

**STATUTE LAW (MISCELLANEOUS PROVISIONS) (No. 2) ACT  
1989 No. 132**

**NEW SOUTH WALES**



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*Statute Law (Miscellaneous Provisions) (No. 2) 1989*

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**STATUTE LAW (MISCELLANEOUS PROVISIONS) (No. 2) ACT  
1989 No. 132**

**NEW SOUTH WALES**



**Act No. 132, 1989**

An Act to repeal certain Acts and to amend certain other Acts in various respects and for the purpose of effecting statute law revision; and to make certain savings. [Assented to 5 September 1989]

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

**Short title**

1. This Act may be cited as the Statute Law (Miscellaneous Provisions) (No. 2) Act 1989.

**Commencement**

2. This Act commences on the date of assent, except as provided in Schedules 1 and 2.

**Amendments**

3. Each Act specified in Schedules 1 and 2 is amended as set out in those Schedules.

**Repeals**

4. Each Act specified in Schedule 3 is repealed.

**General savings, transitional and other provisions**

5. Schedule 4 has effect.

**Explanatory notes**

6. The matter appearing under the heading "Explanatory note" in any of the Schedules does not form part of this Act.

**SCHEDULE 1 - MINOR AMENDMENTS**

(Sec. 3)

**BUILDING AND CONSTRUCTION INDUSTRY LONG SERVICE  
PAYMENTS ACT 1986 No. 19**

**Amendment**

**Section 19 (Cancellation of registration):**

Omit "21 days" from section 19 (3) (a), insert instead "42 days".

**Explanatory note**

If, under section 19 (3) of the Act, the Building and Construction Industry Long Service Payments Corporation cancels the registration of a registered worker, it is required to remove the name of the worker from the register of workers on the expiration of the period of 21 days after it has notified the worker of the cancellation. The proposed amendment extends that period to 42 days which is currently the prescribed time within which an appeal against a cancellation may be made under section 54 of the Act.

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**SCHEDULE 1 - MINOR AMENDMENTS - *continued***

**CHILDREN (DETENTION CENTRES) ACT 1987 No. 57**

**Amendment**

Section 21 (1) (e) (as inserted by Act No. 87, 1989):

Omit "other than a term which is cumulative on a minimum term", insert instead "other than a term which is cumulative and which has not commenced".

**Commencement**

The proposed amendment to the Children (Detention Centres) Act 1987 commences or is to be taken to have commenced on the commencement of item (2) of the amendments relating to the Children (Detention Centres) Act 1987 in Schedule 4 to the Sentencing Act 1989.

**Explanatory note**

The proposed amendment makes a minor alteration to the provisions relating to discipline at detention centres to ensure that punishments by way of an extension of a sentence (introduced by the Sentencing Act 1989 to replace long remissions) are not doubled where the detainee is subject to a fixed term that is cumulative.

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SCHEDULE 1 - MINOR AMENDMENTS - *continued*

**COMMONWEALTH POWERS (FAMILY LAW - CHILDREN)  
ACT 1986 No. 182**

**Amendment**

(1) **Section 3 (Reference of certain matters relating to children):**  
In section 3 (2) (d), after the word "State,", insert "or other body".

(2) **Schedule 1 (Acts):**  
At the end of Schedule 1, insert:  
Disability Services and Guardianship Act 1987

**Explanatory note**

The Act refers to the Parliament of the Commonwealth power to legislate for certain matters relating to children. Section 3 (3) of the Act defines "children" as being persons under the age of 18 years and extends the reference to cover certain persons over that age who are undergoing courses of education or who are physically or mentally handicapped.

Schedule 1 to the Act specifies the Acts which, so far as they confer powers relating to the custody, guardianship, care or control of children, are not affected by the reference.

The proposed amendment includes in Schedule 1 the Disability Services and Guardianship Act 1987. The proposed amendment will ensure that the reference of power does not:

- (a) include the taking (or the making of provision for or in relation to authorising the taking) of action that would prevent or interfere with the Guardianship Board's functions in relation to guardianship orders and consents to medical and dental treatment under that Act; or
- (b) prevent the Guardianship Board from making orders, or taking any other action under that Act in relation to the custody, guardianship, care or control of children or access to children or the supervision of children.

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SCHEDULE 1 - MINOR AMENDMENTS - *continued*

**CRIMINAL PROCEDURE ACT 1986 No. 209**

**Amendments**

(1) **Section 8 (Listing):**

Omit section 8 (1), insert instead:

(1) The Criminal Listing Director is, subject to the regulations, to make arrangements for the listing of criminal proceedings before the Supreme Court or the District Court.

(1A) In making such listing arrangements, the Criminal Listing Director is responsible to:

- (a) the Chief Justice of the Supreme Court, in the case of criminal proceedings before that Court; or
- (b) the Chief Judge of the District Court, in the case of criminal proceedings before that Court.

(2) **Section 23 (Consequences of taking offences into account):**

After "respect" in section 23 (7), insert "of".

**Commencement**

Item (2) of the amendments to the Criminal Procedure Act 1986 is to commence or is to be taken to have commenced on the commencement of Schedule 1 to the Criminal Procedure (Sentencing) Amendment Act 1989.

**Explanatory note**

**The proposed amendments:**

- (a) provide that the Criminal Listing Director is responsible to the Chief Justice of the Supreme Court (in the case of criminal proceedings before that Court) or the Chief Judge of the District Court (in the case of criminal proceedings before that Court) when making arrangements for the listing of those proceedings (item (1)); and
- (b) corrects a grammatical error consisting of the omission of a word (item (2)).

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**SCHEDULE 1 - MINOR AMENDMENTS - *continued***

**DORMANT FUNDS ACT 1942 No. 25**

**Amendments**

**Section 16 (Procedure of Charity Referees):**

(1) Omit the first paragraph of section 16 (4), insert instead:

(4) The costs of and incidental to:

(a) an appeal under section 2 (3) against a determination of the Commissioner; and

(b) a request under section 13 to refer a proposal to the Charity Referees and of the proceedings on such a reference,

are to be in the discretion of the Charity Referees who may determine by whom and to what extent costs are to be paid.

(5) The Charity Referees may determine that those costs are to be paid out of the fund concerned.

(6) The Charity Referees may, in determining the costs of and incidental to a successful appeal under section 2 (3) against a determination of the Commissioner, order the trustees of the fund concerned in the appeal to pay out of the fund the costs incurred by the Commissioner prior to the appeal in making the determination.

(7) Costs payable out of a fund pursuant to an order under subsection (6) must not exceed 1 per cent of the value of the fund, as determined by the Charity Referees.

(2) From section 16 (4), omit "The costs", insert instead "(8) The costs".

(3) From section 16 (4), omit "The amount", insert instead "(9) The amount".

**Commencement**

The amendments to the Dormant Funds Act 1942 commence on a day to be appointed by proclamation.

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

**Transitional**

Section 16 of the Dormant Funds Act 1942, as in force immediately before the commencement of the amendments to that Act made by this Schedule, continues to apply to an appeal or request made before that commencement.

**Explanatory note**

The Dormant Funds Act 1942 makes provision for the utilisation of funds collected or acquired for charitable or other public purposes which are dormant.

The Commissioner of Dormant Funds makes a determination as to whether a fund is dormant and formulates proposals for the application of dormant funds.

An appeal against the determination that a fund is dormant may be made to the Charity Referees. The Charity Referees may also be requested to consider proposals for the application of a dormant fund referred to them.

The proposed amendments:

- (a) allow the Charity Referees (who already have the discretion to make orders as to costs in relation to the reference of proposals to them under section 13 of the Dormant Funds Act 1942) a discretion to make orders as to costs in relation to appeals against a determination that a fund is dormant (proposed section 16 (4) (a)); and
- (b) enable the Charity Referees to award the payment of costs out of the fund concerned in both instances referred to in paragraph (a) (proposed section 16 (5)); and
- (c) enable the Charity Referees, in the event of a successful appeal, to order the payment of the costs of the Commissioner in making a determination that a fund is dormant from the fund concerned (proposed section 16 (6)).

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SCHEDULE 1 - MINOR AMENDMENTS - *continued*

**FACTORIES, SHOPS AND INDUSTRIES ACT 1962 No. 43**

**Amendment**

**Part 7 (Outdoor work in the clothing trades):**

Omit the Part

**Commencement**

The amendment to the Factories, Shops and Industries Act 1962 commences on a day to be appointed by proclamation.

