

**STATUTE LAW (MISCELLANEOUS PROVISIONS) ACT
(No.2) 1991 No. 94**

NEW SOUTH WALES



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**STATUTE LAW (MISCELLANEOUS PROVISIONS) ACT
(No. 2) 1991 No. 94**

NEW SOUTH WALES



Act No. 94, 1991

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 17 December 1991]

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

1. This Act may be cited as the Statute Law (Miscellaneous Provisions) Act (No. 2) 1991.

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 Each Act specified in Schedule 3 is repealed.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)

ANIMAL RESEARCH ACT 1985 No. 123**AMENDMENTS**

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

(a) After the definition of "director" in section 3 (1), insert:

"Director-General" means the Director-General of the Department of Agriculture;

(b) Omit the definition of "Secretary".

(2) The whole Act

Omit "Secretary" and "Secretary's" wherever occurring, insert instead "Director-General" and "Director-General's" respectively.

COMMENCEMENT

The amendments to the Animal Research Act 1985 commence on a day to be appointed by proclamation.

EXPLANATORY NOTE

The proposed amendments provide for the Director-General of the Department of Agriculture to take over the functions of the Director-General of the Department of Local Government and Co-operatives under the Animal Research Act 1985. The Act is presently administered by the Minister for Agriculture and Rural Affairs.

ANZAC MEMORIAL (BUILDING) ACT 1923 No. 27**AMENDMENTS****Section 3 (Trustees):**

- (a) Omit “The Managing Director of the Commonwealth Banking Corporation;”.
- (b) At the end of the section, insert:
 - (2) A trustee may appoint a person in writing as the trustee’s proxy to attend and vote at any specified meeting, of all meetings, of the trustees.
 - (3) A proxy appointed to attend and vote instead of a trustee has the same right as the trustee to speak at the meeting.

COMMENCEMENT

The amendments to the Anzac Memorial (Building) Act 1923 commence on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendments:

- (a) alter the constitution of the trustees of the Anzac Memorial Building by removing the Managing Director of the Commonwealth Banking Corporation (the bank was formerly closely involved with the trust but as this is no longer the case it is unnecessary for it to be represented in this way); and
- (b) enable a trustee to appoint a proxy to attend and vote instead of the trustee at meetings of the trustees.

ARCHIVES ACT 1960 No. 46**AMENDMENT****Section 4 (Members of the Authority):**

Before “nominated” in section 4 (2) (a), insert “a member of either House of Parliament”.

COMMENCEMENT

The amendment to the Archives Act 1960 commences on the date of assent to this Act.

SAVING

The member of the Archives Authority holding office under section 4 (2) (a) of the Archives Act 1960 immediately before the date of assent to this Act is taken to have

been appointed under that paragraph (as amended by this Act) for the balance of the member's term of office.

EXPLANATORY NOTE

The proposed amendment makes it clear that the member of the Archives Authority who is appointed on the joint nomination of the President of the Legislative Council and the Speaker of the Legislative Assembly is to be a member of a House of Parliament. The amended provision will read (in part) as follows:

(2) Of the members:

- (a) 1 is to be a member of either House of Parliament nominated jointly by the Resident of the Legislative Council and the Speaker of the Legislative Assembly;

[Matter to be inserted is shown in bold type.]

AREA HEALTH SERVICES ACT 1986 No. 50**AMENDMENT****Section 31 (Investments):**

Omit section 31 (1), insert instead:

- (1) An area health service may invest money held by it:
- (a) in such manner as may be authorised by the Public Authorities (Financial Arrangements) Act 1987; or
- (b) if that Act does not confer power to invest money so held, in any manner authorised for the time being for the investment of trust funds and in any other manner approved by the Minister with the concurrence of the Treasurer.

COMMENCEMENT

The amendment to the Area Health Services Act 1986 commences on the date of assent to this Act.

EXPLANATORY NOTE

In its present form, section 31 may be misleading as it suggests that an area health service may only invest its funds (or any funds held on trust) in any manner authorised by the Trustee Act 1925 or the regulations under the Area Health Services Act 1986. However, by regulation under the Public Authorities (Financial Arrangements) Act 1987, most of the area health services have been given certain investment powers under that Act. The remaining area health services may at any time also have investment powers under that Act conferred on them by regulation.

The proposed amendment updates the investment power provisions so that they reflect the current situation.

AUSTRALIAN MUSEUM TRUST ACT 1975 No. 95**AMENDMENT****Schedule 1 (Composition and procedure of the Trust):**

From clause (5), omit "Six", insert instead "Five".

COMMENCEMENT

The amendment to the Australian Museum Trust Act 1975 commences on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendment reduces, from 6 to 5, the number of trustees required to form a quorum at any meeting of the Australian Museum Trust (which currently consists of 9 trustees). The amendment will ensure that the provision is consistent with those of other Acts constituting governing bodies of cultural institutions (for example, the Art Gallery Trust, the Historic Houses Trust, the Museum of Applied Arts and Sciences and the Sydney Opera House Trust each have 9 trustees or members and the number required to form a quorum is currently 5).

**BOARD OF ADULT AND COMMUNITY EDUCATION ACT
1990 No. 119**

AMENDMENTS(1) Section 5 (**Membership of Board**):

From section 5 (1) (e), omit “Executive Member”, insert instead “Director”.

(2) Section 9 (**Staff of Board**):

Omit “An Executive Member”, insert instead “A Director”.

COMMENCEMENT

The amendments to the Board of Adult and Community Education Act 1990 commence on the date of assent to this Act

EXPLANATORY NOTE

The proposed amendments change the name of the position of the Executive Member of the Board of Adult and Community Education to the Director of the Board

BOXING AND WRESTLING CONTROL ACT 1986 No. 11

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

In section 3 (1), insert in alphabetical order:

“boxing inspector” means a person appointed by the Authority as a boxing inspector for the purposes of this Act;

(2) Section 46 (**Attendance of certain persons at weigh-in and contest**):

(a) From section 46 (b), omit “member of the police force authorised by the Commissioner of Police to attend the weigh-in”, insert instead “boxing inspector or a member”.

(b) Omit section 46 (c) (i), insert instead:

(i) a boxing inspector or member; and

- (3) Section 48 (**Recording of boxer's weight etc. at weigh-in**):
- (a) From section 48 (1), omit "the member of the police force", insert instead "a boxing inspector or member".
 - (b) Omit section 48 (2), insert instead:
 - (2) The boxing inspector or member must record in the medical book so produced:
 - (a) the boxer's weight at the weigh-in; and
 - (b) such other particulars as may be prescribed.
- (4) Sections 51 (**Functions of examining medical practitioner**), 58 (**Obligations of medical practitioner after contest**) and 60 (**Boxing result sheet**):
- From sections 51 (e) (i), 58 (d) (i) and 60 (1), omit "member of the police force" wherever occurring, insert instead "boxing inspector or member".
- (5) Section 61 (**Forwarding of information**):
- (a) Omit section 61 (1), insert instead:
 - (1) The boxing inspector or member present at a boxing contest, pursuant to section 46 (c), is to send the original boxing result sheet to the Authority when completed.
 - (b) From section 61 (2), omit "(a)".
 - (c) Omit section 61 (3).
- (6) Section 63A:
- After section 63, insert:
- Appointment of boxing inspectors**
- 63A. (1) The Authority may appoint an officer of the Department of Sport, Recreation and Racing to be a boxing inspector for the purposes of this Act.
- (2) A boxing inspector has such functions as are conferred or imposed on boxing inspectors by or under this Act.
- (7) Section 73 (**Rules**):
- In section 73 (1) (c), before "inspectors", insert "boxing".

COMMENCEMENT

The amendments to the Boxing and Wrestling Control Act 1986 commence on a day to be appointed by proclamation.

EXPLANATORY NOTE

The proposed amendments confer certain functions with respect to weigh-ins and boxing contests, at present exercised by the Commissioner of Police and police officers, on boxing inspectors appointed by the Boxing Authority and members of the Authority. The functions concerned are:

- to be present at the weigh-in for a boxing contest and at the contest
- to record particulars (such as the weight of the boxer) in the medical record book produced by the boxer at the weigh-in
- to write up a boxing result sheet in relation to the contest.

In addition, boxing result sheets (which are presently filed by both the Authority and the Commissioner of Police) will be filed only by the Authority.

BUSINESS LICENCES ACT 1990 No. 72

AMENDMENTS

(1) Section 33 (**Surrender of master or component licence**):

After “may”, insert “(subject to the Licensing Acts)”.

(2) Schedule 3 (**Amendment of other Acts**):

After “ ‘shall not’ ” in item (13) (c) of the amendments relating to the Motor Dealers Act 1974, insert “where firstly occurring”.

COMMENCEMENT

The amendment to section 33 of the Business Licences Act 1990 commences on the commencement of the amendments made by Schedule 3 to that Act to the Motor Dealers Act 1974 or the Travel Agents Act 1986 (whichever is the earlier).

The amendment to Schedule 3 to that Act commences on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendment to section 33 is consequential on the amendments to the Motor Dealers Act 1974 and Travel Agents Act 1986 set out elsewhere in this Schedule.

The proposed amendment to Schedule 3 to the Act clarifies an ambiguous incorporating direction.

CATCHMENT MANAGEMENT ACT 1989 No. 235

AMENDMENT

Section 9 (**Membership of Co-ordinating Committee**):

From section 9 (1) (o), omit “Fisheries and Oyster Farms Act 1935”, insert instead “Rural Lands Protection Act 1989”.

COMMENCEMENT

The amendment to the Catchment Management Act 1989 commences on the date of assent to this Act.

TRANSITIONAL

The person holding office under section 9 (1) (o) of the Catchment Management Act 1989, as in force immediately before the date of assent to this Act, is taken to have been appointed for the balance of that person’s term of office under that section as amended by this Act.

EXPLANATORY NOTE

The proposed amendment will ensure that the Minister for Agriculture and Rural Affairs will continue to nominate a person for membership of the State Catchment Management Co-ordinating Committee even though the Minister no longer administers the Fisheries and Oyster Farms Act 1935.

CHILDREN (CARE AND PROTECTION) ACT 1987 No. 54**AMENDMENT**

Section 80 (Adjournments by authorised justices prior to hearings):
After “hearing of” in section 80 (1) (b), insert “evidence in connection with”.

COMMENCEMENT

The amendment to the Children (Care and Protection) Act 1987 commences on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendment makes it clear that an authorised justice may adjourn proceedings on a care application at any time before the hearing of evidence in the application has commenced. In its present form, the provision might be read as preventing an authorised justice doing so once any aspect of the proceedings has commenced.

COMMERCIAL TRIBUNAL ACT 1984 No. 98**AMENDMENT****(1) Section 22 (Notice and conduct of proceedings):**

(a) After section 22 (1A). insert:

(1B) The Tribunal may require the Registrar to serve a notice referred to in subsection (1A) outside New South Wales.

(b) After “subsection (1A)” in section 22 (3). insert “or (1B)”.

(2) Section 32:

Omit the section, insert instead:

Costs

32. The Tribunal may make such award as it thinks fit as to by whom, to whom and to what extent costs are to be paid in, or in relation to, proceedings before it.

(3) Section 36 (Service of documents):

At the end of section 36, insert:

(2) In this section, a reference to the service of a document includes a reference to service of a document outside New South Wales.

COMMENCEMENT

Items (1) and (3) of the amendments to the Commercial Tribunal Act 1984 commence on a day to be appointed by proclamation.

Item (2) of those amendments commences on the date of assent to this Act.

EXPLANATORY NOTE

Service of notice of proceedings etc (items (1) and (3))

The proposed amendments to section 22 of the Act will enable the Tribunal to require the Registrar to serve a notice (specifying the time and place for the holding of proceedings before the Tribunal and the matters to which the proceedings relate and directing the party to attend at that time and place) outside New South Wales. If the party on whom such a notice has been served fails to attend, the proceedings may be held in the absence of the party.

The proposed amendment to section 36 enables the Tribunal to make rules for the service of documents for the purposes of or in relation to proceedings before the Tribunal outside New South Wales.

Costs (item (2))

At present section 32 of the Act could be read as limiting the power of the Tribunal to award costs against a party to a proceeding. The proposed substitution of section 32 will make it clear that the Tribunal has 8 discretion as to the costs it may award.

COMMUNITY LAND DEVELOPMENT ACT 1989 No. 201**AMENDMENT****Section 3 (Definitions):**

Omit the definition of “special resolution”, insert instead:

“special resolution” means a resolution:

- (a) that is passed at a duly convened meeting of a community association and against which not more than one-quarter in value (ascertained in accordance with clause 12 of Schedule 5, or clause 15 of Schedule 6, to the Community Land Management Act 1989) of votes is cast; or
- (b) that is passed at a duly convened meeting of a precinct association and against which not more than one-quarter in value (ascertained in accordance with clause 26 of Schedule 5, or clause 35 of Schedule 6, to the community Land Management Act 1989) of votes is cast; or
- (c) that is passed at a duly convened meeting of a neighbourhood association and against which not more than one-quarter in value (ascertained in accordance with clause 40 of Schedule 5, or clause 55 of Schedule 6, to the Community Land Management Act 1989) of votes is cast; or

- (d) that is passed at a duly convened meeting of a strata corporation and against which not more than one-quarter in value (ascertained in accordance with clause 11 (3) and (4) of Part 1 of Schedule 2 to the Strata Titles Act 1973 or clause 12 (3) and (4) of Part 2 of that Schedule) of votes is cast;

COMMENCEMENT

The amendment to the Community Land Development Act 1989 commences on the date of assent to this Act.

EXPLANATORY NOTE

The definition of “special resolution” presently refers to various provisions which provide for the manner of ascertaining the value of votes cast at meetings of a community association, precinct association, neighbourhood association or strata corporation. However, the relevant provisions do not, as was intended, make it clear that the vote required is 75% of the votes cast at the meeting concerned (as is currently required in the case of a special resolution of a body corporate under the Strata Titles Act 1973).

The proposed amendment will ensure that the definition of “special resolution” is consistent in this respect with the definition contained in the Strata Titles Act 1973.

COMMUNITY LAND MANAGEMENT ACT 1989 No. 202**AMENDMENT****Section 3 (Definitions):**

Omit the definition of “special resolution”, insert instead:

“special resolution” means a resolution:

- (a) that is passed at a duly convened meeting of a community association and against which not more than one-quarter in value (ascertained in accordance with clause 12 of Schedule 5 or clause 15 of Schedule 6) of votes is cast; or
- (b) that is passed at a duly convened meeting of a precinct association and against which not more than one-quarter in value (ascertained in accordance with clause 26 of Schedule 5 or clause 35 of Schedule 6) of votes is cast; or
- (c) that is passed at a duly convened meeting of a neighbourhood association and against which not more than one-quarter in value (ascertained in accordance with clause 40 of Schedule 5 or clause 55 of Schedule 6) of votes is cast; or
- that is passed at a duly convened meeting of a strata corporation and against which not more than one-quarter in value (ascertained in accordance with

clause 11 (3) and (4) of Part 1 of Schedule 2 to the Strata Titles Act 1973 or clause 12 (3) and (4) of Part 2 of that Schedule) of votes is cast;

COMMENCEMENT

The amendment to the Community Land Management Act 1989 commences on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendment is similar to the amendment to the Community Land Development Act 1989 set out elsewhere in this Schedule.

COMPENSATION COURT ACT 1984 No. 89**AMENDMENT****section 11 (Acting Chief Judge and acting Judges):**

From section 11 (7), omit “a period served by the person in a prior judicial office within the meaning of section 8 (2) of the Judges’ Pensions Act 1953”, insert instead “prior judicial service (within the meaning of section 8 of the Judges’ Pensions Act 1953) by the person”.

COMMENCEMENT

The amendment to the Compensation Court Act 1984 commences on the commencement of the amendments to the Judges’ Pensions Act 1953 set out elsewhere in this Schedule.

EXPLANATORY NOTE

The proposed amendment is consequential on the amendments to the Judges’ Pensions Act 1953 set out elsewhere in this Schedule.

CONSTRUCTION SAFETY ACT 1912 No. 38**AMENDMENT****(1) Section 3 (Definitions):**

- (a) From the definition of “Hoist” in section 3 (1), omit “men-and-materials hoist”.
- (b) In the definition of “Lift” in section 3 (1), after “hoist”, insert “(other than any personnel and materials hoist)”.

(2) Section 17A (Riggers, dogmen, scaffolders, crane chasers etc.):

Insert, in alphabetical order, in section 17A (6):

“Hoist” includes any personnel and materials hoist.

COMMENCEMENT

The amendments to the Construction Safety Act 1912 commence on a day or days to be appointed by proclamation.

EXPLANATORY NOTE

The proposed amendments to section 3 remove men-and-materials hoists from the definition of “hoist” in the Act. These hoists have developed to a point that they are now covered by the definition of “lift”. The amendments will enable the regulatory powers under the Act relating to the inspection of lifts to extend to this category of hoists and so provide for stricter safety requirements in respect of them.

The proposed amendment to section 17A is consequential.

CREDIT ACT 1984 No. 94**AMENDMENT****Section 95 (Order of court required before entry for repossession):**

After section 95 (4), insert:

(5) The Tribunal may, on application by a mortgagee, make an order authorising the mortgagee (or a person authorised by the mortgagee to act on behalf of the mortgagee) to enter premises for the purpose of taking possession of goods subject to a mortgage.

