

STATUTE LAW (MISCELLANEOUS PROVISIONS) ACT 1993
No. 46

NEW SOUTH WALES



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STATUTE LAW (MISCELLANEOUS PROVISIONS) ACT 1993
No. 46

NEW SOUTH WALES



Act No. 46, 1993

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 15 June 1993]

See also Statute Law (Penalties) Act 1993.

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

1. This Act may be cited as the Statute Law (Miscellaneous Provisions) Act 1993.

Commencement

2. A provision of Schedule 1 or 2 to this Act commences as provided in the Schedule. The other provisions of this Act commence on the date of assent.

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 Each Act specified in Schedule 3 is repealed.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)

ASSOCIATIONS INCORPORATION ACT 1984 No. 143**AMENDMENTS****Section 13 (Reservation of name):**

- (a) From section 13 (1) omit “accompanied by the prescribed fee”.
- (b) In section 13 (2), after “the Commissioner shall”, insert “, if the prescribed fee has been paid,”.

COMMENCEMENT

The amendments to the Associations Incorporation Act 1984 commence on the date of assent to this Act.

TRANSITIONAL

A fee prescribed for the purposes of section 13 (1) of the Associations Incorporation Act 1984 before the commencement of the amendments made to that Act by this Act is, on that commencement, taken to be a fee prescribed for the purposes of section 13 (2) of that Act.

EXPLANATORY NOTE

At present, section 13 requires an application for the reservation of a name as the name of a proposed incorporated association (or the name to which an incorporated association proposes to change) to be accompanied by the prescribed fee. The proposed amendment removes the requirement that the prescribed fee accompany the application, but the fee must nonetheless be paid before reservation of the name.

BAIL ACT 1978 No. 161**AMENDMENT****Section 70 (Rules):**

At the end of the section, insert:

(2) Those rules may prescribe forms to be used in connection with those powers, authorities, duties or functions. If such forms are prescribed, they may be used instead of forms prescribed by regulations made under this Act.

COMMENCEMENT

The amendment to the Bail Act 1978 commences on the date of assent to this Act.

EXPLANATORY NOTE

Section 69 (1) (e) of the Act empowers the Governor to make regulations in respect of forms to be used for the purposes of the Act. The same forms are currently used in all courts hearing bail applications. The proposed amendment allows special forms to be prescribed by rules made under the Supreme Court Act 1970 for use in connection with the powers, authorities, duties or functions of the Supreme Court and Court of Criminal Appeal in respect of bail.

BUSINESS NAMES ACT 1962 No. 11**AMENDMENTS****(1) Section 7 (Registration of business names):**

- (a) From section 7 (1), omit “, shall be accompanied by the prescribed fee”.
- (b) From section 7 (1) (d), omit “and the place of the registered office or proposed registered office in the State”.
- (c) In section 7 (3), after “business name” where firstly occurring, insert “, if the prescribed fee has been paid,”.
- (d) In section 7 (7), after “correct”, insert “, or if the prescribed fee has not been paid”.

(2) Section 8 (Resident agent):

Omit section 8 (1A) (a), insert instead:

- (a) it has one or more places of business in the State (in which case its address for the purposes of this Act shall be the address of that place of business, or any one of those places of business); or

COMMENCEMENT

The amendments to the Business Names Act 1962 commence on the date of assent to this Act.

TRANSITIONAL

A fee prescribed for the purposes of section 7 (1) of the Business Names Act 1962 before the commencement of the amendments made to that Act by this Act is, on that commencement, taken to be a fee prescribed for the purposes of section 7 (3) of that Act.

EXPLANATORY NOTE**Application for registration of business name (item (1))**

At present, section 7 requires an application for the registration of a business name to be accompanied by the prescribed fee.

Item (1) (a) of the proposed amendments removes the requirement that the prescribed fee accompany the application, but the fee must nonetheless be paid (subject to the regulations), and registration of the business name concerned may be refused if it is not (item (1) (c) and (d)).

Section 7 also requires an applicant that is a corporation to specify the place of the corporation's registered office (or proposed registered office) in New South Wales. In view of the creation of the Australian Securities Commission and the Australia-wide recognition of corporations, item (1) (b) of the proposed amendments repeals that requirement.

Resident agent (item (2))

Section 8 obliges a person carrying on business under a name which is required to be registered under the Act to appoint a resident agent if the person has no fixed address in New South Wales. At present, a corporation may not be appointed as a resident agent unless it has a registered office or principal office for the service of documents in New South Wales (or is of a class prescribed for the purposes of the section).

Item (2) of the proposed amendments removes the requirement for a registered or principal office in New South Wales and permits the appointment of a corporation as resident agent if the corporation has a place of business in the State.

CLEAN WATERS ACT 1970 No. 78**AMENDMENTS****Section 27A (Notice to clean up pollution):**

- (a) After section 27A (1), insert:

(1A) The measures to be taken may (without limitation) include:

- (a) ascertaining the nature and extent of the pollution of the waters; and
 - (b) preparing a remedial plan of action for the waters.
- (b) After section 27A (3), insert:
- (4) More than one notice may be served on the same person under subsection (1), and the direction given by any such notice may be revoked or varied by a direction given by a subsequent notice or notices under that subsection. A direction may be varied by modification of, or addition to, its terms and specifications.

COMMENCEMENT

The amendments to the Clean Waters Act 1970 commence on the date of assent to this Act.

EXPLANATORY NOTE

Item (a) of the proposed amendments removes any doubt that the Environment Protection Authority's power, under section 27A, to direct that certain measures be taken in relation to cleaning polluted waters extends to directing that certain preliminary actions be taken.

Item (b) makes it clear that the Authority may give more than one direction to the same person in relation to polluted waters and that it may revoke or vary such directions.

The amendments bring the Act into line with sections 33 (2) (a) and (b) and 35 (6) of the Environmentally Hazardous Chemicals Act 1985 (as amended by the Statute Law (Miscellaneous Provisions) Act 1992).

CREDIT (ADMINISTRATION) ACT 1984 No. 95**AMENDMENT****Section 22 (Surrender of licence):**

After section 22 (1), insert:

(1A) A licensee whose licence has been lost or destroyed may surrender the licence by giving to the Commissioner a notice in writing and specifying in the notice that the licence has been lost or destroyed, as the case may be.

COMMENCEMENT

The amendment to the Credit (Administration) Act 1984 commences on the date of assent to this Act.

EXPLANATORY NOTE

At present, a licensee under the Act who wishes to surrender his or her licence must return it to the Commissioner for Consumer Affairs with a notice of surrender. Accordingly, if the licence has been lost or destroyed, the licensee obtains and returns a duplicate.

The proposed amendment allows surrender of a licence without return if the licence has been lost or destroyed.

Similar amendments are proposed to be made to the Motor Dealers Act 1974 and the Travel Agents Act 1986 elsewhere in this Schedule.

CRIMES ACT 1900 No. 40

AMENDMENT

Section 439 (Guilty plea to be taken into account):

After section 439 (5), insert:

(6) This section also applies, and is taken always to have applied, where an order for a re-trial has been made or proceedings have been reopened.

COMMENCEMENT

The amendment to the Crimes Act 1900 commences on the date of assent to this Act.

EXPLANATORY NOTE

Section 439 provides that a plea of guilty in a trial may, on conviction, attract a lesser sentence than the sentence the Court would have imposed had a plea of not guilty been entered. The proposed amendment makes explicit the implication in the section that it applies to re-trials and reopened proceedings as well as to other proceedings.

DISCHARGED SERVICEMEN'S BADGES ACT 1964 No. 49

AMENDMENT

Section 4 (Penalty and proceedings for offences):

From section 4 (1), omit ““forty dollars”, insert instead “2 penalty units”.

COMMENCEMENT

The amendment to the Discharged Servicemen's Badges Act 1964 commences on a day to be appointed by proclamation.

EXPLANATORY NOTE

The proposed amendment increases the maximum penalty for the unauthorised wearing of returned servicemen's badges from \$40 to \$200. The opportunity has also been taken to express the penalty in terms of penalty units in accordance with section 56 of the Interpretation Act 1987. (That section provides that a reference in an Act or a statutory rule to a number of penalty units is to be read as a reference to an amount of money equal to the amount obtained by multiplying \$100 by the number of penalty units.)

DRIED FRUITS ACT 1939 No. 7**AMENDMENT****Section 19 (Registration of packing houses):**

Omit section 19 (8), insert instead:

(8) An application for registration, renewal of registration or transfer of registration of a packing house is to be accompanied by the prescribed fee.

COMMENCEMENT

The amendment to the Dried Fruits Act 1939 commences on a day to be appointed by proclamation.

EXPLANATORY NOTE

A “packing house” is a building etc. in which dried fruits are prepared, stemmed, processed, graded, sorted or packed.

The proposed amendment repeals the provision prescribing the fees to accompany applications for registration, renewal of registration and transfer of registration of packing houses (which fees were set in 1939) and re-enacts it in such a way as to permit the regulations to prescribe those fees.

**ENVIRONMENTAL OFFENCES AND PENALTIES
ACT 1989 No. 150**
AMENDMENTS**Section 13 (Consent to institution of proceedings):**

- (a) In section 13 (3) (a), after “by” where firstly occurring, insert “a council of a local government area or”.
- (b) In section 13 (4) (a), after “by” where firstly occurring, insert “a council of a local government area or”.
- (c) In section 13 (5) (a), after “by” where firstly occurring, insert “a council of a local government area or”.

COMMENCEMENT

The amendments to the Environmental Offences and Penalties Act 1989 commence on the date of assent to this Act.

EXPLANATORY NOTE**Proceedings under the Environmental Offences and Penalties Act 1989 in relation to offences arising under the Clean Air Act 1961 (item (a))**

At present, section 13 provides (with certain exceptions) that the institution of proceedings under the Act requires the written consent of the Environment Protection Authority. A council of a local government area may, in certain circumstances, take proceedings in relation to offences arising under certain Acts without that consent if the proceedings are instituted through one of its employees.

Item (a) of the proposed amendments empowers a council to institute proceedings in the name of the council itself, as well as though an employee, in the case of offences arising under the Clean Air Act 1961.

Proceedings under the Environmental Offences and Penalties Act 1989 in relation to offences arising under the Clean Waters Act 1970 (item (b))

Item (b) confers the same power in relation to offences arising under the Clean Waters Act 1970.

Proceedings under the Environmental Offences and Penalties Act 1989 in relation to offences arising under the Noise Control Act 1975 (item (c))

Item (c) confers the same power in relation to offences arising under the Noise Control Act 1975.

FAIR TRADING ACT 1987 No. 68

AMENDMENT

Section 68 (Actions for damages (TPA s. 82)):

In section 68 (1), after “4 or 5”, insert “or 5A”.

COMMENCEMENT

The amendment to the Fair Trading Act 1987 commences on the date of assent to this Act.

EXPLANATORY NOTE

Section 68 empowers a person who suffers loss or damage: by conduct of another person that is in contravention of a provision of certain Parts of the Act to take action against that person to recover the amount of that loss or damage. The proposed amendment brings Part 5A (which deals with trading stamp schemes and similar schemes) within the ambit of section 68.

FOOD ACT 1989 No. 231

AMENDMENTS

Section 90 (Regulations):

- (a) From section 90 (1), omit “, on the recommendation of the Food Advisory Committee,”.
- (b) Omit section 90 (4).

COMMENCEMENT

The amendments to the Food Act 1989 commence on the date of assent to this Act.

EXPLANATORY NOTE

Section 90 (1) currently provides that the Governor, on the recommendation of the Food Advisory Committee, may make regulations for the purposes of the Act. Section 90 (3) empowers the regulations to incorporate by reference any standards etc. published by any authority or body.

By agreement with the Commonwealth and the other States, New South Wales has agreed to adopt, by reference and without amendment, food standards adopted by the National Food Standards Council. Accordingly, the proposed amendment to section 90 (1) removes the requirement that proposed regulations be recommended by the Committee. This is also consistent with other legislation such as the Poisons Act 1966, which constitutes a committee with an advisory function.