**Repeal of Regulations**

The Regulations relating to outdoor workers deemed to be made under the Factories, Shops and Industries Act 1962 and published in the Gazette of 18 April 1935 at page 1732 are repealed.

**Explanatory note**

The proposed amendment omits Part 7 of the Act, the provisions of which deal with the licensing of outdoor workers in the clothing trades and the keeping of records in respect of the "giving-out" of clothing work. These provisions have become ineffective and obsolete in light of the relevant Clothing Trades (State) Award which effectively covers "outworkers" in the clothing trades.

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SCHEDULE 1 - MINOR AMENDMENTS - *continued*

**INDUSTRIAL ARBITRATION ACT 1940 No. 2**

**Amendments**

- (1) Section 8 (**Registration of industrial union of employees and of other matters relating to industrial unions generally**):
  - (a) From section 8 (9), omit "commission", insert instead "registrar".
  - (b) From section 8 (9), omit "it", insert instead "the registrar".
- (2) Section 9 (**Cancellation of registration after issue of certificate of withdrawal**):

Before "employees" wherever occurring in section 9, insert "employers or".
- (3) Section 11 (**Power to make industrial agreements**):
  - (a) Omit "filed at the office of the registrar", insert instead "lodged at the office of the registrar and accepted by the registrar for filing".
  - (b) Omit "if filed as aforesaid", insert instead "if so lodged and filed".
- (4) Section 15 (**Conciliation commissioners**):

From section 15 (5) (b), omit "Minister", insert instead "Vice-President".
- (5) Section 18 (**Conciliation committees**):

After section 18 (1A), insert:

  - (1B) **If the commission:**
    - (a) alters the assignment of the industries or callings to a committee; or
    - (b) establishes a new committee following the dissolution of another committee,

the registrar may amend the instrument establishing any committee that refers to the industries or callings of the affected committee by omitting or amending the references accordingly.

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

- (6) Section 77G (**Awards, orders and determinations**):
  - (a) After "by the chairman", insert "or by another person prescribed for the purposes of this section".
  - (b) Omit "Subject to this section the registrar shall publish the award, order or determination, when signed, in the Gazette, and shall notify the parties in the prescribed manner.", insert instead:
    - (2) After an award, order or determination is signed, the registrar must notify the parties in the prescribed manner.
- (7) Section 90 (**Copy of Gazette to be evidence**):
  - (a) From section 90 (1), omit "order,".
  - (b) Omit "award or contract determination" from section 90 (2), insert instead "contract determination, award or order".
  - (c) Insert in section 90 (2) (b) after the word "award" wherever occurring, the words "or order".
  - (d) After section 90 (2), insert:
    - (3) Evidence of any industrial agreement or agreement made under section 91H or variation of such an agreement may be given by the production:
      - (a) of a copy of the agreement or variation certified by the registrar to be a true copy, or
      - (b) of a copy of the Gazette or the Industrial Gazette in which the agreement or variation was published.
- (8) Section 91H (**Certain agreements may be entered into**):  
Omit section 91H (8).
- (9) Section 96 (**Time-sheets and pay-sheets to be kept**):
  - (a) From section 96 (1), omit ", correctly written up in ink".
  - (b) After "business" in section 96 (1), insert "or, with the approval of the registrar, at some other place".
  - (c) From section 96 (1), omit "It shall be a sufficient compliance with the foregoing provisions of this subsection if such records are kept by means of some mechanical

**SCHEDULE 1 - MINOR AMENDMENTS - *continued***

device of a type approved by the commission; such" insert instead "such".

(d) After "condition" in section 96 (1), insert "in accordance with an approval in writing from the registrar".

(10) **Section 111 (Powers of commission to enforce certain agreements):**  
Omit "shall have been filed with the commission", insert instead "have been filed with the commission prior to or at the time proceedings under this section are instituted".

(11) **Sections 121 (Recovery of penalties) and 123 (Orders for cost):**  
Omit "section 82" wherever occurring, insert instead "section 87".

(12) **Section 129B (Preference to unionists):**  
From section 129B (2) (e), omit "twenty-one days of", insert instead "the prescribed period after".

**Commencement**

The amendments to the Industrial Arbitration Act 1940 commence on a day or days to be appointed by proclamation.

**Transitional**

An approval of a type of mechanical device for the purposes of section 96 (1) of the Industrial Arbitration Act 1940 as in force immediately before the commencement of the amendments to that section is to be taken to be an approval given by the registrar for the purposes of that section as in force after the commencement of those amendments.

**Explanatory note**

The proposed amendments:

(a) enable the industrial registrar (who is responsible for registering trade unions under the Act) to remove the name of

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

an industrial union that has ceased to exist from the Register of Industrial Unions (at present this essentially administrative function is exercised by the Industrial Commission) (item (1)); and

- (b) enable industrial unions of employers to seek cancellation of registration under section 9 of the Act by requesting issue of a certificate of withdrawal from the industrial registrar (at present only an industrial union of employees may use this procedure for cancellation) (item (2)); and
- (c) make it clear that the registrar need only accept an agreement for filing as an industrial agreement under section 11 of the Act if it satisfies the criteria for an industrial agreement set out in that section (item (3)); and
- (d) amend section 15 of the Act so that the Vice-President of the Industrial Commission instead of the Minister for Industrial Relations and Employment (or, by virtue of section 14B of the Act, the Vice-President's delegate) may grant leave for a conciliation commissioner to be absent from duty (item (4)); and
- (e) enable the registrar, under section 18 of the Act, to remove references to obsolete conciliation committees from instruments establishing committees for industries and callings or assigning or altering the assignment of industries or callings to committees (item (5)); and
- (f) enable the award or order of a committee or contract determination of a tribunal to be signed by a person other than the Chairman of the committee or tribunal (item (6) (a)); and
- (g) update section 77G (so as to make it consistent with present practice) by omitting the requirement for the registrar to publish the awards or orders of committees and contract determinations of tribunals in the Gazette (item (6) (b)); and
- (h) make provision for certified copies of orders to be evidence of the orders and for certified copies or copies of agreements published in the Gazette or Industrial Gazette to be evidence of industrial agreements and agreements under section 91H (item (7)); and

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

- (i) repeal the requirement that agreements registered under section 91H must be published in the Gazette (notice will in future be given in the same way as it is given in relation to industrial agreements) (item (8)); and
- (j) enable the records of time-sheets and pay sheets required to be kept under section 96 of the Act to be kept in modern forms (item (9)); and
- (k) make it clear that agreements that must be filed before they may be enforced under section 111 of the Act may be filed at the same time as the papers instituting proceedings for enforcement (item (10)); and
- (l) up-date certain references to section 82 of the Justices Act 1902 as a consequence of the enactment of Miscellaneous Acts (Fine Default) Amendment Act 1987 (item (11)); and
- (m) enable the period within which a person may appeal against refusal of an application for a certificate of exemption from membership of an industrial union under section 129B of the Act to be prescribed (it is proposed to prescribe an increased period of 28 days to be consistent with other appeal periods under the Act) (item (12)).

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SCHEDULE 1 - MINOR AMENDMENTS - *continued*

JUSTICES ACT 1902 No. 27

**Amendments**

Section 48B (**Copies of statements to be given etc.**):

- (1) From section 48B (1) (c) and (4), omit "date of birth" wherever occurring, insert instead "age".
- (2) From section 48B (4), omit "a date", insert instead "the age".

**Commencement**

The amendments to the Justices Act 1902 commence on a day to be appointed by proclamation.

**Transitional**

Section 48B of the Justices Act 1902, as in force immediately before the commencement of the amendments to that Act made by this Schedule, continues to apply to written statements for committal proceedings prepared before that commencement.

**Explanatory note**

At present a written statement by a witness is not admissible as evidence in committal proceedings (to the same extent as if it were oral evidence given by the witness) unless the date of birth of the witness is specified in the statement. The date of birth specified could be used to obtain personal details relating to the witness. The proposed amendments preserve the privacy of witnesses by requiring that the written statement specify the age of the witness rather than his or her date of birth.

The amended section 48B (1) will read (in part) as follows:

- (1) A written statement is not admissible as evidence under section 48A in any committal proceedings if  
....  
(c) the [*date of birth*] age of the person who made the statement is not specified in the statement;

Matter to be omitted is shown in italics and matter to be inserted is shown in bold type.