COMMENCEMENT

The amendment to the Credit Act 1984 commences on the date of assent to this Act

EXPLANATORY NOTE

Section 95 of the Act provides that a mortgagee is not to enter premises (or authorise a person on behalf of the mortgagee to enter premises) for the purpose of taking possession of goods subject to a mortgage otherwise than in accordance with an order of a court. Section 6 of the Act defines “court” to include the Commercial Tribunal. Despite the clear intention that the Tribunal should be able to authorise a person to enter premises for this purpose there is no express authority for it to make such an order. The proposed amendment will specifically authorise it to do so.

CREDIT (ADMINISTRATION) ACT 1984 No. 95**AMENDMENTS****(1) Section 13 (Conditions of, and restrictions on, licence):**

After section 13 (5), insert:

(6) Subsection (3) does not require the Tribunal to hold a hearing with respect to a condition or restriction imposed on a licence under section 23.

(2) Section 23 (Disciplinary action against licensee):

After section 23 (8) (f), insert:

(g) impose a condition or restriction to which the licence is to be subject.

(3) Section 24 (Appeals):

After “13” in section 24 (1), insert “or 23 (8) (g)”.

(4) Section 26 (Endorsement of condition etc. of licence):

After “25 (3)”, insert “or a condition or restriction is imposed on the licence under section 23”.

COMMENCEMENT

The amendments to the Credit (Administration) Act 1984 commence on a day or days to be appointed by proclamation.

SAVING

The amendment to section 23 of the Credit (Administration) Act 1984 does not apply to an inquiry held in relation to an objection lodged before the commencement of the amendment.

EXPLANATORY NOTE

Section 23 (8) of the Act enables the Commercial Tribunal to take various forms of disciplinary action against a person holding a credit provider’s licence or finance broker’s licence under the Act following an inquiry held by the Tribunal. The licensee is entitled to appear at the inquiry and be heard. The action that may be taken includes suspending or cancelling the licence. The proposed amendment to Section 23 (item (2)) will expand the action the Tribunal may take to include the imposition of a condition or restriction on the licence.

Consequential amendments are made to make it clear that if such conditions or restrictions are imposed following an inquiry under section 23 the Tribunal need not hold an inquiry under section 13 (item (1)), to provide for appeals against the imposition of such conditions (item (3)) and to require the licensee concerned to produce the licence to the Registrar for endorsement of the condition or restriction (item (4)).

CROWN LANDS ACT 1989 No. 6**AMENDMENTS****(1) Section 34 (Powers of Minister):**

Omit section 34 (7) (a), insert instead:

- (a) land within a travelling stock reserve under the control of a rural lands protection board; and

(2) Section 85 (Requirement for assessment):

At the end of the section, insert:

- (2) No assessment is required if the Minister:
 - (a) is satisfied that it is in the public interest to dedicate the land without assessing the land under Part 3; and
 - (b) in dedicating the land, has had due regard to the principles of Crown land management,

(3) Section 91 (Requirement for assessment):

Omit section 91 (2). insert instead:

- (2) No assessment is required if:

- (a) the reseration is from sale or for future public requirements; or
 - (b) the Minister is satisfied that it is in the public interest to reserve the land without assessing the land under Part 3 and, in reserving the land, has had due regard to the principles of Crown land management.
- (4) Section 106 (**Proceeds etc.**):
- (a) From section 106 (1), omit “The”, insert instead “Compensation for the compulsory acquisition under any other Act of a reserve (or part of a reserve) or the”.
 - (b) Before “proceeds” wherever occurring in section 106 (2) and (3), insert “compensation or the”.
- (5) Section 153 (**Definitions**):
- Insert in alphabetical order:
- “**interfere**”, in relation to a substance on public land, includes removing, cutting, digging up, disturbing, displacing, stacking and heaping the substance;
 - “**substance**”, in relation to public land, includes plants, trees, timber, turf, stone, clay, shells, earth, sand and gravel;
- (6) Section 155 (**Offences on public land**):
- Omit section 155 (1) (h), insert instead:
- (h) interfere with any substance, whether on or in, or forming part of, public land; or
- (7) Section 171 (**Exclusion of minerals, other reservations, exceptions etc.**):
- After “land” where firstly occurring in section 171 (1). insert “by a reserve trust under Part 5 of this Act or”.

COMMENCEMENT

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

TRANSITIONAL

The amendments to sections 153 and 155 of the Crown Lands Act 1989 do not apply to an offence committed before the date of assent to this Act.

EXPLANATORY NOTE**Travelling stock reserves (item (1))**

Under section 34 of the Act, the Minister may grant licences in respect of Crown land which includes land under the control of a rural lands protection board. The proposed amendment removes unnecessary references to certain land within a travelling stock

reserve under the control of such a board in a definition of “Crown land” in that section. This will clarify the Minister’s power to grant licences over travelling stock reserves under the control of rural lands protection boards.

Land assessments (items (2) and (3))

The proposed amendments to sections 85 and 91 will enable the Minister to dispense with a land assessment when dedicating Crown land for a public purpose or when reserving Crown land. The Minister will need to be satisfied that it is in the public interest to dedicate or reserve the land without assessing the land under Part 3 of the Act and to have regard to the principles of Crown land management. The land assessment concerned consists of the preparation of an inventory of Crown land, assessment of the capabilities of the land and identification of suitable or preferred uses of the land. An example of when such an assessment would be inappropriate is where it is proposed to dedicate land under the Act for a purpose for which it is already reserved.

A similar discretion to dispense with a land assessment is presently available to the Minister under section 35 (2) of the Act when selling, leasing, licensing or otherwise dealing with Crown land.

Application of money received as compensation (item (4))

Under section 106, the Minister may direct the manner in which a reserve trust is to apply money received from a sale, lease, easement or licence. The proposed amendments to section 106 will enable the Minister to give directions as to the application by a reserve trust of money received from the compulsory acquisition of reserved land under another Act.

Offences on public land (items (5) and (6))

The proposed amendments to sections 153 and 155 recast the existing offences relating to the unlawful removal or interference with substances on public land so as to provide for the one general offence instead of having a variety of offences. The various examples of what constitutes “interference” and “substances” will be contained in definitions of those terms. The amendments will simplify presentation of the information in respect of such an offence, leaving the details of the activity constituting the offence to be included in the particulars endorsed on the information.

Sale etc. of land by reserve trusts (item (7))

At present, section 171 provides that the sale, lease or other disposal of land by the Crown does not include the sale, lease or disposal of any minerals contained in the land. The proposed amendment will put it beyond any doubt that the sale, lease or other disposal of land by a reserve trust under Part 5 of the Act does not include the sale etc. of any minerals contained in the land

CROWN LANDS (CONTINUED TENURES) ACT 1989 No. 7

AMENDMENT

Schedule 3 (Transfer restrictions):

- (a) From Part 1, omit clause 3, insert instead:

Invalidation of transfers etc.

3. A transfer, lease, sublease, conveyance, assignment or other dealing in contravention of this Part is not valid for any purpose.

- (b) In Part 1, insert after clause 8 (6):
 (7) In this clause:
 “**holder**” includes a mortgagee in possession.
- (c) In Part 1, insert after clause 10 (5):
 (6) In this clause:
 “**holder**” includes a mortgagee in possession.

COMMENCEMENT

The amendments to the Crown Lands (Continued Tenures) Act 1989 commence on the date of assent to this Act.

EXPLANATORY NOTE**Invalidation of transfers etc.**

Clause 2 of Part 1 of Schedule 3 presently provides that land to which the Part applies may not be transferred, leased, subleased, assigned or otherwise dealt with without the written consent of the Minister. Clause 3 of that Part provides that a transfer, conveyance or assignment in contravention of the Part is not valid, but does not refer to leases, subleases or other dealings which would be invalid if obtained without the Minister’s consent. The proposed amendment to clause 3 makes it clear that the invalidation provision also includes leases, subleases and other dealings.

Definition of “holder”

The proposed amendments to clauses 8 and 10 of Part 1 of Schedule 3 make it clear that mortgagees in possession are included as persons who, under those clauses, may apply to the Minister for a certificate that the land concerned be transferred or otherwise dealt with without the Minister’s consent. This will bring the clauses into line with clause 9 of that Part which deals with the holder’s entitlement to request a valuation of the land (“holder” in that clause presently includes a mortgagee in possession).

DANGEROUS GOODS ACT 1975 No. 68**AMENDMENT****Section 41 (Regulations):**

After section 41 (6), insert:

- (7) A regulation may apply, adopt or incorporate any publication as in force from time to time.

COMMENCEMENT

The amendment to the Dangerous Goods Act 1975 commences on the date of assent to this Act.

EXPLANATORY NOTE

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 so provides, as in force from time to time.

The proposed amendment will enable the regulations to adopt publications (for example, national safety standards) as in force from time to time.

DENTISTS ACT 1989 No. 139

AMENDMENT

(1) Section 47 (**Removal of name on account of misconduct etc.**):

Omit section 47 (3), insert instead:

(3) A fine imposed under this section:

(a) is to be paid to the Registrar who is to pay it to the credit of the Consolidated Fund in such manner as the Treasurer may direct; and

(b) may be recovered as a debt due to the Crown in a court of competent jurisdiction.

(2) Section 60 (**Fees**):

After “money” in section 60 (2), insert “(not being fines or penalties)”.

(3) Section 65 (**Penalties**):

Omit section 65 (2). insert instead:

(2) All penalties when recovered are to be paid to the credit of the Consolidated Fund.

COMMENCEMENT

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

EXPLANATORY NOTE

The proposed amendments will ensure that fines imposed by the Dental Board following an inquiry into a complaint and penalties for contravening the Act or the regulations are paid to the consolidated Fund and not into an account established by the Board. This will make the relevant provisions of the Act consistent with similar provisions in various other Acts relating to health professional boards.

DISTRICT COURT ACT 1973 No. 9

AMENDMENT

(1) Section 18 (**Acting Judges**):

From section 18 (5), omit “a period served by the person in a prior judicial office within the meaning of section 8 (2) of the Judges’

Pensions Act 1953”, insert instead “prior judicial service (within the meaning of section 8 of the Judges’ Pensions Act 1953) by the person”.

(2) Section 61 (**Exclusion of damages relating to motor accidents**):

Omit “Division”, insert instead “Subdivision”.

COMMENCEMENT

Item (1) of the amendments to the District Court Act 1973 commences on the commencement of the amendments to the Judges’ Pensions Act 1953 set out elsewhere in this Schedule.

Item (2) of the amendments to the District Court Act 1973 is taken to have commenced on 1 November 1991 (the day on which section 61 of the District Court Act 1973, as inserted by section 3 of and Schedule 2 (3) to the Courts Legislation (Civil Procedure) Amendment Act 1991, commenced).

EXPLANATORY NOTE

The proposed amendment to section 18 is consequential on the amendments to the Judges’ Pensions Act 1953 set out elsewhere in this Schedule.

The proposed amendment to section 61 corrects a reference to the portion of the Act to which that section refers.

DRIED FRUITS ACT 1939 No. 7

AMENDMENT

Section 15 (**Estimate of expenditure etc.**):

From section 15 (4), omit “\$10 (or, where some other amount is prescribed, that other amount) per tonne of the quantity of dried fruits sold from the packing house and also of the quantity of dried fruits forwarded therefrom for purposes of trade or sale in the next preceding year”, insert instead “\$15 (or such other amount as may be prescribed) per tonne of the quantity of dried fruits received at the packing house in the preceding year”.

COMMENCEMENT

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

EXPLANATORY NOTE

At present, a person in whose name a packing house is registered is required to contribute a sum of money determined by the Dried Fruits Board towards the expenditure estimated to be incurred in the administration of the Act and in carrying out the powers and duties of the Board for a particular year. That sum is not to exceed an amount equal to \$10 per tonne of the dried fruit sold from the packing house. The proposed amendment provides that the levy is to be based on the quantity of dried fruit received at the packing house and that the sum contributed is not to exceed \$15 per tonne of dried fruit so received. The “receival” based levy will bring the provision into line with section 15 (4) of the Victorian Dried Fruits Act 1958 and provide uniformity in respect of inter-State levy collection.

ELECTRICITY ACT 1945 (1946 No. 13)**AMENDMENTS**

- (1) **Section 5 (Constitution of the Electricity Council):**
- (a) From section 5 (3), omit “15” and “13”, insert instead “17” and “15” respectively.
 - (b) From section 5 (4) (b), omit “a person”, insert instead “2 persons”.
 - (c) After section 5 (4) (b), insert:
 - (b1) the Director of the Local Government Electricity Association of New South Wales;
- (2) **Schedule 1 (Provisions relating to the members of the Electricity Council of New South Wales):**
- From clause 7 (1) (f), omit “and”, insert instead “or”.
- (3) **Schedule 2 (Provisions relating to the procedure of the Electricity Council of New South Wales):**
- From clause 2 (Quorum), omit “8”, insert instead “9”.

COMMENCEMENT

The amendments to the Electricity Act 1945 commence on the date of assent to this Act.

EXPLANATORY NOTE**Constitution of Electricity Council (items (1) and (3))**

The Electricity Council of New South Wales is an advisory body set up under the Act. Its principal functions are to advise the Minister of the electricity supply industry’s response to government policy and to consider, and furnish reports, advice and recommendations to the Minister on, the Operation and development of the electricity industry in New South Wales. It currently consists of 15 part-time members (2 of whom are appointed by the Minister and 13 of whom are official members). The Prospect, Shortland and Illawarra County Councils and Sydney Electricity provide 8 of these official members. The Local Government Electricity Association of New South Wales (which represents most of the electricity authorities throughout the State, including 19 rural county councils, 1 shire council and 1 city council) has only 1 nominee on the Electricity Council.

The proposed amendments to section 5 increase the number of members of the Electricity Council from 15 to 17 and provide that the additional members will be the Director of the Local Government Electricity Association and an additional person nominated by it. By expanding the membership, the amendment will ensure a more balanced representation on the Electricity Council of the electricity supply industry as a whole (including rural county councils).

The proposed amendment to Schedule 2 provides that the quorum for a meeting of the Council will be increased from 8 to 9 members as a consequence of the amendments to section 5.

Statute law revision (item (2))

The proposed amendment to Schedule 1 to the Act rectifies a grammatical error consisting of the use of a cumulative conjunction in a list of alternatives.

**ENVIRONMENTAL OFFENCES AND PENALTIES ACT
1989 No. 150**

AMENDMENTS**(1) Section 13 (Consent to institution of proceedings):**

After section 13 (2), insert:

(2A) Subsection (1) does not apply to the institution of proceedings for an offence against section 8F:

(a) by an employee of a council of a local government area, if the proceedings are instituted with the consent of the council or with the written consent of such member or employee of the council as may be authorised by the council for the purposes of this subsection; or

(b) by a police officer.

(2) Schedule 1 (Penalties for Tier 2 offences):

From the matter relating to section 24B in Part 1, omit “particular particular”, insert instead “particular”.

(3) Schedule 2 (Penalty notices):

In the matter relating to section 8F (1) under the heading “Officer” in Part 2 of Schedule 2, after “5,”, insert “6,”.

(4) Schedule 3 (Savings, transitional and other provisions):

From clause 4 (2), omit “operation”, insert instead “application”.

COMMENCEMENT

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

EXPLANATORY NOTE**Prosecutions for littering offences (items (1) and (3))**

Section 8F of the Environmental offences and penalties Act 1989 contains anti-littering provisions that were previously contained in the Local Government Act 1919. Under section 13 of the Environmental offences and Penalties Act 1989, prosecutions for littering offences may not be commenced except with the consent of the State Pollution control commission or of one of its members or officers. Under Schedule 2 to that Act, a police officer is not authorised to issue penalty notices for littering offences. These restrictions did not apply to the previous provisions of the Local Government Act 1919. The object of these amendments is to restore the previous situation by enabling council employees and police officers to prosecute littering offences without the need for consent from the State Pollution Control commission and by enabling police officers to issue penalty notices for littering offences

Statute law revision (items (2) and (4))

The proposed amendments omit an unnecessary word (item (2)) and substitute a more appropriate word to describe the relationship between certain provisions (item (4)).

EXHIBITED ANIMALS PROTECTION ACT 1986 No. 123**Amendments**(1) Section 5 (**Definitions**):

After the definition of “board” in section 5 (1). insert:

“**Director-General**” means the Director-General of the Department of Agriculture;

(2) The whole Act (except sections 5 (1), 6 (4) (a), 12 (2), 48 and 53 (1) (i) and clause 2 (1) of Schedule 1):

Omit “board” wherever occurring, insert instead “Director-General”.

(3) Section 27 (**Applications**):

From section 27 (3), omit “which”, insert instead “who”.

(4) Section 37 (**Bonds**):

(a) From section 37 (2), omit “it” wherever occurring, insert instead “the Director-General”.

(b) Omit section 37 (4).

(5) Section 48 (**Recovery of charges etc.**):

Omit “by the board as a debt due”, insert instead “as a debt due to the Crown”.

COMMENCEMENT

The amendments to the Exhibited Animals Protection Act 1986 commence on a day to be appointed by proclamation.

