer breaches**

Omit section 385 (3). Insert instead:

- (3) A requirement of an inspector under this section may be made personally or by notice in writing served:
  - (a) personally or by post, or
  - (b) by email to an email address specified by the person for the service of notices of that kind, or
  - (c) by any other method authorised by the regulations for the service of notices of that kind.

**[2] Section 385A Inspectors' powers—misconduct offences**

Omit section 385A (3). Insert instead:

- (3) A requirement of an inspector under this section may be made personally or by notice in writing served:
  - (a) personally or by post, or
  - (b) by sending it to an email address specified by the person for the service of notices of that kind, or
  - (c) by any other method authorised by the regulations for the service of notices of that kind.

**1.21 Landlord and Tenant (Amendment) Act 1948 No 25**

**[1] Section 59 Service of notices**

Insert at the end of section 59 (1) (b):

- , or
- (c) by email to an email address specified by the person for the service of notices of that kind, or
- (d) by any other method authorised by the regulations for the service of notices of that kind.

**[2] Section 92 Information to be furnished on request**

Omit section 92 (5). Insert instead:

- (5) A requirement under this section may be served on a person:
  - (a) personally, or
  - (b) by post at the person's last known place of residence or business, or
  - (c) by email to an email address specified by the person for the service of documents of that kind, or
  - (d) by any other method authorised by the regulations for the service of documents of that kind.

**1.22 Mental Health Act 2007 No 8**

**[1] Section 192 Service of documents**

Insert after section 192 (1) (a) (iii):

- (iv) email to an email address specified by the person for the service of documents of that kind, or
- (v) any other method authorised by the regulations for the service of documents of that kind, or

**[2] Section 192 (1) (b) (iii) and (iv)**

Insert after section 192 (1) (b) (ii):

- , or
- (iii) sending it to an email address specified by the body corporate for the service of documents of that kind, or
- (iv) any other method authorised by the regulations for the service of documents of that kind.

## **1.23 National Parks and Wildlife Act 1974 No 80**

### **[1] Section 160E Notice to remove structure**

Omit section 160E (3) (b). Insert instead:

- (b) if that person has delivered a statement under section 160D relating to the structure:
  - (i) by post to any address for contacting the person that is specified in the statement, or
  - (ii) by email to an email address specified by the person for the service of notices of that kind.

### **[2] Section 160F Notice prohibiting use of structure**

Omit section 160F (2) (b). Insert instead:

- (b) if that person has delivered a statement under section 160D relating to the structure:
  - (i) by post to any address for contacting the person that is specified in the statement, or
  - (ii) by email to an email address specified by the person for the service of notices of that kind.

## **1.24 Plumbing and Drainage Act 2011 No 59**

### **[1] Section 51 Service of notices and directions**

Insert after section 51 (1) (a) (iv):

- (v) by email to an email address specified by the person for the service of notices or directions of that kind, or
- (vi) by any other method authorised by the regulations for the service of notices or directions of that kind, or

### **[2] Section 51 (1) (b) (iv) and (v)**

Insert at the end of section 51 (1) (b) (iii):

- , or
- (iv) by email to an email address specified by the corporation for the service of notices or directions of that kind, or
- (v) by any other method authorised by the regulations for the service of notices or directions of that kind.

## **1.25 Professional Standards Act 1994 No 81**

### **[1] Schedule 2 Provisions relating to members of the Council**

Omit “personally or in the ordinary course of post” from clause 5 (1) (e).

### **[2] Schedule 2, clause 5 (3)**

Insert after clause 5 (2):

- (3) Notice of meetings of the Council may be given to members:
  - (a) personally or by post, or
  - (b) by email to an email address specified by the member for being given notice of that kind, or

- (c) by any other method authorised by the regulations for giving notice of that kind.