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**SCHEDULE 1 - MINOR AMENDMENTS - *continued***

**LAND AND ENVIRONMENT COURT ACT 1979 No. 204**

**Amendments**

**Section 69A:**

After section 69, insert:

**Interest payable on money ordered to be paid**

69A (1) If an order is made by the Court for the payment of money, interest is payable at the prescribed rate from the date the order takes effect on so much of the money as is from time to time unpaid, unless the Court otherwise orders.

(2) This section does not apply in the case of money ordered to be paid as a penalty.

**Commencement**

The amendment to the Land and Environment Court Act 1979 commences on a day to be appointed by proclamation.

**Transitional**

Section 69A of the Land and Environment Court Act 1979 does not apply to an order for the payment of money made before the commencement of that section.

**Explanatory note**

The proposed amendment requires the payment of interest on amounts unpaid under an order of the Land and Environment Court for the payment of money, unless the Court orders that interest is not payable. The interest is payable from the date of the order concerned and the rate of interest is to be prescribed by the regulations. Similar provision is currently made for the payment of interest on amounts ordered to be paid by the Supreme Court.

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SCHEDULE 1 - MINOR AMENDMENTS - *continued*

LIQUOR ACT 1982 No. 147

**Amendments**

- (1) Section 56 (**Fee for grant of licence etc.**):  
In section 56 (5) (b), after "20 (2A)", insert "or varies a condition under section 20 (2B)".
- (2) Section 69 (**Disciplinary powers of court**):  
From section 69 (1) (g), omit "or (g)", insert instead "or (h)".
- (3) Section 80 (**Periodic licence fee**):  
From section 80 (2) (a), omit "imposed by the court as referred to in section 20 (2A)", insert instead "imposed under section 20 (2A), or varied under section 20 (2B),".
- (4) Section 138C (**Supply of approved amusement devices**):  
Before section 138C (3), insert:  
(2B) Subsection (2) does not apply to a person who sells the approved amusement device having obtained possession of it by exercising a power or proprietary right under financial or other arrangements approved by the Board under section 20A (1) (b).
- (5) Section 151B:  
After section 151A, insert:  
**Secrecy - approved amusement devices**  
151B. (1) In this section:  
"officer" means a person who is an authorised person for the purposes of section 110A or any other person engaged in the administration of this Act;  
"protected information" means information given or the contents of a document produced:
  - (a) under Division 4 of Part 3 in relation to an application for an amusement device dealer's licence, an amusement device seller's licence or an amusement device technician's licence; or
  - (b) under section 110A.

**SCHEDULE 1 - MINOR AMENDMENTS - *continued***

(2) An officer must not disclose protected information to any person except

- (a) while engaged in the administration of this Act, to another person so engaged, having informed the other person that the information is protected information under this section; or
- (b) with the written permission of the Board given in relation to the disclosure.

Penalty: \$2,000.

(3) A former officer must not, without the written permission of the Board, disclose to any person protected information that came to his or her knowledge in the course of the administration of this Act.

Penalty: \$2,000.

(4) The permission of the Board referred to in subsections (2) and (3) may be granted only if the Board is satisfied that to do so would be in the public interest.

(5) It is not a contravention of subsection (2) or (3) if, in any legal proceedings, a person discloses protected information in answering a question the person is compellable to answer in those proceedings.

**Commencement**

Items (1) and (3) of the amendments to the Liquor Act 1982 are to be taken to have commenced on 13 April 1987 (being the date of commencement of section 20 (2B) of that Act).

Item (4) of the amendments to the Liquor Act 1982 commences on a day to be appointed by proclamation.

**Transitional**

Section 151B of the Liquor Act 1982 applies to information given, and documents produced, before (as well as after) the commencement of that section.

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

**Explanatory note**

The proposed amendment to section 56 of the Act provides that when a condition on a licence authorising the operation of an approved amusement device is varied, the variation does not take effect until the appropriate fee is paid and the variation is endorsed on the licence. Such a provision currently applies to the imposition of the original condition. The amendment to section 80 of the Act is consequential on this amendment. The retrospective commencement of the amendment validates payments of fees that have already been made in respect of the variation of conditions.

The proposed amendment to section 69 of the Act corrects an existing cross-reference.

The proposed amendment to section 138C of the Act creates an exception to the offence of selling an approved amusement device without a licence. The exception applies to a person who obtains possession (e.g. by repossession) of the amusement device under a financing or other arrangement approved by the Board. Such a person is currently excepted from the offence of possessing an approved amusement device without a licence.

New section 151B imposes a requirement of secrecy on persons who in the exercise of inspectorial powers or administrative functions under the Act obtain information or documents concerning approved amusement devices or applications for licences concerning those devices. Under the proposed section the information or documents will not be able to be disclosed except in the following circumstances:

- in the course of administration of the Act, to a person engaged in that administration, so long as that person is informed that the information or documents is or are protected under the section;
- with the permission of the Board which can only be given if it is in the public interest to do so;
- in answer to a question in legal proceedings that the person is compellable to answer.

A parallel provision exists currently in section 131 of the Registered Clubs Act 1976 in relation to information and documents concerning poker machines.

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**SCHEDULE 1 - MINOR AMENDMENTS - *continued***

**LOCAL GOVERNMENT ACT 1919 No. 41**

**Amendments**

**Section 270N (Application of money from parking meters):**

- (a) After "therein;" in section 270N (1) (a), insert "and".
- (b) Omit section 270N (1) (b).
- (c) Omit section 270N (3) (a).
- (d) From section 270N (4), omit "and the Commissioner of Police, or between the council or councils concerned and the Roads and Traffic Authority, as the case may be,".

**Commencement**

The amendments to the Local Government Act 1919 are to be taken to have commenced on 31 December 1987.

**Explanatory note**

Under section 270N of the Local Government Act 1919 councils have in the past been required to contribute to the cost of police supervision and enforcement of the provisions of the Act relating to metered zones, metered spaces and parking meters within their areas from the fees and charges collected in respect of the operation of the meters. The requirement was abolished by administrative action with effect from 31 December 1987. The proposed amendments will validate the abolition of the requirement by repealing the relevant provisions of the Act with effect from that date.

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SCHEDULE 1 - MINOR AMENDMENTS - *continued*

PRISONS ACT 1952 No. 9

**Amendments**

(1) **Section 26B (Imposition of penalty by Visiting Justice):**

From 26B (1) (e) (as inserted by Act No. 87, 1989), omit "other than a term which is cumulative on a minimum term", insert instead "other than a term which is cumulative and which has not commenced".

(2) **Section 41A (Royal prerogative of mercy preserved):**

From section 41A, omit "(including Part 11)".

**Commencement**

Item (1) of the amendments to the Prisons Act 1952 commences or is to be taken to have commenced on the commencement of item (2) of the amendments to Schedule 3 to the Sentencing Act 1989.

Item (2) of the amendments to the Prisons Act 1952 commences or is to be taken to have commenced on the repeal of Part 11 of the Prisons Act 1952.

**Explanatory note**

The proposed amendment to section 26B of the Prisons Act 1952 makes a minor alteration to the provisions relating to discipline at prisons to ensure that punishments by way of an extension of a sentence (introduced by the Sentencing Act 1989 to replace long remissions) are not doubled where the prisoner is subject to a fixed term that is cumulative.

The proposed amendment to section 41A of the Prisons Act 1952 removes a reference to the grant of remissions that is obsolete as a consequence of the abolition of remissions by the Sentencing Act 1989.

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SCHEDULE 1 - MINOR AMENDMENTS - *continued*

**REGISTERED CLUBS ACT 1976 No. 31**

**Amendment**

**Section 111A:**

After section 111, insert:

**Records and registers - general requirements**

111A. If a registered club is required by this Act to keep a register or record, the club must:

- (a) keep the record or register in the English language; and
- (b) retain the record for at least 5 years after it is made and retain the register for at least 5 years after the date of the last entry made in it.

**Penalty:** \$2,000.

**Commencement**

The amendment to the Registered Clubs Act 1976 commences on a day to be appointed by proclamation.

**Explanatory note**

The proposed amendment requires that the records and registers kept by a registered club under the Act be kept in the English language and be retained for at least 5 years.