EXPLANATORY NOTE

On 28 June 1991, the administration of the Exhibited Animals Protection Act 1986 was transferred from the Minister for the Environment to the Minister for Agriculture and Rural Affairs. As a consequence of that transfer, it is now considered appropriate that the licensing, administrative and other regulatory functions that the Zoological Parks Board presently has under the Act should be transferred to the Director-General of the Department of Agriculture. The proposed amendments provide for the taking over of those functions by the Director-General. The Zoological Parks Board, however, will still be able to nominate a person for the Exhibited Animals Advisory Committee and certain other references in the Act to the Board will remain.

FACTORIES, SHOPS AND INDUSTRIES ACT 1962 No. 43**AMENDMENT****Section 36 (Lifting of weights):**

Omit the section.

COMMENCEMENT

The amendment to the Factories, Shops and Industries Act 1962 commences on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendment removes an obsolete provision relating to the maximum weights that factory employees are allowed or required to lift or carry by hand. The provision has been superseded by the Occupational Health and Safety (Manual Handling) Regulation 1991 which adopts the National Standard for Manual Handling for the purposes of the Occupational Health and Safety Act 1983.

FAIR TRADING ACT 1987 No. 68**AMENDMENT****Section 75A:**

After section 75, insert:

Amendment of codes of practice

75A. (1) A code of practice prescribed under section 75 may be amended by the regulations, in accordance with this section.

(2) An amendment to a code of practice may be made only with the approval of the Minister.

(3) A code of practice which is not an interim code of practice is not to be amended unless:

- (a) the amendment has been submitted to the Minister in accordance with section 74 as if it were a draft code of practice; or
- (b) the Commissioner has certified in writing that the amendment is of a minor or inconsequential nature and that compliance with section 74 is not required.

(4) An amendment may be approved by the Minister with or without alteration.

COMMENCEMENT

The amendment to the Fair Trading Act 1989 commences on the date of assent to this Act

EXPLANATORY NOTE

The Act provides that the regulations may prescribe a code of practice for fair dealing between a particular class of suppliers and consumers or by a particular class of

persons in relation to consumers. The code of practice may be prescribed only after consultation with persons who have an interest in its terms.

The amendment will:

- clarify that a code of practice has the status of a regulation and so can be amended; and
- require that the same process of consultation required in the preparation of a code of practice needs to be followed when a code (other than an interim code) is amended, unless the Commissioner for Consumer Affairs certifies to the Minister that the amendment is of a minor or inconsequential nature.

FREEDOM OF INFORMATION ACT 1989 No. 5

AMENDMENTS

(1) Section 25 (**Refusal of access**):

At the end of section 25 (1) (b1), insert “or”.

(2) Section 68 (**Reports to Parliament**):

Omit the section, insert instead:

Reports to Parliament

68. (1) Each agency must, within 4 months after the end of each reporting year, prepare an annual report on the agency’s obligations under this Act for submission to the Minister responsible for the agency.

(2) Each Minister must, on or before 31 August each year, furnish the Minister administering this Act with such information concerning the Minister’s obligations under this Act as the Minister administering this Act may require.

(3) The Minister administering this Act must, on or before 31 December each year, prepare an annual report on each Minister’s obligations under this Act.

(4) An annual report under this section must be tabled in each House of Parliament by the relevant Minister as soon as practicable after it is prepared unless it is included in an annual report prepared for the purposes of the Annual Reports (Departments) Act 1985 or the Annual Reports (Statutory Bodies) Act 1984.

(5) The annual report referred to in subsection (3) may be included in the annual report for the Premier’s Department prepared for the purposes of the Annual Reports (Departments) Act 1985.

(6) The regulations may make provision for:

- (a) the information to be included in annual reports; and
- (b) the form in which annual reports are to be prepared

(7) In this section, a reference to the reporting year of an agency is a reference to:

- (a) the financial year of the agency for the purposes of the Annual Reports (Departments) Act 1985 or the Annual Reports (Statutory Bodies) Act 1984; or
- (b) if the agency does not have a financial year for the purposes of either of those Acts, the year ending 30 June.

COMMENCEMENT

Item (1) of the amendments to the Freedom of Information Act 1989 commences on the date of assent to this Act.

Item (2) of the amendments to the Freedom of Information Act 1989 commences on 1 January 1992.

EXPLANATORY NOTE**Preparation of reports (item (2))**

Section 68 of the Freedom of Information Act 1989 currently requires the Minister administering that Act to prepare an annual report with respect to the administration of that Act. This report is compiled from information furnished by the various agencies and Ministers to which the Act applies.

The effect of the proposed amendment will be that each agency, rather than the Minister administering the Act, will have the responsibility of preparing an annual report on the obligations of the agency under the Act. The annual report for an agency under the Annual Reports (Departments) Act 1985 or the Annual Reports (Statutory Bodies) Act 1984 will be able to include the annual report for the agency under the Freedom of Information Act 1989. The Minister administering the Freedom of Information Act 1989 will continue to prepare an annual report on the obligations of Ministers under the Act. The annual report for the Premier's Department under the Annual Reports (Departments) Act 1985 will be able to include that report.

Statute law revision (item (1))

The proposed amendment to section 25 inserts the appropriate conjunction in a list of alternatives.

GRAIN MARKETING ACT 1991 No. 15**AMENDMENTS.**

- (1) Section 59 (Audit by registered company auditor):
Omit the section.
- (2) Schedule 5 (Savings, transitional and other provisions):
From clause 14, omit "Division 1", insert instead "Division 3".

COMMENCEMENT

The amendments to the Grain Marketing Act 1991 commence on the date of assent to this Act.

EXPLANATORY NOTE**Auditor (item (1))**

At present, the New South Wales Grains Board is required to be audited in accordance with Division 3 of Part 3 of the Public Finance and Audit Act 1983. The audit is to be carried out by the Auditor-General or, if the Board appoints a registered company auditor as sole auditor under section 59, the auditor so appointed. The repeal of section 59 will ensure that the audit will be carried out by the Auditor-General.

Statute law revision (item (2))

The proposed amendment to Schedule 5 corrects a cross-reference.

HEALTH ADMINISTRATION ACT 1982 No. 135**AMENDMENT**

Schedule 3 (Transfer of health employees):

From clause 2 (4), omit “1991”, insert instead “1994”.

COMMENCEMENT

The amendment to the Health Administration Act 1982 commences on the date of assent to this Act.

EXPLANATORY NOTE

Under clause 2 of Schedule 3 to the Act, the Governor may, on the recommendation of the Minister for Health, by order published in the Gazette, transfer certain staff (for example, staff of the Department of Health or the Health Administration Corporation might be transferred to public hospitals, area health services or the Ambulance Service). However, such an order at present has no effect if published after 1 July 1991. This sunset provision has been extended on 2 previous occasions (most recently by the Ambulance Services Act 1990). The proposed amendment extends the transfer of staff provisions to 1 July 1994.

INDUSTRIAL ARBITRATION ACT 1940 No. 2**AMENDMENT**

Section 14 (**Industrial Commission**):

From section 14 (4B), omit “a period served by the person in a prior judicial office within the meaning of section 8 (2) of the Judges’ Pensions Act 1953”, insert instead “prior judicial Service (within the meaning of section 8 of the Judges’ Pensions Act 1953) by the person”.

COMMENCEMENT

The amendment to the Industrial Arbitration Act 1940 commences on the commencement of the amendments to the Judges’ Pensions Act 1953 set out elsewhere in this Schedule.

EXPLANATORY NOTE

The proposed amendment is consequential on the amendments to the Judges’ Pensions Act 1953 set out elsewhere in this Schedule.

INTERPRETATION ACT 1987 No. 15**AMENDMENT****Section 15 (Minister):**

- (a) From section 15 (2) (b), omit “of”.
- (b) At the end of section 15 (2) (c), insert:
 - ; or
 - (d) if paragraphs (b) and (c) do not apply and 2 or more Ministers are administering that Act or a portion of that Act—any one of the Ministers administering the Act or portion of the Act.
- (c) From section 15 (3) (b), omit “or”.
- (d) At the end of section 15 (3) (c), insert:
 - ; of
 - (d) if paragraphs (b) and (c) do not apply and 2 or more Ministers are administering that Act or a portion of that Act—any one of the Ministers administering the Act or the portion of the Act under which the instrument is made.

COMMENCEMENT

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

EXPLANATORY NOTE

The proposed amendments will enable an Act (or a portion of an Act) to be allocated to two or more Ministers. In that case, a reference in the Act to “the Minister” will be read as a reference to any of those Ministers. There is a similar provision in section 19A of the Acts Interpretation Act 1901 of the Commonwealth.

IRRIGATION ACT 1912 No. 73**AMENDMENT****Section 7C (Alteration of number of water rights):**

From section 7C (1), omit “by notification in the Gazette”.

COMMENCEMENT

The amendment to the Irrigation Act 1912 commences on the date of assent to this Act.

EXPLANATORY NOTE**Notification of alteration of number of water rights**

At present, the Water Administration Ministerial Corporation may, with the consent of the occupier of the land concerned, alter the number of water rights (i.e. the right to a quantity of 1 megalitre of water annually) which attach to or are a fixed charge on any land within an irrigation area. The proposed amendment removes the need for such an alteration to be notified in the Gazette. This will bring the provision into line with section 147 (8) of the Water Act 1912 which enables the Ministerial Corporation

(with the consent of the owner) to alter the number of water rights attached to a holding within a district but does not require the alteration to be notified in the Gazette.

JUDGES PENSIONS ACT 1953 No. 41

AMENDMENTS

(1) Section 8 (**Prior judicial service**):

(a) Omit section 8 (1). insert instead:

(1) In this section:

“prior judicial service”, in relation to a judge or retired judge, means:

- (a) service as a judge within the meaning of this Act; or
- (b) service in an office in a State, the Commonwealth or a Territory the holder of which may qualify for a pension or retiring allowance under a law of the State, Commonwealth or Territory relating to pensions or retiring allowances payable to retiring judges; or
- (c) service as chairman, acting chairman or additional temporary chairman of the Crown Employees Appeal Board,

being a period of service before his or her appointment as a judge (or, if appointed as a judge on more than 1 previous occasion, before his or her last such appointment).

- (b) From section 8 (2). omit “period served by a judge in any prior judicial office”, insert instead “prior judicial service by a judge”.
- (c) From section 8 (3), omit “a period served by the judge in a prior judicial office within the meaning of subsection two of this section”, insert instead “prior judicial service by the Judge for the purposes of this section”.

(2) Section 9 (**Dual pensions**):

(a) Omit section 9 (1), insert instead:

(1) A person is not entitled to receive a pension under this Act if the person is receiving a pension under a law of the Commonwealth, or of another State or of a Territory, which provides for the payment of a pension to a person by reason of the person having held an office referred to in section 8 (1) (b).

- (b) After “the Commonwealth” in section 9 (2), insert “or of another State or of a Territory”.
- (c) From section 9 (2), omit “subsection (1)”. insert instead “section 8 (1) (b)”.

(3) Section 11A (Application of Act to and in respect of masters):

From section 11A (2) (d), omit “prior judicial office included a reference to”, insert instead “prior judicial service included a reference to service in”.

COMMENCEMENT

The amendments to the Judges’ Pensions Act 1953 commence on a day to be appointed by proclamation.

EXPLANATORY NOTE

At present, section 8 provides that any period served by a judge in a prior judicial office is calculated as part of the judge’s service in the judicial office he or she held immediately before retirement. The definition of “prior judicial office” presently includes a judge of such New South Wales courts as the Supreme Court, District Court, Industrial Commission, Land and Environment Court and the Compensation court.

The proposed amendments to section 8 recast the definition so that it refers to “prior judicial service” (this being consistent with the Judges’ Pensions Act 1968 of the Commonwealth) and extends the definition to cover persons who may have accrued judges’ pension entitlements in other States, the Commonwealth or a Territory. Proposed section 8 (1) (b) will, for example, provide that if a member of a Commonwealth tribunal who has accrued entitlements under a judges’ pension scheme is appointed as a judge to a New South Wales court, the person’s service on the tribunal constitutes “prior judicial service” for the purposes of section 8 and will be taken into account when calculating pension entitlements on retirement from the New South Wales court.

The proposed amendments to sections 9 (which presently prevents a person from receiving a pension under the New South Wales Act if already receiving a pension under another law relating to judges’ pensions) and 11A are consequential on the amendments to section 8.

LAND AND ENVIRONMENT COURT ACT 1979 No. 204**AMENDMENT****Section 11 (Acting Judges):**

From section 11 (5), omit “a period served by the person in a prior judicial office within the meaning of section 8 (2) of the Judges’ Pensions Act 1953”. insert instead “prior judicial service (within the meaning of section 8 of the Judges’ Pensions Act 1953) by the person”.

COMMENCEMENT

The amendment to the Land and Environment Court Act 1979 commences on the commencement of the amendments to the Judges’ Pensions Act 1953 set out elsewhere in this Schedule.

EXPLANATORY NOTE

The proposed amendment is consequential on the amendments to the Judges’ Pensions Act 1953 set out elsewhere in this Schedule.

LOCAL GOVERNMENT ACT 1919 No. 41**AMENDMENT****Section 270S (Penalty notices for certain offences):**

Omit section 270S (6).

COMMENCEMENT

The amendment to the Local Government Act 1919 commences on a day to be appointed by proclamation.

EXPLANATORY NOTE

Section 270S enables offences against an ordinance made under section 277 (4) (for example, offences under Ordinance No. 34C of standing in a free parking area for longer than the maximum period allowed or standing in a space designated for use by disabled persons) to be dealt with by penalty notices.

At present, each individual council may by resolution fix the amount of the penalty. The proposed amendment will remove this power so that the amount of penalty for an offence dealt with under section 270S will be that prescribed by ordinance under the Act.

LOTTO ACT 1979 No. 53**AMENDMENT****Section 21A:**

After section 21, insert:

Minors not to be detained

21A. A minor may not be imprisoned, or detained in a detention centre, as a consequence of a failure to pay a penalty under this Act.

COMMENCEMENT

The amendment to the Lotto Act 1979 commences on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendment will preclude the imprisonment or detention of a minor who fails to pay a penalty imposed on the minor under the Act. The amendment is consistent with section 117G of the Liquor Act 1982 and section 57B of the Registered Clubs Act 1976 which also provide that a minor may not be imprisoned or detained for failing to pay a penalty under the particular Act.

MARINE ADMINISTRATION ACT 1989 No. 93**AMENDMENT****(1) Section 7 (MSB directors):**

(a) After section 7 (2) (a), insert

(b) the Director-General of the Department of Transport; and

(b) Renumber section 7 (2) (B) as section 7 (2) (c).

(2) Section 20 (**Directors of subsidiary ports authorities**):

Omit section 20 (5).

(3) Section 52:

Omit the section, insert instead:

Advisory committees

52. The Board may establish advisory committees to give advice and assistance to the Board in connection with any particular matter or function of the Board.

(4) Schedule 1 (**Directors of the MSB**):

After “Board” where secondly occurring in the definition of “appointed director” in clause 1, insert “and the Director-General of the Department of Transport”.

COMMENCEMENT

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

SAVINGS

The amendments to the Marine Administration Act 1989 do not affect the tenure of office of the chairperson of the Port of Eden Advisory Committee holding office as an appointed director of the MSB Illawarra Ports Authority immediately before the date of assent to this Act and that person is (subject to Schedule 3 to the Act) to remain in office for the balance of his or her term of office as an appointed director.

EXPLANATORY NOTE**Constitution of MSB** (items (1) and (4))

The proposed amendments to section 7 and Schedule 1 provide for the Director-General of the Department of Transport to be an ex-officio member of the Maritime Services Board.

Constitution of MSB Illawarra Ports Authority (items (2) and (3))

The proposed amendments to sections 20 and 52 provide for the abolition of the Port of Eden Advisory Committee and move the requirement that one of the appointed directors of the MSB Illawarra Ports Authority be the chairperson of that Committee. The Authority is a subsidiary port authority which exercises delegated MSB functions with respect to ports assigned to it, one of which was the Port of Eden. As the Port of Eden is now the responsibility of the MSB and not the Authority it no longer needs to be represented on the Authority.

MARITIME SERVICES ACT 1935 No. 47**AMENDMENT**(1) Section 13W (**Powers of harbour master**):

From section 13W (3), omit “four hundred dollars”, insert instead “\$1,500”.

(2) Section 13WA:

After section 13W, insert:

Information regarding harbour master's directions etc.

13WA. (1) The Board may, for the purposes of providing relevant information to the public, make available (at such reasonable cost and in such manner as the Board may from time to time determine) a handbook or other publication containing the information.

(2) "Relevant information" includes the kinds of directions that may be given by a harbour master under section 13W and such other general information regarding the direction and control of vessels under that section as the Board considers to be appropriate.

COMMENCEMENT

The amendments to the Maritime Services Act 1935 commence on the date of assent to this Act.

EXPLANATORY NOTE

Penalty for not complying with harbour master's direction (item (1))

The proposed amendment to section 13W increases, from \$400 to \$1,500, the maximum penalty for which the master of a vessel may be liable if the master refuses or neglects to comply with a direction of the harbour master under the section. The directions relate to such matters as the time and manner in which a vessel may enter the port concerned, the movements of the vessel within the port, the position and manner in which the vessel is moored and other directions relating to the movement and control of the vessel. The maximum penalty has not been increased since 1972 and the proposed amendment will bring the penalty into line with similar offences (for example, under Regulation 18 of the Management of Waters and Waterside Lands Regulation—N.S.W., the master and owner of a vessel that is navigated, used, moored or anchored in contravention of a sign or notice erected by the Maritime Services Board are liable for a penalty not exceeding \$1,500).