The proposed repeal of section 90 (4) (which provides that a regulation is not invalid if it is made otherwise than on the recommendation of the Committee) is consequential on the proposed amendment.

GAMING AND BETTING ACT 1912 No. 25**AMENDMENTS****(1) Section 50B (Definitions):**

At the end of the section, insert:

(2) For the purposes of this Part, references to the game of two-up extend to the betting and side betting associated with the game.

(2) Section 50F (Withdrawal of Minister's approval of persons who may conduct two-up on Council's behalf):

In section 50F (1), before "behalf" where secondly occurring, insert "on".

COMMENCEMENT

The amendments to the Gaming and Betting Act 1912 are taken to have commenced on 3 November 1992.

EXPLANATORY NOTE

The Gaming and Betting (Broken Hill) Amendment Act 1992 (the amending Act) inserted Part 3A (sections 50A–50RC) into the Gaming and Betting Act 1912. That Part legalised the conduct of certain games of two-up in the City of Broken Hill. The amending Act commenced on 3 November 1992.

Both proposed amendments are taken to have commenced on the commencement of the amending Act.

Side betting (item (1))

The proposed amendment makes it clear that the betting and side betting associated with the game of two-up is permissible in the games authorised by Part 3A.

Statute law revision (item (2))

The proposed amendment inserts a missing word.

HORTICULTURAL STOCK AND NURSERIES ACT 1969 No. 3**AMENDMENTS**

- (1) The whole Act (except for section 3):
Omit “Chief of the Division of Horticulture” wherever occurring, insert instead “Chief of the Division of Plant Industries”.
- (2) Section 3 (**Definitions**):
 - (a) Omit the definition of “Chief of the Division of Horticulture”.
 - (b) Insert in alphabetical order the following definition:

“Chief of the Division of Plant Industries” means the person for the time being holding office, or acting as the Chief, Division of Plant Industries.
- (3) Section 4 (**Construction**):
Omit the section.
- (4) Section 8 (**Registration**):
From section 8 (2) (b), omit “(which shall not exceed \$50)”.
- (5) Section 9 (**Certificate of registration**):
Omit section 9 (5).
- (6) Section 21 (**Offences**):
From section 21 (3), omit “shall be disposed of summarily before a stipendiary magistrate or any two justices of the peace in petty sessions”, insert instead “are to be disposed of in a summary manner before a Local Court constituted by a Magistrate sitting alone”.

COMMENCEMENT

The amendments to the Horticultural Stock and Nurseries Act 1969 commence on the date of assent to this Act.

EXPLANATORY NOTE**Chief of the Division of Plant Industries** (items (1) and (2))

Item (1) of the proposed amendments updates an obsolete reference. Item (2) makes consequential amendments to the definitions in the Act.

Construction of the Act (item (3))

The proposed amendment repeals a section providing for the Act to be read and construed in accordance with Constitutional limitations. Part 5 of the Interpretation Act 1987 provides for the construction of Acts and instruments.

Fee for registration (item (4))

At present, section 8 (2) (b) empowers the regulations to set the fee for an application for registration (or renewal of registration) as a nurseryman or reseller, but limits the fee to an amount of \$50 or less. The proposed amendment removes that limit.

Return of certificate of registration (item (5))

If a registered nurseryman or reseller does not, within a certain period after registration was granted, carry on the business of a nurseryman or reseller (or ceases to carry on that business), section 9 (5) requires him or her to return the certificate of registration to the Director-General of the Department of Agriculture. The proposed amendment removes that requirement.

Proceedings for offences (item (6))

The proposed amendment updates the language of the Act in respect of proceedings before magistrates.

**INDECENT ARTICLES AND CLASSIFIED PUBLICATIONS ACT
1975 No. 32**

AMENDMENT

Section 11A:

After section 11, insert:

Classifying authority to have regard to guidelines

11A. (1) In exercising its functions under this Act, a classifying authority must have regard to any guidelines relating to the classification of publications and issued to it from time to time by the Minister.

(2) For the duration of a person's designation, under section 11 (b), as a classification officer for the purposes of this Act, the Minister is not to issue guidelines except those that are agreed to by the Office of Film and Literature Classification of the Commonwealth.

COMMENCEMENT

The amendment to the Indecent Articles and Classified Publications Act 1975 commences on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendment requires a classification officer, the Publications Classification Board and the District Court to have regard, when classifying a publication, to any guidelines relating to such classification issued from time to time by the Minister.

INDUSTRIAL RELATIONS ACT 1991 No. 34

AMENDMENTS(1) Section 3 (**Objects**):

In section 3, replace the dots marking each paragraph with bracketed letters in alphabetical order, beginning with "(a)".

- (2) Sections 38 (**Effect of maternity leave on employment**), 50 (**Effect of paternity leave on employment**), 63 (**Effect of adoption leave on employment**):

From sections 38, 50 and 63, omit “of any relevant award or agreement” wherever occurring.

- (3) Section 156 (**Recovery of unpaid superannuation**):

In section 156 (7), after “by a trustee of a superannuation fund”, insert “, or by an agent of such a trustee,”.

COMMENCEMENT

The amendments to the Industrial Relations Act 1991 commence on the date of assent to this Act.

EXPLANATORY NOTE

Reference to the objects of the Act (item (1))

The proposed amendment inserts an alphabetical listing of the objects of the Act to facilitate reference to a particular object.

Calculation of periods of service (item (2))

At present, the Act provides that absence on maternity, paternity or adoption leave does not break a period of service as an employee, but the period of the absence is not to be taken as service for the purposes of any relevant award or agreement. The proposed amendment provides that the period of the absence is not to be taken as service for any other purpose (such as leave entitlements conferred by legislation). This is in line with the principle in section 153O (2) of the Industrial Arbitration Act 1940 before its repeal.

Certificate relating to unpaid superannuation (item (3))

At present, a certificate concerning superannuation contributions relating to a particular person is evidence of the matters stated in it if it is signed by a trustee of the superannuation fund concerned. The proposed amendment gives the same evidentiary weight to such a certificate signed by an agent of the trustee.

JURY ACT 1977 No. 18

AMENDMENTS

- (1) Section 4 (**Definitions**):

- (a) From section 4 (1), omit the definition of “subdivision”.
- (b) From section 4 (3), omit “or a subdivision includes a reference to a part of an electoral district or a part of a subdivision, as the case may be”, insert instead “includes a reference to a part of an electoral district”.

(2) Section 9 (Jury districts):

Omit section 9 (2), insert instead:

(2) A jury district is to comprise such electoral districts or parts of electoral districts as may be determined and notified by the sheriff from time to time in accordance with the regulations.

(3) The regulations may make provision for or with respect to the determination and notification of jury districts.

(3) Section 11 (Electoral Commissioner to deliver copies of electoral rolls to sheriff):

From section 11, omit “or subdivisions”.

(4) Section 12 (Draft jury roll to be selected at random):

From section 12 (2) (b), omit “and subdivisions,,,”

(5) Section 16 (Jury roll to be certified by sheriff):

(a) From section 16 (3), omit “or subdivision”.

(b) Omit section 16 (4), insert instead:

(4) The jury roll certified under this section for a jury district remains in force until a new jury roll for the district is certified, even if there is an alteration in the boundaries of the jury district before the new jury roll is certified.

COMMENCEMENT

The amendments to the Jury Act 1977 commence on the date of assent to this Act.

TRANSITIONAL

A jury district in existence immediately before the commencement of the amendments to the Jury Act 1977 made by this Act is taken to be a duly constituted jury district until replaced by a jury district constituted in accordance with that Act as amended by this Act.

EXPLANATORY NOTE

At present, section 9 (2) provides that jury districts comprise such electoral districts or subdivisions as are prescribed by the regulations. However, subdivisions are no longer used in the compilation of electoral districts—currently, smaller units of census collection districts are used. Accordingly, subdivisions can no longer be used in the compilation of jury rolls or the determination of jury districts. The proposed amendments, therefore, omit the definition of, and references to, subdivisions.

The proposed amendments provide that jury districts are to consist of such electoral districts or parts of electoral districts as are determined and notified by the sheriff in accordance with the regulations.

The amendments will allow the adoption for the purposes of jury districts of the units used from time to time for compilation of electoral districts.

JUSTICES ACT 1902 No. 27**AMENDMENTS**

- (1) Section 90 (**Further time etc. may be allowed for payment**):
From section 90 (2), omit “and notice in respect of the warrant has not been given under section 89B”.
- (2) Section 100L (**Orders to enforce penalty notices**):
From section 100L (6), omit “the Child Welfare Act 1939”, insert instead “Children (Criminal Proceedings) Act 1987”.
- (3) Section 122 (**Appeal allowed in every case of conviction or order made by Justices**):
 - (a) From section 122 (1), omit “within twenty-one days from the making of such conviction or order”, insert instead “within 21 days after the date on which the person is sentenced or the final order is made”.
 - (b) From section 122 (1A) omit “within 21 days from the making of a conviction or order affecting him”, insert instead “within 21 days after the date on which the person is sentenced or the final order affecting the person is made”.
 - (c) From section 122 (1A), omit “within 3 months from the making of the conviction or order”, insert instead “within 3 months after the date on which the person is sentenced or the final order is made”.
- (4) Section 152A:
After section 152, insert:
Power to refer allegation of contempt to Supreme Court
152A. (1) Without prejudice to the powers of a Magistrate under section 152, if it is alleged, or appears to a court on its own view, that a person is guilty of contempt of the court, whether during a proceeding before the court or otherwise, the court may refer the matter to the Supreme Court for determination.
(2) On any matter being referred to the Supreme Court under this section, the Supreme Court is to dispose of the matter in such manner as it considers appropriate.
- (5) Section 154 (**Regulations**):
From section 154 (1a) (a) (i), omit “and the Coroners Act 1912 before a Justice or Justices or a Coroner”, insert instead “before a Justice or Justices”.

COMMENCEMENT

The amendments to the Justices Act 1902 commence on the date of assent to this Act.

TRANSITIONAL

Item (1) of the amendments to the Justices Act 1902 extends to warrants issued before the commencement of the amendments.

Item (3) of the amendments to the Justices Act 1902 extends to sentences imposed and orders made before the commencement of the amendments.

EXPLANATORY NOTE**Additional time for payment** (item (1))

Section 89B provides that before a warrant of commitment issued against a fine defaulter is executed, the defaulter must be given oral notice to the effect that the warrant will not be executed if, within 7 days, the person pays the outstanding fine, applies for further time for payment or applies for a community service order.

A Justice has power to grant further time for payment and to recall a warrant of commitment issued in respect of the fine, but only if notice under section 89B has not been given. The proposed amendment to section 90 extends that power to the situation where that notice has been given.

Update of reference (item (2))

The proposed amendment updates a superseded reference.

Time for making of appeal (item (3))

The proposed amendments provide that the time in which an appeal against a conviction or order may be made does not begin to run until the date of sentencing (in respect of a conviction) or the date on which a final order is made. At present, the time is calculated from the date of the conviction or the particular order against which the appeal is to be made.

Referral of alleged contempt to Supreme Court (item (4))

At present, the Act provides for the punishment of contempt committed before a Magistrate during a proceeding under the Act. Contempt committed otherwise than before the court is punishable only by the Supreme Court in its inherent jurisdiction. The proposed amendment inserts a provision, similar to section 76A of the Local Courts (Civil Claims) Act 1970, to permit referral of alleged contempt, whether committed before the court or otherwise, to the Supreme Court for determination.

Reference to Coroner (item (5))

The proposed amendment omits references to the Coroners Act 1912 and a Coroner in the provision empowering the making of regulations with respect to the taking of depositions etc. The Coroners Act 1980 deals with that aspect of the matter.

LAND AND ENVIRONMENT COURT ACT 1979 No. 204**AMENDMENTS****Section 21 (Class 5—environmental planning and protection summary enforcement):**

- (a) In section 21 (ca), after “8A,”, insert “8B,”.
- (b) From section 21 (i), omit “should”, insert instead “may”.