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SCHEDULE 1 - MINOR AMENDMENTS - *continued*

RURAL WORKERS ACCOMMODATION ACT 1969 No. 34

**Amendments**

- (1) Section 11 (Offences in relation to accommodation):  
After "foodstuffs" in section 11 (b), insert "or beverages".
- (2) The Schedule:
  - (a) Omit clause (26) (i) of Part 1 of the Schedule, insert instead:
    - (i) Refrigeration is to be provided for the use of rural workers for storing perishable foodstuffs and beverages intended for consumption by the rural workers.
  - (b) Omit clause (8) (iii) of Part 2 of the Schedule, insert instead:
    - (iii) not less than 220 litres of refrigeration for storing perishable foodstuffs and beverages; and

**Explanatory note**

At present, a person who is responsible for the provision of accommodation for rural workers is required to provide refrigeration for the use of rural workers between 15 September of any year and 15 May of the following year. The proposed amendments extend that requirement to all-year round and also provide that, for small groups of rural workers, there must be provided refrigeration capacity of not less than 220 litres for storing perishable foodstuffs and beverages instead of 110 litres as is presently required. Also, the existing requirement to provide refrigeration for storing perishable foodstuffs and the existing offence contained in section 11 (offences in relation to accommodation) which relates to using a means of refrigeration for a purpose other than for storing perishable foodstuffs, are both extended to include the storing of beverages.

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SCHEDULE 1 - MINOR AMENDMENTS - *continued*

**TRADE UNION ACT 1881 (45 Vic. No. 12)**

**Amendments**

- (1) **Section 14 (Regulations for registry):**
  - (a) Omit section 14 (3), insert instead:
    - (3) A trade union is not to be registered under a name:
      - (a) identical with that under which any other existing trade union has been registered; or
      - (b) identical with that under which any industrial union of employees is registered under the Industrial Arbitration Act 1940,  
or so similar to, or so closely resembling, such a name as to be likely to mislead the public.
    - (b) From section 14 (6), omit "not exceeding the fees specified in the Second Schedule to this Act".
  - (2) **Section 16 (Rules of registered trade unions):**  
After "ten cents" in section 16 (2), insert "or such greater sum as may be prescribed".
  - (3) **Second Schedule (Maximum fees):**  
Omit the Schedule.

**Commencement**

The amendments to the Trade Union Act 1881 commence on a day or days to be appointed by proclamation.

**Savings**

The amendment to section 14 (3) of the Trade Union Act 1881 does not affect a trade union registered before the commencement of the amendments.

**Explanatory note**

At present section 14 (3) of the Act provides that a trade union cannot be registered under a name identical to that of an existing trade union or so resembling it as to be likely to deceive the public. The

**SCHEDULE 1 - MINOR AMENDMENTS - *continued***

proposed amendment to section 14 (3) will extend this prohibition against registration to include registration under a name identical to that of an industrial union of employees or under a name so similar to the name of either an existing trade union or an industrial union of employees as to be likely to mislead the public.

The proposed amendment to section 14 (6) and repeal of the Second Schedule will omit the limitation as to the maximum fee that may be prescribed with respect to registration under the Act.

The proposed amendment to section 16 will enable the regulations to prescribe a sum greater than 10 cents as the maximum that may be demanded by a trade union for delivery of a copy of its rules to a person.

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SCHEDULE 1 - MINOR AMENDMENTS - *continued*

**TRAFFIC ACT 1909 No. 5**

**Amendments**

**Section 5 (Offences):**

From section 5 (2) (a) and (b), omit "motor" wherever occurring.

**Commencement**

The amendments to the Traffic Act 1909 commence on a day to be appointed by proclamation.

**Explanatory note**

Prior to the enactment of the Motor Traffic (Transport Administration) Amendment Act 1988 provision for the regulation of traffic was made by two Acts. The Motor Traffic Act 1909 regulated motor vehicles. The General Traffic Act 1900 regulated vehicles other than motor vehicles. The 1988 Act renamed the Motor Traffic Act 1909 as the Traffic Act 1909 and transferred most of the General Traffic Act 1900 provisions regulating vehicles to it so as to consolidate the provisions regulating traffic in one Act. This enabled the repeal of the 1900 Act.

The proposed amendment will include within section 5 of the Traffic Act 1909 an offence formerly contained in section 9A of the repealed Act which was not transferred by the 1988 Act.

The amended provision will read:

(2) Any person who, while under the influence of alcohol or any other drug;

- (a) drives a [motor] vehicle;
- (b) occupies the driving seat of a [motor] vehicle and attempts to put such [motor] vehicle in motion; or

Matter to be omitted is shown in italics.

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**SCHEDULE 2 - AMENDMENTS BY WAY OF STATUTE LAW  
REVISION**

(Sec. 3)

**ARCHIVES ACT 1960 No. 46**

**Amendments**

**(1) Section 4 (Members of the Authority):**

From section 4 (6), omit "Public Service Act, 1902, or any Act amending that Act", insert instead "Public Sector Management Act 1988".

**(2) Section 5 (Vacation of office):**

From section 5 (f), omit "paragraph (a) or (g) of subsection (2) of section 4", insert instead "section 4 (2) (a)".

**(3) Section 7 (Procedure, quorum etc.):**

From section 7 (4) (b), omit "chairman", insert instead "chairperson".

**(4) Section 12 (Officers and employees):**

(a) From section 12 (1), omit "Public Service Act, 1902, as amended by subsequent Acts", insert instead "Public Sector Management Act 1988".

(b) From section 12 (2), omit "Public Service Act, 1902, and any Act amending that Act", insert instead "Public Sector Management Act 1988".

(c) From section 12 (4), omit "Public Service Act, 1902, and any Act amending that Act", insert instead "Public Sector Management Act 1988".

**(5) Section 14 (Transfer of archives to the Authority):**

(a) From section 14 (6) (b), omit "subparagraph (ii) of paragraph (a)", insert instead "paragraph (a) (ii)".

(b) From section 14 (6) (c) (i), omit "subparagraph (i) of paragraph (a)", insert instead "paragraph (a) (i)".

(c) From section 14 (6) (c) (ii), omit "subparagraph (ii) of paragraph (a)", insert instead "paragraph (a) (ii)".

**SCHEDULE 2 - AMENDMENTS BY WAY OF STATUTE  
LAW REVISION - *continued***

**(6) Section 20 (Power to accept gifts etc.):**

From section 20 (3), omit ", or in any Act amending that Act, whether passed before or after the commencement of this Act".

**(7) Section 21 (By-laws):**

From section 21 (2), omit "paragraph (a), (c) or (d) of subsection (1)", insert instead "subsection (1) (a), (c) or (d)".

**(8) Section 22 (Proceedings for offences):**

From section 22, omit "a stipendiary magistrate or any two justices in petty sessions", insert instead "a Local Court constituted by a Magistrate sitting alone or by any 2 justices".

**Explanatory note**

The proposed amendments update certain provisions and references as a consequence of the Public Sector Management Act 1988 and the Local Courts Act 1982 as well as re-casting cross-references in modern form and updating an expression to gender-neutral language.

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**SCHEDULE 2 - AMENDMENTS BY WAY OF STATUTE  
LAW REVISION - *continued***

**ART GALLERY OF NEW SOUTH WALES ACT 1980 No. 65**

**Amendments**

- (1) **Section 3 (Arrangement):**  
Omit the section.
- (2) **Section 11 (Officers and employees):**
  - (a) From section 11 (1), omit "Part IV of the Public Service Act, 1979", insert instead "the Public Sector Management Act 1988".
  - (b) From section 11 (2), omit "Public Service Act, 1979,", insert instead "Public Sector Management Act 1988".
- (3) **Section 23 (By-laws):**  
After section 23 (3), insert:
  - (4) Proceedings for an offence against a by-law are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.
- (4) **Schedule 1 (Provisions relating to trustees and procedure of the trust):**  
From clause 3, omit "Public Service Act, 1979,", insert instead "Public Sector Management Act 1988 (Part 8 excepted)".

**Explanatory note**

The proposed amendments update certain provisions and references as a consequence of the Public Sector Management Act 1988 and the Local Courts Act 1982 and also repeal an arrangement provision which is unnecessary because of the current practice of reprinting Acts with a table of provisions.