## **1.26 Private Health Facilities Act 2007 No 9**

### **[1] Section 61 Service of documents**

Insert after section 61 (1) (a) (iii):

- (iv) email to an email address specified by the person for the service of documents of that kind, or
- (v) any other method authorised by the regulations for the service of documents of that kind, or

### **[2] Section 61 (1) (b) (iii) and (iv)**

Insert after section 61 (1) (b) (ii):

- (iii) email to an email address specified by the body corporate for the service of documents of that kind, or
- (iv) any other method authorised by the regulations for the service of documents of that kind.

## **1.27 Property, Stock and Business Agents Act 2002 No 66**

### **[1] Section 225 Service of notices**

Omit “himself or herself” from section 225 (2) (a).

### **[2] Section 225 (2) (b)–(d)**

Omit “his or her” wherever occurring. Insert instead “the person’s”.

### **[3] Section 225 (2) (d)**

Omit “him or her”. Insert instead “the person”.

### **[4] Section 225 (2) (e) and (f)**

Insert at the end of section 225 (2) (d):

- , or
- (e) by email to an email address specified by the person for the service of notices or directions of that kind, or
- (f) by any other method authorised by the regulations for the service of notices or directions of that kind.

### **[5] Section 225 (3) (d) and (e)**

Insert at the end of section 225 (3) (c):

- , or
- (d) by email to an email address specified by the corporation for the service of notices or directions of that kind, or
- (e) by any other method authorised by the regulations for the service of notices or directions of that kind.

## **1.28 Public Health Act 2010 No 127**

### **[1] Section 131 Service of documents**

Insert after section 131 (1) (a) (iii):

- (iv) by email to an email address specified by the person for the service of documents of that kind, or
- (v) by any other method authorised by the regulations for the service of documents of that kind, or

### **[2] Section 131 (1) (b) (iii) and (iv)**

Insert at the end of section 131 (1) (b) (ii):

- , or
- (iii) by email to an email address specified by the body corporate for the service of documents of that kind, or
- (iv) by any other method authorised by the regulations for the service of documents of that kind.

## **1.29 Public Health (Tobacco) Act 2008 No 94**

### **[1] Section 57 Service of documents**

Insert after section 57 (1) (a) (iii):

- (iv) email to an email address specified by the person for the service of documents of that kind, or
- (v) any other method authorised by the regulations for the service of documents of that kind, or

### **[2] Section 57 (1) (b) (iii) and (iv)**

Insert at the end of section 57 (1) (b) (ii):

- , or
- (iii) email to an email address specified by the body corporate for the service of documents of that kind, or
- (iv) any other method authorised by the regulations for the service of documents of that kind.

## **1.30 Residential Tenancies Act 2010 No 42**

### **[1] Section 223 Service of notices and other documents**

Omit section 223 (1) (a) (v). Insert instead:

- (v) sending it to an email address specified by the person for the service of documents of that kind, or
- (vi) any other method authorised by the regulations for the service of documents of that kind, or

### **[2] Section 223 (1) (b) (ii) and (iii)**

Omit section 223 (1) (b) (ii). Insert instead:

- (ii) sending it to an email address specified by the corporation for the service of documents of that kind, or

- (iii) any other method authorised by the regulations for the service of documents of that kind, or

**[3] Section 223 (1) (c)**

Omit the paragraph. Insert instead:

- (c) in the case of a Public Service agency:
  - (i) leaving it at, or sending it by post to, any office of the agency addressed to the agency head, or
  - (ii) sending it to an email address specified by the agency for the service of documents of that kind, or
  - (iii) any other method authorised by the regulations for the service of documents of that kind.

### **1.31 Retail Trading Act 2008 No 49**

**[1] Section 21 Service of documents**

Omit section 21 (1) (a) (iii). Insert instead:

- (iii) sending it to an email address specified by the person for the service of documents of that kind, or
- (iv) any other method authorised by the regulations for the service of documents of that kind, or

**[2] Section 21 (1) (b) (ii) and (iii)**

Omit section 21 (1) (b) (ii). Insert instead:

- (ii) sending it to an email address specified by the body corporate for the service of documents of that kind, or
- (iii) any other method authorised by the regulations for the service of documents of that kind.