COMMENCEMENT

The amendments to the Land and Environment Court Act 1979 commence on the date of assent to this Act.

EXPLANATORY NOTE

Sections 16–21 divide the jurisdiction of the Land and Environment Court into 5 classes. Section 21 is concerned with the Class 5 jurisdiction. In that jurisdiction, the Court can dispose summarily of proceedings for specified offences and for any offence for which an Act provides that proceedings should be taken before, or dealt with by, the Court.

The effect of item (a) of the proposed amendments is to include in the Class 5 jurisdiction proceedings for offences against the Environmental Offences and Penalties Act 1989 arising under the Clean Waters Act 1970. (The Court already has jurisdiction to deal summarily with such proceedings under section 11A of the Environmental Offences and Penalties Act 1989.)

Item (b) makes it clear that the jurisdiction exists even if proceedings that may be taken before the Land and Environment Court may also be taken before another court.

LAND TAX MANAGEMENT ACT 1956 No. 26**AMENDMENTS**

- (1) Section 10T (**Concession for unoccupied land intended to be owner's principal place of residence**):
 - (a) From section 10T (1), omit “section 10 (1) (r), (1) (u), (4) and (5)”, insert instead “section 10 (I) (r) and (4)”.
 - (b) From section 10T (3), omit “section 10 (1) (r), (1) (u), (4) or (5)”, insert instead “section 10 (1) (r) or (4)”.
- (2) Section 50 (Remission of land tax in cases of hardship):
Omit section 50 (IA), (1B) and (1C).
- (3) Schedule 2 (Savings and Transitional Provisions):
From clause 18, omit “1 January 1992”, insert instead “1 January 1993”.

COMMENCEMENT

The amendments to the Land Tax Management Act 1956 are taken to have commenced on 31 December 1992.

EXPLANATORY NOTE**References to repealed provisions of the Act** (items (1) and (2))

The Land Tax Management (Amendment) Act 1992 repealed certain provisions of the Land Tax Management Act 1956.

The amendments proposed to be made by items (1) and (2) omit references to those repealed provisions.

Tax years to which amendments made by Land Tax Management (Amendment) Act 1992 apply (item (3))

The Explanatory Note to the Land Tax Management (Amendment) Bill 1992 begins as follows:

The object of this Bill is to make the following amendments to the Land Tax Management Act 1956 (“LTM Act”) with effect from and including the 1993 land tax year (each amendment is described in greater detail below):

(a) to provide that the land values.....

A typographical error in clause 18 of Schedule 2 (as inserted by the Act for which that Bill provided) caused the land tax year to be shown as the 1992 year, instead of the 1993 year. The amendment proposed to be made by item (3) corrects that error.

LIMITATION ACT 1969 No. 31**AMENDMENT****Schedule 5 (Further Transitional Provisions):**

In clause 4 (4), before “within”, insert “if an application for such an order is made”.

COMMENCEMENT

The amendment to the Limitation Act 1969 commences on the date of assent to this Act.

EXPLANATORY NOTE

Court orders may be made under sections 60G and 60H of the Limitation Act 1969 to extend the time during which actions may be brought for damages for personal injury and for compensation to relatives (respectively) in relation to causes of action accruing on or after 1 September 1990.

Clause 4 of Schedule 5 to that Act extends the application of those sections to causes of action accruing before 1 September 1990, but only if the relevant order is made within the time specified in that clause. The proposed amendment will allow such an order to be made after the time specified in the clause if application for the order has been made within that time.

LIQUOR ACT 1982 No. 147**AMENDMENTS****(1) Section 4 (Definitions):**

From section 4 (1), omit the definition of “auctioneer”.

(2) Section 22 (Off-licence—miscellaneous conditions):

Omit section 22 (4) (a).

(3) Section 36 (Restriction on certain applications):

Omit section 36 (2).

COMMENCEMENT

The amendments to the Liquor Act 1982 are taken to have commenced on 1 May 1993.

EXPLANATORY NOTE

The Auctioneers and Agents (Amendment) Act 1992 amended the Auctioneers and Agents Act 1941 (renamed the Property, Stock and Business Agents Act 1941 from 1 May 1993) to require an auctioneer to hold a licence only when auctioning real property or livestock.

At present, sections 22 (4) (a) and 36 (2) of the Liquor Act 1982 require an applicant for an off-licence to auction liquor, and a holder of such a licence, to be the holder of an auctioneer's licence under the Auctioneers and Agents Act 1941. In view of the abolition of chattel and general auctioneers' licences, the amendments proposed to be made by items (2) and (3) repeal those provisions.

The amendment proposed to be made by item (1) is a consequential amendment. (References to "auctioneer" remain in sections 6 (e) and 130 but, as used in those sections, the word carries its ordinary meaning and does not require a definition.)

LORD HOWE ISLAND ACT 1953 No. 39**AMENDMENTS****(1) Section 24 (Appeal to Land and Environment Court):**

(a) Omit the second paragraph of section 24, insert instead:

An appeal is to be made within the time prescribed and in accordance with the rules of that Court.

(b) From the third paragraph of section 24, omit "and in the manner prescribed", insert instead "prescribed and in accordance with the rules of that Court".

(2) Section 38 (Regulations):

After section 38 (2) (c), insert:

(cl) for or with respect to the making of applications under this Act;

COMMENCEMENT

The amendments to the Lord Howe Island Act 1953 commence on the date of assent to this Act.

EXPLANATORY NOTE**Appeals etc. to Land and Environment Court** (item (1))

At present, section 24 contains provisions concerning the way in which appeals etc. to the Land and Environment Court are to be made. The proposed amendments repeal those provisions, requiring instead that the appeals etc. be made in accordance with the rules of that Court.

Regulations (item (2))

The proposed amendment confers a power to make regulations ~~for~~ or with respect to the making of applications under the Act.

MOTOR DEALERS ACT. 1974 No. 52**AMENDMENT****Section 20A (Surrender of licence):**

At the end of the section, insert:

(2) Despite subsection (1), a licensee whose licence has been lost or destroyed may surrender the licence by giving to the Commissioner a notice in writing and specifying in the notice that the licence has been lost or destroyed, as the case may be.

COMMENCEMENT

The amendment to the Motor Dealers Act 1974 commences on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendment is similar to the amendment proposed to be made to the Credit (Administration) Act 1984 earlier in this Schedule, and the additional information in the explanatory note to that amendment is also relevant to this amendment.

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

- (1) The whole Act (except for section 5, the expression “Director of the Department of Water Resources” in sections 74 (a) and (b) and 185 (4) (b) and (5), Schedule 3 and item 92 of Schedule 15):
 - (a) Omit “Director” wherever occurring, insert instead “Director-General”.
 - (b) Omit “Director’s” wherever occurring, insert instead “Director-General’s”.

(2) Section 5 (**Definitions**):

(a) From section 5 (1), omit the definition of “Director”, insert instead:

“Director-General” means the Director-General of National Parks and Wildlife appointed under this Act;

(b) After section 5 (2), insert:

(2A) In this Act, a reference to a person convicted of an offence includes a reference to a person in respect of whom an order under section 556A of the Crimes Act 1900 is made after the commencement of this subsection.

(3) Section 33 (**Reservation of parks and sites**):

From section 33 (1) (c), omit “147”, insert instead “146”.

(4) Section 47A (**Definitions**):

From paragraph (d) of the definition of “prescribed lands” in section 47A, omit “147”, insert instead “146”.

(5) Section 49 (**Dedication of nature reserves**):

From section 49 (1) (b) and (2) (b), omit “147” wherever occurring, insert instead “146”.

(6) Section 161 (**Removal of vehicles**):

(a) From section 161 (4), omit “a danger or unreasonable obstruction to traffic”, insert instead “an unreasonable obstruction to traffic or a danger to persons, property, traffic, fauna (or the habitat of fauna) or flora on the prescribed land”.

(b) From section 161 (5) (b) (i), omit “a danger or obstruction to traffic”, insert instead “an obstruction to traffic or a danger to persons, property, traffic, fauna (or the habitat of fauna) or flora”.

(7) Section 161A (**Removal of abandoned vehicles from certain land**):

From section 161A (3) (c), omit “a danger or obstruction to traffic”, insert instead “an obstruction to traffic or a danger to persons, property, traffic, fauna (or the habitat of fauna) or flora”.

(8) Schedule 3 (**Savings, Transitional and other Provisions**):

After clause 20, insert:

Amendments made by the Statute Law (Miscellaneous Provisions) Act 1993

20A. On and from the commencement of this clause, a reference in any other Act, or in any instrument made under any Act, or in any other document of any kind, to the Director of National Parks and Wildlife or to the Acting Director of National Parks and Wildlife is to be read as a reference to the Director-General of National Parks and Wildlife or to the Acting Director-General of National Parks and Wildlife respectively.

COMMENCEMENT

The amendments to the National Parks and Wildlife Act 1974 commence on the date of assent to this Act.

EXPLANATORY NOTE**Change of title** (items (1), (2) (a) and (8))

Item (1) of the proposed amendments changes the names of the positions of Director of National Parks and Wildlife and Acting Director of National Parks and Wildlife to Director-General of National Parks and Wildlife and Acting Director-General of National Parks and Wildlife respectively.

Item (2) (a) of the proposed amendments is consequential on item (1).

Item (8) of the proposed amendments ensures that any references in other documents to the old names of the positions will be read as references to the new names.

“Convicted” persons (item (2) (b))

Under section 556A of the Crimes Act 1900, a court which thinks that a charge against a person is proved but is of the opinion (having regard, e.g., to the character, age or mental condition of the person charged) that it is inexpedient to inflict any punishment (or any other than a nominal punishment) or that it is expedient to release the offender on probation, may, without proceeding to conviction, make an order dismissing the charge or discharging the offender conditionally. Item (2) (b) of the proposed amendments provides that a reference in the National Parks and Wildlife Act 1974 to a person “convicted” of an offence includes a reference to a person in respect of whom an order under that section has been made.

The effect of the amendment is that such a person may be ordered under section 176 (3) to pay costs, or ordered under section 177 (1) to pay compensation for loss or damage to any national park etc. arising from the offence concerned, or may (if the person is a trustee of a state recreation area and the offence relates to the person’s pecuniary interest in a contract with the trustees) be taken to have vacated the office of trustee.

Statute law revision (items (3)–(5))

The proposed amendments correct cross-references.

Removal of vehicles (items (6) and (7))

The proposed amendments extend the meaning of “danger” in provisions dealing with the removal of vehicles from certain specified lands (e.g. a national park or a nature reserve).

OZONE PROTECTION ACT 1989 No. 208**AMENDMENT****Section 4 (Definitions):**

From section 4 (1), omit the definition of “authorised officer”, insert instead:

“authorised officer”, in relation to a function under this Act or under a regulation made under this Act, means a person authorised in writing by the Authority, whether generally or in a special case, to exercise that function;

COMMENCEMENT

The amendment to the Ozone Protection Act 1989 commences on the date of assent to this Act.

SAVING

A member of the staff of the Environment Protection Authority authorised in writing by that Authority, either generally or in a special case, to exercise a function under the Ozone Protection Act 1989 before the commencement of the amendment made to that Act by this Act is taken to be a person authorised under that Act as so amended.

EXPLANATORY NOTE

At present, only a member of the staff of the Environment Protection Authority can be authorised to exercise a function under the Act. The proposed amendment allows a person other than such a staff member to be so authorised.

PAY-ROLL TAX ACT 1971 No. 22**PART 1—MISCELLANEOUS AMENDMENTS****(1) Section 12 (Registration):**

From section 12 (1) (a) and (b), omit “\$8,308 per week” wherever occurring, insert instead “\$3,615 per week”.

(2) Section 16B (Grouping of corporations):

From section 16B, omit “section 7 (5) of the Companies (New South Wales) Code to be deemed, for the purposes of that Code, to be”, insert instead “section 50 of the Corporations Law”.