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**SCHEDULE 2 - AMENDMENTS BY WAY OF STATUTE  
LAW REVISION - *continued***

**AUSTRALIAN MUSEUM TRUST ACT 1975 No. 95**

**Amendments**

- (1) **Section 3 (Division of Act):**  
Omit the section.
- (2) **Section 11 (Officers and employees):**
  - (a) From section 11 (1), omit "Public Service Act, 1902", insert instead "Public Sector Management Act 1988".
  - (b) From section 11 (2), omit "Public Service Act, 1902,", insert instead "Public Sector Management Act 1988".
- (3) **Section 19 (Regulations):**  
After section 19 (2), insert:
  - (3) Proceedings for an offence against the regulations are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.
- (4) **Schedule 1 (Composition and procedure of the Trust):**  
From clause 4, omit "Public Service Act, 1902,", insert instead "Public Sector Management Act 1988 (Part 8 excepted)".

**Explanatory note**

The proposed amendments update certain provisions and references as a consequence of the Public Sector Management Act 1988 and the Local Courts Act 1982 and also repeal an arrangement provision which is unnecessary because of the current practice of reprinting Acts with a table of provisions.

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SCHEDULE 2 - AMENDMENTS BY WAY OF STATUTE  
LAW REVISION - *continued*

AUSTRALIAN WILLIAM E. SIMON UNIVERSITY ACT 1988  
No. 89

**Amendments**

(1) **Section 3 (Definitions):**

From the definition of "University of Rochester School of Business Administration", omit "Adminstration", insert instead "Administration".

(2) **Section 9 (Investment):**

After "fund," in section 9 (5), insert "the money".

**Commencement**

The amendments to the Australian William E. Simon University Act 1988 are to be taken to have commenced on 1 January 1989 (the day appointed by proclamation for commencement of the Act).

**Explanatory note**

The proposed amendments correct the misspelling of a word and a grammatical error consisting of the omission of words.

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**SCHEDULE 2 - AMENDMENTS BY WAY OF STATUTE  
LAW REVISION - *continued***

**CHARLES STURT UNIVERSITY ACT 1989 No. 76**

**Amendments**

**Schedule 4 (Savings and transitional provisions):**

- (a) From paragraph (b) of the definition of "relevant commencement" in clause 2(1), omit "6", insert instead "5".
- (b) From paragraph (c) of the definition of "relevant commencement" in clause 2(1), omit "7", insert instead "6".

**Explanatory note**

The proposed amendments correct cross-references.

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**CHILDREN (CRIMINAL PROCEEDINGS) ACT 1987 No. 55**

**Amendment**

**Schedule 2 (Savings and transitional provisions):**

From clause 3 (1), omit "apply", insert instead "applies".

**Explanatory note**

The proposed amendment corrects a grammatical error.

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**SCHEDULE 2 - AMENDMENTS BY WAY OF STATUTE  
LAW REVISION - *continued***

**GOVERNMENT RAILWAYS (SUPERANNUATION) ACT 1912  
No. 30**

**Amendment**

Omit the long title, insert instead:

An Act relating to superannuation allowances and gratuities for certain railway employees.

**Explanatory note**

The Transport Legislation (Repeal and Amendment) Act 1988 substantially repealed the Government Railways Act 1912 (its short title being changed to the Government Railways (Superannuation) Act 1912). Part 9 of the Act was retained to ensure that any superannuation benefits that are payable or may become payable under that Part are preserved (the scheme established by Part 9 was closed in 1964). The provisions of the Act which still have practical utility were transferred to the Transport Administration Act 1988. The proposed amendment substitutes the long title of the Government Railways (Superannuation) Act 1912 in light of the above.

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SCHEDULE 2 - AMENDMENTS BY WAY OF STATUTE  
LAW REVISION - *continued*

**HISTORIC HOUSES ACT 1980 No. 94**

**Amendments**

(1) **Section 3 (Arrangement):**

Omit the section.

(2) **Section 13 (Officers and employees):**

From section 13, omit "Public Service Act 1979", insert instead "Public Sector Management Act 1988".

(3) **Section 23 (Regulations):**

After section 23 (3), insert:

(4) Proceedings for an offence against the regulations are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

(4) **Schedule 1 (Provisions relating to trustees and procedure of the Trust):**

From clause 4, omit "Public Service Act 1979", insert instead "Public Sector Management Act 1988 (Part 8 excepted)".

**Explanatory note**

The proposed amendments update certain provisions and references as a consequence of the Public Sector Management Act 1988 and the Local Courts Act 1982 and also repeal an arrangement provision which is unnecessary because of the current practice of reprinting Acts with a table of provisions.

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SCHEDULE 2 - AMENDMENTS BY WAY OF STATUTE  
LAW REVISION - *continued*

INDUSTRIAL ARBITRATION (THEATRICAL AGENTS AND  
EMPLOYERS) AMENDMENT ACT 1987 No. 198

**Amendment**

**Schedule 2 (Amendments relating to private employment agents):**

From Schedule 2, omit items (2) and (4).

**Explanatory note**

The proclamation which commenced the Act on 18 March 1988 was revoked by the Industrial Arbitration (Revocation of Proclamation) Act 1988 on 30 September 1988. A proclamation, however, under section 2 of the Industrial Arbitration (Theatrical Agents and Employers) Amendment Act 1987 commencing the Act may still be made. The amendments which were to be made by items (2) and (4) of Schedule 2 to that Act have, in effect, been made by Schedule 11 to the Statute Law (Miscellaneous Provisions) Act (No. 3) 1988. The proposed amendment merely omits amendments that have already been made.

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**SCHEDULE 2 - AMENDMENTS BY WAY OF STATUTE  
LAW REVISION - *continued***

**LIBRARY ACT 1939 No. 40**

**Amendments**

- (1) **Section 1A (Division of Act):**  
Omit the section.
- (2) **Section 7 (Officers and employees):**
  - (a) From section 7 (1), omit "Public Service Act, 1902", insert instead "Public Sector Management Act 1988".
  - (b) From section 7 (2), omit "Public Service Act, 1902," insert instead "Public Sector Management Act 1988".
- (3) **Section 10 (Requirements relating to local libraries):**
  - (a) From section 10 (2A) (a), omit "paragraph (a) or (b) of subsection (1)", insert instead "subsection (1) (a) or (b)".
  - (b) From section 10 (2A) (b), omit "paragraph (b) of subsection (1)" wherever occurring, insert instead "subsection (1) (b)".
  - (c) From section 10 (2A) (b) (ii), omit "paragraph (c) of that subsection", insert instead "subsection (1) (c)".
- (4) **Section 15 (Regulations):**
  - (a) From section 15 (3), omit "Such penalty may be recovered in a summary manner before a stipendiary magistrate sitting alone or any two justices.".
  - (b) After section 15 (3) insert:  
**(3A)** Proceedings for an offence against the regulations are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone or by any 2 justices.
- (5) **Schedule (Composition and procedure of the Council):**  
From clause 4, omit "Public Service Act, 1902," insert instead "Public Sector Management Act 1988 (Part 8 excepted)".

**SCHEDULE 2 - AMENDMENTS BY WAY OF STATUTE  
LAW REVISION - *continued***

**Explanatory note**

The proposed amendments update certain provisions and references as a consequence of the Public Sector Management Act 1988 and the Local Courts Act 1982 and also repeal an arrangement provision which is unnecessary because of the current practice of reprinting Acts with a table of provisions. They also re-cast cross-references in modern form.

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SCHEDULE 2 - AMENDMENTS BY WAY OF STATUTE  
LAW REVISION - *continued*

**MOTOR ACCIDENTS (AMENDMENT) ACT 1989 No. 47**

**Amendment**

**Schedule 1 (General amendments):**

From item (71), omit "appiliation", insert instead "application".

**Explanatory note**

The proposed amendment corrects the misspelling of a word.

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**MOTOR VEHICLES (THIRD PARTY INSURANCE) ACT 1942  
No. 15**

**Amendments**

**(1) Section 5 (Definitions):**

Omit section 5 (4).

**(2) Section 45 (Regulations):**

From section 45 (2) (c), omit "determined", insert instead "prescribed".

**Explanatory note**

The proposed amendments omit obsolete references to the determination of fees under section 265B of the Transport Act 1930 (which has been repealed by the Transport Legislation (Repeal and Amendment) Act 1988). Those fees (which relate to the inspection of certain records and documents) are to be prescribed under the Motor Vehicles (Third Party Insurance) Act 1942.