### **1.32 Retirement Villages Act 1999 No 81**

**[1] Section 201 Service of documents**

Insert after section 201 (1) (b):

- (b1) by email to an email address specified by the resident for the service of documents of that kind, or

**[2] Section 201 (2) (b1)**

Insert after section 201 (2) (b):

- (b1) by email to an email address specified by the operator for the service of documents of that kind, or

### **1.33 Roads Act 1993 No 33**

**Section 237 Manner and form in which directions to be given**

Omit section 237 (1). Insert instead:

- (1) A direction under this Act must be in writing and may be varied or revoked by a further direction in writing.

- (1A) A direction may be served on a person:
- (a) personally or by post, or
  - (b) by email to an email address specified by the person for the service of directions of that kind, or
  - (c) by any other method authorised by the regulations for the service of directions of that kind.

### **1.34 Smoke-free Environment Act 2000 No 69**

#### **Section 22 Giving of documents**

Insert at the end of section 22 (c):

- , or
- (d) by email to an email address specified by the person to whom it is addressed for being given documents of that kind, or
  - (e) by any other method authorised by the regulations for the service of documents of that kind.

### **1.35 Soil Conservation Act 1938 No 10**

#### **[1] Section 15A Issue of notices**

Omit “personally or by post” from section 15A (1).

#### **[2] Section 15A (5)**

Insert after section 15A (4):

- (5) A notice under this section may be served on a person:
- (a) personally or by post, or
  - (b) by email to an email address specified by the person for the service of notices of that kind, or
  - (c) by any other method authorised by the regulations for the service of notices of that kind.

#### **[3] Section 17 Areas of erosion hazard**

Omit “personally or by post” from section 17 (3).

#### **[4] Section 17 (3A)**

Insert after section 17 (3):

- (3A) A copy of or a reference to a map or plan that is required to be served on a person under this section may be served:
- (a) personally or by post, or
  - (b) by email to an email address specified by the person for the service of documents of that kind, or
  - (c) by any other method authorised by the regulations for the service of documents of that kind.

#### **[5] Section 22 Preservation of proclaimed works**

Omit “personally or by post” wherever occurring in section 22 (1) and (4).



**[6] Section 22 (8)**

Insert after section 22 (7):

- (8) A document that is required to be served on a person under this section may be served:
  - (a) personally or by post, or
  - (b) by email to an email address specified by the person for the service of documents of that kind, or
  - (c) by any other method authorised by the regulations for the service of documents of that kind.

### **1.36 Storage Liens Act 1935 No 19**

**[1] Section 5 Notice of lien—goods deposited by person entrusted with possession**

Omit section 5 (3). Insert instead:

- (3) The notice may be given:
  - (a) personally or by post, or
  - (b) by email to an email address specified by the owner or person for being given notices of that kind, or
  - (c) by any other method authorised by the regulations for giving documents of that kind.

**[2] Section 6 Power to sell goods**

Omit section 6 (3). Insert instead:

- (3) The notice may be given to a person:
  - (a) personally or by post, or
  - (b) by email to an email address specified by the person for being given notices of that kind, or
  - (c) by any other method authorised by the regulations for giving documents of that kind.

### **1.37 Taxation Administration Act 1996 No 97**

**[1] Section 114 Service of documents on Chief Commissioner**

Omit section 114 (c) and (d). Insert instead:

- (c) by delivering the document, addressed to the Chief Commissioner, to the facilities of a document exchange specified by the Chief Commissioner for the service of documents of that kind, or
- (d) by leaving it with a person who has authority to accept documents on the Chief Commissioner's behalf, or
- (e) by email to an email address specified by the Chief Commissioner for the service of documents of that kind, or
- (f) by any other method authorised by the regulations for the service of documents of that kind.