(3) Section 47 (Service of documents by the Chief Commissioner):

From section 47 (3), omit “the Companies (New South Wales) Code”, insert instead “the Corporations Law”.

(4) Section 48 (Service of documents on the Chief Commissioner):

From section 48, omit “the office of the Chief Commissioner”, insert instead “any of the offices of the Chief Commissioner”.

**PART 2—AMENDMENTS TRANSFERRING TO THE ACT
MATTERS CURRENTLY DEALT WITH BY REGULATION (AND
CONSEQUENTIAL AMENDMENTS)****(5) Section 16 (Power to obtain information and evidence):**

Omit section 16 (3), insert instead:

(3) Persons required under this section to attend are to be paid expenses in accordance with the scale of allowances to witnesses in force for the time being under the rules of the District Court.

- (4) Subsection (3) does not apply to persons who are employers, or representatives of employers, whose liability or entitlement under this Act is being inquired into by the Chief Commissioner.
- (6) **Section 17 (Payment of tax):**
After section 17 (1), insert:
(1A) Pay-roll tax may be paid at any of the offices of the Chief Commissioner or at any branch of a bank or other financial institution appointed by the Chief Commissioner for the purpose of receiving payments of pay-roll tax.
- (7) **Section 28 (Provision for payment of tax by executors or administrators):**
From section 28 (6), omit “post to or”.
- (8) **Section 32 (Objections and appeals):**
From section 32 (1), omit “, at an office of the Chief Commissioner,”, insert instead “with the Chief Commissioner”.
- (9) **Section 32C (Payment of tax assessed and calculation of refund by Supreme Court):**
From section 32C (1) (b) and (2) (a), omit “at the prescribed rate” wherever occurring, insert instead “at the rate for the time being prescribed under section 95 (1) of the Supreme Court Act 1970 for payment of interest on a judgment debt”.
- (10) **Section 32E (Lodgment with Chief Commissioner):**
Omit the section.
- (11) **Section 41 (Public officer of company):**
In section 41 (2), after “the officer”, insert “and containing (or accompanied by) a specimen of the officer’s signature”.
- (12) **Section 44 (Records to be kept):**
(a) From section 44 (1), omit “such records as may be prescribed”, insert instead “the records required by this section to be kept”.
(b) After section 44 (1), insert:
(1A) The records required to be kept are records written in English and containing the following details:
(a) details of the name and address of each person to whom wages are paid or are payable by the employer;
(b) details of the wages paid or payable to a person by the employer;
(c) details of any accommodation or other allowance (not being a motor vehicle allowance) paid or payable to a person by the employer (whether or not by way of reimbursement for expenses incurred on behalf of the employer);

- (d) details of any motor vehicle allowance paid or payable to a person by the employer (whether or not by way of reimbursement for expenses incurred on behalf of the employer).

(1B) The details required to be kept by subsection (1A) (d) include:

- (a) the name and address of the person; and
- (b) the amount of the allowance paid or payable; and
- (c) such other details as may be prescribed by the regulations.

(13) Sections 46A–46C:

After section 46, insert:

Lodgment with Chief Commissioner

46A. A thing is lodged with the Chief Commissioner by being addressed to the Chief Commissioner and:

- (a) lodged at, or sent by pre-paid post to, any of the offices of the Chief Commissioner; or
- (b) lodged in any other manner approved by the Chief Commissioner.

Signature by or for employers

46B. (1) A document that a person is required or entitled to lodge with the Chief Commissioner under this Act is not duly lodged unless:

- (a) if it is lodged by an individual, it is signed in the name of that individual; or
- (b) if it is lodged by trustees, it is signed in the name of any one or more of the trustees resident in New South Wales or (if none is resident in New South Wales) in the name of the agent in New South Wales for the trustees; or
- (c) if it is lodged by a company, it is signed in the name of the public officer, the secretary, the accountant, a member of the governing body or an attorney or agent of the company; or
- (d) if it is lodged by a council, it is signed by an employee of the council duly authorised by the council.

(2) A document must be signed personally by the person in whose name it is required to be signed (the **required signatory**).

(3) If it is not possible or practicable for the person to sign the document personally, or if the Chief Commissioner so permits in special circumstances, the document may be signed by another person (the **substitute signatory**):

- (a) who is authorised to do so by the person; or

(b) who is authorised to do so:

(i) by a director or a member of the governing body of the company; or

(ii) by a partner (if the company is in partnership),
if the document is required to be lodged by a company.

(4) The substitute signatory must sign his or her name after the name of the required signatory and indicate that the document is signed on behalf of the required signatory.

(5) The Chief Commissioner may disapprove of a particular person's signing a document on behalf of a required signatory. Subsection (3) does not apply to such a person.

(6) A document signed on behalf of an employer is taken to be signed by the employer.

Authentication of official signatures

46C. A certificate, notice or other document issued for the purposes of this Act is duly authenticated if it bears the signature or the printed or stamped name (which may be a facsimile of the signature) of:

- (a) the Chief Commissioner; or
- (b) the Deputy Chief Commissioner; or
- (c) the Commissioner; or
- (d) the Assistant Commissioner of Pay-roll Tax; or
- (e) a Deputy Commissioner of Pay-roll Tax.

(14) Section 51 (**Regulations**):

Omit section 51 (1) (d)–(f).

COMMENCEMENT

The amendments to the Pay-roll Tax Act 1971 commence on the date of assent to this Act.

EXPLANATORY NOTE

The amendments proposed to be made to this Act are more extensive than the amendments that would usually be made in a Statute Law (Miscellaneous Provisions) Act. However, many of the proposed amendments merely transfer to the Act matters currently dealt with by regulation.

Accordingly, the proposed amendments have been divided into 2 Parts—amendments of the kind usually made by a Statute Law (Miscellaneous Provisions) Act and those transferring matters from the Pay-roll Tax Regulations 1971 to the Act (and amendments consequential on the transfer).

Requirement to register for pay-roll tax (item (1))

No pay-roll tax was payable by an employer in respect of the 1989–1990 financial year if the total taxable wages paid or payable by the employer in that year were less than \$432,000. That threshold was raised to \$483,000 for the 1990–1991 financial year and to \$500,000 for the 1991–1992 and subsequent financial years.

Section 12 (1) requires an employer to register for pay-roll tax if the employer pays (or is liable to pay) during a month taxable weekly wages in excess of the amount specified in the section. The amount specified at present is equivalent (in round figures) to 1/52 of \$432,000. Accordingly, the proposed amendment substitutes for that amount an amount equivalent (in round figures) to 1/52 of \$500,000.

Companies (New South Wales) Code (items (2) and (3))

The proposed amendments replace references to the Companies (New South Wales) Code with references to the Corporations Law.

Offices of Chief Commissioner (item (4))

The Chief Commissioner has more than one office. The proposed amendment is consequential on that fact.

Attendance fees, payment of tax, rates of interest, public officer, records, documents, regulations (items (5), (6), (9), (11), (12), part (13) and (14))

The proposed amendments (proposed section 46A and item (14) excepted) make provision in the Act for matters currently dealt with in regulations made under the Act. Item (14) of the proposed amendments repeals the relevant power to make regulations concerning those matters. However, the regulations may still specify details of the information that is to be contained in the records relating to motor vehicle allowances.

Lodgment with Chief Commissioner (items (7), (8), (10) and part (13))

The way in which a thing is to be lodged with the Chief Commissioner is currently specified partly by the regulations and partly by the Act. Section 46A (as proposed to be inserted by part of item (13) of the proposed amendments) consolidates those specifications. Items (7), (8) and (10) are consequential on that insertion.

PETROLEUM (ONSHORE) ACT 1991 No. 84

AMENDMENTS

(1) Section 10 (**Applications to relate to one area only**):

From section 10, omit “defined by a block or by contiguous blocks”.

(2) Section 19 (**Renewal of title**):

After section 19 (3), insert:

(3A) The Minister may also refuse to grant a renewal of title unless:

- (a) all data and reports Que under the regulations have been submitted; and
- (b) all data gathered, and operations carried on, during any period not covered in any such report are made the subject of a full report submitted to the Minister.

(3) Section 20A:

After section 20, insert:

Waiver of minor procedural matters

20A. (1) The Minister may grant or renew a petroleum title even though the applicant or holder has failed to comply with a requirement of this Act or the regulations:

- (a) as to the time within which anything is required to be done; or
- (b) as to the details to be contained in any notice to be served, lodged or caused to be published by the applicant; or
- (c) as to the documents or particulars to accompany the application; or
- (d) as to the furnishing of information by the applicant.

(2) This section does not authorise the Minister to grant or renew a petroleum title in the case of an applicant or holder who has failed to comply with such a requirement unless the Minister is satisfied that the failure is unlikely:

- (a) adversely to affect any person's rights under this Act or the regulations; or
- (b) to result in any person's being deprived of information necessary for the effective exercise of those rights.

(4) Section 22 (**Cancellation of titles**):

After section 22 (2), insert:

(2A) The Minister may refuse to cancel a title in whole or in part unless:

- (a) all data and reports due under the regulations have been submitted; and
- (b) all data gathered, and operations carried on, during any period not covered in any such report are made the subject of a full report submitted to the Minister.

(5) Section 23 (**Conditions of titles**):

From section 23 (4), omit "subsection (2)", insert instead "subsection (3)".

(6) Section 83 (**Sale of petroleum plant**):

In section 83 (1), after "petroleum" where firstly occurring, insert "plant".

(7) Section 113 (**Officers appointed under certain Acts taken to be officers under this Act**):

- (a) In section 113 (1), after "the Mines Inspection Act 1901.", insert "and all inspectors appointed under section 7 of the Coal Mines Regulation Act 1982,".

(b) From section 113 (l), omit “and inspectors, respectively,”, insert instead “, and inspectors of mines, and inspectors, respectively,”.

(8) Section 138 (**Regulations**):

In section 138 (l) (n), after “drilling”, insert “and other exploration”.

COMMENCEMENT

The amendments to the Petroleum (Onshore) Act 1991 commence on the date of assent to this Act.

REPEAL

Clause 16 of the Petroleum (Onshore) Regulation 1992 is repealed on the commencement of the amendments to the Petroleum (Onshore) Act 1991 made by this Act.

EXPLANATORY NOTE

Applications for petroleum titles (item (1))

For the purposes of the Act, the surface of the Earth is divided into sections bounded by meridians of longitude and parallels of latitude and known as “blocks”. At present, section 10 requires that the area to which an application for a petroleum title relates be defined by a block or by contiguous blocks. The proposed amendment repeals that requirement.

Compliance with reporting requirements (items (2) and (4))

At present, clause 16 of the Petroleum (Onshore) Regulation 1992 specifies certain grounds on which the Director-General of the Department of Mineral Resources may refuse to renew a petroleum title (or may refuse the holder’s request that it be cancelled), either in whole or in part. The proposed amendments transfer that provision into the Act (noting that it is the Minister, not the Director-General, who renews or cancels such a title). Clause 16 is repealed.

Waiver of certain matters (item (3))

The proposed amendment permits the Minister to exercise a discretion to waive compliance with minor procedural matters relating to the granting or renewal of petroleum titles. The provision is similar to a provision in the Mining Act 1992.

Statute law revision (items (5) and (6))

The proposed amendments correct a cross-reference and insert a missing word.

Inspectors appointed under the Coal Mines Regulation Act 1982 (item (7))

Section 113 provides that specified officers appointed under certain other Acts are taken to be officers under the Petroleum (Onshore) Act 1991. The proposed amendment provides that inspectors (of coal mines, of electrical engineering and of mechanical engineering) appointed under section 7 of the Coal Mines Regulation Act 1982 are taken to be inspectors under and for the purposes of the administration of the Petroleum (Onshore) Act 1991.

Regulations (item (8))

At present, regulations may be made under the Act for or with respect to providing that drilling operations are carried out with due diligence and by safe and satisfactory methods. The proposed amendment permits such regulations to be made in relation to other exploration operations as well.