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SCHEDULE 2 - AMENDMENTS BY WAY OF STATUTE  
LAW REVISION - *continued*

**MUSEUM OF APPLIED ARTS AND SCIENCES ACT 1945**  
No. 31

**Amendments**

- (1) **Section 7 (Application of Public Sector Management Act 1988):**
  - (a) From section 7, omit "provisions of the Public Service Act, 1902, or any Act amending that Act", insert instead "Public Sector Management Act 1988 (Part 8 excepted)".
  - (b) From section 7, omit "any such", insert instead "that".
- (2) **Section 10 (Officers and employees):**
  - (a) From section 10 (1), omit "provisions of the Public Service Act, 1902, as amended by subsequent Acts", insert instead "Public Sector Management Act 1988".
  - (b) From section 10 (2), omit "provisions of the Public Service Act, 1902, as amended by subsequent Acts", insert instead "Public Sector Management Act 1988".
- (3) **Section 18 (Regulations):**
  - (a) From section 18 (3), omit "Any such penalty may be recovered before a stipendiary magistrate or any two justices in petty sessions."
  - (b) After section 18 (3), insert:
    - (4) Proceedings for an offence against the regulations are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone or by any 2 justices.

**Explanatory note**

The proposed amendments update certain provisions and references as a consequence of the Public Sector Management Act 1988 and the Local Courts Act 1982.

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**SCHEDULE 2 - AMENDMENTS BY WAY OF STATUTE  
LAW REVISION - *continued***

**NATIONAL PARKS AND WILDLIFE ACT 1974 No. 80**

**Amendment**

**Section 75A (Adoption etc. of plan of management for state recreation area):**

Omit section 75A (5) and (9).

**Explanatory note**

The proposed amendment omits unnecessary provisions relating to the adoption of plans of management for state recreation areas. These provisions are unnecessary because they are duplicated by section 81 (3A) and (4) (operations under plans of management) of the National Parks and Wildlife Act 1974.

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**REPRINTS ACT 1972 No. 48**

**Amendments**

(1) After section 9E, insert:

**Colons and dashes**

9F. Colons in an Act may be regarded for reprinting and all other purposes as being interchangeable with dashes.

(2) Section 13 (Application of certain provisions of this Act to certain instruments):

Omit "and 9E", insert instead ", 9E and 9F".

**Explanatory note**

The proposed amendments will facilitate the reprinting of Acts in a style consistent with that that has been adopted as a result of technological change in the printing of Principal and amending Acts.

**SCHEDULE 2 - AMENDMENTS BY WAY OF STATUTE  
LAW REVISION - *continued***

**RIVERS AND FORESHORES IMPROVEMENT ACT 1948  
No. 20**

**Amendments**

Sections 9, 10 - 12, 16 - 19, 22 and 23A (10):

Omit "Commission" wherever occurring, insert instead "Ministerial Corporation".

**Explanatory note**

The Water Administration Act 1986 constituted the Water Administration Corporation and also repealed the Water Resources Commission Act 1976 which constituted the Water Resources Commission. The proposed amendments update references to that Commission by replacing them with references to the Ministerial Corporation.

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**STATUTE LAW (MISCELLANEOUS PROVISIONS) ACT  
(No. 1) 1987 No. 48**

**Amendment**

Schedule 26 (Amendments to the State Transport (Co-ordination) Act 1931):

From item (15) (a) of Schedule 26, omit "lastly", insert instead "firstly".

**Explanatory note**

The proposed amendment rectifies an incorrect incorporating direction.

SCHEDULE 2 - AMENDMENTS BY WAY OF STATUTE  
LAW REVISION - *continued*

**STATUTE LAW (MISCELLANEOUS PROVISIONS) ACT 1989**  
**No. 89**

**Amendment**

**Section 2 (Commencement):**

From section 2 (2), omit "Local Courts (Civil Claims) Act 1970".

**Explanatory note**

The proposed amendment omits an unnecessary reference to the Local Courts (Civil Claims) Act 1970 in the commencement provisions of the Statute Law (Miscellaneous Provisions) Act 1989.

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**SCHEDULE 2 - AMENDMENTS BY WAY OF STATUTE  
LAW REVISION - *continued***

**STRATA TITLES ACT 1973 No. 68**

**Amendments**

- (1) **Section 14 (Alteration of building affecting lot boundary):**
  - (a) From section 14 (1), omit "a building is altered".
  - (b) Before "by demolishing" in section 14 (1) (a), insert "a building is altered".
  - (c) Before "by constructing" in section 14 (1) (b), insert "a building is altered".
- (2) **Section 58 (By-laws):**

From section 58 (9A), omit "subsection (9) (a)", insert instead "a by-law referred to in subsection (7)".
- (3) **Section 72 (Vacation of office of member of council):**
  - (a) At the end of section 72 (1) (d), insert "or".
  - (b) Omit section 72 (1) (e).
  - (c) From section 72 (2), omit "or (e)".
- (4) **Schedule 2 (Meetings, and voting at meetings, of body corporate):**
  - (a) From clause 1 (5) (c) in Part 1, omit "69 (3A)", insert instead "69 (4) (d)".
  - (b) From clause 3 (1) in Part 1, omit ", together with the number of voters whose votes are cast in writing on that motion or election,".
  - (c) From clause 3 (3) in Part 1, omit ", together with the number of voters whose votes are cast in writing on that motion or on that election,".

**Explanatory note**

The proposed amendments simplify the wording of conditions requiring building alteration plans, update a reference to substituted provisions relating to common property, update a cross-reference and omit redundant provisions relating to voting at meetings of bodies corporate.

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**SCHEDULE 2 - AMENDMENTS BY WAY OF STATUTE  
LAW REVISION - *continued***

**STRATA TITLES (LEASEHOLD) ACT 1986 No. 219**

**Amendments**

- (1) **Section 17 (Alteration of building affecting lot boundary):**
  - (a) From section 17(1), omit "a building or a part of a building comprised in a leasehold strata scheme is altered".
  - (b) Before "by demolishing" in section 17 (1) (a), insert "a building or a part of a building comprised in a leasehold strata scheme is altered".
  - (c) Before "by constructing" in section 17 (1) (b), insert "a building or a part of a building comprised in a leasehold strata scheme is altered".
- (2) **Section 87 (By-laws):**

From section 87 (11), omit "subsection (10) (a)", insert instead "a by-law referred to in subsection (7)".
- (3) **Section 102 (Vacation of office of member of council):**
  - (a) At the end of section 102 (1) (d), insert "or".
  - (b) Omit section 102 (1) (e).
  - (c) From section 102 (2), omit "or (e)".
- (4) **Schedule 4 (Meetings, and voting at meetings, of body corporate):**
  - (a) From clause 1 (6) (c) in Part 1, omit "99", insert instead "99 (4) (d)".
  - (b) From clause 4 (1) in Part 1, omit ", together with the number of voters whose votes are cast in writing on that motion or election,".
  - (c) From clause 4 (3) in Part 1, omit ", together with the number of voters whose votes are cast in writing on that motion or on that election,".

**SCHEDULE 2 - AMENDMENTS BY WAY OF STATUTE  
LAW REVISION - *continued***

**Explanatory note**

The proposed amendments simplify the wording of conditions requiring building alteration plans, update a reference to substituted provisions relating to common property, update a cross-reference and omit redundant provisions relating to voting at meetings of bodies corporate.

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**SCHEDULE 2 - AMENDMENTS BY WAY OF STATUTE  
LAW REVISION - *continued***

**SYDNEY OPERA HOUSE TRUST ACT 1961 No. 9**

**Amendments**

**(1) Section 4 (Objects and functions of Trust):**

From section 4, omit "subsection (2) of section 5" wherever occurring, insert instead "section 5 (2)".

**(2) Section 9 (Application of Public Sector Management Act 1988):**

(a) From section 9, omit "provisions of the Public Service Act, 1902, or any Act amending or replacing that Act", insert instead "Public Sector Management Act 1988 (Part 8 excepted)".

(b) From section 9, omit "any such", insert instead "that".

**(3) Section 10 (Chairperson):**

(a) From section 10 (1), omit "Chairman" wherever occurring, insert instead "Chairperson".

(b) From section 10 (2), omit "chairman" wherever occurring, insert instead "Chairperson".

**(4) Section 11 (Procedure, quorum etc.):**

From section 11 (3) (c), omit "chairman", insert instead "Chairperson".

**(5) Section 15 (Common seal):**

From section 15 (1), omit "chairman", insert instead "Chairperson".

