



New South Wales

# Statute Law (Miscellaneous Provisions) Act 2001 No 56

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New South Wales

## **Statute Law (Miscellaneous Provisions) Act 2001 No 56**

Act No 56, 2001

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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 July 2001]

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**The Legislature of New South Wales enacts:****1 Name of Act**

This Act is the *Statute Law (Miscellaneous Provisions) Act 2001*.

**2 Commencement**

- (1) This Act commences on the date of assent, except as provided by subsection (2).
- (2) The amendments made by Schedules 1 and 2 commence on the day or days specified in those Schedules in relation to the amendments concerned. If a commencement day is not specified, the amendments commence on the date of assent.

**3 Amendments**

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

**4 Repeals**

Each Act specified in Schedule 4 is, to the extent indicated in that Schedule, repealed.

**5 General savings, transitional and other provisions**

Schedule 5 has effect.

**6 Explanatory notes**

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

## Schedule 1 Minor amendments

(Section 3)

### 1.1 Art Gallery of New South Wales Act 1980 No 65

#### [1] Section 6 Appointment and procedure

Omit “9 trustees” from section 6 (1). Insert instead “11 trustees”.

#### [2] Schedule 1 Provisions relating to trustees and procedure of the Trust

Omit clause 9 (2) from Schedule 1.

#### [3] Schedule 1, clause 9 (3)

Omit “5 trustees”. Insert instead “6 trustees”.

#### [4] Schedule 3 Savings, transitional and other provisions

Insert at the end of the Schedule:

#### 9 Members of Trust

The amendment to section 6 made by the *Statute Law (Miscellaneous Provisions) Act 2001* does not affect the appointment or term of office of a person who held office as a trustee immediately before the amendment took effect.

#### 10 Additional trustees to take office on appointment

Clause 4 (5) of Schedule 1 does not apply to the initial term of a trustee appointed as a consequence of the amendment to section 6 made by the *Statute Law (Miscellaneous Provisions) Act 2001*.

#### Explanatory note

Section 6 of the *Art Gallery of New South Wales Act 1980* provides that the Art Gallery of New South Wales Trust is to consist of 9 trustees appointed by the Governor on the recommendation of the Minister. Clause 9 of Schedule 1 to the Act provides that the quorum for a meeting of the Trust is 5 trustees.

Item [1] of the proposed amendments increases the number of the trustees to 11. Item [3] consequently increases the quorum for meetings of the Trust to 6 trustees.

Item [2] omits a spent provision that required the Minister to call the first meeting of the Trust by giving notice to the first 9 trustees of the Trust.

Item [4] inserts a transitional provision and also provides that the initial term of office for the additional trustees takes effect on their appointment (and not on 1 January of the year following that in which they are appointed as is the case with the other trustees).

## **1.2 Conveyancers Licensing Act 1995 No 57**

### **Section 27 Audits**

Insert after section 27 (4):

- (4A) A licensee who, during any year ending 31 March (commencing with the year ending 31 March 2002) neither received nor held any money for or on behalf of any other person, must, within 3 months after the end of the year concerned, make and lodge with the Director-General a statutory declaration to that effect.

#### **Explanatory note**

The proposed amendment requires a licensed conveyancer who has not received or held money on behalf of another person during any year ending 31 March to lodge with the Director-General of the Department of Fair Trading a statutory declaration to that effect.

## **1.3 Environmental Planning and Assessment Act 1979 No 203**

- [1] **Sections 4 (5), 23 (1), 50 (2), 70 (1), 96A (3) (a) (i) and (8), 115B (8), 115BA (9) (a), 115BAA (3), 116E (3) and (7), 118A (2A), 118B and 121ZJ (12)**

Omit “Director’s” wherever occurring. Insert instead “Director-General’s”.

- [2] **Section 76 Development that does not need consent**

Omit “ceases to have effect in relation to land if the land becomes” from section 76 (3).

Insert instead “has no effect at any time during which the land is”.

- [3] **Section 76A Development that needs consent**

Omit “ceases to have effect in relation to development or land if the development or land becomes” from section 76A (6).

Insert instead “has no effect in relation to development or land at any time during which the development or land is”.