PHYSIOTHERAPISTS REGISTRATION ACT 1945 No. 9**AMENDMENT****Section 22 (Annual roll fee):**

From section 22 (2), omit “by registered letter”, insert instead “by letter”.

COMMENCEMENT

The amendment to the Physiotherapists Registration Act 1945 commences on the date of assent to this Act.

EXPLANATORY NOTE

Section 22 (2) requires the Physiotherapists Registration Board to notify, by “registered” letter, a physiotherapist who has not, by 31 October, paid the prescribed annual roll fee for the following year that his or her name will be removed from the register of physiotherapists if the fee is not paid before the following 1 January. Equivalent provisions in other legislation relating to the registration of health care professionals (e.g. the Dental Technicians Registration Act 1975, the Podiatrists Act 1989) require only that the relevant notification be made by letter (not registered letter). Further, service of a letter such as the Physiotherapists Registration Board’s letter by post other than registered post is authorised by section 77 of the Interpretation Act 1987. Accordingly, the proposed amendment removes the requirement that the letter be registered.

POISONS ACT 1966 No. 31**AMENDMENTS**

- (1) The whole Act (except for section 4):
Omit “Secretary” wherever occurring, insert instead “Director-General”.
- (2) Section 4 (**Definitions**):
 - (a) In section 4 (1), insert in alphabetical order:
“**Director-General**” means the Director-General of the Department of Health.
 - (b) From section 4 (1), omit the definition of “Secretary”.
- (3) Section 45C (**Regulations**):
After section 45C (3), insert:
 - (4) The regulations may incorporate by reference, wholly or in part and with or without modification, any standards, rules, codes, specifications or methods, as in force at a particular time or as in force from time to time, prescribed or published by any authority or body, whether or not it is a New South Wales authority or body.

COMMENCEMENT

The amendments to the Poisons Act 1966 commence on the date of assent to this Act.

EXPLANATORY NOTE**Director-General replaces Secretary** (items (1) and (2))

The proposed amendments reflect the fact that there is no longer an office of Secretary of the Department of Health and that the functions of that office are now carried out by the Director-General of the Department.

Incorporation by reference (item (3))

Section 42 of the Interpretation Act 1987 provides that if an Act authorises or requires provision to be made for or with respect to any matter by a regulation, the regulation may make provision for or with respect to that matter by applying, adopting or incorporating (with or without modification) the provisions of any publication. Under section 69 of that Act such a publication may be applied, adopted or incorporated as in force on a particular day, on the day the regulation took effect, or, if the Act authorising or requiring provision to be made specifically provides, as in force from time to time.

The proposed amendment empowers the regulations to adopt standards etc. of other bodies (such as the Commonwealth) as in force at a particular time or as in force from time to time. It is similar to a provision in the Food Act 1989.

**PRIVATE HOSPITALS AND DAY PROCEDURE CENTRES ACT
1988 No. 123**

AMENDMENT**Section 46 (Disclosure of pecuniary interests to patients):**

After section 46 (2) (b), insert:

(b1) a notice displayed at the establishment;

COMMENCEMENT

The amendment to the Private Hospitals and Day Procedure Centres Act 1988 commences on the date of assent to this Act.

EXPLANATORY NOTE

Section 46 (2) lists certain ways in which a practitioner's pecuniary interest in a private hospital or day procedure centre may be notified to a patient, and empowers the regulations to select from that list when prescribing the manner of notification. The proposed amendment adds to the list the option of a notice displayed at the establishment concerned.

PROPERTY, STOCK AND BUSINESS AGENTS ACT 1941 No. 28**(formerly Auctioneers and Agents Act 1941 No. 28)****AMENDMENTS****(1) Section 3 (Definitions):**

In section 3 (2), after “leasing”, insert “of”.

(2) Section 20 (Agents to be licensed):

From section 20 (3), omit “an auctioneer, a stock and station agent, a real estate agent, a business agent, a strata managing agent or a community managing agent”, insert instead “a real estate agent, a stock and station agent, a business agent, a strata managing agent, a community managing agent or an on-site residential property manager”.

(3) Section 23 (Procedure):

At the end of section 23 (10A), insert:

Paragraphs (a) and (b) do not apply to an applicant for a business agent’s licence who is a Certified Practising Accountant member of the Australian Society of Certified Practising Accountants, New South Wales Division, or who is a member of the Institute of Chartered Accountants in Australia, New South Wales Branch, and holds a Certificate of Public Practice issued by that Institute.

(4) Section 42A (Review of commissions, fees etc.):

From section 42A (7), omit “, and on payment of the prescribed fee, obtain”, insert instead “and obtain”.

(5) Schedule 2 (Savings and Transitional Amendments):

From the heading to Schedule 2, omit “AMENDMENTS”, insert instead “PROVISIONS”*.

COMMENCEMENT

Items (1) and (2) of the amendments to the Property, Stock and Business Agents Act 1941 are taken to have commenced on 1 May 1993.

Items (3)–(5) commence on the date of assent to this Act.

EXPLANATORY NOTE**Title of Act**

The Auctioneers and Agents (Amendment) Act 1992 (the amending Act) changed the short title of the Auctioneers and Agents Act 1941 to the Property, Stock and Business Agents Act 1941 with effect from 1 May 1993.

Reference to leasing of land (item (1))

The proposed amendment inserts a missing word.

Amendment of section 20 (3) (item (2))

Item (2) repeats the substance of Schedule 2 (6) (b) to the amending Act. It is proposed to repeal the Schedule item (in Schedule 2 to this Act) as the words “, a business agent” do not appear in either the material to be omitted or that to be inserted by the Schedule.

Exemption of accountants from certain prerequisites for grant of agent’s license (item (3))

Item (3) repeats the substance of Schedule 1 (8) (d) to the amending Act exempting certified practising accountants applying for licences from certain educational and registration requirements, but limits the exemption to applications for business licences. It is proposed to repeal the Schedule item (in Schedule 2 to this Act) as it does not contain the limitation.

Fee no longer payable (item (4))

At present, a person applying for a review of commission may inspect relevant evidence furnished or documents produced to the Real Estate Services Council for the purpose of the review. Copies of or extracts from the evidence or documents may be obtained on payment of the prescribed fee. The proposed amendment repeals the requirement that a fee be paid.

Statute law revision (item (5))

The proposed amendment recasts the heading to Schedule 2 to the Act to make it consistent with the substance of the Schedule.

**PUBLIC AUTHORITIES (FINANCIAL ARRANGEMENTS) ACT
1987 No. 33**

AMENDMENTS**(1) Section 12 (Provisions relating to authorities which obtain financial accommodation):**

From section 12, omit “Schedules 2 and 3 have effect”, insert instead “Schedule 2 has effect”.

(2) Schedule 3 (Financial Accommodation Repayment):

Omit the Schedule.

COMMENCEMENT

The amendments to the Public Authorities (Financial Arrangements) Act 1987 commence on a day to be appointed by proclamation.

TRANSITIONAL

An authority (within the meaning of Division 1 of Part 2 of the Public Authorities (Financial Arrangements) Act 1987) that, on the repeal of Schedule 3 to that Act, has a balance in the reserve for financial accommodation repayment fund established by the authority under that Schedule is to pay that balance to the general funds of the authority.

EXPLANATORY NOTE

At present, section 12 of the Act provides that, unless the Treasurer otherwise directs in a particular case, Schedules 2 and 3 to the Act have effect in relation to authorities which receive financial accommodation (within the meaning of the Act). Schedule 3 requires such authorities to establish a reserve account to accumulate funds to meet the repayment of debts. The Treasury's advice is that such a requirement is not in accordance with modern capital budgeting, cash flow and fund management techniques. Further, the requirement at present applies to a few authorities only. In view of current practice (and the fact that the authorities to which the requirement applies could be exempted from it) the proposed amendments repeal the requirement.

PUBLIC FINANCE AND AUDIT ACT 1983 No. 152**AMENDMENT****Section 16 (Accounts to be kept in a bank):**

At the end of section 16, insert:

(2) Money in such bank accounts of authorities is, if the accounts are accounts of the kind referred to in section 5 (1), subject to any arrangement between the bank and the Treasurer under which the bank is authorised to set off, in accordance with the agreement, the credit and debit balances in the accounts. This subsection applies despite any Act or law.

COMMENCEMENT

The amendment to the Public Finance and Audit Act 1983 commences on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendment confirms long-standing banking arrangements of the Treasury that provide set-off arrangements in respect of such bank accounts of authorities as are within the Treasury banking scheme. In the past, those arrangements have been informal, but they are now the subject of formal agreements between the Treasurer and the banks concerned.

REGISTRATION OF INTERESTS IN GOODS ACT 1986 No. 37**AMENDMENT****Section 3 (Definitions):**

From section 3 (1), omit the definition of "lease", insert instead:

"lease", in relation to goods, means a contract for the hiring of the goods that is not a hire-purchase agreement;

COMMENCEMENT

The amendment to the Registration of Interests in Goods Act 1986 commences on the date of assent to this Act.

SAVING

The amendment made to the Registration of Interests in Goods Act 1986 by this Act does not apply in respect of a lease entered into before the commencement of that amendment.

EXPLANATORY NOTE

For the purposes of the Act, the term “lease” is at present defined, in relation to goods, to include a licence to use the goods. It is no longer intended that such a licence should fall within the definition. Accordingly, the proposed amendment excludes it.

SUPREME COURT ACT 1970 No. 52**AMENDMENTS**

Part 7A (as inserted by section 3 of the Supreme Court (Video Link) Amendment Act 1992) (**Use of Video Link Facilities**):

From Part 7A, omit “for the review of a decision” wherever occurring.

COMMENCEMENT

The amendments to the Supreme Court Act 1970 commence, or are taken to have commenced, on the commencement of the Supreme Court (Video Link) Amendment Act 1992.

EXPLANATORY NOTE

The Supreme Court (Video Link) Amendment Act 1992 amends the Supreme Court Act 1970 by inserting a new Part 7A, which provides that proceedings before that Court “for the review of a decision concerning bail” are to be conducted by means of video link facilities (unless the Court otherwise orders). The Act does not specify the provision under which the application giving rise to the proceedings is to be made.

Applications for bail may be made to the Supreme Court under either Part 4 (Court Bail) or Part 6 (Review of Bail Decisions) of the Bail Act 1978. The proposed amendments remove any doubt as to whether applications made under Part 4 come within the scope of the new Part 7A of the Supreme Court Act 1970 by omitting the references to “review” from the relevant provisions of that Part. Those provisions will now refer to proceedings “concerning bail”.

SUPREME COURT (VIDEO LINK) AMENDMENT ACT 1992 No. 69**AMENDMENTS****Section 4 (Transitional provision):**

- (a) From section 4, omit “for the review of a decision”.
- (b) From section 4, omit “review” where secondly occurring.

COMMENCEMENT

The amendments to the Supreme Court (Video Link) Amendment Act 1992 commence, or are taken to have commenced, on the commencement of that Act.

EXPLANATORY NOTE

The proposed amendments are made for the same reason as those proposed to be made to the Supreme Court Act 1970 elsewhere in this Schedule. Details may be obtained from the explanatory note to those amendments.

SYDNEY COVE REDEVELOPMENT AUTHORITY ACT 1968 No. 56**AMENDMENTS****(1) Section 10 (Vesting or purchase of certain land):**

From section 10 (2), omit “After the giving by the Authority, in the manner prescribed, of such notice as may be prescribed”, insert instead “After the Authority has served personally or by post a notice on each person in whom the land to which the notice relates is vested (being a notice to the effect that it is proposed to vest the land in the Sydney Cove Redevelopment Authority for the purposes of this Act),”.

(2) Section 17 (Approved scheme may be varied):

- (a) From section 17 (2), omit “as prescribed”.
- (b) After section 17 (2), insert:
 - (2A) Such a notice must be:
 - (a) published in a newspaper circulating in the development area;
and
 - (b) served personally or by post on each person who may lodge an objection to the proposed variation.