**[2] Section 116 Service of documents by Chief Commissioner**

Omit section 116 (1) (d). Insert instead:

- (d) by delivering the document, addressed to the person, to the facilities of a document exchange specified by the person for the service of documents of that kind, or
- (d1) by email to an email address specified by the person for the service of documents of that kind, or
- (d2) by any other method authorised by the regulations for the service of documents of that kind, or

**1.38 Uncollected Goods Act 1995 No 68**

**Section 27**

Omit the section. Insert instead:

**27 Service of notices**

Any notice under this Part may be given to or served on the person:

- (a) personally or by a letter addressed to the person and left at, or sent by post to, the person's last known address, or
- (b) by email to an email address specified by the person for the service of notices of that kind, or
- (c) by any other method authorised by the regulations for the service of notices of that kind.

**1.39 Very Fast Train (Route Investigation) Act 1989 No 44**

**[1] Section 13 Rights conferred by permits**

Omit "personally or by post" from section 13 (3).

**[2] Section 13 (3A)**

Insert after section 13 (3):

- (3A) A notice that is required to be served on a person may be served:
  - (a) personally or by post, or
  - (b) by email to an email address specified by the person for the service of documents of that kind, or
  - (c) by any other method authorised by the regulations for the service of documents of that kind.

**1.40 Veterinary Practice Act 2003 No 87**

**[1] Section 94 How notice is to be given**

Omit section 94 (1). Insert instead:

- (1) A requirement of this Act that a person be given notice is a requirement that the person be given notice:
  - (a) personally or by post, or
  - (b) by email to an email address specified by the person for service of notices of that kind, or

- (c) by any other method authorised by the regulations for the service of notices of that kind.

**[2] Section 95**

Omit the section. Insert instead:

**95 Service of documents on Board**

- (1) A document (other than a complaint made under Part 5) may be served on the Board:
  - (a) by leaving it at, or sending it by post to, any office of the Board, or
  - (b) by email to an email address specified by the Board for the service of documents of that kind, or
  - (c) by any other method authorised by the regulations for the service of documents of that kind.
- (2) This section does not affect the operation of any provision of law or of the rules of a court authorising a document to be served on the Board in any other manner.

## **Schedule 2 Amendments relating to statutory declarations**

### **2.1 Associations Incorporation Act 2009 No 7**

#### **Section 72 Application for cancellation**

Omit section 72 (2). Insert instead:

- (2) The application must be in the approved form.
- (3) Without limiting the form that may be approved under subsection (2), the approved form may be an electronic form accessible on a publicly available website.
- (4) A person who provides the Secretary with a statutory declaration setting out particulars required by the approved form is taken to have done so in the approved form.

### **2.2 Conveyancers Licensing Act 2003 No 3**

#### **[1] Section 77 Secretary required to be notified where no money held or received on behalf of another person**

Omit “make and lodge with the Secretary a statutory declaration to that effect”.

Insert instead “notify the Secretary, in the form approved by the Secretary, of that fact”.

#### **[2] Section 77 (2)**

Insert at the end of section 77:

- (2) Without limiting the form of notice that may be approved under subsection (1), the form may be an electronic form accessible on a publicly available website.

### **2.3 Co-operative Housing and Starr-Bowkett Societies Act 1998 No 11**

#### **[1] Section 50 Registration**

Omit section 50 (2) (b) (i). Insert instead:

- (i) a statement, in the form approved by the Registrar, to the effect that the requirements of section 49 (Formation of co-operative housing and Starr-Bowkett societies) have been complied with, and

#### **[2] Section 50 (3)**

Omit the subsection.

#### **[3] Section 50 (6) and (7)**

Insert after section 50 (5):

- (6) Without limiting the form that may be approved under subsection (2) (b) (i), the form may be an electronic form accessible on a publicly available website.
- (7) A person who provides the Registrar with a statutory declaration setting out the particulars required by the approved form is taken to have done so in the approved form.

## **2.4 Duties Act 1997 No 123**

**[1] Section 61 Transfers of property in connection with persons changing superannuation funds**

Omit “a statutory declaration” from section 61 (3) (e).

Insert instead “a declaration, in the approved form,”.

**[2] Section 68 Exemptions—break-up of marriages and other relationships**

Omit “a statement” from section 68 (4B).

Insert instead “a declaration, in an approved form,”.