Information regarding directions (item (2))

Section 13WA provides that the Board may publish a handbook containing information about the kinds of directions given by a harbour master under section 13W and other matters concerning the control and movement of vessels in a port (for example, general description of shipping lanes and information about times for opening and closing of bridges). Such a handbook is intended to be used only as a guide for information purposes.

MEDICAL PRACTITIONERS ACT 1938 No. 37

AMENDMENT

(1) Section 10 (**Financial provisions**):

After "money" in section 10 (1), insert "(not being fines or penalties)".

(2) Section 32I (**Determinations of Committees**):

From section 32I (7), omit “Board”, insert instead “Registrar who is to pay it to the credit of the Consolidated Fund in such manner as the Treasurer may direct”.

(3) Section 51A (**Recovery of fines**):

Omit “29”. insert instead “32I”.

COMMENCEMENT

The amendments to the Medical Practitioners Act 1938 commence on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendments will ensure that fines imposed by a Professional Standards Committee in respect of a complaint against a registered medical practitioner are paid to the Consolidated Fund and not into an account established by the New South Wales Medical Board. This will make the relevant provisions of the Act consistent with similar provisions in various other Acts relating to health professional boards.

MOTOR DEALERS ACT 1974 No. 52

AMENDMENT

(1) Section 20A (**Surrender of licence**):

After “may”, insert “(subject to section 20D (2A))”.

(2) Section 20D (**Notices to show cause**):

After section 20D (2), insert:

(2A) The holder of a licence on whom notice to show cause has been served under this section may not surrender the licence unless the Commissioner has made a determination under section 20E in relation to each matter to which the notice relates.

COMMENCEMENT

The amendments to the Motor Dealers Act 1974 commence on the date of assent to this Act.

EXPLANATORY NOTE

Section 20D of the Act provides for the service of notices to show cause as to why disciplinary measures should not be taken against the holder of a licence. Section 20E sets out the disciplinary measures that the Commissioner for Consumer Affairs may take against the holder of the licence following inquiry or investigation in relation to the matters to which the notice relates. The proposed amendments will ensure that the holder of a licence on whom such a notice has been served cannot avoid the taking of disciplinary action by surrendering the licence held by the licensee before the Commissioner makes a determination in relation to the matters concerned.

NURSES ACT 1991 No. 9**AMENDMENT****Section 77 (Liability of members etc.):**

At the end of section 77 (c), insert:

; or

(d) the Tribunal or a member of the Tribunal,

COMMENCEMENT

The amendment to the Nurses Act 1991 commences on the date of assent to this Act.

EXPLANATORY NOTE

Section 77 provides that a member of the Nurses Registration Board or Professional standards Committee or Registrar or officer of the Board does not incur personal liability for things done in good faith in exercising the member's or officer's functions under the Act. The proposed amendment will confer protection against such liability on the members of the Nurses Tribunal which is the only disciplinary or regulatory body constituted under the Act whose members are not so protected.

OCCUPATIONAL HEALTH AND SAFETY ACT 1983 No. 20**AMENDMENT****Section 45 (Regulations):**

After section 45 (3), insert:

(3A) A regulation may apply, adopt or incorporate any publication as in force from time to time.

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 will enable the regulations to adopt publications (for example, national safety standards made by bodies such as Worksafe Australia) as in force from time to time. The amendment is similar to the amendment to the Dangerous Goods Act 1975 set out elsewhere in this Schedule.

**PARLIAMENTARY ELECTORATES AND ELECTIONS ACT
1912 No. 41****AMENDMENTS****(1) Section 21AB:**

After the heading to Part 3B, insert:

Definition

21AB. In this Part:

“**State election**” means an election for the Assembly, a periodic

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Council election or a referendum and includes an election for a council of a local government area.

- (2) Section 21B (**Arrangement with Commonwealth as to rolls**):
- (a) From section 21B (1), omit “the Assembly”, where firstly occurring, insert instead “State elections”.
 - (b) From section 21B (1), omit “elections for the Assembly”, insert instead “State elections and for such other purposes as the Governor may determine”.
 - (c) From section 21B (2), 21C and 21D (2), omit “the Assembly”, wherever occurring, insert instead “State elections”.
Omit section 21C (3).
 - (d) From section 21D (1), omit “elections for the Assembly” wherever occurring, insert instead “State elections”.
- (3) Section 23 (**Power of Governor as to subdivision of districts**):
Omit section 23 (4).
- (4) Section 30 (**Inspection of rolls**):
From section 30 (b), omit “the Government Printing Office and at such post offices and other places in the district”, insert instead “such places”.
- (5) Section 87A (**Mobile booths in hospitals etc.**):
Omit “his vote” wherever occurring, insert instead “the elector’s vote”.
- (6) Section 114AA (**Registration of general postal voters**):
Omit paragraph (a) of the definition of “prescribed elector” from section 114AA (1), insert instead:
- (a) an elector whose real place of living is not within 20 kilometres, by the nearest practicable route, of a polling place;
- (7) Section 114U (**Appointment of scrutineers**):
From section 114U (2), omit “and 7 p.m. on the second day preceding polling day”, insert instead “and 6 p.m. on the day preceding polling day”.

COMMENCEMENT

Items (1) and (2) of the amendments to the Parliamentary Electorates and Elections Act 1912 commence on a day to be appointed by proclamation.

Items (3)–(7) of the amendments to that Act commence on the date of assent to this Act.

EXPLANATORY NOTE

Arrangements with Commonwealth as to rolls (items (1) and (2))

Section 21B of the Act empowers the Governor to make arrangements with the Governor-General of the Commonwealth for joint electoral rolls for Commonwealth

elections and elections for the Legislative Assembly of New South Wales. The proposed amendments will enable the Governor to enter an arrangement for joint electoral rolls that may also be used for periodic elections for the Legislative Council, referendums, local government elections and matters such as jury rolls.

Inspection of rolls (item (4))

The proposed amendment to section 30 will provide for latest prints of rolls for districts and of any supplemental roll to be obtainable for purchase only at places appointed by the Electoral Commissioner. The amended provision will read (in part) as follows:

30. Copies of the latest print of the roll for any district and of any supplemental roll shall:

—

- (b) on payment of such amounts as the Electoral Commissioner determines to be appropriate in relation to prints of rolls of that kind be obtainable at the Government Printing Office and at such post offices and other places in the district such places as the Electoral Commissioner appoints.

[Matter to be omitted is shown in italic type and matter to be inserted in bold type.]

Registration of general postal voters (items (3) and (6))

At present, the persons who may be enrolled as general postal voters include electors enrolled for a subdivision declared to be a remote subdivision under section 23 of the Act. The proposed amendment to section 114AA (item (6)) will omit this category of electors from those electors able to be so enrolled to make section 114AA consistent with the corresponding provision of the Commonwealth Electoral Act 1918 (section 184A (2) (a)). Electors whose real place of living is not within 20 kilometres, by the nearest practicable route, of a polling place will continue to be able to be enrolled as general postal voters.

The proposed repeal of section 23 (4) is consequential on the amendment to section 114AAL

Statute law revision (items (5) and (7))

The proposed amendments to section 87A (item (5)) recast certain references to voters (including women who because of approaching maternity are unable to attend polling places) in gender neutral form

The proposed amendment to section 114U (2) (item (7)) will make the subsection consistent with section 114P (2) (d). (At present, although an application to vote before polling day may be made between noon on the day of nomination and 6 p.m. on the day preceding polling day, scrutineers are only entitled to be present between noon on the day of nomination and 7 p.m. on the second day preceding polling day.)

PHARMACY ACT 1964 No. 48

AMENDMENT

(1) Section 20 (Consequences of misconduct etc):

- (a) From section 20 (1), omit “itself”, insert instead “the Board consisting of the members referred to in section 19H”.

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(b) Omit section 20 (4), insert instead:

(4) Any fine imposed under this section:

(a) is to be paid to the registrar who is to pay it to the credit of the Consolidated Fund in such manner as the Treasurer may direct; and

(b) may be recovered as a debt due to the Crown in a court of competent jurisdiction.

(2) Section 36 (**Fees**):

After “money” in section 36 (3), insert “(not being fines or penalties)”.

COMMENCEMENT

The amendments to the Pharmacy Act 1964 commence on the date of assent to this Act.

EXPLANATORY NOTE**Inquiries conducted by Pharmacy Board** (item (1) (a))

Section 20 (1) presently provides (in part) that “If the Board (after an inquiry conducted by itself or a Committee) is satisfied that the subject-matter of a complaint against a pharmacist is proved, the Board may do any one or more of the following”. When conducting an inquiry the Board consists of only 3 members. The proposed amendment ensures that the provision operates as intended by making it clear that only the “full” Board and not the Board as constituted for an inquiry may take action under section 20 (1). (The Explanatory Note for the pharmacy (Amendment) Act 1989, which inserted section 19H, stated in relation to the procedure for dealing with complaints that “Details of the powers of the Board or of such a Committee when conducting such an inquiry are set out, but do not include fixing any punishment”.)

Fines imposed by Pharmacy Board (items (1) (b) and (2))

The amendments will ensure that fines imposed by the pharmacy Board after an inquiry into a complaint against a pharmacist are paid to the Consolidated Fund and not into an account established by the Board. This will make the relevant provisions consistent with similar provisions in various other Acts relating to health professional boards.

PHYSIOTHERAPISTS REGISTRATION ACT 1945 No. 9**AMENDMENT**

Section 24 (**Misconduct**):

After section 24 (5), insert:

(6) A fine imposed under this section:

(a) is to be paid to the secretary who is to pay it to the credit of the Consolidated Fund in such manner as the Treasurer may direct; and

(b) may be recovered as a debt due to the Crown in a court of competent jurisdiction.

COMMENCEMENT

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

EXPLANATORY NOTE

The proposed amendment will ensure that fines imposed by the Physiotherapists Registration Board on a person found to be guilty of professional misconduct following an inquiry are paid to the Consolidated Fund. This will make the relevant provisions of the Act consistent with similar provisions in various other Acts relating to health professional boards.

PIPELINES ACT 1967 No. 90**AMENDMENTS**

- (1) Section 6 (**Applications for permits**):
 - (a) Omit section 6 (2) (d).
 - (b) Omit section 6 (4), insert instead:
 - (4) Four additional copies of an application and each of the documents accompanying it (including the proposal for the construction of the pipeline) must be submitted with the application. The Minister is required to serve a copy of the application and each of those documents on the Minister for Transport, the Minister for Local Government, the Minister for Public Works and the Minister for Roads.
- (2) Section 12 (**Application for licence**):

After “may be made” in section 12 (1), insert “to the Minister”.
- (3) Section 22 (**Availability of certain land etc. for compulsory acquisition**):

After “19 (1)” in section 22 (b), insert “(or, if the public authority and the owner have agreed that the land is available for acquisition, at any time before the Minister grants such a certificate)”.
- (4) Section 37 (**Licence fees**):

From section 37 (1), omit “\$200”, insert instead “the prescribed amount”.

COMMENCEMENT

The amendments to the Pipelines Act 1967 commence on a day or days to be appointed by proclamation.

EXPLANATORY NOTE**Applications for permits and licences** (items (1) and (2))

At present, when an applicant for a permit to enter land for the purposes of determining the route of a proposed pipeline submits the application to the Minister for Energy, the applicant must also serve copies of the application, the proposal to

construct the pipeline and all relevant documents on 4 other Ministers. The proposed amendments to section 6 provide instead that when the application is made, 4 additional copies of the documents concerned are also required to be submitted. The Minister for Energy will then forward the additional copies to the other Ministers. This will expedite the processing of applications and bring the provisions into line with similar provisions relating to applications for licences to construct a pipeline. The amendment to section 12 makes it clear that an application for a licence to construct a pipeline is made to the Minister for Energy.

Availability of land for compulsory acquisition (item (3))

Sections 14 and 19 of the Act require the Minister to certify various matters before a licence to construct and operate a pipeline, or before a variation of a licence area, may be granted by the Governor. These matters include certification that the land concerned is available for compulsory acquisition under section 22 of the Act. At present, that section requires the applicant to give at least 3 months notice of the application, in the case of Crown land, before the certificate can be granted. The proposed amendment provides that if the public authority which has control of the land concerned and the owner of the land (Le. the Crown) have agreed that the land is available for acquisition, it will not be necessary for 3 months to lapse before the Minister grants the certificate.

Licence fees (item (4))

The annual fee for a licence to operate a pipeline is presently fixed by the Act as not exceeding \$20 for every kilometre or part of a kilometre of the length of pipeline. The proposed amendment to section 37 provides instead for the amount of the licence fee to be prescribed by the regulations.

PODIATRISTS ACT 1989 No. 23

AMENDMENTS

(1) Section 16 (**Consequences of misconduct etc.**):

After section 16 (2). insert:

(3) A fine imposed under this section:

- (a) is to be paid to the secretary who is to pay it to the credit of the Consolidated Fund in such manner as the Treasurer may direct; and
- (b) may be recovered as a debt due to the Crown in a court of competent jurisdiction.

(2) Schedule 3 (**Savings and transitional provisions**):

From clause 9 (1), omit “the the”, insert instead “the”.

COMMENCEMENT

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

EXPLANATORY NOTE

Fines imposed by the Board (item (1))

The proposed amendment to section 16 will ensure that fines imposed by the Podiatrists Registration Board following an inquiry into a complaint against a

registered podiatrist are paid to the Consolidated Fund This will make the relevant provisions of the Act consistent with similar provisions in various other Acts relating to health professional boards.

Statute law revision (item (2))

The proposed amendment to Schedule 3 omits an unnecessary word

**POLICE ASSOCIATION EMPLOYEES (SUPERANNUATION) ACT
1969 No. 33**

AMENDMENT

(1) Section 2 (**Definitions**):

From the definition of “member of the police force” in section 2 (1), omit “police officer”, insert instead ““member of the Police Service””.

(2) Section 3 (**Employees of Association transferring from employment as police officers**):

From section 3 (1) (a), omit “in accordance with the Principal Act”.

COMMENCEMENT

The amendments to the Police Association Employees (Superannuation) Act 1969 are taken to have commenced on 1 July 1990 (the commencement of the Police Service Act 1990).

EXPLANATORY NOTE

Amendments consequential on enactment of Police Service Act 1990 (item (1))

The Police Service Act 1990 established the Police Service which consists of both police officers and administrative officers. The definition of “police officer” in that Act does not include an administrative officer (who may become an employee of the Police Association). As a result, the reference to a “police officer” in the Police Association Employees (Superannuation) Act 1969 now inadvertently excludes an administrative officer who may formerly have been a police officer.

The proposed amendment to the definition of “member of the police force” will ensure that the Act applies to administrative officers who are contributors to the Police Superannuation Scheme, and who were formerly police officers.

The amended definition will read:

“member of the police force” means a [*police officer*] member of the Police Service other than the Commissioner of Police;

[Matter to be omitted is shown in italic type and matter to be inserted is shown in bold type.]

Statute law revision (item (2))

The proposed amendment to section 3 is consequential on the amendments to the Act made by Schedule 2 to the Police and Superannuation Legislation (Amendment) Act 1990.

POLICE REGULATION (SUPERANNUATION) ACT 1906 No. 28**AMENDMENT**

- (1) Section 1A (**Closure of Fund to police employed on or after 1 April 1988**):

From section 1A (b), omit “a member”, insert instead “an employee”.

- (2) Section 5 (**Contributions to Fund**):

(a) Omit “member of the police force”, wherever occurring, insert instead “qualified person”.

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

(3) The following persons are qualified persons for the purposes of this section:

(a) members of the Police Service who are contributors;

(b) employees of the Police Association of New South Wales who are contributors.

COMMENCEMENT

Item (1) of the amendments to the Police Regulation (Superannuation) Act 1906 commences on the date of assent to this Act.

Item (2) of the amendments to that Act is taken to have commenced on 1 July 1990 (the commencement of the Police Service Act 1990).

EXPLANATORY NOTE**Closure of Fund to police employed on or after 1 April 1988** (item (1))

Section 1A of the Act provides, with certain exceptions, for the Police Superannuation Fund to be closed to persons who have become police officers on or after 1 April 1988. The proposed amendment makes it clear that one of the classes of persons to whom the Act continues to apply is that comprising those employees of the Police Association of New South Wales (rather than members of that Association) who subsequently resume service in the Police Service.

Contributions to Fund (item (2))

Section 5 of the Act provides for Superannuation contributions to be deducted from the salaries of police officers. The proposed amendments extend the operation of the section to provide for superannuation contributions to be deducted from the salaries of administrative officers who are contributors to the Police Superannuation Fund from the salaries of employees of the Police Association of New South Wales who are contributors to that Fund.

PRISONS ACT 1952 No. 9**AMENDMENT**

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

Omit the definitions of “Deputy Director-General” and “Director-General” from section 4 (1), insert instead:

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“**Commissioner**” means the Commissioner of Corrective Services;

“**Deputy Commissioner**” means a Deputy Commissioner of Corrective Services;

(2) **The whole Act** (except Schedule 8):

Omit “Director-General”, “Directors-General” and “Director-General’s” wherever occurring insert instead “Commissioner”, “commissioners” and “Commissioner’s” respectively.