**(6) Section 16 (Officers and employees):**

(a) From section 16 (1), omit "provisions of the Public Service Act, 1902, as amended by subsequent Acts", insert instead "Public Sector Management Act 1988".

(b) From section 16 (2), omit "provisions of the Public Service Act, 1902, as amended by subsequent Acts", insert instead "Public Sector Management Act 1988".

**SCHEDULE 2 - AMENDMENTS BY WAY OF STATUTE  
LAW REVISION - *continued***

**(7) Section 18 (Power to accept gifts etc.):**

From section 18 (3), omit ", or in any Act amending that Act, whether passed before or after the commencement of this Act,".

**(8) Section 28 (By-laws):**

(a) From section 28 (2), omit "Any such penalty may be recovered before a stipendiary magistrate or two justices in petty sessions.".

(b) After section 28 (2), insert:

(2A) Proceedings for an offence against the by-laws are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone or by any 2 justices.

(c) From section 28 (5), omit "subsection (2) of section 5", insert instead "section 5 (2)".

**Explanatory note**

The proposed amendments update certain provisions and references as a consequence of the Public Sector Management Act 1988 and the Local Courts Act 1982 as well as re-casting cross-references in modern form and updating an expression to gender-neutral language.

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**SCHEDULE 2 - AMENDMENTS BY WAY OF STATUTE  
LAW REVISION - *continued***

**TRANSPORT LICENSING ACT 1931 No. 32**

**Amendments**

**(1) Section 16 (Issue of licences):**

From section 16 (1) (b), omit "Commissioner", insert instead "Secretary".

**(2) Section 17 (Certain conditions of licence):**

From section 17 (1), omit "public motor", insert instead "public passenger".

**(3) Schedules 2 and 4:**

Omit "State Transport (Co-ordination) Act, 1931," wherever occurring, insert instead "Transport Licensing Act 1931".

**Commencement**

Item (1) of the amendments to the Transport Licensing Act 1931 is to be taken to have commenced on 1 July 1989 (the day on which the provision of the Miscellaneous Acts (Motor Accidents) Amendment Act 1988 inserting section 16 (1) (b) in the Transport Licensing Act 1931 commenced).

Item (2) of the amendments to the Transport Licensing Act 1931 is to be taken to have commenced on 28 May 1987 (the date of assent to the Statute Law (Miscellaneous Provisions) Act (No. 1) 1987).

Item (3) of the amendments to the Transport Licensing Act 1931 is to be taken to have commenced on 16 January 1989 (the day on which the State Transport (Co-ordination) (Transport Administration) Amendment Act 1988 commenced).

**Explanatory note**

The State Transport (Co-ordination) (Transport Administration) Amendment Act 1988 changed the short title of the State Transport (Co-ordination) Act 1931 to the Transport Licensing Act 1931. Item (3) of the proposed amendments alters two references in the Act in the light of the change of short title. Also, that 1988 amending Act substituted references to "Commissioner" (i.e. Commissioner of Motor

**SCHEDULE 2 - AMENDMENTS BY WAY OF STATUTE  
LAW REVISION - *continued***

Transport) in the 1931 Act with "Secretary" (i.e. Secretary of the Ministry of Transport) who has taken over those functions relating to the licensing and regulation of buses, taxi-cabs or other public passenger vehicles and ferries. Item (1) of the proposed amendments alters an outstanding reference to Commissioner.

The Statute Law (Miscellaneous Provisions) Act (No. 1) 1987 altered references to "public motor vehicle" in the Transport Licensing Act 1931 to "public passenger vehicle". Item (2) of the proposed amendments alters an outstanding reference to "public motor vehicle".

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**WATER ACT 1912 No. 44**

**Amendment**

**Section 27 (Regulations):**

From section 27(1)(c1), omit "and" where lastly occurring.

**Explanatory note**

The proposed amendment omits an unnecessary word.

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**WATER (AMENDMENT) ACT 1988 No. 108**

**Amendment**

**Schedule 1 (Amendments):**

From Schedule 1 (8), omit "section 64", insert instead "section 64A".

**Explanatory note**

The proposed amendment rectifies an incorrect incorporating direction.

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### **SCHEDULE 3 - REPEALS**

(Sec. 4)

Land and Environment Court (State Pollution Control Commission) Amendment Act 1983 No. 93  
Community Service Orders (Amendment) Act 1984 No. 33  
Landlord and Tenant (Land Tax) Amendment Act 1984 No. 132  
Oaths (Commercial Arbitration) Amendment Act 1984 No. 165  
Land and Environment Court (Environmentally Hazardous Chemicals) Amendment Act 1985 No. 15  
Mental Health (Patients' Accounts) Amendment Act 1985 No. 80  
Land and Environment Court (Strata Titles) Amendment Act 1985 No. 115  
University of Wollongong (Amendment) Act 1985 No. 116  
Sydney Turf Club (Amendment) Act 1985 No. 120  
Landlord and Tenant (Protected Tenancies) Amendment Act 1985 No. 121  
Intoxicated Persons (Amendment) Act 1985 No. 126  
Oaths (Children) Amendment Act 1985 No. 151  
Wild Dog Destruction (Amendment) Act 1985 No. 195  
Search Warrants (Artificial Breeding of Stock) Amendment Act 1985 No. 198  
Land and Environment Court (Biological Control) Amendment Act 1985 No. 200  
Land and Environment Court (Pipelines) Amendment Act 1985 No. 218  
Land and Environment Court (Movable Dwellings) Amendment Act 1986 No. 22  
Coroners (Amendment) Act 1986 No. 29  
Prisons (Release on Licence Board) Amendment Act 1986 No. 35  
Prisons (Remissions) Amendment Act 1986 No. 45  
Search Warrants (Gas and Electricity) Amendment Act 1986 No. 77  
Mental Health (Amendment) Act 1986 No. 92  
Search Warrants (Poultry Meat Industry) Amendment Act 1986 No. 102  
Prisons (Amendment) Act 1986 No. 109  
Community Service Orders (Amendment) Act 1986 No. 110  
Motor Traffic (Sale of Vehicles) Amendment Act 1986 No. 117  
Zoological Parks Board (Exhibited Animals) Amendment Act 1986 No. 125

SCHEDULE 3 - REPEALS - *continued*

Land and Environment Court (Marine Mammals Protection) Amendment Act 1986 No. 134  
University of New England (Amendment) Act 1986 No. 137  
Timber Marketing (Amendment) Act 1986 No. 141  
Land and Environment Court (Building Certificates) Amendment Act 1986 No. 158  
Search Warrants (Local Government Inspectors) Amendment Act 1986 No. 160  
Motor Traffic (Photographic Evidence) Amendment Act 1986 No. 161  
Public Finance and Audit (Wollongong Sportsground) Amendment Act 1986 No. 175  
Prisons (Further Amendment) Act 1986 No. 188  
Search Warrants (Gas) Amendment Act 1986 No. 216  
Motor Traffic (Shared Traffic Zones) Amendment Act 1987 No. 8  
Motor Traffic (Radar Detected Offences) Amendment Act 1987 No. 31  
Public Finance and Audit (Amendment) Act 1987 No. 35  
Coal Mines Regulation (Workers Compensation) Amendment Act 1987 No. 71  
Dangerous Goods (Workers Compensation) Amendment Act 1987 No. 74  
Defamation (Workers Compensation) Amendment Act 1987 No. 75  
Mines Inspection (Workers Compensation) Amendment Act 1987 No. 78  
Defamation (Medical Practitioners) Amendment Act 1987 No. 128  
Trustee (Amendment) Act 1987 No. 139  
Clean Waters (Penalty Notices) Amendment Act 1987 No. 142  
Interpretation (Amendment) Act 1987 No. 152  
Land and Environment Court (Amendment) Act 1987 No. 162  
Bail (Personal and Family Violence) Amendment Act 1987 No. 185  
Public Authorities (Financial Arrangements) Amendment Act 1987 No. 226  
Children (Community Service Orders) (Fine Default) Amendment Act 1987 No. 265  
Children (Care and Protection) Amendment Act 1987 No. 269  
Children (Criminal Proceedings) Amendment Act 1987 No. 270  
Children (Community Service Orders) Amendment Act 1987 No. 271  
Children (Detention Centres) Amendment Act 1987 No. 272

**SCHEDULE 3 - REPEALS - *continued***

Motor Dealers (Amendment) Act 1987 No. 277  
Public Finance and Audit (Further Amendment) Act 1987 No. 279  
Zoological Parks Board (Amendment) Act 1988 No. 4  
Public Finance and Audit (Working Accounts) Amendment Act 1988  
No. 23  
Justices (Sentencing) Amendment Act 1988 No. 26  
Children (Detention Centres) Amendment Act 1988 No. 40  
Independent Commission Against Corruption (Amendment) Act 1988  
No. 42  
Defamation (Criminal Defamation) Amendment Act 1988 No. 61  
Children (Care and Protection) Further Amendment Act 1988 No. 66  
Public Authorities (Financial Arrangements) Amendment Act 1988  
No. 80  
Prisons (Release on Licence Board) Amendment Act 1988 No. 104  
Children (Care and Protection) (Prostitution) Amendment Act 1988  
No. 116

**SCHEDULE 4 - GENERAL SAVINGS, TRANSITIONAL  
AND OTHER PROVISIONS**

(Sec. 5)

**Effect of amendment of amending provisions**

1. (1) An amendment made by Schedule 2 to an amending provision contained in an Act will, if the amending provision has commenced before the date of assent to this Act, be taken to have effect as from the commencement of the amending provision.