**[3] Section 68 (4B)**

Omit “, in the form of a statutory declaration,”.

**[4] Section 68 (4B)**

Omit “such statement”. Insert instead “such declaration”.

**[5] Section 78 Making of applications**

Omit “statutory declaration” from section 78 (1). Insert instead “declaration”.

**[6] Section 163B Exemption—break-up of marriages and other relationships**

Omit “statement” from section 163B (5).

Insert instead “declaration, in an approved form,”.

**[7] Section 163B (5)**

Omit “, in the form of a statutory declaration,”.

**[8] Section 163B (6)**

Omit “statement”. Insert instead “declaration”.

**[9] Section 267 Exemptions**

Omit “a statement” from section 267 (9).

Insert instead “a declaration, in the approved form,”.

**[10] Section 267 (9)**

Omit “, in the form of a statutory declaration,”.

**[11] Section 267 (9)**

Omit “such statement”. Insert instead “such declaration”.

## **2.5 Fisheries Management (Aquaculture) Regulation 2012**

**[1] Clause 44 Certified copy of lease or plan**

Omit “provision of a statutory declaration” from clause 44 (1) (b).

Insert instead “supplying a notice, in the form approved by the Minister,”

**[2] Clause 44 (4) and (5)**

Insert after clause 44 (3):

- (4) Without limiting the form of notice that may be approved under subclause (1) (b), the form may be an electronic form accessible on a publicly available website.
- (5) A person who provides the Minister with a statutory declaration setting out the circumstances in which the original document or plan was lost or destroyed is taken to have done so in the approved form.

**[3] Clause 47A Applications under Part 4—lost, destroyed or stolen lease documents**

Omit “statutory declaration”. Insert instead “notice, in the form approved by the Minister,”.

**[4] Clause 47A (2) and (3)**

Insert at the end of clause 47A:

- (2) Without limiting the form of notice that may be approved under subclause (1), the form may be an electronic form accessible on a publicly available website.
- (3) A person who provides the Minister with a statutory declaration setting out the circumstances in which the original lease document or plan was lost, destroyed or stolen is taken to have done so in the approved form.

## **2.6 Impounding Act 1993 No 31**

**[1] Section 27 General right to recover impounding fees and charges and damages**

Omit “by statutory declaration to the impounding authority” from section 27 (3) (a).

Insert instead “, in the approved form, the impounding authority with”.

**[2] Section 27 (4)**

Omit “such a statutory declaration, the person named in it”.

Insert instead “the name and address of the person who was in charge of the item immediately before it was abandoned, the person named”.

**[3] Section 27 (8) and (9)**

Insert after section 27 (7):

- (8) Without limiting the form that may be approved under subsection (3) (a), the form may be an electronic form accessible on a publicly available website.
- (9) A person who provides the impounding authority with a statutory declaration containing the particulars required by the approved form is taken to have done so in the approved form.

## **2.7 Landlord and Tenant (Amendment) Act 1948 No 25**

**[1] Section 5A Parts 2, 3, 4 and 5 not to apply to certain premises**

Omit “and in the form of a statutory declaration” from section 5A (4).

Insert instead “in the form approved by and”.

**[2] Section 5A (4A) and (4B)**

Insert after section 5A (4):

- (4A) Without limiting the form of notice that may be approved under subsection (4), the form may be an electronic form accessible on a publicly available website.
- (4B) A person who provides the Secretary with a statutory declaration the particulars required by the approved form is taken to have done so in the approved form.

## **2.8 Marine Estate Management Act 2014 No 72**

**[1] Section 69 Liability of vehicle owner for parking offences**

Omit “by statutory declaration to the authorised person referred to in the notice” from section 69 (4) (a) (i).

Insert instead “, in the form required by the notice,”.

**[2] Section 69 (5)**

Omit “statutory declaration” and “the declaration” wherever occurring.

Insert instead “form” and “the form”, respectively.