(3) **Schedule 8 (Savings and transitional provisions):**

(a) Omit clause 12 (a).

(b) After Part 5, insert:

**PART 6—PROVISIONS CONSEQUENT ON ENACTMENT
OF STATUTE LAW (MISCELLANEOUS PROVISIONS)
ACT (No. 2) 1991**

References to Director-General etc.

19. 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-General of Corrective Services or to a Deputy Director-General of Corrective Services is to be read as a reference to the Commissioner of Corrective Services or to a Deputy Commissioner of Corrective Services respectively.

COMMENCEMENT

The amendments to the Prisons Act 1952 commence on a day to be appointed by proclamation

EXPLANATORY NOTE

The proposed amendments change the names of the positions of Director-General and Deputy Director-General of Corrective Services to Commissioner and Deputy Commissioner of Corrective Services respectively.

PSYCHOLOGISTS ACT 1989 No. 51

AMENDMENT

Section 16 (Consequences of misconduct etc.):

After section 16 (2), insert

(3) A fine imposed under this Section:

(a) is to be paid to the secretary who is to pay it to the credit of the Consolidated Fund in such manner as the Treasurer may direct; and

(b) may be recovered as a debt due to the Crown in a court of competent jurisdiction.

COMMENCEMENT

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

EXPLANATORY NOTE

The proposed amendment will ensure that fines imposed by the Psychologists Registration Board following an inquiry into a complaint against a registered psychologist are paid to the Consolidated Fund. This will make the relevant provisions of the Act consistent with similar provisions in various other Acts relating to health professional boards.

PUBLIC FINANCE AND AUDIT ACT 1983 No. 152**AMENDMENT****(1) Section 56 (Procedure of Committee):**

Omit section 56 (9), insert instead:

(9) The Committee may sit and transact business on a sitting day of the Legislative Assembly during the time of the sitting.

(2) Schedule 1 (The Auditor-General):

Omit clause 6 (1) (e), insert instead:

(e) if the Auditor-General is absent from duty for a period in excess of his or her leave entitlement as approved by the Governor unless the absence is caused by illness or other unavoidable cause.

COMMENCEMENT

The amendments to the Public Finance and Audit Act 1983 commence on the date of assent to this Act.

EXPLANATORY NOTE**Procedure of Public Accounts Committee (item (1))**

At present, the Public Accounts Committee may only sit or transact business on a sitting day of the Legislative Assembly during the time of the sitting with the leave of the Legislative Assembly. The proposed amendment to section 56 authorises the Committee to sit and transact business during the time the Legislative Assembly is actually sitting without the need for leave. The amendment will bring this aspect of the procedure of the Committee in line with other committees of Parliament.

Absence of Auditor-General from duty (item (2))

At present the Auditor-General may be suspended from office if the Auditor-General is absent from duty for 14 consecutive days or for 28 days in any 12 consecutive months without the approval of the Governor, regardless of the reason for the absence. The proposed amendment to schedule 1 to the Act removes these specific time limitations and provides for the Governor to approve a leave entitlement in advance. Absences due to illness or other unavoidable cause will not be counted as absences for the purpose of the provision.

PUBLIC HOSPITALS ACT 1929 No. 8**AMENDMENT****Section 29 (Investments):**

Omit section 29 (1), insert instead:

- (1) The board may invest money held by the hospital:
- (a) in such manner as may be authorised by the Public Authorities (Financial Arrangements) Act 1987; or
 - (b) if that Act does not confer power to invest money so held, in any manner authorised for the time being for the investment of trust funds and in any other manner approved by the Minister with the concurrence of the Treasurer.

COMMENCEMENT

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

EXPLANATORY NOTE

In its present form, section 29 may be misleading as it suggests that the Board of Directors of a hospital may only invest funds of the hospital in any manner authorised by the Trustee Act 1925 or by regulation under the Public Hospitals Act 1929. However, by regulation under the Public Authorities (Financial Arrangements) Act 1987, all incorporated public hospitals (with the exception of the Royal Alexandra Hospital for Children) have been given certain investment powers under that Act. Other public hospitals may at any time also have investment powers under that Act conferred on them by regulation.

The proposed amendment up-dates the investment power provisions so that they reflect the current situation.

PUBLIC SECTOR MANAGEMENT ACT 1988 No. 33**AMENDMENT****Schedule 3B (Senior executive positions):**

- (a) From Part 1, omit from the positions relating to the Department of Health the following position
 Director, Drug Offensive
 insert instead the following position:
 Director of the Drug and Alcohol Directorate
- (b) From Part 1, omit from the positions relating to the Department of Industrial Relations, Employment, Training and Further Education the following position:
 Executive Member, Board of Adult and Community Education
 insert instead the following position:
 Director, Board of Adult and Community Education

COMMENCEMENT

The amendments to the Public Sector Management Act 1988 commence on the date of assent to this Act.

EXPLANATORY NOTE

Paragraph (a) of the proposed amendments is consequential on the change of the name of the Directorate of the Drug Offensive to the Drug and Alcohol Directorate. Paragraph (b) of the proposed amendments is consequential on the amendments to the Board of Adult and Community Education Act 1990 set Out elsewhere in this Schedule.

REGISTRATION OF INTERESTS IN GOODS ACT 1986 No. 37**AMENDMENTS****Section 8 (Search certificates and notice):**

- (a) From section 8 (1) (a), omit “date of its issue”, insert instead “date of certification” .
- (b) After “approves” in section 8 (1A), insert “and may be issued on the date the application is dealt with or on a later date”.
- (c) After “made” in section 8 (3) (a), insert “, on the date of certification,”.
- (d) From section 8 (3) (b), omit “day of issue of the certificate”, insert instead “day of certification”.

COMMENCEMENT

The amendments to the Registration of Interests in Goods Act 1986 commence on the date of assent to this Act.

EXPLANATORY NOTE

Section 8 of the Act requires the Commissioner for Consumer Affairs to issue a search certificate containing particulars of any recording in the Register of Interests in Goods affecting specified goods and enables the applicant for the certificate to rely on it in the absence of actual notice that it is, or may be, incorrect. Section 8 (1A) enables the issue of a statement of the result of such a search as an alternative to the issue of a signed certificate. The proposed amendments make it clear that if a statement as to such a recording is issued to an applicant after the day on which the application is dealt with the applicant may still rely on it from the day to which the certificate relates (that is, the day it was applied for) until the end of the following day.

RESIDENTIAL TENANCIES ACT 1987 No. 26**AMENDMENTS****Section 45 (Increase of rent):**

(a) After section 45 (2), insert:

(2A) A notice given under this section may be cancelled by a later notice or a later notice may provide for a lesser increase than that specified in the earlier notice.

(2B) A later notice has effect instead of the earlier notice and takes effect from the date on which the earlier notice was to take effect.

(b) From section 45 (3), omit “and not withdrawn by the landlord or the landlord’s agent”, insert instead “and not cancelled by a later notice”.

COMMENCEMENT

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

EXPLANATORY NOTE

Section 45 of the Act provides for the procedure to be followed if the rent under a residential tenancy agreement is to be increased. The rent may not be increased without 60 days’ notice. The effect of giving such a notice is to vary the residential tenancy agreement as from the day the rent increase takes effect unless the notice is withdrawn by the landlord or the landlord’s agent or affected by any order of the Tribunal. The proposed amendments will enable a later notice to substitute a lesser increase than that originally specified so that if the parties negotiate a lesser increase this increase can be effective as of the date the increase in the first notice was to take effect. The Residential Tenancies Consultative Committee has recommended the amendment.

RURAL ASSISTANCE ACT 1989 No. 97

AMENDMENT

Section 35 (**Authority’s powers with respect to debtors etc.**):

From section 35 (1) (e), omit “with the concurrence of the Auditor-General.”.

COMMENCEMENT

The amendment to the Rural Assistance Act 1989 commences on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendment removes the requirement that the Rural Assistance Authority must have the concurrence of the Auditor-General before the Authority writes off money owing to it which in its opinion is not recoverable. The concurrence of the Auditor-General in these circumstances is not required in similar legislation and the amendment is supported by the Auditor-General.

SOCCER FOOTBALL POOLS ACT 1975 No. 45**AMENDMENT**

Section 20A:

After section 20, insert:

Minors not to be detained

20A. A minor may not be imprisoned, or detained in a detention centre, as a consequence of a failure to pay a penalty under this Act.

COMMENCEMENT

The amendment to the Soccer Football Pools Act 1975 commences on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendment will preclude the imprisonment or detention of a minor who fails to pay a penalty imposed on the minor under the Act. The amendment is consistent with section 117G of the Liquor Act 1982 and section 57B of the Registered Clubs Act 1976 which also provide that a minor may not be imprisoned or detained for failing to pay a penalty under the particular Act.

**STATE AUTHORITIES NON-CONTRIBUTORY SUPERANNUATION
ACT 1987 No. 212****AMENDMENTS**

(1) Section 4 (**Salary**):

(a) At the end of section 4 (1) (b), insert:

; and

(c) weekly workers compensation paid to the employee as from a date determined by the Board under subsection (1B),

(b) After section 4 (1), insert:

(1A) The weekly workers compensation to be treated as salary for the purposes of this Act does not include any amount by which the aggregate of:

(a) the weekly workers compensation paid to an injured employee; and

(b) the salary actually paid to the employee while partially incapacitated,

exceeds the salary that the employee would probably have been earning but for the injury (assuming the employee had continued to be employed in the same or some comparable employment).

(1B) The Board may determine a date as from which weekly workers compensation paid to an employee is to be treated as salary for the purposes of this Act, being a date not earlier than:

- (a) 1 April 1988 (the date of commencement of this Act); or
 - (b) if the liability to pay weekly workers compensation in respect of the employee first arose on a date later than 1 April 1988—that later date.
- (a) From section 4 (2) (e), omit “and”.
- (b) At the end of section 4 (2) (f), insert:
- ; and
- (g) an amount of weekly workers compensation excluded by subsection (1A).
- (c) Insert in section 4 (8) in alphabetical order:
- “weekly workers compensation”**, in relation to an employee, means weekly payments of compensation under the Workers Compensation Act 1987 (or the provisions of the Workers Compensation Act 1926 as applied by that Act) payable to the employee because the employee is partially incapacitated for work through injury.

(2) Schedule 1 (**Employers**):

From Part 1, omit the matter relating to the Australian Securities Commission, insert instead:

Australian Securities Commission (limited to those persons who:

- (a) immediately before 1 January 1991, were employed in the Government Department known as Business and Consumer Affairs; and
 - (b) immediately before the date of assent to the Statute Law (Miscellaneous Provisions) Act (No. 2) 1991, were employed in the service of the Commission; and
 - (c) on being employed in that service, have elected to remain employees for the purposes of this Act)
- (3) Schedule 3 (**Preservation of benefit for employees aged 55 years and over in certain circumstances**):
- (a) omit clause 1 (b), insert instead:
 - (b) who, since attaining that age, has undergone a reduction or total reductions in attributed salary of 20% or more; and
 - (b) In clause 2, after “employee’s”, insert “attributed”.

COMMENCEMENT

Items (1) and (2) of the amendments to the State Authorities Non-contributory Superannuation Act 1987 commence on the date of assent to this Act.

Item (3) of the amendments to that Act is taken to have commenced on 1 January 1991 (the commencement of the Anti-Discrimination (Compulsory Retirement) Amendment Act 1990).

EXPLANATORY NOTE**Salary** (item (1))

The proposed amendments to section 4 extend the definition of “salary” for the purposes of the Act by including in that definition certain workers compensation payments payable to employees who are partially incapacitated as a result of injury. The effect is to ensure that an employee who has suffered a reduction in earnings because of an injury will be able to have those payments treated as salary for superannuation purposes.

Employers (item (2))

The Australian Securities Commission is specified as an employer in Schedule 1 to the Act. It was intended that the Commission be included as an employer for the purpose only of enabling certain staff who were transferred from the Department known as Business and Consumer Affairs to the Commission in January 1991 to be covered by the superannuation scheme provided by the Act. However, in its present form the provision covers any person who was employed by the Department immediately before 1 January 1991 and who is later employed by the Commission. The proposed amendment will ensure that only those former employees of the Department who are employed by the Commission before the commencement of the amendment and who elect to remain as employees for the purposes of the Act will be covered by the scheme.

Preservation of benefit for employees aged 55 years and over in certain circumstances (item (3))

The Anti-Discrimination (Compulsory Retirement) Amendment Act 1990 amended public sector superannuation legislation to enable an employee who is aged 55 years or over and who accepts a position at a salary 20% or more below his or her previous salary to elect to preserve his or her benefit under the Act. The amendments were intended to cover employees who “wind down” by undertaking less responsible and lower paid positions after reaching the age of 55 years. The proposed amendments to Schedule 3 to the Act make it clear that an election to preserve the benefit under the Schedule may be made only if an employee has accepted one or more such positions leading to a reduction or total reductions in salary of 20% or more, not if the employee has simply switched from full to part-time employment with a resultant reduction in salary. This is achieved by ensuring that the Schedule applies to (an employee who has undergone a reduction or (if more than one) total reductions of more than 20% in attributed salary (as defined in Section 3 (1) of the Act) rather than actual salary.

STATE AUTHORITIES SUPERANNUATION ACT 1987 No. 211**AMENDMENTS**(1) Section 4 (**Salary**):

(a) At the end of section 4 (1) (b), insert:

; and

(c) weekly workers compensation paid to the contributor as from a date determined by the Board under subsection (1B),

- (b) After section 4 (1). insert:
- (1A) The weekly workers compensation to be treated as salary for the purposes of this Act does not include any amount by which the aggregate of
- (a) the weekly workers compensation paid to an injury contributor; and
 - (b) the salary actually paid to the contributor while partially incapacitated,
- exceeds the salary that the contributor would probably have been earning but for the injury (assuming the contributor had continued to be employed in the same or some comparable employment).
- (1B) The Board may determine a date as from which weekly workers compensation paid to a contributor is to be treated as salary for the purposes of this Act, being a date not earlier than:
- (a) 1 April 1988 (the date of commencement of this Act); or
 - (b) if the liability to pay weekly workers compensation in respect of the contributor first arose on a date later than 1 April 1988—that later date.
- (c) From section 4 (2) (e), omit “and”.
- (d) At the end of section 4 (2) (f), insert:
- ; and
- (g) an amount of weekly workers compensation excluded by subsection (1A).
- (e) Insert in section 4 (8) in alphabetical order:
- “weekly workers compensation”, in relation to a contributor, means weekly payments of compensation under the Workers Compensation Act 1987 (or the provisions of the workers Compensation Act 1926 as applied by that Act) payable to the contributor because the contributor is partially incapacitated for work through injury
- (2) Section 42 (**Benefit on retrenchment before early retirement age**):
- Omit section 42 (1). insert instack
- (1) The benefit provided by this section is payable by the Board to a contributor if, before attaining the early retirement age:
 - (a) the contributor is retrenched; and
 - (b) no other benefit is payable under this Act; and
 - (c) the Board is provided with a certificate from the contributor’s employer confirming that the contributor has been retrenched and specifying the ground for the retrenchment.
- (3) Section 54 (**Payment where beneficiary incapable**):
- From section 54 (1), omit “contributor”, insert instead “person”.

(4) Schedule 1 (Employers):

From Part 1, omit the matter relating to the Australian Securities Commission, insert instead:

Australian Securities Commission (Limited to those persons who:

- (a) immediately before 1 January 1991, were employed in the Government Department known as Business and Consumer Affairs; and
- (b) immediately before the date of assent to the Statute Law (Miscellaneous Provisions) Act (No. 2) 1991, were employed in the service of the Commission; and
- (c) on being employed in that service, have elected to remain contributors to the Fund)

(5) Schedule 5 (Special provisions for preserving the benefits of certain contributors):

- (a) Omit clause 5 (b), insert instead:
 - (b) who, since attaining that age, has undergone a reduction or total reductions in attributed salary of 20% or more; and
- (b) In clause 6, after “contributor’s”, insert “attributed”.

COMMENCEMENT

Items (1)–(4) of the amendments to the State Authorities Superannuation Act 1987 commence on the date of assent to this Act.

Item (5) of the amendments to that Act is taken to have commenced on 1 January 1991 (the commencement of the Anti-Discrimination (Compulsory Retirement) Amendment Act 1990).

EXPLANATORY NOTE**Salary (item (1))**

The proposed amendments are similar to the amendments to section 4 of the State Authorities Non-contributory Superannuation Act 1987 set out elsewhere in this Schedule.

Benefit on retrenchment before early retirement age (item (2))

The proposed amendment replaces section 42 (1) of the Act. In so doing, it removes the need for a person to provide the State Authorities Superannuation Board with a statutory declaration confirming that the contributor concerned has been retrenched. No other superannuation legislation requires such a declaration.

Payment where beneficiary incapable (item (3))

section 54 of the Act empowers the state Authorities Superannuation Board to pay a benefit to another person where the beneficiary is incapable of administering his or her affairs. However, the section operates only where the beneficiary is a contributor under the Act. The proposed amendment will enable the Board to make such a payment even though the beneficiary is not such a contributor.

Employers (item (4))

The proposed amendment is similar to that made to Schedule 1 to the State Authorities Non-contributory Superannuation Act 1987 set out elsewhere in this Schedule.