COMMENCEMENT

The amendments to the Sydney Cove Redevelopment Authority Act 1968 commence on a day to be appointed by proclamation.

EXPLANATORY NOTE

The proposed amendments transfer from the regulations to the Act provisions specifying the way in which notice of a proposed vesting of land in the Sydney Cove Redevelopment Authority for the purposes of the Act, and notice of intention to make certain variations to an approved scheme for the redevelopment of the “development area” (defined in the Act), are to be given.

SYDNEY ELECTRICITY ACT 1990 No. 117**AMENDMENT****Schedule 1 (Sydney Electricity District):**

At the end of item 4, insert:

Municipality of Pittwater

COMMENCEMENT

The amendment to the Sydney Electricity Act 1990 commences on the date of assent to this Act.

EXPLANATORY NOTE

Schedule 1 to the Sydney Electricity Act 1990 sets out the 5 “Supply Districts”, identified by local government area, which make up the Sydney Electricity District. At the time the Act came into force, the Municipality of Pittwater had not been constituted.

The proposed amendment includes that Municipality in the North Shore Electricity Supply District.

SYDNEY OPERA HOUSE TRUST ACT 1961 No. 9**AMENDMENT****Section 28 (By-laws):**

Omit section 28 (2), insert instead:

(2) The by-laws may impose a penalty not exceeding 10 penalty units for any breach of the by-laws.

COMMENCEMENT

The amendment to the Sydney Opera House Trust Act 1961 commences on the date of assent to this Act.

EXPLANATORY NOTE

Section 28 empowers the Sydney Opera House Trust to make by-laws. At present, the by-laws may impose a penalty not exceeding 2 penalty units (currently \$200) for any breach of the by-laws. The proposed amendment enables the by-laws to impose penalties of up to \$1,000.

THERAPEUTIC GOODS AND COSMETICS ACT 1972 No. 14**AMENDMENT****Section 46 (Regulations):**

After section 46 (2), insert:

(2A) The regulations may incorporate by reference, wholly or in part and with or without modification, any standards, rules, codes, specifications or methods, as in force at a particular time or as in force from time to time, prescribed or published by any authority or body, whether or not it is a New South Wales authority or body.

COMMENCEMENT

The amendment to the Therapeutic Goods and Cosmetics Act 1972 commences on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendment is similar to an amendment to the Poisons Act 1966 made elsewhere in this Schedule, and the additional information in the explanatory note to that amendment is also relevant to this amendment.

TRAVEL AGENTS ACT 1986 No. 5**AMENDMENTS**

(1) Sections 10A, 10B:

After section 10, insert:

Commissioner may refuse to grant licence in certain cases

10A. The Commissioner may refuse to grant a licence if the application for the licence does not comply with section 8 or the applicant has not complied with a requirement referred to in section 8 (6).

Grant of approval for licence

10B. (1) If the Commissioner would, but for the inability of the applicant for a licence to satisfy the Commissioner as to the matter referred to in section 8 (4) (d) or (e), grant the application for the licence, the Commissioner may defer consideration of the application and grant the applicant an approval for the licence in such form as the Commissioner may determine.

(2) An approval for a licence does not authorise the person to whom the approval is granted to carry on business pursuant to the authority that would be conferred by the licence applied for by the applicant if that licence were granted.

(3) An approval for a licence remains in force for such period as may be prescribed by the regulations.

(4) If, during the period prescribed for the purposes of subsection (3), the applicant satisfies the Commissioner:

- (a) as to the matter referred to in section 8 (4) (d) or (e) (as the case may be); and
- (b) that no change material to the applicant's application for the licence has occurred since the application was last considered by the Commissioner,

the Commissioner must, subject to section 10 (7), grant the application and issue the licence.

(2) Section 18 (**Surrender of licence**):

At the end of section 18, insert:

- (2) Despite subsection (1), a licensee whose licence has been lost or destroyed may surrender the licence by giving to the Commissioner a notice in writing and specifying in the notice that the licence has been lost or destroyed, as the case may be.

COMMENCEMENT

The amendments to the Travel Agents Act 1986 commence on the date of assent to this Act.

EXPLANATORY NOTE

Refusal of licence (item (1))

The proposed amendment empowers the Commissioner for Consumer Affairs to refuse to grant a travel agent's licence if the application for the licence does not contain all the required information, or if the applicant fails to supply additional information requested by the Commissioner. There is a similar power in the Motor Dealers Act 1974.

The proposed amendment also empowers the Commissioner for Consumer Affairs to approve in principle the granting of a travel agent's licence to an applicant who is not, at the time of the application, able to specify the premises at which the business of the travel agency will be carried on. Section 13 of the Motor Dealers Act 1974 contains a similar power.

Surrender of licence (item (2))

The proposed amendment is similar to the amendment proposed to be made to the Credit (Administration) Act 1984 elsewhere in this Schedule, and the additional information in the explanatory note to that amendment is also relevant to this amendment.

TRUSTEE ACT 1925 No. 14

AMENDMENT

Section 60 (**Distribution after notice**):

After section 60 (7) insert:

- (8) **Validation.** A notice that satisfies this subsection is taken for all purposes to be a notice that complies with this section (as in force

before or after the commencement of this subsection). A notice satisfies this subsection if it is given:

- (a) in the case of a trustee who is an executor or administrator — in accordance with Rule 91 of Part 78 of the Supreme Court Rules 1970 as in force on or after 13 January 1992; or
- (b) in any other case — in the manner provided for by this section as in force at any time.

COMMENCEMENT

The amendment to the Trustee Act 1925 commences on the date of assent to this Act.

EXPLANATORY NOTE

Section 60 of the Trustee Act 1925, dealing with the distribution of property to entitled persons, was amended by the Statute Law (Miscellaneous Provisions) Act 1992 to provide, essentially, that the notice of an intended distribution to be given by a trustee must be in the manner and form prescribed by the rules of court. The amendments were accompanied by a validation provision which saved any notice of intended distribution given by a trustee before the commencement of the amendments if the notice was in or to the effect of the form prescribed by the Supreme Court Rules 1970 and was published in a specified manner. That manner, in relation to notices given by trustees who were executors or administrators, was not that required for the publication of similar notices under the Wills, Probate and Administration Act 1898 (“the Wills Act”).

The proposed amendment validates notices published by such trustees on or after 13 January 1992 in the manner prescribed for notices under the Wills Act.

The proposed amendment also makes provision as to notices of distribution published by trustees who are not executors or administrators.

UNIVERSITY OF NEW SOUTH WALES ACT 1989 No. 125

AMENDMENTS

Section 10 (Chancellor):

- (a) From section 10 (1), omit “is to elect”, insert instead “must elect”.
- (b) From section 10 (2), omit “such period (not exceeding 4 years), and on such conditions, as may be prescribed by the by-laws”, insert instead “4 years from the date of election and on such conditions as may be prescribed by the by-laws”.

COMMENCEMENT

The amendments to the University of New South Wales Act 1989 commence on a day to be appointed by proclamation.

EXPLANATORY NOTE

Election of Chancellor (item (1))

The proposed amendment renders consistent the language of the provisions concerning the elections of the Chancellor and Deputy Chancellor of the University of New South Wales.

Term of Chancellor's office (item (2))

At present, the By-laws of the University of New South Wales specify that the Chancellor of the University is to hold office for a period of 4 years. The proposed amendment transfers that specification into the Act. It also renders consistent the language of the provisions concerning the offices of Chancellor and Deputy Chancellor.

VALUERS REGISTRATION ACT 1975 No. 92
AMENDMENTS(1) Section 12 (**Register**):

Omit section 12 (4). insert instead:

(4) A person may, during business hours:

- (a) inspect the register at the office of the Council free of charge; and
- (b) on application and payment of the prescribed fee, obtain from the Council a copy of such entries in the register as are specified in the application.

(2) Section 15A (**Application for registration as non-practising real estate valuer**):

Omit section 15A (b) (i), insert instead:

- (i) has successfully completed both a course of study approved by the Minister and a prescribed period of training in valuing land, whether situated in New South Wales or elsewhere, at a standard approved by the Council; or

(3) Section 30 (**Regulations**):

Before section 30 (2) (d), insert:

- (b) fees payable under this Act;
- (c) applications for registration (and renewal of registration) under this Act;

COMMENCEMENT

Items (1) and (3) of the amendments to the Valuers Registration Act 1975 commence on the date of assent to this Act.

Item (2) of the amendments to that Act commences on a day to be appointed by proclamation.

EXPLANATORY NOTE**Inspection and copy of Register of Real Estate Valuers** (item (1))

At present, a fee is prescribed for inspection of the register. The proposed amendment allows inspection free of charge, and also provides that copies of entries in the register may be obtained (although a fee is to be paid for copies).

Period of training in valuation for applicant for registration as non-practising real estate valuer (item (2))

The proposed amendment repeals and re-enacts the provision concerning the study and training required for registration as a non-practising real estate valuer in the same form as the equivalent provision relating to those requirements for registration as a practising real estate valuer.

Regulations (item (3))

Item (3) of the proposed amendments empowers the Governor to make regulations for or with respect to fees payable, and applications for registration (and renewal of registration), under the Act.

WATER ACT 1912 No. 44**AMENDMENTS**

- (1) The whole Act (except for section 22C (1 A) (a)):
 - (a) Omit “Commission” wherever occurring, insert instead “Ministerial Corporation”.
 - (b) Omit “Commission’s” wherever occurring, insert instead “Ministerial Corporation’s”.
- (2) Section 118A (**Drillers to be licensed**):
 - (a) Omit section 118A (3).
 - (b) From section 118A (6), omit “pursuant to subsection (3) as in force immediately before the commencement of the Irrigation, Water, Crown Lands and Hunter Valley Flood Mitigation (Amendment) Act 1966 or”.

COMMENCEMENT

The amendments to the Water Act 1912 commence on the date of assent to this Act.

EXPLANATORY NOTE**Ministerial Corporation** (item (1))

The proposed amendments substitute references to the Ministerial Corporation (defined in the Act as the “Water Administration Ministerial Corporation constituted by the Water Administration Act 1986”) for references to the Water Resources Commission, the Ministerial Corporation being a continuation of that Commission.

Drillers’ licences (item (2))

Item (2) (a) of the proposed amendments repeals a spent provision and item (2) (b) repeals a spent part of a provision.

SCHEDULE 2—AMENDMENTS BY WAY OF STATUTE LAW REVISION

(Sec. 3)

AUCTIONEERS AND AGENTS (AMENDMENT) ACT 1992 No. 70**AMENDMENTS****(1) Schedule 1 (Amendments Abolishing Certain Classes of Licences and Registration):**

Omit Schedule 1 (8) (d).

(2) Schedule 2 (Amendments Creating New Classes of Licences and Registration):

(a) In Schedule 2 (6) (a), after “section 20 (I),(2)”, insert “, 2A”.

(b) Omit Schedule 2 (6) (b).

(c) In Schedule 2 (27), after “84AB”, insert “(except section 84AB (10))”.

(d) In Schedule 2 (30), before “business agent” wherever occurring, insert “a”.

(3) Schedule 3 (Miscellaneous Amendments):

From Schedule 3 (9) (a), omit “where secondly occurring”.

COMMENCEMENT

The amendments to the Auctioneers and Agents (Amendment) Act 1992 commence on the date of assent to this Act.

EXPLANATORY NOTE

The substance of the provisions proposed to be repealed by items (1) and (2) (b) of the proposed amendments is repeated in the amendments proposed to be made to the Property, Stock and Business Agents Act 1941 (formerly the Auctioneers and Agents Act 1941) in Schedule 1 to this Act. The reasons for the proposed repeals are set out in the explanatory notes to the proposed amendments to that Act.

Items (2) (a), (c), (d) and (3) of the proposed amendments correct incorporating directions.

BILLS OF SALE ACT 1898 No. 10**AMENDMENT****Section 5C (Trader’s bill of sale not valid until registered):**

From section 5C (2) (a) (v), omit “filing or recording”, insert instead “registration”.