**[3] Section 69 (6) and (7)**

Omit section 69 (6). Insert instead:

- (6) Without limiting the form that may be required by the notice under subsection (4), the required form may be an electronic form accessible at a website specified in the notice.
- (7) An owner of a vehicle who supplies a statutory declaration setting out the name and address of the person who was in charge of the vehicle at all relevant times relating to the offence is taken to have done so in the required form.

## **2.9 Payroll Tax Act 2007 No 21**

**Section 54 Administrative requirements for exemption**

Omit “statutory declaration” wherever occurring. Insert instead “declaration in writing”.

## **2.10 Pesticides Regulation 2009**

**[1] Clause 8R Replacement of lost, stolen, damaged or destroyed licences**

Omit clause 8R (2) (b).

**[2] Clause 8R (8) and (9)**

Insert after clause 8R (7):

- (8) Without limiting subclause (2) (a), the approved form may be an electronic form accessible on a publicly available website.
- (9) A person who provides the Authority with a statutory declaration containing the particulars required by the approved form is taken to have done so in the approved form.

## 2.11 Protection of the Environment Operations (Noise Control) Regulation 2008

### [1] Clause 20 Owners and drivers of motor vehicles and trailers involved in excess noise offences

Insert “or court attendance notice” after “summons” in clause 20 (4) (b).

### [2] Clause 31 Liability of owner of vessel

Omit clause 31 (4). Insert instead:

- (4) The notice must be in the form of an approved nomination notice and:
  - (a) if a penalty notice has been given for the offence—the notice must be given to an officer specified in the penalty notice for the purpose within 28 days after service of the penalty notice, and
  - (b) if a court is dealing with the offence—the notice must be given to the informant within 28 days after service of the summons or court attendance notice for the offence.

**Note.** Sections 307B and 307C of the *Crimes Act 1900* provide a maximum penalty of imprisonment for 2 years, or a fine of \$22,000, or both for giving false or misleading information, or providing false or misleading documents, in compliance, or purported compliance, with a law of the State.

- (5) Despite any other provision of this Regulation, an approved nomination notice may be provided by a person served with a penalty notice within 90 days of the notice being served on the person if the approved nomination notice is provided in the circumstances specified in section 23AA or 23AB of the *Fines Act 1996*.
- (6) If the owner of a vessel supplies an approved nomination notice to an officer or a prosecutor for the purposes of this clause, an officer or prosecutor may, by written notice served on the owner, require the owner to supply a statutory declaration for use in court proceedings that verifies the nomination contained in the approved nomination notice.
- (7) In this clause:  
*approved nomination notice* has the same meaning as in section 38 of the *Fines Act 1996*.



## **Schedule 3 Amendments relating to online publication of notices**

### **3.1 Charitable Fundraising Act 1991 No 69**

#### **Section 31 Revocation of authority**

Omit section 31 (4). Insert instead:

- (4) Notice of the revocation of an authority is to be published by the Minister in at least one newspaper circulating throughout New South Wales (whether published in print or on a publicly accessible website) or at least one publicly accessible website that, in the opinion of the Minister, is appropriate to cause the notice to come to the attention of the public.

### **3.2 Land Acquisition (Just Terms Compensation) Act 1991 No 22**

#### **[1] Section 19 Compulsory acquisition by notice in Gazette**

Omit section 19 (2). Insert instead:

- (2) A copy of the acquisition notice is, if practicable, to be published:
  - (a) in at least one newspaper circulating in the district in which the land is situated (whether published in print or on a website), or
  - (b) on at least one website that, in the opinion of the authority, is appropriate to cause the notice to come to the attention of persons in the district in which the land concerned is situated.

#### **[2] Section 72 Manner of giving or serving notices or documents**

Omit section 72 (2). Insert instead:

- (2) If:
  - (a) an authority of the State is required or authorised under this Act to give to or serve on the owner of land a notice or other document, and
  - (b) the authority is unable after due inquiry to ascertain the owner's whereabouts,the notice or other document may be given or served by displaying the notice or document in accordance with this section.
- (2A) For the purposes of subsection (2), a notice or document may be displayed by:
  - (a) placing it on a board or other structure in a conspicuous place on the land to which it relates, or
  - (b) publishing a copy of it in a newspaper circulating in the district in which the land is situated (whether published in print or on a website), or
  - (c) publishing a copy of it on a website that, in the opinion of the authority, is appropriate to cause the notice to come to the attention of persons in the district in which the land is situated.