Special provisions for preserving the benefits of certain contributors (item (5))
The proposed amendments are similar to those made to Schedule 3 to the State Authorities Non-contributory Superannuation Act 1987 set out elsewhere in this Schedule.

STATE OWNED CORPORATIONS ACT 1989 No. 134

AMENDMENT

Section 27 (Procedure if Parliament not in session):

Omit section 27 (3), insert instead:

- (3) Material presented to the Clerk under this section:
 - (a) on presentation and for all purposes, is taken to have been laid before the House of Parliament; and
 - (b) is required to be printed by authority of the Clerk if it is a half-yearly or annual report of a State owned corporation; and
 - (c) may be printed by authority of the Clerk if it is material other than such a report; and
 - (d) if printed by authority of the Clerk, is for all purposes taken to be a document published by order or under the authority of the House; and
 - (e) is to be recorded in the Minutes, or Votes and Proceedings, of the House on the first sitting day of the House after receipt of the material by the Clerk.

COMMENCEMENT

The amendment to the State Owned Corporations Act 1989 commences on the date of assent to this Act.

EXPLANATORY NOTE

Section 25 of the Act requires the Auditor-General to present any special reports regarding audit under the Act to the Legislative Assembly. Section 26 requires the Minister to lay certain documents (for example, annual reports) relating to State owned corporations before each House of Parliament within a specified period of time. Publication of the documents may be authorised under the Parliamentary Papers (Supplementary Provisions) Act 1975.

Section 27 presently provides for presentation of such documents to the Clerk of the House when Parliament is not in session and requires the documents to be printed by authority of the Clerk.

The proposed amendment will enable some such documents to be printed at the discretion of the Clerk. However, half-yearly or annual reports will continue to be required to be printed. (If the Clerk decides not to authorise such a document to be printed, a House may authorise its publication under the Parliamentary Papers (Supplementary Provisions) Act 1975).

STOCK DISEASES ACT 1923 No. 34**AMENDMENTS****Section 7A (Questions and inquiries by inspectors):**

- (a) After “committed,” in section 7A (1), insert “and the inspector has warned that person that it is an offence under this Act to fail to answer the question concerned or to give a reply that is false or misleading in any material particular.”.
- (b) After “that subsection” in section 7A (2), insert “, after being warned by the inspector that it is an offence under this Act to fail to produce on demand the record, paper or document concerned.”.

COMMENCEMENT

The amendments to the Stock Diseases Act 1923 commence on the date of assent to this Act.

EXPLANATORY NOTE

Under the Act it is an offence for a person to fail to answer a question put to the person by an inspector about diseased stock or certain other matters, or to give a reply that is false or misleading in any material particular or to fail to produce records, papers or documents relating to diseased stock or certain other matters. The proposed amendments to section 7A provide that a person commits such an offence only if the person has been warned by the inspector that it is an offence to fail to answer the question, give the false reply or fail to produce the record, paper or document concerned.

SUPERANNUATION ACT 1916 No. 28**AMENDMENTS****(1) Section 3 (Definitions):**

- (a) From the definition of “Employee” in section 3 (1), omit “a Member”, insert instead “a judicial member”.
- (b) From section 3 (1), omit the definition of “Government Medical Officer”, insert instead:

“Government Medical Officer” means a person, or the nominee of the person, who holds an office for the time being determined by the Public Employment Industrial Relations Authority to be an office of Government Medical Officer for the purposes of the Public Sector Management Act 1988.

(2) Section 3A (Salary):

- (a) At the end of section 3A (1) (b), insert:
; and
- (c) weekly workers compensation paid to the contributor as from a date determined by the Board under subsection (1B),

- (b) After section 3A (1), insert:
- (1A) The weekly workers compensation to be treated as salary for the purposes of this Act does not include any amount by which the aggregate of:
- (a) the weekly workers compensation paid to an injured contributor; and
 - (b) the salary actually paid to that contributor while partially incapacitated,
- exceeds the salary that the contributor would probably have been earning but for the injury (assuming the contributor had continued to be employed in the same or some comparable employment).
- (1B) The Board may determine a date as from which weekly workers compensation paid to a contributor is to be treated as salary for the purposes of this Act, being a date not earlier than:
- (a) 21 December 1984; or
 - (b) if the liability to pay weekly workers compensation in respect of the contributor first arose on a date later than 21 December 1984—that later date.
- (c) From section 3A (2) (e), omit “and”.
- (d) At the end of section 3A (2) (f), insert:
- ; and
- (g) an amount of weekly workers compensation excluded by subsection (1A).
- (e) Insert in section 3A (5) in alphabetical order:
- “weekly workers compensation”**, in relation to a contributor, means any payments of compensation under the Workers Compensation Act 1987 (or the provisions of the Workers Compensation Act 1926 as applied by that Act) payable to the contributor because the contributor is partially incapacitated for work through injury.
- (3) Section 12 (**Contributions to be related to units of pension**):
- (a) From section 12 (3), omit “June”.
 - (b) From section 12 (3), omit “ ‘b’ ”, insert instead “ ‘a’ ”.
 - (c) Omit section 12 (4).
 - (d) From section 12 (5), omit “, “June quarter” ”,
- (4) Section 52L (**Eligible contributors**):
- Omit section 52L (b), insert instead:
- (b) who, since attaining that age, has undergone a reduction or total reductions in salary of 20% or more; and

(5) Section 104 (**Definitions**):

From section 104 (1), omit the definitions of “conversion ratio” and “foreign contributor”, insert instead:

“conversion ratio”, in relation to a foreign currency, means:

- (a) in the case of sterling—the ratio of 1 pound sterling to 2 Australian dollars; or
- (b) in the case of Japanese currency—the ratio of 400 Japanese yen to 1 Australian dollar;

“foreign contributor” means a contributor who:

- (a) was recruited in a country other than Australia and is employed in such a country; and
- (b) is paid a salary at a rate expressed in a currency other than Australian currency;

(6) Section 108 (**Payments to be made as if conversion ratio always applied**):

Omit “is prescribed in relation to the currency of a country in which immediately prior to the prescription of the conversion ratio”, insert instead “applies to the currency of a country in which, immediately before the conversion ratio first applied to that currency,”.

(7) Schedule 3 (**Employers**), Part 1:

- (a) Omit “Roads and Traffic Authority of New South Wales” where secondly occurring.
- (b) Omit the matter relating to the Australian Securities Commission, insert instead:

Australian Securities Commission (limited to those persons who:

- (a) immediately before 1 January 1991, were employed in the Government Department known as Business and Consumer Affairs; and
- (b) immediately before the date of assent to the Statute Law (Miscellaneous Provisions) Act (No. 2) 1991, were employed in the service of the Commission; and
- (c) on being employed in that service, have elected to remain contributors to the Fund)

REPEAL OF REGULATIONS

Regulations 14, 19 and 20 of the Superannuation Regulations are repealed.

COMMENCEMENT

Item 1 (a) of the amendments to the Superannuation Act 1916 is taken to have commenced on 22 May 1981 (the commencement of section 14 (2G) of the Industrial Arbitration Act 1940).

The amendments to that Act (other than items (1) (a) and (3)) and to the Superannuation Regulations commence on the date of assent to this Act.

Item (3) of the amendments to that Act is taken to have commenced on 3 May 1991 (the date of assent to the Statute Law (Miscellaneous Provisions) Act 1991).

EXPLANATORY NOTE

Definition of “employee” (item (1) (a))

At present “members” of the Industrial Commission are excluded from the definition of “employee”. This has the unintended effect of preventing non-judicial members (who because of section 14 (2G) of the Industrial Arbitration Act 1940 are not covered by the Judges’ Pensions Act 1953) from being contributors under the Act. The proposed amendment will make it clear that only judicial members are excluded from the definition.

Definition of “Government Medical Officer” (item (1) (b))

The proposed amendment updates the definition of “Government Medical Officer” for the purposes of the Act. Regulation 14 of the Superannuation Regulations is to be repealed as a consequence of the amendment.

Salary (item (2))

The proposed amendments are similar to the amendments to section 4 of the State Authorities Non-contributory Superannuation Act 1987 set out elsewhere in this Schedule. The amendments will ensure that contributors who (before the implied repeal of Regulation 18A of the Superannuation Regulations and repeal of section 12E of the Act by the Superannuation (Amendment) Act 1987) were able to treat workers compensation “make up” payments as salary for superannuation purposes may continue to do so.

Contributions to be related to units of pension (item (3))

The amendments make some minor adjustments to the criteria used in section 12 of the Act for calculating the number of units of pension for which contributors are to contribute when the salaries of those contributors exceed \$5,200. Subsection (4) of the section is redundant and the references to the “June quarter” in subsection (3) of the section and to the definition of that expression in subsection (5) of the section are inappropriate. That subsection and those references are therefore to be omitted.

Eligible contributors (item (4))

The proposed amendments are similar to those made to Schedule 3 to the State Authorities Non-contributory Superannuation Act 1987 set out elsewhere in this Schedule.

“Conversion ratio” and “foreign contributor” (items (5) and (6))

The proposed amendments replace the definitions of “conversion ratio” and “foreign contributor” for the purposes of Part 9 of the Act (provisions applicable in respect of foreign contributors). The new definition of “conversion ratio” specifies the relevant ratios, whereas the present definition leaves them to be prescribed by regulations made under the Act. The new definition of “foreign contributor” will make it unnecessary to make regulations prescribing classes of employees for the purposes of the definition. The new definitions are based on Regulations 19 and 20 of the Superannuation Regulations which are to be repealed.

The proposed amendment to section 108 is consequential on the amendment replacing the definition of “conversion ratio”.

Employers (item (7) (b))

The proposed amendment is similar to that made to Schedule 1 to the State Authorities Non-contributory Superannuation Act 1987 set out elsewhere in this Schedule.

Statute law revision (item (7) (a))

The proposed amendment removes a duplication of a reference to a particular employer.

SUPREME COURT ACT 1970 No. 52**AMENDMENT****Section 37 (Acting Judges):**

From section 37 (5), omit “a period served by the person in a prior judicial office within the meaning of section 8 (2) of the Judges’ Pensions Act 1953”, insert instead “prior judicial service (Within the meaning of section 8 of the Judges’ Pensions Act 1953) by the person”.

COMMENCEMENT

The amendment to the Supreme Court Act 1970 commences on the commencement of the amendments to the Judges’ Pensions Act 1953 set out elsewhere in this Schedule.

EXPLANATORY NOTE

The proposed amendment is consequential on the amendments to the Judges’ Pensions Act 1953 set out elsewhere in this Schedule.

SYDNEY MARKET AUTHORITY ACT 1968 No. 11**AMENDMENTS****(1) Section 11 (Powers, authorities, duties and functions of the Authority):**

- (a) From section 11 (5), omit “attempt to assign or encumber that benefit or, unless the express permission of the Authority given in writing is first obtained,”.
- (b) After “relates” in section 11 (5), insert “Unless the express permission of the Authority given in writing is first obtained”.

(2) Section 16 (Protection of farm produce and other merchandise):

From the definition of “authorised officer” in section 16 (1), omit “servant of the Authority”, insert instead “person”.

COMMENCEMENT

The amendments to the Sydney Market Authority Act 1968 commence on the date of assent to this Act.

EXPLANATORY NOTE**Authorised officers** (item (2))

Section 16 of the Act enables the Authority to authorise a servant of the Authority (an “authorised officer”) to exercise various functions in connection with public markets provided, maintained, controlled and managed by the Sydney Market Authority. (For example, an authorised person may stop and detain any person at a public market whom the authorised officer reasonably suspects of having committed an offence against the Act or any other offence in connection with the market or any property at the market.) Authorised officers may also issue penalty notices for certain parking offences and offences against the regulations.

The proposed amendment will ensure that the Authority may authorise any person it considers appropriate to carry out these functions.

The amended provision will read as follows:

“authorised officer” means a servant of the Authority person authorised in writing by the Authority to exercise the functions of an authorised officer under this section.

[Matter to be omitted is shown in italic type and matter to be inserted is shown in bold type.]

Statute law revision (item (1))

In its present form, section 11 (5) suggests that a person who has been granted a right of use and occupancy of a portion of a public market may not assign or encumber that right even though section 11 (6) states that the person may do so with the written permission of the Authority.

The proposed amendments recast section 11(5) to remove this inconsistency.

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

- (1) Long title:
 - (a) Omit “Secretary of the Ministry of Transport”, insert instead “Director-General of the Department of Transport”.
 - (b) Omit “a State Transit Co-ordination Advisory Council and”.
- (2) Section 3 (**Definitions**):
 - (a) Insert in section 3 (1) in alphabetical order

“Director-General” means the Director-General of the Department of Transport;
 - (b) omit the definition of “State Transit Co-ordination Advisory Council”.
- (3) Section 9 (**Constitution of SRA Board**):
 - (a) After section 9 (2) (a), insert:
 - (b) the Director-General; and
 - (b) Renumber section 9 (2) (b) as section 9 (2) (c).

(4) Section 25 (**Constitution of STA Board**):

- (a) After section 25 (2) (a), insert:
 - (b) the Director-General; and
- (b) Renumber section 25 (2) (b) as section 25 (2) (c).

(5) Section 36:

Omit the section, insert instead:

References to functions of Director-General

36. A reference in this Part to a function of the Director-General under this Part includes a reference to a function of the Director-General under an Act referred to in section 37.

(6) Section 37 (**Functions relating to the licensing and regulation of public passenger vehicles or ferries**):

- (a) Omit “Secretary” wherever occurring, insert instead “Director-General”.
- (b) Omit “, the Transfer of Public Vehicles (Taxation) Act 1969”.

(7) Section 38:

Omit the section, insert instead:

Functions of ensuring efficient, adequate etc. transport services

38. (1) The Director-General is to take all steps as are, within available financial resources, necessary to ensure the provision of safe, efficient, adequate and economic transport Services.

(2) The Director-General may, in particular, make and enter into contracts or arrangements under section 43 with any person operating transport services for the provision by that person of any such services.

(3) Nothing in this section derogates from the responsibilities of the State Rail Authority or the State Transit Authority in connection with the provision of transport services within the State, but each such Authority must:

- (a) consult, on a regular basis, with the Director-General in connection with the provision and operation of its transport services; and
- (b) as far as practicable, consult with the Director-General before making any major changes, or initiating any major action, affecting transport services.

(4) In this section, “**transport services**” means passenger services and freight services.

Sections 39–43:

omit. “Secretary” wherever occurring, insert instead “Director-General”.

- (9) **Part 5 (State Transit Co-ordination Advisory Council):**
Omit the Part.
- (10) Sections 40 (1), 42 (5), 43 (I), 60:
Omit “Secretary’s” wherever occurring, insert instead “Director-General’s” .
- (11) Sections 40 (3) (b), 42 (5):
Omit “Ministry of Transport” wherever occurring, insert instead “Department of Transport”.
- (12) Sections 54 (2) (a) (iii), 60, clause 3 (1) of Schedule 3:
Omit “Secretary of the Ministry of Transport” wherever occurring, insert instead “Director-General”.
- (13) Section 107 (**Definition of “transport authority”**):
Omit section 107 (d), insert instead:
(d) in relation to the functions of the Director-General under Part 4—the Director-General.
- (14) Section 112 (**Personal liability of certain persons**):
From the definition of “transport authority” in section 112 (2), omit “the State Transit co-ordination Advisory Council and”.
- (15) Schedule 1 (**Constitution and procedure of State Rail Authority Board and State Transit Authority Board**):
- (a) Clause 1 (**Definitions**):
After “Executive” in the definition of “appointed member”, insert “and the Director-General”.
- (b) Clause 1:
After “Executive” in the definition of “member”, insert “, the Director-General”.
- (16) Schedule 3 (**Provisions relating to State Transit Co-ordination Advisory Council and Roads and Traffic Advisory Council**):
- (a) From the heading, omit “STATE TRANSIT CO-ORDINATION ADVISORY COUNCIL AND”.
- (b) From the definition of “Advisory council” in clause 1, omit “the State Transit Co-ordination Advisory Council or”.
- (c) From the definition of “member” in clause 1, omit “an Advisory”, insert instead “the Advisory”.
- (d) Omit clause 3 (1).
- (e) From clauses 4 (3), 7 (e) and 10–14, omit “an Advisory” wherever occurring, insert instead “the Advisory”.

COMMENCEMENT

The amendments to the Transport Administration Act 1988 commence on the date of assent to this Act.

TRANSITIONAL

A person who held office as a member of the State Transit Co-ordination Advisory Council immediately before the date of assent to this Act ceases to hold office on that date.

A person who so ceases to hold office is not entitled to any remuneration or compensation because of the loss of that office.

EXPLANATORY NOTE**Constitution of SRA Board and STA Board** (items (3), (4) and (15))

The proposed amendments to sections 9 and 25 and Schedule 1 provide for the Director-General of the Department of Transport to be an ex-officio member of the State Rail Authority Board and the State Transit Authority Board.

Director-General's power to contract (item (7))

Section 43 currently enables the Director-General (on behalf of the Crown) to make or enter into contracts or arrangements with any person for the carrying out of works or the performance of services or the supply of goods or materials in connection with the Director-General's functions under Part 4. Those functions are set out in section 38 and currently relate to the provision of efficient, adequate and economic passenger services. The proposed substitution of section 38 will provide for the exercise by the Director-General of functions in respect of transport services (defined to include both passenger and freight services) and so enable the Director-General to make or enter contracts or arrangements under section 43 in connection with the provision of freight as well as passenger services for the community.