(2) In this clause:

"amending provision" means a provision of an Act, or of any other instrument, being a provision that has commenced and that makes a direct amendment of an Act by:

- (a) the repeal or omission of matter contained in the amended Act without the insertion of any matter instead of the repealed or omitted matter; or
- (b) the omission of matter contained in the amended Act and the insertion of matter instead of the omitted matter; or

**SCHEDULE 4 - GENERAL SAVINGS, TRANSITIONAL AND OTHER PROVISIONS - *continued***

(c) the insertion into the amended Act of matter, not being matter inserted instead of matter omitted from the Act, whether the provision was enacted before or after the commencement of the Reprints Act 1972.

**Explanatory note**

This clause ensures that amendments correcting errors in the technical provisions (for example, headings indicating the section to be amended or directions as to where a new section is to be inserted) will commence on the date the amendments to which they relate commenced.

**Effect of amendment or repeal on acts done or decisions made**

2. Except where it is expressly provided to the contrary, if this Act:

- (a) amends a provision of an Act; or
- (b) repeals and re-enacts (with or without modification) a provision of an Act,

any act done or decision made under the provision amended or repealed has effect after the amendment or repeal as if it had been done or made under the provision as so amended or repealed.

**Explanatory note**

This clause ensures that the amendment or repeal of a provision will not, unless expressly otherwise provided, vitiate any act done or decision made under the provision as in force before the amendment or repeal.

**Regulations**

3. (1) The Governor may make regulations containing other provisions of a savings or transitional nature consequent on the enactment of this Act.

(2) Any such provision may, if the regulations so provide, take effect from the date of assent to this Act or a later date.

**SCHEDULE 4 - GENERAL SAVINGS, TRANSITIONAL AND OTHER PROVISIONS - *continued***

(3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

**Explanatory note**

This clause enables the making of regulations of a transitional or saving nature having a short term effect relating to incidental matters arising out of the proposed Act with regard to which no specific, or sufficient, provision has been made in the Act.

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**NOTE**

**Alphabetical list of Acts repealed by Schedule 3**

Bail (Personal and Family Violence) Amendment Act 1987 No. 185  
Children (Care and Protection) (Prostitution) Amendment Act 1988 No. 116  
Children (Care and Protection) Amendment Act 1987 No. 269  
Children (Care and Protection) Further Amendment Act 1988 No. 66  
Children (Community Service Orders) (Fine Default) Amendment Act 1987 No. 265  
Children (Community Service Orders) Amendment Act 1987 No. 271  
Children (Criminal Proceedings) Amendment Act 1987 No. 270  
Children (Detention Centres) Amendment Act 1987 No. 272  
Children (Detention Centres) Amendment Act 1988 No. 40  
Clean Waters (Penalty Notices) Amendment Act 1987 No. 142  
Coal Mines Regulation (Workers Compensation) Amendment Act 1987 No. 71

NOTE - *continued*

Community Service Orders (Amendment) Act 1984 No. 33  
Community Service Orders (Amendment) Act 1986 No. 110  
Coroners (Amendment) Act 1986 No. 29  
Dangerous Goods (Workers Compensation) Amendment Act 1987  
No. 74  
Defamation (Medical Practitioners) Amendment Act 1987 No. 128  
Defamation (Criminal Defamation) Amendment Act 1988 No. 61  
Defamation (Workers Compensation) Amendment Act 1987 No. 75  
Independent Commission Against Corruption (Amendment) Act 1988  
No. 42  
Interpretation (Amendment) Act 1987 No. 152  
Intoxicated Persons (Amendment) Act 1985 No. 126  
Justices (Sentencing) Amendment Act 1988 No. 26  
Land and Environment Court (Amendment) Act 1987 No. 162  
Land and Environment Court (Biological Control) Amendment Act  
1985 No. 200  
Land and Environment Court (Building Certificates) Amendment Act  
1986 No. 158  
Land and Environment Court (Environmentally Hazardous  
Chemicals) Amendment Act 1985 No. 15  
Land and Environment Court (Marine Mammals Protection)  
Amendment Act 1986 No. 134  
Land and Environment Court (Movable Dwellings) Amendment Act  
1986 No. 22  
Land and Environment Court (Pipelines) Amendment Act 1985 No.  
218  
Land and Environment Court (State Pollution Control Commission)  
Amendment Act 1983 No. 93  
Land and Environment Court (Strata Titles) Amendment Act 1985  
No. 115  
Landlord and Tenant (Land Tax) Amendment Act 1984 No. 132  
Landlord and Tenant (Protected Tenancies) Amendment Act 1985  
No. 121  
Mental Health (Amendment) Act 1986 No. 92  
Mental Health (Patients' Accounts) Amendment Act 1985 No. 80  
Mines Inspection (Workers Compensation) Amendment Act 1987 No.  
78

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Motor Dealers (Amendment) Act 1987 No. 277  
Motor Traffic (Photographic Evidence) Amendment Act 1986 No. 161  
Motor Traffic (Radar Detected Offences) Amendment Act 1987 No. 31  
Motor Traffic (Sale of Vehicles) Amendment Act 1986 No. 117  
Motor Traffic (Shared Traffic Zones) Amendment Act 1987 No. 8  
Oaths (Children) Amendment Act 1985 No. 151  
Oaths (Commercial Arbitration) Amendment Act 1984 No. 165  
Prisons (Amendment) Act 1986 No. 109  
Prisons (Further Amendment) Act 1986 No. 188  
Prisons (Release on Licence Board) Amendment Act 1986 No. 35  
Prisons (Release on Licence Board) Amendment Act 1988 No. 104  
Prisons (Remissions) Amendment Act 1986 No. 45  
Public Authorities (Financial Arrangements) Amendment Act 1987 No. 226  
Public Authorities (Financial Arrangements) Amendment Act 1988 No. 80  
Public Finance and Audit (Amendment) Act 1987 No. 35  
Public Finance and Audit (Further Amendment) Act 1987 No. 279  
Public Finance and Audit (Wollongong Sportsground) Amendment Act 1986 No. 175  
Public Finance and Audit (Working Accounts) Amendment Act 1988 No. 23  
Search Warrants (Artificial Breeding of Stock) Amendment Act 1985 No. 198  
Search Warrants (Gas) Amendment Act 1986 No. 216  
Search Warrants (Gas and Electricity) Amendment Act 1986 No. 77  
Search Warrants (Local Government Inspectors) Amendment Act 1986 No. 160  
Search Warrants (Poultry Meat Industry) Amendment Act 1986 No. 102  
Sydney Turf Club (Amendment) Act 1985 No. 120  
Timber Marketing (Amendment) Act 1986 No. 141  
Trustee (Amendment) Act 1987 No. 139  
University of New England (Amendment) Act 1986 No. 137

NOTE - *continued*

University of Wollongong (Amendment) Act 1985 No. 116  
Wild Dog Destruction (Amendment) Act 1985 No. 195  
Zoological Parks Board (Amendment) Act 1988 No. 4  
Zoological Parks Board (Exhibited Animals) Amendment Act 1986  
No. 125

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[*Minister's second reading speech made in -  
Legislative Assembly on 27 July 1989  
Legislative Council on 9 August 1989*]