### **3.3 Storage Liens Act 1935 No 19**

#### **Section 6 Power to sell goods**

Omit section 6 (5). Insert instead:

- (5) If charges are not paid on or before the day mentioned in the notice, an advertisement of the sale, describing the goods to be sold, and stating the time and place of the sale, is to be published:
  - (a) in a newspaper circulating in the locality where the sale is to be held (whether published in print or on a publicly accessible website), and
  - (b) in one metropolitan daily newspaper (whether published in print or on a publicly accessible website).
- (5A) The sale must not be held less than 14 days after the date of the first publication of the advertisement.

### **3.4 Uncollected Goods Act 1995 No 68**

#### **Section 22 Goods of between \$500 and \$5,000 in value**

Omit “a daily newspaper circulating generally throughout New South Wales” from section 22 (1).

Insert instead “a newspaper circulating throughout New South Wales (whether published in print or on a publicly accessible website) or at least one publicly accessible website that, in the opinion of the Minister, is appropriate to cause the notice to come to the attention of the public”.

## **Schedule 4 Amendments relating to outdated provisions**

### **4.1 Conveyancers Licensing Act 2003 No 3**

#### **Section 80 Duties of auditors**

Omit “in the hands of” from section 80 (3). Insert instead “from”.

### **4.2 Dust Diseases Tribunal Regulation 2013**

#### **[1] Schedule 3 Forms**

Omit “photocopy access to” from clause 2.11 of Form 1.

Insert instead “access to a copy of”.

#### **[2] Schedule 3, Form 1**

Omit “photocopy or faxed” from clause 2.11.

### **4.3 Property, Stock and Business Agents Act 2002 No 66**

#### **Section 116 Duties of auditors**

Omit “in the hands of” from section 116 (3). Insert instead “from”.

## Schedule 5 Amendment of Road Transport Act 2013 No 18 relating to digital driver licences

### Part 3.7

Insert after Part 3.6:

### Part 3.7 Digital driver licence trial

#### 61A Definitions

In this Part:

**Department** means the Department of Finance, Services and Innovation.

**digital driver licence** means a copy or extract of information (including a photograph) from the NSW driver licence register relating to a participant that:

- (a) is created by the Secretary, and
- (b) is displayed on a mobile phone or other electronic device, and
- (c) includes the following information:
  - (i) details relating to the status of the person's driver licence,
  - (ii) a photograph of the person,
  - (iii) any other information that the Secretary, after consulting with the Authority, considers appropriate.

**digital driver licence trial** means the use and display of digital driver licences in accordance with this Part.

**participant**, in relation to the digital driver licence trial, means the holder of a driver licence who:

- (a) has consented to participate in the trial, and
- (b) is approved by the Secretary, after consulting with the Authority, to participate in the trial.

**Secretary** means the Secretary of the Department.

#### 61B Purpose of the digital driver licence trial

- (1) This Part facilitates a trial of the use of digital driver licences for the following purposes:
  - (a) testing prototype digital driver licences using information from the NSW driver licence register,
  - (b) allowing a participant to display a digital driver licence when the participant is requested or required to provide the participant's driver licence,
  - (c) any other purpose prescribed by the statutory rules.
- (2) Statutory rules may be made under this section only with the concurrence of each of the following Ministers:
  - (a) Minister for Police,
  - (b) Minister for Finance, Services and Property,
  - (c) Minister for Roads, Maritime and Freight.