Abolition of State Transit Co-ordination Advisory Council (items (1) (b), (2) (b), (9), (14) and (16))

The repeal of Part 5 and consequential amendments to the long title and sections 3 and 112 and Schedule 3 abolish the State Transit Co-ordination Advisory Council.

The consultative procedures established by the Passenger Transport Act 1990 have removed the need for such a Council.

Statute law revision (items (1) (a), (2), (5), (6), (8) and (10)–(13))

The proposed amendment to section 37 (item (6) (b)) omits a reference to an Act which was repealed by the Passenger Transport Act 1990.

The other proposed amendments update references to the Director-General of the Department of Transport (who was formerly known as the Secretary of the Ministry of Transport).

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

(1) Section 18 (Surrender of licence):

After "may", insert "(subject to section 20 (9))".

(2) Section 20 (Notices to show cause):

After section 20 (8), insert:

(9) A licensee on whom notice to show cause has been served under this section may not surrender the licence unless the Commissioner has made a determination under section 21 in relation to each matter to which the notice relates.

COMMENCEMENT

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

EXPLANATORY NOTE

Section 20 of the Act provides for the service of notices to show cause as to why disciplinary measures should not be taken against a licensee. Section 21 sets out the disciplinary measures that the Commissioner for Consumer Affairs may take against the licensee following inquiry or investigation in relation to the matters to which the notice relates. The proposed amendments will ensure that a licensee on whom such a notice has been served cannot avoid the taking of disciplinary action by surrendering the licence held by the licensee before the Commissioner makes a determination in relation to the matters concerned.

TRUSTEE COMPANIES ACT 1964 No. 6

AMENDMENT

Section 16 (**Common trust funds**):

Omit section 16 (10) and (11), insert instead:

(10) The trustee company must, on at least one day during each calendar month, determine the value of the investments in each common trust fund as on that day.

(11) Investments in and withdrawals from a common trust fund during a calendar month are to be effected on the basis of the value of the investments in the fund on the date of the last valuation made under subsection (10).

COMMENCEMENT

The amendment to the Trustee Companies Act 1964 commences on a day to be appointed by proclamation.

EXPLANATORY NOTE

At present, a trustee company which operates common trust funds is required to make a valuation of the investments in each fund on the first day of each month. Investments in and withdrawals from those funds are effected on the basis of that valuation.

The proposed amendment permits a trustee company to value each fund at any time, provided that at least one valuation is made each month. This removes the inflexibility associated with having a fixed date for valuation by allowing investments and withdrawals to be adjusted having regard to fluctuations which may occur in the value of investments during the month.

UNIVERSITY OF WESTERN SYDNEY ACT 1988 No. 90**AMENDMENT****Section 9 (The Board):**

At the end of section 9 (4) (b), insert:

; and

(c) the presiding member of the Academic Board.

COMMENCEMENT

The amendment to the University of Western Sydney Act 1988 commences on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendment will include the presiding member of the Academic Board of the University as an official member of the Board of Governors of the University. This is in keeping with other Acts establishing universities.

**VOCATIONAL EDUCATION AND TRAINING ACCREDITATION
ACT 1990 No. 120****AMENDMENTS****(1) Section 5 (Constitution of the Board):**

From section 5 (3) (a), omit “Council of Technical and Further Education”. insert instead “TAFE Commission Board”.

(2) Sections 28A, 28B:

After section 28, insert:

Accounts

28A. There is to be established in the Special Deposits Account in the Treasury a Vocational Education and Training Accreditation Board Account:

(a) into which is to be deposited all money received by the Board; and

(b) from which is to be paid all amounts required to meet expenditure incurred in the administration of this Act.

Investment

28B. The Board may invest money held by it:

(a) in such manner as may be authorised by the Public Authorities (Financial Arrangements) Act 1987; or

(b) if that Act does not confer power to invest money so held, in any other manner authorised for the time being for the investment of trust funds and in any other manner approved by the Minister with the concurrence of the Treasurer.

COMMENCEMENT

The amendments to the Vocational Education and Training Accreditation Act 1990 commence on the date of assent to this Act.

EXPLANATORY NOTE**Financial arrangements of the Vocational Education and Training Accreditation Board** (item (2))

Proposed section 28A establishes a new account in the Special Deposits Account in the Treasury (into which will be deposited money received by the Board, such as fees for the accreditation of vocational courses, and from which will be paid the expenses incurred in the administration of the Act). Proposed section 28B will enable the Board to invest money held by it in the manner that is standard for public authorities.

Statute law revision (item (1))

The amendment to section 5 changes a reference to the Council of Technical and Further Education (which has been replaced by the TAFE Commission Board).

WATER BOARD ACT 1987 No. 141**AMENDMENTS****Schedule 5 (Provisions relating to the members of the Forum):**

- (a) From clause 1 (1) (g), omit “draining”, insert instead “drainage”.
- (b) From clause 1 (1) (g), omit “in consultation with the Minister for Housing”.
- (c) From clause 1 (1) (h), omit “the Minister for Housing.”.
- (d) After clause 1 (2). insert:

(3) If the Minister administering this Act is not the Minister for Housing, the representatives referred to in subclause (1) (g) and (h) are to be chosen by the Minister administering this Act in consultation with the Minister for Housing.

COMMENCEMENT

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

EXPLANATORY NOTE

Paragraphs (b)–(d) of the proposed amendments are consequential on the transfer of the administration of the Act to the Minister for Housing on 6 June 1991. The amendments ensure that the present requirement that the Minister administering the Act consult with the Minister for Housing, when choosing representatives of the housing and building construction industry and the urban land development industry as members of the Water Board Consultative Forum, will be preserved if the administration of the Act is transferred to some other Minister in the future.

Paragraph (a) of the proposed amendments substitutes a ward with a more accurate description of the activity concerned.

WATER SUPPLY AUTHORITIES ACT 1987 No. 140**AMENDMENT****Section 66 (Regulations):**

After section 66 (6), insert:

(7) A regulation may apply, adopt or incorporate any publication as in force from time to time.

COMMENCEMENT

The amendment to the Water Supply Authorities Act 1987 commences on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendment will enable the regulations to adopt publications as in force from time to time (for example, the Public Sector Management (General) Regulation 1988 provisions relating to conditions of service as amended from time to time could be applied to employees of the Authorities). The amendment is similar to the amendment to the Dangerous Goods Act 1975 set out elsewhere in this Schedule.

WESLEY COLLEGE INCORPORATION ACT 1910**AMENDMENTS**

- (1) Preamble to the Act, section 2:
Omit the Preamble and the section.
- (2) Renumber section 1 as section 2, and insert before section 2 (as renumbered) the following section:
Short title
1. This Act may be cited as the Wesley College Incorporation Act 1910.
- (3) Section 2 (**Definitions**), as renumbered
 - (a) Omit the definition of “laymen”, insert instead:
“clerical councillor” means a councillor who is an ordained minister of the church;
“corporation” means the body corporate constituted by this Act;
“lay member” means a person of or above the age of 18 years (not being a minister connected with the Synod of the church) who is a member of the church in New South Wales;
 - (b) After the definition of “Moderator”, insert:
“**non-church member**” means a person who is not a member of the church but who is a member of the teaching or administrative staff of the University of Sydney or a former student of the college;

“non-clerical councillor” means a councillor who is a lay member or a non-church member;

“student councillor” means a councillor who is a student within, and on the book of, the college;

(4) The whole Act:

Omit “said” wherever occurring.

(5) Section 3:

Omit the section, insert instead:

Constitution of corporation

3. (1) There is constituted by this Act a body corporate with the corporate name of the Principal and Councillors of Wesley College.

(2) The corporation is to consist of 26 councillors, of whom:

(a) 1 is to be the principal; and

(b) 7 are to be clerical councillors; and

(c) 16 are to be non-clerical councillors; and

(d) 2 are to be student councillors.

(6) Section 5 (**Principal**):

(a) Omit “connection” where secondly and thirdly occurring, insert instead “good standing”.

(b) Omit “in any part” wherever occurring, insert instead “in any other part”.

(c) After “world” where lastly occurring, insert “or a minister of any church formed by a union involving any of these churches”.

(d) Omit “his appointment”, insert instead “being appointed”.

(7) Section 6:

Omit the section, insert instead:

Presiding councillor

6. (1) Of the councillors, one is to be elected at a meeting of the council to preside at meetings of the council for a period of 1 year.

(2) If the presiding councillor is absent from a meeting of the council, another councillor from those present at the meeting is to be elected to preside at the meeting.

(8) Section 7:

Omit the section, insert instead:

Election and appointment of councillors

7. (1) The 25 councillors other than the Principal are to be elected of appointed as follows:

(a) the 7 clerical councillors are to be elected by the Synod,

(b) the 16 non-clerical councillors are to be elected by such graduates of the University of Sydney as continue to be on the books of the college;

(c) the 2 student councillors are to be appointed by the council following an election by the students within, and on the books of, the college (being an election conducted in such manner as the students determine for the purposes of nominating 2 students to be appointed as student councillors).

(2) The council may appoint the 2 students so nominated only if the council is satisfied that a majority of the students within, and on the books of, the college have elected the 2 nominees.

(3) Of the 16 non-clerical councillors, no more than 6 may be non-church members at any one time.

(9) Section 8:

Omit the section.

(10) Section 9 (**Constitution of council**):

From section 9, omit “eight”, insert instead “10”.

(11) Section 10 (**Tenure of office of clerical councillors**):

Omit “members of the said council”, insert instead “councillors”.

(12) Sections 11, 11A:

Omit section 11, insert instead:

Tenure of office of non-clerical councillors

11. A non-clerical councillor holds office for 4 years from the date on which the councillor is elected as a member of the council but is eligible for re-election.

Tenure of office of student councillors

11A. (1) A student councillor holds office for 1 year from the date on which the student is appointed as a member of the council but is eligible for re-appointment

(2) A student councillor ceases to hold office if the student ceases to be a student within, of on the books of, the college.

(13) Section 12 (**casual vacancies**):

(a) After “elect”, insert “, or in the case of a student councillor, appoint”.

(b) Omit “or layman”, insert instead “, lay member, non-church member or student”.

(c) omit “shall retain his”, insert instead “or appointed retains”.

- (14) Section 12A:
Omit the section.
- (15) Section 14 (**Removal or suspension of Principal**):
Omit “his”.
- (16) Section 16 (**By-laws**):
- (a) Omit the proviso.
 - (b) At the end of the section, insert:
 - (2) Any such by-law or rule is, within 30 days after being made by the council, to be sent to the Moderator to be laid before the next Synod.
- (17) Sections 18, 20:
Omit the sections.

COMMENCEMENT

The amendments to the Wesley College Incorporation Act 1910 commence on the date of assent to this Act.

TRANSITIONAL

The principal of the Wesley College who presided over meetings of the Council of the Wesley College under section 6 of the Wesley College Incorporation Act 1910 immediately before the date of assent to this Act is to continue to preside at meetings of that Council until a meeting is held to elect a councillor to preside at such meetings.

EXPLANATORY NOTE

The principal objects of the proposed amendments are to reconstitute the Council of the Wesley College with the addition of 2 student councillors, to simplify and update the provisions relating to the election and appointment of councillors and to modernise the Act by recasting existing provisions and by repealing spent provisions. In particular, the proposed amendments:

- (a) continue, as a corporation constituted by the Act, the body corporate with the corporate name of the principal and Councillors of Wesley College (item (5)); and
- (b) provide that a minister who is in good standing with the Synods of the Uniting Church in Australia or with the conferences of certain overseas churches eligible to be appointed as the principal of the college (item (6)); and
- (c) enable the council of the college to elect a councillor to preside at meetings of the council instead of the Principal automatically being the presiding councillor (item (7)); and
- (d) increase, from 24 to 26, the number of councillors of the college and provide that the 2 additional councillors are to be students of the college (item (8)); and
- (e) provide that the student councillors are to be appointed by the council following an election by the students of the college for the purpose of nominating 2 students for appointment (item (8)); and

- (f) restate the existing provision which enables non-members of the Uniting Church to be elected as councillors and increase, from 4 to 6, the number of such non-members of the church who may hold office as councillors at any one time (items (8) and (14)); and
- (g) remove an obsolete provision relating to the manner of election of the original lay councillors (item (9)); and
- (h) increase, from 8 to 10, the number of councillors that constitutes a quorum at a meeting of the council (item (10)); and
- (i) provide that student councillors hold office for 1 year and also restate the existing provision that non-clerical councillors (i.e. lay members and non-church members) hold office for 4 years (item (12)); and
- (j) remove the requirement that the by-laws and rules made by the council art to be transmitted to the Governor (at present, the Governor is not required to approve the by-laws and rules) (item (16)); and
- (k) replace terms in the Act which indicate the masculine gender with gender neutral terms (items (3) (a), (6) (d), (13) (b) and (c) and (15)); and
- (l) make other consequential and minor changes for the purposes of general law revision (for example, the Preamble to the Act is to be omitted because it no longer has any practical utility) (items (1), (2), (4), (11) and (17)).

WESTERN LANDS ACT 1901 No. 70

AMENDMENTS

- (1) Section 18D (**Provisions governing leases**):
Omit section 18D (1) (vi).
- (2) Section 49 (**Offences**):
After “18D” wherever occurring in section 49 (1) (b), (c), (e), (g) and (h), insert “(1)”.

COMMENCEMENT

The amendments to the Western Lands Act 1901 commence on the date of assent to this Act.

EXPLANATORY NOTE

Fences (item (1))

The proposed amendment to section 18D removes the requirement that a lessee under the Act must use iron or steel posts with wooden strainers for the erection or repair of all fences on the lead land. There is now a wider range of alternative materials available (for example, treated timber, concrete and fibreglass) for use as posts for facing and which in many cases are more suitable for use in the Western Division. The amendment will not affect section 18A of the Act which requires lessees to adequately face the boundaries of leased land.

Statute law revision (item (2))

The proposed amendments to section 49 correct cross-reference to provisions of section 18D (1).

WORKERS COMPENSATION ACT 1987 No. 70**AMENDMENTS****(1) Section 3 (Definitions):**

Omit paragraph (a) of the definition of “worker” in section 3 (1), insert instead:

- (a) a member of the Police Service who is a contributor to the Police Superannuation Fund under the Police Regulation (Superannuation) Act 1906;

(2) Section 145 (Employer or insurer to reimburse Authority):

After section 145 (6), insert:

(7) An order by the Compensation Court that the Authority is to be reimbursed by a person named in the determination concerned may be enforced under section 23 of the Compensation Court Act 1984.

(3) Section 15 1A (Election-damages or “Table of Disabilities” compensation):

After “section” in Section 151A (1), insert “and in section 151V”,

(4) Section 151V (Election provisions not to apply):

- (a) From section 151V (1), omit “Maims”, insert instead “Disabilities”.
- (b) Omit section 151V (3).

(5) Section 151Y (Funding of self-insurers, government employers etc. for retrospective claims):

From section 151Y (3) (b), omit “a periodic actuarial investigation of those funds under that Division”, insert instead “such financial investigation as the Authority considers appropriate”.

(6) Section 172 (Recovery of unpaid premiums):

From section 172 (1), Omit “15 per cent per annum compounded quarterly”, insert instead “1.2% per month compounded monthly”.

(7) Section 185 (Assignment of policies of former insurers etc.):

After section 185 (8), insert:

(9) If an insurance policy is assigned under this section, the former insurer concerned must, subject to any directions of the Authority, provide the licensed insurer to which the policy is assigned with:

- (a) copies of all documents relating to the policy or to claims under it; and
- (b) copies of any accounting records (within the meaning of section 201) relating to the statutory fund concerned.

Maximum penalty: \$2,000.

- (8) Sections 213 (1) and 214–216:
Omit “Treasurer” wherever occurring, insert instead “Authority”.
- (9) Section 213 (2):
Omit “authorise the Treasurer to”.
- (10) Schedule 6 (**Savings, transitional and other provisions**):
From the heading to Part 6, omit “Maims”, insert instead “Disabilities”.

COMMENCEMENT

Item (1) of the amendments to the Workers Compensation Act 1987 is taken to have commenced on 1 July 1990 (the commencement of the Police Service Act 1990).
Items (2) and (5)–(9) of the amendments to the Workers Compensation Act 1987 commence on a day or days to be appointed by proclamation.
Items (3) and (4) (b) of the amendments to that Act are taken to have commenced on 1 February 1990 (the day on which Schedule 1 (1) to the Workers Compensation (Benefits) Amendment Act 1989 commenced).
Items (4) (a) and (10) of the amendments to the Workers Compensation Act 1987 commence on the date of assent to this Act.

TRANSITIONAL

Item (6) of the amendments to the Workers Compensation Act 1987 applies to an unpaid premium for a policy of insurance issued or renewed under the Act before the commencement of the item but only in respect of my period after that commencement when the premium remains unpaid
Items (8) and (9) of the amendments to that Act apply to deposits of self-insurers (and to any bank guarantee or other matter concerning such deposits) whether made before or after the commencement of those items.