COMMENCEMENT

The amendment to the Bills of Sale Act 1898 commences on the date of assent to this Act.

EXPLANATORY NOTE

The Bills of Sale (Amendment) Act 1992 amended the Bills of Sale Act 1898 to provide that bills of sale are to be registered in the General Register of Deeds maintained under the Conveyancing Act 1919 instead of filed or recorded in the register kept under the Bills of Sale Act 1898. The proposed amendment is consequential on that amending Act.

BUSINESS FRANCHISE LICENCES (TOBACCO) ACT 1987 No. 93**AMENDMENT****Section 36 (Grant of licences):**

From section 36 (2), omit “Public Health Act 1990”, insert instead “Public Health Act 1991”.

COMMENCEMENT

The amendment to the Business Franchise Licences (Tobacco) Act 1987 commences on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendment corrects a reference to the Public Health Act 1991.

**COAL AND OIL SHALE MINE WORKERS (SUPERANNUATION)
ACT 1941 No. 45****AMENDMENT****Section 5AA (Early retirement before 3 January 1993):**

After “retire” in section 5AA (1A), insert “before 3 January 1993”.

COMMENCEMENT

The amendment to the Coal and Oil Shale Mine Workers (Superannuation) Act 1941 is taken to have commenced on 3 January 1993.

EXPLANATORY NOTE

The Coal and Oil Shale Mine Workers (Superannuation) Amendment Act 1992 purported to insert the words “before 3 January 1993” into section 5AA (2) of the Coal and Oil Shale Mine Workers (Superannuation) Act 1941. Those words should have been inserted into section 5AA (1A) of that Act. The proposed amendment inserts those words into that subsection.

COMMUNITY SERVICES (COMPLAINTS, APPEALS AND MONITORING) ACT 1993 No. 2**AMENDMENTS****(1) Section 4 (Definitions):**

From paragraph (b) of the definition of “community service”, omit “an organisation”, insert instead “a person or organisation”.

(2) Section 5 (Administration of community welfare legislation):

From section 5, omit “, decisions and recommendations on matters arising from the operation of this Act must not be made or taken in a way that is (or that requires the taking of other action that is)”, insert instead “, and any decision or recommendation on a matter arising from the operation of this Act, must not be made in a way that is (or that requires the taking of action that is)”.

(3) Section 114 (Reasons to be given for certain decisions):

- (a) In section 114 (1), after “the Director-General”, insert “, the Commission”.
- (b) From section 114 (1), omit “the person who”, insert instead “the person or body that”.

COMMENCEMENT

The amendments to the Community Services (Complaints, Appeals and Monitoring) Act 1993 commence on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendments make consequential changes as a result of amendments approved in committee during the passage of the Bill for the Act through Parliament.

Meaning of “community service” (item (1))

The proposed amendment ensures that the wording of the definition of “community service” is consistent with that used in the definition of “service provider”. The definition of “service provider” was amended in committee to refer to persons and organisations covered by certain arrangements but the corresponding amendment was not made to the definition of “community service”.

Unnecessary words (item (2))

The proposed amendment removes unnecessary words as a consequence of an amendment in committee that excluded certain matters from the operation of that section.

Community Services Commission (item (3))

The proposed amendment is necessary to give effect to an amendment in committee that inserted section 114 (2). Section 114 (2) is an interpretative provision that refers to decisions of the Community Services Commission. However, the amendment did not include the reference to a decision of the Commission in section 114 (1).

DENTAL TECHNICIANS REGISTRATION ACT 1975 No. 40**AMENDMENT****Section 27 (Restrictions on dental technicians):**

From section 27 (a), omit “section 12 (3) (d) of the Dentists Act 1934”, insert instead “section 57 (4) (h) of the Dentists Act 1989”.

COMMENCEMENT

The amendment to the Dental Technicians Registration Act 1975 commences on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendment updates a cross-reference.

ETHNIC AFFAIRS COMMISSION ACT 1979 No. 23**AMENDMENT****Section 9 (Vacation of office):**

In section 9 (1) (e), after “him”, insert “or her”.

COMMENCEMENT

The amendment to the Ethnic Affairs Commission Act 1979 commences on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendment recasts a provision in section 9 of the Act in gender-neutral language. The remainder of the Act is expressed in such language.

**FARRER MEMORIAL RESEARCH SCHOLARSHIP FUND ACT
1930 No. 38****AMENDMENT****Section 3 (Trustees):**

From section 3, omit “Senior Deputy Director-General of the Department of Agriculture, and Principal of the Hawkesbury Agricultural College at Richmond”, insert instead “Deputy Director-General of the Department of Agriculture and an officer of the Commonwealth Scientific and Industrial Research Organisation nominated by the Minister”.

COMMENCEMENT

The amendment to the Farrer Memorial Research Scholarship Fund Act 1930 commences on a day to be appointed by proclamation.

EXPLANATORY NOTE

At present, section 3 provides that the official trustees of the Farrer Memorial Fund include the Senior Deputy Director-General of the Department of Agriculture and the Principal of the Hawkesbury Agricultural College. However, there is now only one position of Deputy Director-General in the Department of Agriculture and Hawkesbury Agricultural College no longer exists. The proposed amendment is consequential on those facts.

FRIENDLY SOCIETIES ACT 1989 No. 232**AMENDMENTS****(1) Section 3 (Definitions):**

From paragraph (b) of the definition of “dependant” in section 3 (1), omit “dependant”, insert instead “dependent”.

(2) Section 18 (Special decisions—functions of Advisory Committee and Minister):

From section 18 (8) (a), omit ““affect”, insert instead “effect”.

(3) Section 39 (Minute books):

In section 39 (5) (b), before “the chairperson”, insert “by”.

(4) Section 116 (Foreign societies):

From section 116 (6), omit “relating”, insert instead “relation”.

COMMENCEMENT

The amendments to the Friendly Societies Act 1989 commence on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendments correct grammatical errors and insert a missing word.

GUARDIANSHIP ACT 1987 No. 257

(formerly Disability Services and Guardianship Act 1987 No. 257)

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

(a) From the definition of “exempt premises” in section 3 (1), omit paragraph (a) (i), insert instead:

(i) a government school or non-government school within the meaning of the Education Reform Act 1990;

- (b) From the definition of “officer” in section 3 (1), omit “the Public Service Act 1979”, insert instead “Part 2 of the Public Sector Management Act 1988”.
- (2) Sections 35, 57, 62, 70, 82, 83, 85, 89, 90, 92, 101, 103, 104, 105: Omit “Penalty”, wherever occurring, insert instead “Maximum penalty”.
- (3) Section 50 (**Registrar and other staff of the Board**): Omit “the Public Service Act 1979”, insert instead “Part 2 of the Public Sector Management Act 1988”.
- (4) Schedule 1 (**Provisions relating to the Board**): Omit clause 1 (3) (c), insert instead:
(c) becomes a mentally incapacitated person; or

COMMENCEMENT

The amendments to the Guardianship Act 1987 commence on the date of assent to this Act.

EXPLANATORY NOTE**Title of Act**

The short title of the Disability Services and Guardianship Act 1987 was changed to the Guardianship Act 1987 by Schedule 2 (2) to the Disability Services Act 1993

Reference to Education and Public Instruction Act 1987 (item (1) (a))

The proposed amendment replaces superseded references to the Education and Public Instruction Act 1987 and to a State school or a registered school within the meaning of that Act.

References to Public Service Act 1979 (items (1) (b) and (3))

The proposed amendments replace superseded references to the Public Service Act 1979.

Maximum penalties (item (2))

The proposed amendments make it clear that any penalty imposed on a person under the Guardianship Act 1987 is the maximum penalty that can be imposed, in accordance with section 54 of the Interpretation Act 1987.

References to certain categories of patients (item (4))

The proposed amendment replaces references to certain categories of patients under superseded mental health legislation with a reference to a mentally incapacitated person (defined in section 21 of the Interpretation Act 1987).

**LIENS ON CROPS AND WOOL AND STOCK MORTGAGES
(AMENDMENT) ACT 1992 No. 6**

AMENDMENT**Schedule 1 (Amendments):**

From Schedule 1 (6), omit “another*”, insert instead “any other”.

COMMENCEMENT

The amendment to the Liens on Crops and Wool and Stock Mortgages (Amendment) Act 1992 commences on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendment corrects a typographical error.

NAVIGATION ACT 1901 No. 60**AMENDMENT**

Section 135 (**Power to make regulations**):

From section 135 (c), omit “and and”, insert instead “and”.

COMMENCEMENT

The amendment to the Navigation Act 1901 commences on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendment omits an unnecessary **word**.

OCCUPATIONAL HEALTH AND SAFETY ACT 1983 No. 20**AMENDMENT**

Section 26 (**Unlawful dismissal etc. of employee**):

From section 26 (1) (c), omit “exercise”, insert instead “exercises”.

COMMENCEMENT

The amendment to the Occupational Health and Safety Act 1983 commences on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendment corrects a grammatical error.

**PERIODIC DETENTION OF PRISONERS (AMENDMENT) ACT
1992 No. 109****AMENDMENT**

Schedule 1 (**Amendments**):

From Schedule 1 (14), omit “person’s”, insert instead “periodic detainee’s”.

COMMENCEMENT

The amendment to the Periodic Detention of Prisoners (Amendment) Act 1992 commences on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendment corrects an incorporating direction.

**PROTECTION OF THE ENVIRONMENT ADMINISTRATION ACT
1991 No. 60**

AMENDMENT**Section 3 (Definitions):**

From section 3 (1), omit paragraph (d) of the definition of “environment”, insert instead the following paragraph and words:

(d) human-made or modified structures and areas,
and includes interacting natural ecosystems that include components referred to in paragraphs (a)–(c);

COMMENCEMENT

The amendment to the Protection of the Environment Administration Act 1991 is taken to have commenced on 16 December 1991.

EXPLANATORY NOTE

The proposed amendment corrects the placement of certain words in the definition of “environment” in section 3 (1) which are not meant to form part of paragraph (d) of that definition, those words being “and includes interacting natural ecosystems that include components referred to in paragraphs (a)–(c);”.

PUBLIC HOSPITALS ACT 1929 No. 8

AMENDMENT**Section 33G (Definitions):**

From the definition of “Committee”, omit “the Commission”, insert instead “the Minister”.

COMMENCEMENT

The amendment to the Public Hospitals Act 1929 commences on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendment corrects an obsolete reference. The Committee of Review, which used to be appointed by the Health Commission, is now appointed by the Minister.

PUBLIC SECTOR MANAGEMENT ACT 1988 No. 33**AMENDMENT****Section 89 (Definitions):**

From section 89 (1), omit the definition of “office holder”.

COMMENCEMENT

The amendment to the Public Sector Management Act 1988 commences on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendment omits a definition of a term that is no longer relevant to the Act.

RURAL LANDS PROTECTION ACT 1989 No. 197**AMENDMENTS****(1) Section 3 (Definitions):**

- (a) From section 3 (i), omit the definition of “Regional Director of Veterinary Services”.
- (b) In section 3 (1), insert in alphabetical order:

“**Senior Field Veterinary Officer**” means the person who, in relation to a particular region of New South Wales, is for the time being holding or acting in that position in the Department of Agriculture;

(2) Sections 24, 26, 77, 79:

From sections 24 (a), (8) and (9), 26 (4), 77 (4) (d) and (5) and 79 (2) (b), omit “Regional Director of Veterinary Services” wherever occurring, insert instead “Senior Field Veterinary Officer”.

(3) Section 24 (Power of a board to appoint other employees):

From section 24 (9), omit “that Director”, insert instead “that Officer”.

COMMENCEMENT

The amendments to the Rural Lands Protection Act 1989 commence on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendments are consequential on the removal from the establishment of the Department of Agriculture of the positions of Regional Directors of Veterinary Services and the transfer of the functions of those Directors under the Act to Senior Field Veterinary Officers.