#### 61C Duration of digital driver licence trial

- (1) The digital driver licence trial ends on:
  - (a) the day that is 12 months after the day on which this Part commences, or

- (b) any other day, that may be specified by the Minister, by notice published in the Gazette.
- (2) A notice may be given under this section only if:
  - (a) the day specified in the notice for the end of the digital driver licence trial is:
    - (i) not more than 2 years after the commencement of this Part, and
    - (ii) not less than 30 days after the day on which the notice is published, and
  - (b) the notice is published before the end of the trial, and
  - (c) the following Ministers consent to the giving of the notice:
    - (i) Minister for Police,
    - (ii) Minister for Finance, Services and Property,
    - (iii) Minister for Roads, Maritime and Freight.

#### **61D Use of digital driver licence**

- (1) A participant may use or display the participant's digital driver licence for the purposes of the digital driver licence trial.
- (2) However, a person to whom a digital driver licence is displayed may, if authorised by this or any other Act or law to require a person to produce a driver licence, require the participant to produce the driver licence issued to the person by the Authority.
- (3) A digital driver licence is not, for the purposes of this or any other Act or law, a driver licence and nothing in this Part affects a requirement under this or any other Act or law to hold, carry or produce a driver licence.
- (4) Any Act or law that authorises a police officer or person authorised in writing by the Authority, or any other person, to seize a driver licence does not extend to a mobile phone or other electronic device on which a digital driver licence is displayed.
- (5) Nothing in this section requires a person to whom a digital driver licence is displayed to accept the digital driver licence, or any information contained in it, as a substitute for the person's driver licence.
- (6) A person does not commit an offence under this or any other Act or law arising from the person's use of a mobile phone if the mobile phone was used only for the purpose of displaying the person's digital driver licence to a police officer when requested to do so by the police officer.

**Note.** Rules 300 and 300–1 of the *Road Rules 2014* provide for the use of mobile phones by drivers of motor vehicles.

#### **61E Participation subject to conditions**

- (1) A person's authorisation to participate in the digital driver licence trial is subject to such terms and conditions (if any) as may be determined by the Secretary.
- (2) Without limiting subsection (1), the terms and conditions applying to participation in the digital driver licence trial may include restrictions on purposes for which the digital driver licence may be used or displayed by a participant.
- (3) The Secretary may, if satisfied that a participant has contravened a term or condition of participation in the digital driver licence trial:

- (a) notify the participant of the contravention, or
- (b) by notice given to the participant, revoke the participant's authorisation to participate in the digital driver licence trial.

**61F Security of digital driver licences**

- (1) Despite section 30 and Part 3.5, the Authority may use and release information (including photographs) in the NSW driver licence register to the Secretary, the Chief Executive Officer of Service NSW or a participant in the digital driver licence trial, if the release of the information is for the purpose of:
  - (a) creating a digital driver licence, or
  - (b) enabling a participant to use or display a digital driver licence.
- (2) Information that is released under this section that is of a personal nature or that has commercial sensitivity for the person to whom it relates:
  - (a) may be disclosed to the Secretary, the Chief Executive Officer of Service NSW and the participant to whom it relates, and
  - (b) must not be used or released otherwise than for the purposes of the digital driver licence trial.

**61G Delegation**

The Secretary may delegate the exercise of any function of the Secretary under this Part (other than this power of delegation) to:

- (a) any person employed in the Department, or
- (b) any person, or any class of persons, authorised for the purposes of this section by the statutory rules.

## **Schedule 6 Amendments relating to commencement of Strata Schemes Management Act 2015**

### **[1] Amendment of proclamation commencing Strata Schemes Management Act 2015**

The proclamation commencing the *Strata Schemes Management Act 2015*, published on the NSW legislation website on 12 August 2016, is amended by omitting paragraph (b) of the proclamation and inserting instead:

- (b) 1 January 2018 as the day on which Part 11 of, and clause 15 of Schedule 1 and clause 16 of Schedule 3 to, that Act commence.

### **[2] Amendment of Strata Schemes Management Regulation 2016**

#### **Clause 2 Commencement**

Omit “1 July 2017” from clause 2 (2). Insert instead “1 January 2018”.

[Second reading speech made in—

Legislative Council on 24 May 2017

Legislative Assembly on 21 June 2017]