EXPLANATORY NOTE**Definition of “worker” (item (1))**

The Police and Superannuation Legislation (Amendment) Act 1990 amended the definition of “worker” in section 3 of the Workers Compensation Act 1987 to take account of the establishment of the Police Service which consists of both police officers and administrative officers. The amendment had the inadvertent effect of excluding from the definition certain persons who were formerly included within it. The proposed amendment to section 3 makes it clear that, as was intended, the definition of “worker” for the purposes of the Act does not include such an administrative officer who is a contributor to the Police Superannuation Fund and will also ensure that employees of the Police Association who were formerly police officers and who contribute to the Fund will not be excluded from the definition

Enforcement of orders by the Compensation Court (item (2))

The proposed amendment to section 145 provides that an order by the Compensation Court that the WorkCover Authority is to be reimbursed by an uninsured employer in respect of a payment to an injured worker under the Uninsured Liability and Indemnity scheme (which is administered by the Authority) may be enforced under section 23 of the Compensation Court Act 1984. At present, it can be argued that section 23 does not apply to the enforcement of such orders because of the operation

of the general recovery provisions of section 26 of the WorkCover Administration Act 1989. Section 23 deals with the enforcement of awards and orders of the Compensation Court and enables the registrar of the Court to issue a certificate to the person in whose favour the award or order has been made. Such a certificate may then be filed at the District Court where judgment for the amount concerned is entered.

The proposed amendment will mean that the WorkCover Authority does not need to commence proceedings to recover the amount as a debt in a court when the Compensation Court has already made an order for the Authority to be reimbursed for the amount.

Application of common law election provisions (items (3) and (4) (b))

Section 151A requires an injured worker to elect between the recovery of common law damages or the lump sum payment of workers compensation for so-called "Table of Disabilities" injuries. "Damages" in that section does not include damages under the Motor Accidents Act 1988 (i.e. in respect of workers injured in motor accidents). Section 151V excludes, in the case of "retrospective claims" (i.e. injuries received after common law rights were abolished on 30 June 1987 and before 30 June 1989) the election between common law damages and "Table of Disabilities" compensation. The proposed amendments to sections 151A and 151V (3) make it clear that the definition of "damages" has the same meaning in both sections and that motor accident cases are specifically excluded under both sections. As these amendments are merely clarifying that the sections are intended to be read together, the amendments are taken to have commenced on 1 February 1990 when the relevant amendments relating to common law rights were commenced.

Self-insurers' security deposits (items (8) and (9))

The proposed amendments to sections 213–216 transfer from the Treasurer to the WorkCover Authority the functions involving the administration of self-insurers' security deposits. Such deposits are required on the grant of the licence to the self-insurer (and at such other times as the Authority may direct) and the Authority presently determines the amounts to be deposited. The proposed amendments are consistent with the Authority's existing licensing functions with respect to self-insurers.

Miscellaneous (items (4) (a), (5)–(7) and (10))

The proposed amendment to section 151Y (which presently provides for the funding of retrospective common law claims from premiums in the statutory funds of licensed insurers) will enable the WorkCover Authority to direct payments out of the statutory funds after it conducts an appropriate financial investigation of the funds. This will replace the present requirement that the Authority is to conduct a "full-scale" periodic actuarial investigation of the statutory funds concerned and will provide the Authority with flexibility in conducting the appropriate investigation. This is consistent with section 204 (5) of the Act which enables the Authority to make its own investigation in determining the financial position of a statutory fund of an insurer.

Section 172 presently provides that interest on unpaid insurance premiums is calculated at the rate of 15% p.a. compounded quarterly. The proposed amendment to that section provides instead for the interest to be calculated at the rate of 1.2% per month compounded monthly. The new rate is an easier and less complicated method of calculating interest and, because it does not increase the actual amount that may be payable as interest on unpaid premiums (and in fact will result in a slight reduction of that amount), the proposed amendment will apply to unpaid premiums for existing policies.

The proposed amendment to section 185 (which presently authorises the Authority to assign the policies of insurance of former insurers to other current licensed insurers) provides that when such an insurance policy is assigned, the former insurer is to provide the licensed insurer to which the policy is assigned with copies of all documents relating to the policy or claims under it and with any accounting records. The proposed amendment is consistent with section 230 of the Act which requires the liquidator of an insolvent insurer to deliver to the Authority all documents relating to policies of insurance issued by the insolvent insurer.

The proposed amendments to section 151V (1) and Schedule 6 replace references to a word with a more appropriate and accurate description of the condition concerned.

**WORKERS COMPENSATION (BENEFITS) AMENDMENT
ACT 1989 No. 133**

AMENDMENT

From Schedule 9 (**Amendment of Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987**), omit item (7) (b).

COMMENCEMENT

The amendment to the Workers Compensation (Benefits) Amendment Act 1989 commences on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendment omits an uncommenced amendment to the Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987. The uncommenced amendment provides for the adoption of provisions contained in the Workers Compensation Act 1987 relating to the reduction of works compensation benefits where additional or alternative compensation is payable (Le. provisions intended to discourage “top-up” arrangements). It was not intended that these provisions apply to fire fighters and community service volunteers.

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

(Sec. 3)

ABORIGINAL LAND RIGHTS ACT 1983 No. 42

AMENDMENTS

(1) Section 56B (**Disclosure of pecuniary interests**):

After “Aboriginal” in section 56B (1) (c), insert “Land”.

(2) Section 58A (**Dissolution of Regional or Local Aboriginal Land Councils**):

From section 58A (4) (b), omit “council”, insert instead “Council”.

COMMENCEMENT

The amendments to the Aboriginal Land Rights Act 1983 commence on the date of assent to this Act

EXPLANATORY NOTE

The proposed amendments correct references to Local Aboriginal Land Councils.

ADOPTION INFORMATION ACT 1990 No. 63**AMENDMENT**

Section 34 (**Location of persons not registered**):

Omit “(4)” where secondly occurring, insert instead “(5)”.

COMMENCEMENT

The amendment to the Adoption Information Act 1990 commences on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendment removes a duplication in the numbering of subsections.

ANTI-DISCRIMINATION ACT 1977 No. 48**AMENDMENT**

Section 49ZW (**Provision requiring retirement on basis of age of no effect**):

From section 49ZW (3), omit “subsection”, insert instead “section”.

COMMENCEMENT

The amendment to the Anti-Discrimination Act 1977 commences on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendment corrects a reference to a provision.

AUCTIONEERS AND AGENTS ACT 1941 No. 28**AMENDMENT**

Section 23 (**Procedure**):

From section 23 (9) (b), omit “a a Magistrate”, insert instead “a Magistrate”.

COMMENCEMENT

The amendment to the Auctioneers and Agents Act 1941 commences on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendment omits an unnecessary word.

CONSTITUTION AND PARLIAMENTARY ELECTORATES AND ELECTIONS (AMENDMENT) ACT 1990 No. 111**AMENDMENTS****Schedule 1 (Amendment of Parliamentary Electorates and Elections Act 1912):**

- (a) From item (32), omit “ ‘Independent’; and”, insert instead “ ‘Independent’”.
- (b) From item (43) (c), omit “the party” where firstly occurring, insert instead “the party or”.
- (c) From item (43) (d), omit “151G (8) (a) (iii)”, insert instead “151G (8) (a) (ii)”.

COMMENCEMENT

The amendments to the Constitution and Parliamentary Electorates and Elections (Amendment) Act 1990 are taken to have commenced on 29 March 1991 (the day on which Schedule 1 to that Act commenced).

EXPLANATORY NOTE

The proposed amendments correct punctuation (item (a)), omit an unnecessary word (item (b)) and correct an incorporating direction (item (c)).

CRIMINAL APPEAL ACT 1912 No. 16**AMENDMENT****Section 2 (Definitions):**

Omit section 2 (2) (a1).

COMMENCEMENT

The amendment to the Criminal Appeal Act 1912 commences on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendment omits matter treating certain penalties or orders imposed under section 428P (1A) of the Crimes Act 1900 as a sentence for the purpose of the Criminal Appeal Act 1912. The matter is superfluous as the Crimes Act provision has been repealed, and replaced by provisions of the Mental Health (criminal Procedure) Act 1990.

DRUG OFFENSIVE ACT 1987 No. 119**AMENDMENT****Section 3 (Definitions):**

From section 3 (1), omit the definition of “Director”, insert instead:
 “Director” means the Director of the Drug and Alcohol Directorate holding office as such under the Public Sector Management Act 1988;

COMMENCEMENT

The amendment to the Drug Offensive Act 1987 commences on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendment is consequential on the change of the name of the Directorate of the Drug Offensive to the Drug and Alcohol Directorate.

GAS ACT 1986 No. 213**AMENDMENT****Section 139 (Regulations):**

From section 139 (5), omit “\$2,000”, insert instead “20 penalty units”.

COMMENCEMENT

The amendment to the Gas Act 1986 commences on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendment converts a maximum penalty expressed in dollars to its penalty unit equivalent to make it consistent with all other maximum penalty provisions in the Act which are expressed in penalty units.

HAY IRRIGATION ACT 1902 No. 57**AMENDMENT**

Section 24 (Water-way through land not to confer right to water on owner):

Omit “Commission”, insert instead “Ministerial Corporation”.

COMMENCEMENT

The amendment to the Hay Irrigation Act 1902 commences on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendment updates a reference to the Water Resources Commission (which has been replaced by the Water Administration Ministerial corporation).

LEGAL PROFESSION ACT 1987 No. 109**AMENDMENT**

Section 184 (Considerations affecting determinations):

From section 184 (a) (ii), omit “Australian Conciliation and Arbitration Commission”, insert instead “Australian Industrial Relations Commission”.

COMMENCEMENT

The amendment to the Legal Profession Act 1987 is taken to have commenced on 1 March 1989 (the day on which section 8 of the Industrial Relations Act 1988 of the Commonwealth commenced).

EXPLANATORY NOTE

The proposed amendment updates a reference to the Australian Conciliation and Arbitration Commission (which has been replaced by the Australian Industrial Relations Commission).

LOCAL COURTS (CIVIL CLAIMS) ACT 1970 No. 11**AMENDMENT****Section 12 (Limits of jurisdiction):**

Omit section 12 (2).

COMMENCEMENT

The amendment to the Local Courts (Civil Claims) Act 1970 is taken to have commenced on 1 November 1991 (the day on which Schedule 3 to the Courts Legislation (civil Procedure) Amendment Act 1991 commenced).

EXPLANATORY NOTE

By an amendment made to the Local Courts (Civil Claims Act 1970 by the Courts Legislation (Civil Procedure) Amendment Act 1991, the general limit on a Local Court's civil jurisdiction was increased from \$10,000 to \$40,000 and the limit on a Local Court's jurisdiction in motor accident cases was increased from \$20,000 to \$40,000. Because the limit for all civil cases is now the same, there is no necessity to distinguish between motor accident cases and other cases. Section 12 (2), which deals with motor accident cases, is therefore repealed.

**LOCAL GOVERNMENT (THEATRES AND PUBLIC HALLS)
AMENDMENT ACT 1989 No. 10****AMENDMENT****Schedule 1 (Amendments):**

Omit Schedule 1 (5).

COMMENCEMENT

The amendment to the Local Government (Theatres and Public Halls Amendment Act 1989 commences on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendment omits an uncommenced provision which is no longer of practical utility.

MISCELLANEOUS ACTS (PUBLIC HEALTH) REPEAL AND AMENDMENT ACT 1990 No. 123**AMENDMENT****Schedule 2 (Amendments):**

Omit “Public Health Act 1990” wherever occurring, insert instead “Public Health Act 1991”.

COMMENCEMENT

The amendments to the Miscellaneous Acts (Public Health) Repeal and Amendment Act 1990 commence on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendments correct references to an Act.

MOTOR VEHICLES TAXATION ACT 1988 No. 111**AMENDMENT****Section 17 (Exemptions granted by Minister):**

From section 17 (1) (m), omit “a State school or registered school (within the meaning of the Education and Public Instruction Act 1987)”, insert instead “a government school or a registered non-government school (within the meaning of the Education Reform Act 1990)”.

COMMENCEMENT

The amendment to the Motor Vehicles Taxation Act 1988 commences on the date of assent to this Act.

EXPLANATORY NOTE

Under section 17 of the Act, the Minister may grant an exemption (wholly or partly) from motor vehicle tax in respect of, among other things, motor vehicles used solely or principally by schools for the purpose of driver education of school children. With the repeal of the Education and Public Instruction Act 1987 by the Education Reform Act 1990, certain references under the former Act to State and registered schools have been superseded. The purpose of this amendment is to update the references so that they are consistent with the terminology used in the Education Reform Act 1990.

NEW SOUTH WALES LOTTERIES ACT 1990 No. 78**AMENDMENT****Schedule 3 (Savings, transitional and other provisions):**

Omit clause 8 (4) and (5).

COMMENCEMENT

The amendments to the New South Wales Lotteries Act 1990 commence on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendments remove superfluous provisions applying to officers of the State Lotteries Office who have become members of staff of NSW Lotteries.

**POLICE AND SUPERANNUATION LEGISLATION (AMENDMENT)
ACT 1990 No. 48****AMENDMENT****Schedule 1 (Amendment of Acts relating to police):**

From item (1) of the amendments to the State Emergency and Rescue Management Act 1989, omit “organisations”, insert instead “organisation”.

COMMENCEMENT

The amendment to the Police and Superannuation Legislation (Amendment) Act 1990 is taken to have commenced on 1 July 1990 (the day on which that Act commenced).

EXPLANATORY NOTE

The proposed amendment corrects an incorporating direction.

PUBLIC HEALTH ACT 1991 No. 10**AMENDMENT****Section 72 (Powers of entry):**

From section 72 (2) (a), omit “1990”, insert instead “1991”.

COMMENCEMENT

The amendment to the Public Health Act 1991 commences on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendment corrects a reference to the Act.

SENTENCING ACT 1989 No. 87**AMENDMENT****Schedule 1 (Provisions relating to the members of the Board,
divisions of the Board and procedure):**

From clause 6 (1) (h), omit “or”

COMMENCEMENT

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

EXPLANATORY NOTE

The proposed amendment omits an unnecessary word.

**STATE EMERGENCY AND RESCUE MANAGEMENT ACT
1989 No. 165****AMENDMENTS**

- (1) Section 54 (**Accreditation of rescue units by Minister**):
From section 54 (3), omit “affect”, insert instead “effect”.
- (2) Section 62 (**Personal liability of members of management organisations etc.**):
From section 62 (b), omit “member),”, insert instead “member);
or”

COMMENCEMENT

The amendments to the State Emergency and Rescue Management Act 1988 commence on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendments correct a spelling error (item (1)) and insert the appropriate conjunction in a list of alternatives (item (2)).

STATUTE LAW (MISCELLANEOUS PROVISIONS) ACT 1991 No. 17**AMENDMENT**

- Schedule 1 (**Minor amendments**):
From item (2) (a) of the amendments to the Superannuation Act 1916, omit “GF”, insert instead “CF”.

COMMENCEMENT

The amendment to the Statute Law (Miscellaneous provisions) Act 1991 is taken to have commenced on 3 May 1991 (the day on which item (2) (a) of the amendments to the Superannuation Act 1916 in Schedule 1 to that Act commenced).

EXPLANATORY NOTE

The proposed amendment corrects an incorporating direction.

SUMMARY OFFENCES ACT 1988 No. 25**AMENDMENTS**

- (1) section 3 (**Definitions**):
From paragraph (a) of the definition of “prostitution” in section 3 (1), omit “section 61A”, insert instead “section 61H”.
- (2) Section 20 (**Public acts of prostitution**):
From paragraph (a) of the definition of “act of prostitution” in section 20 (5), omit “section 61A”, insert instead “section 61H”.

COMMENCEMENT

The amendments to the Summary Offences Act 1988 commence on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendments substitute references to a repealed section of the Crimes Act 1900 with references to the section that replaced it.

VALUATION OF LAND ACT 1916 No. 2**AMENDMENT**

Section 67 (**Valuation for the purposes of Fire Brigades Act 1989**):

From section 67 (1), omit “section 6”. insert instead “section 5”.

COMMENCEMENT

The amendment to the Valuation of Land Act 1916 commences on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendment corrects a cross-reference.

WENTWORTH IRRIGATION ACT 1890 54 VIC. No. 7**AMENDMENT**

Long title:

Omit “Water Resources Commission, to enable the Commission”, insert instead “Water Administration Ministerial Corporation, to enable it”.

COMMENCEMENT

The amendment to the Wentworth Irrigation Act 1890 commences on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendment up-dates a references to the Water Resources Commission (which has been replaced by the Ministerial Corporation).

WORKERS COMPENSATION (BUSH FIRE, EMERGENCY AND RESCUE SERVICES) ACT 1987 No. 83**AMENDMENTS**

Sections 16 and 30 (**Hearing of claims**):

Before “Compensation Court” where secondly occurring in section 16 (6) and 30 (6), insert “the”.

COMMENCEMENT

The amendments to the Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987 commence on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendments rectify grammatical errors consisting of the omission of the definite article in each case.

SCHEDULE 3—REPEALS

(Sec. 4)

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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 or which amends a repealed Act
- ** indicates repeal of Act that is no longer of public utility
- *** indicates repeal of Act containing uncommenced provisions

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 or repeal on acts done or decisions made

1. 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

2. (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 transitional or saving 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.

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*[Minister's second reading speech made in—
Legislative Assembly on 12 November 1991
Legislative Council on 4 December 1991]*