STAMP DUTIES ACT 1920 No. 47**AMENDMENTS****Schedule 2D (Exemption From Duty For Certain Conveyances):**

- (a) From clauses 4 (1) (c) (i), 5 (d) (i) and 6 (d) (i), omit “or (u)” wherever occurring.
- (b) From clauses 4 (1) (c) (ii), 5 (d) (ii) and 6 (d) (ii), omit “or (5)” wherever occurring.

COMMENCEMENT

The amendments to the Stamp Duties Act 1920 commence on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendments omit references to provisions in section 10 of the Land Tax Management Act 1956 which have been repealed.

STATE AUTHORITIES NON-CONTRIBUTORY SUPERANNUATION ACT 1987 No. 212**AMENDMENT****Section 20A (Scheme closed for new employees):**

From section 20A (1) (a), omit the words “an employee who ceases to be an employee on or after that commencement, unless he or she was”, and insert them in section 20A (1) after “for”.

COMMENCEMENT

If the Bill for this Act is assented to after the Bill for the Superannuation Legislation (Miscellaneous Amendments) Act 1993 is assented to, the amendment to the State Authorities Non-contributory Superannuation Act 1987 made by this Act is not to commence.

If the Bill for this Act is assented to before the Bill for the Superannuation Legislation (Miscellaneous Amendments) Act 1993 is assented to, the amendment to the State Authorities Non-contributory Superannuation Act 1987 made by this Act is taken to have commenced on 8 December 1992.

EXPLANATORY NOTE

Section 20A closed the non-contributory “basic benefit” scheme under the Act to employees who cease to be employees after the commencement of the First State Superannuation Act 1992. The amendment corrects an error in the setting out of the provision that occurred as a result of an amendment in committee. The amendment provides that the benefit under the non-contributory scheme will continue to be available to specified contributing employees and to non-contributing employees (that is, employees who did not contribute to other State schemes) who were employed before 1 July 1992. The amendment is taken to have commenced when the First State Superannuation Act 1992 Commenced (8 December 1992).

**STATE REVENUE LEGISLATION (FURTHER AMENDMENT) ACT
1992 No. 86**

AMENDMENT

**Schedule 2 (Amendment of Business Franchise Licenses (Tobacco)
Act 1987):**

From Schedule 2 (22), omit “1990”, insert instead “1991”.

COMMENCEMENT

The amendment to the State Revenue Legislation (Further Amendment) Act 1992 commences on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendment corrects a reference to the Public Health Act 1991.

STRATA TITLES ACT 1973 No. 68

AMENDMENT

Schedule 1A (Requirements for Strata Plans):

From clause 5 (a) of Schedule 1A, omit “Strata Titles (Leasehold Act) 1986”, insert instead “Strata Titles (Leasehold) Act 1986”.

COMMENCEMENT

The amendment to the Strata Titles Act 1973 commences on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendment corrects the citation of the short title of the Strata Titles (Leasehold) Act 1986.

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

Section 136 (**General powers of Commissioner to make orders (1973 Act, s. 105)**):

From section 136 (1A) (b) (i), omit “other other”, insert instead “other”.

COMMENCEMENT

The amendment to the Strata Titles (Leasehold) Act 1986 commences on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendment omits an unnecessary word.

TRANSFERRED OFFICERS EXTENDED LEAVE ACT 1961 No. 13**AMENDMENT**

Section 3 (**Method of reckoning service of certain employees in the public service of the State and of certain State authorities**):

From section 3 (8), omit “paragraph (a), (c) or (d)”, insert instead “paragraph (a) or (c)”.

COMMENCEMENT

The amendment to the Transferred Officers Extended Leave Act 196 commences on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendment omits a reference to a repealed paragraph of the definition of “State employer”.

TRANSPORT ADMINISTRATION ACT 1988 No. 109**AMENDMENT**

Part 4, heading:

Omit “SECRETARY” and “MINISTRY”, insert instead “DIRECTOR-GENERAL” and “DEPARTMENT” respectively.

COMMENCEMENT

The amendment to the Transport Administration Act 1988 commences on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendment updates a reference to the Director-General of the Department of Transport (who was formerly known as the Secretary of the Ministry of Transport).

WASTE DISPOSAL ACT 1970 No. 97**AMENDMENTS****Section 8C (Functions of Managing Director):**

From section 8C (2), omit “the Authority” wherever occurring, insert instead “the Service”.

COMMENCEMENT

The amendments to the Waste Disposal Act 1970 commence on the date of assent to this Act.

EXPLANATORY NOTE

The Waste Recycling and Processing Service of New South Wales was previously known as the “Waste Management Authority of New South Wales”. The proposed amendments update references to that body.

SCHEDULE 3—REPEALS

(Sec. 4)

Nurses Registration (Amendment) Act 1985 No. 67**
 Clean Air (Amendment) Act 1987 No. 188*
 Treasury Corporation (Amendment) Act 1988 No. 79*
 Soil Conservation (Amendment) Act 1988 No. 101 *
 Crimes (Firearms) ,Amendment Act 1989 No. 27*
 Auctioneers and Agents (Amendment) Act 1989 No. 49*
 Motor Dealers (Amendment) Act 1990 No. 38*
 Motor Vehicles Taxation (Amendment) Act 1990 No. 91*

Note:

* indicates repeal of amending Act the provisions of which have been included in a reprint and which contains no provision of substantive effect that needs to be retained

** indicates repeal of Act that amends a repealed Act

COMMENCEMENT

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

EXPLANATORY NOTE

The repeals are explained in detail in the explanatory note relating to this Act. In relation to the repeal of amending Acts, it should be noted that the Acts are repealed simply to rationalise the legislation in force and that the repeals have no substantive effect on the amendments made by the Acts or any associated provisions.

Section 30 (2) of the Interpretation Act 1987 ensures that, when an amending Act is repealed, no amendment made by the Act is affected. Section 30 (2) also ensures that the following matters are not affected:

- (a) the proof of any past act or thing;
- (b) any right, privilege, obligation or liability saved by the operation of the Act;
- (c) any validation made by the Act.

SCHEDULE 4—GENERAL SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

(Sec. 5)

Effect of amendment of amending provisions

1. (1) An amendment made by Schedule 1 or 2 to an amending provision contained in an Act is, if the amending provision has commenced before the date of assent to this Act, 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 to 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
- (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, directions as to where a new section is to be inserted) and rectifying minor drafting defects (for example, correction or insertion of cross-references, omission of unnecessary matter or insertion of omitted matter) 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 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.

(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 savings or transitional nature having a short term effect and 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.

NOTES**Index of Acts amended by Schedules 1 and 2**

Associations Incorporation Act 1984 No. 143—Sch. 1
 Auctioneers and Agents (Amendment) Act 1992 No. 70—Sch. 2
 Bail Act 1978 No. 161—Sch. 1
 Bills of Sale Act 1898 No. 10—Sch. 2
 Business Franchise Licences (Tobacco) Act 1987 No. 93—Sch. 2
 Business Names Act 1962 No. 11—Sch. 1

Clean Waters Act 1970 No. 78—Sch. 1
Coal and Oil Shale Mine Workers (Superannuation) Act 1941 No. 45—Sch. 2
Community Services (Complaints, Appeals and Monitoring) Act 1993 No. 2—
Sch. 2
Credit (Administration) Act 1984 No. 95—Sch. 1
Crimes Act 1900 No. 40—Sch. 1
Dental Technicians Registration Act 1975 No. 40—Sch. 2
Discharged Servicemen's Badges Act 1964 No. 49—Sch. 1
Dried Fruits Act 1939 No. 7—Sch. 1
Environmental Offences and Penalties Act 1989 No. 150—Sch. 1
Ethnic Affairs Commission Act 1979 No. 23—Sch. 2
Fair Trading Act 1987 No. 68—Sch. 1
Farrer Memorial Research Scholarship Fund Act 1930 No. 38—Sch. 2
Food Act 1989 No. 231—Sch. 1
Friendly Societies Act 1989 No. 232—Sch. 2
Gaming and Betting Act 1912 No. 25—Sch. 1
Guardianship Act 1987 No. 257—Sch. 2
Horticultural Stock and Nurseries Act 1969 No. 3—Sch. 1
Indecent Articles and Classified Publications Act 1975 No. 32—Sch. 1
Industrial Relations Act 1991 No. 34—Sch. 1
Jury Act 1977 No. 18—Sch. 1
Justices Act 1902 No. 27—Sch. 1
Land and Environment Court Act 1979 No. 204—Sch. 1
Land Tax Management Act 1956 No. 26—Sch. 1
Liens on Crops and Wool and Stock Mortgages (Amendment) Act 1992
No. 6—Sch. 2
Limitation Act 1969 No. 31—Sch. 1
Liquor Act 1982 No. 147—Sch. 1
Lord Howe Island Act 1953 No. 39—Sch. 1
Motor Dealers Act 1974 No. 52—Sch. 1
National Parks and Wildlife Act 1974 No. 80—Sch. 1
Navigation Act 1901 No. 60—Sch. 2
Occupational Health and Safety Act 1983 No. 20—Sch. 2
Ozone Protection Act 1989 No. 208—Sch. 1
Pay-roll Tax Act 1971 No. 22—Sch. 1
Periodic Detention of Prisoners (Amendment) Act 1992 No. 109—Sch. 2
Petroleum (Onshore) Act 1991 No. 84—Sch. 1
Physiotherapists Registration Act 1945 No. 9—Sch. 1
Poisons Act 1966 No. 31—Sch. 1
Private Hospitals and Day Procedure Centres Act 1988 No. 123—Sch. 1
Protection of the Environment Administration Act 1991 No. 60—Sch. 2
Property, Stock and Business Agents Act 1941 No. 28—Sch. 1
Public Authorities (Financial Arrangements) Act 1987 No. 33—Sch. 1
Public Finance and Audit Act 1983 No. 152—Sch. 1
Public Hospitals Act 1929 No. 8—Sch. 2
Public Sector Management Act 1988 No. 33—Sch. 2
Registration of Interests in Goods Act 1986 No. 37—Sch. 1
Rural Lands Protection Act 1989 No. 197—Sch. 2

Stamp Duties Act 1920 No. 47—Sch. 2
 State Authorities Non-contributory Superannuation Act 1987 No. 212—Sch. 2
 State Revenue Legislation (Further Amendment) Act 1992 No. 86—Sch. 2
 Strata Titles Act 1973 No. 68—Sch. 2
 Strata Titles (Leasehold) Act 1986 No. 219—Sch. 2
 Supreme Court Act 1970 No. 52—Sch. 1
 Supreme Court (Video Link) Amendment Act 1992 No. 69—Sch. I
 Sydney Cove Redevelopment Authority Act 1968 No. 56—Sch. I
 Sydney Electricity Act 1990 No. 117—Sch. 1
 Sydney Opera House Trust Act 1961 No. 9—Sch. 1
 Therapeutic Goods and Cosmetics Act 1972 No. 14—Sch. 1
 Transferred Officers Extended Leave Act 1961 No. 13—Sch. 2
 Transport Administration Act 1988 No. 109—Sch. 2
 Travel Agents Act 1986 No. 5—Sch. 1
 Trustee Act 1925 No. 14—Sch. I
 University of New South Wales Act 1989 No. 125—Sch. 1
 Valuers Registration Act 1975 No. 92—Sch. 1
 Waste Disposal Act 1970 No. 97—Sch. 2
 Water Act 1912 No. 44—Sch. 1

Index of Acts repealed by Schedule 3

Auctioneers and Agents (Amendment) Act 1989 No. 49
 Clean Air (Amendment) Act 1987 No. 188
 Crimes (Firearms) Amendment Act 1989 No. 27
 Motor Dealers (Amendment) Act 1990 No. 38
 Motor Vehicles Taxation (Amendment) Act 1990 No. 91
 Nurses Registration (Amendment) Act 1985 No. 67
 Soil Conservation (Amendment) Act 1988 No. 101
 Treasury Corporation (Amendment) Act 1988 No. 79

*[Minister's second reading speech made in —
 Legislative Assembly on 13 May 1993
 Legislative Council on 20 May 1993]*