- [4] **Section 76B Development that is prohibited**

Insert “an environmental planning instrument provides that” after “If”.

- [5] **Section 76B (a)**

Omit “an environmental planning instrument provides that”.

- [6] **Section 79B Consultation and concurrence**

Omit “the Director-General” from section 79B (4) (b) wherever occurring. Insert instead “that Director-General”.

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**[7] Section 82A Review of determination**

Insert at the end of section 82A (1) (c):

, or

- (d) a determination made by the council under section 116E in respect of an application by the Crown.

**[8] Section 112C Concurrence of or consultation with Director-General of National Parks and Wildlife if Minister is not determining authority**

Omit “the Director-General’s” from section 112C (2) (a).

Insert instead “that Director-General’s”.

**[9] Sections 115K (6), 115L (4), (5) and (6), 115O (3) (b)**

Omit “Director” wherever occurring. Insert instead “Director-General”.

**[10] Section 121N Notice of right to appeal against order**

Omit “or any other person affected by the order” from section 121N (a).

**Explanatory note**

**Review of determinations**

Section 82A of the *Environmental Planning and Assessment Act 1979* enables a person who has applied to a local council for consent to carry out development to request a review of the council’s determination of that application (other than a determination with respect to certain matters specified in the section).

Item [7] of the proposed amendments amends section 82A of the Act to remove any suggestion that an applicant may request a council to review a determination, made in accordance with the written approval of the Minister, of a Crown application (that is, a determination under section 116E of the Act).

**Appeals against orders**

Section 121ZK of the Act enables a person on whom an order is served under Division 2A of Part 6 of the Act (requiring the person to do or to refrain from doing certain things specified in the Table to section 121B) to appeal against the order to the Land and Environment Court. Section 121N requires a person giving notice of such an order to inform the person receiving the notice of the rights of appeal against the order, including informing that person that he or she, or any other person affected by the order, may appeal against the order.

Item [10] of the proposed amendments amends section 121N to provide that a notice of a right to appeal against an order is consistent with the actual right of appeal under section 121ZK in that only the person receiving the order has such a right.

**Statute law revision**

Items [1] and [9] of the proposed amendments update references to a position.

Items [2] and [3] make it clear that provisions of the Act with respect to exempt and complying development that do not apply to development or land when it is of a particular status will again apply to the development or land once it is no longer of that status.

Item [4] corrects the ranging of section 76B by way of statute law revision to make it clear that the opening words of that section apply to paragraph (b) of the section as well as to paragraph (a). Item [5] makes a consequential amendment.

Items [6] and [8] clarify the references to the Director-General of the Department of Urban Affairs and Planning and the Director-General of National Parks and Wildlife in sections of the Act in which both Directors-General are mentioned.

## 1.4 Fair Trading Tribunal Act 1998 No 161

### Section 46 Power to correct decisions of Tribunal

Omit “senior” from section 46 (4).

#### Explanatory note

Section 46 of the *Fair Trading Tribunal Act 1998* enables the Chairperson or the senior member of the Fair Trading Tribunal who presided at proceedings in relation to a decision to direct the Registrar of the Tribunal to correct obvious errors, such as typographical errors, in the text of a notice of a decision or statement of reasons for the decision.

The proposed amendment enables any member of the Tribunal who presided at the proceedings to give such a direction.

## 1.5 Fisheries Management Act 1994 No 38

### [1] Section 4 Definitions

Omit the definition of *Aboriginal* from section 4 (1). Insert instead:

*Aboriginal person* means a person who:

- (a) is a member of the Aboriginal race of Australia, and
- (b) identifies as an Aboriginal person, and
- (c) is accepted by the Aboriginal community as an Aboriginal person.

### [2] Section 4 (2)

Omit “*Interpretation Act 1987*” from the note to the subsection.  
Insert instead “*Crimes (Sentencing Procedure) Act 1999*”.

### [3] Section 34C Recreational fishers required to pay fishing fee

Omit “Aboriginal (within the meaning of the *Aboriginal Land Rights Act 1983*)” from section 34C (2) (f).  
Insert instead “Aboriginal person”.

### [4] Section 34E Amount of fishing fee

Re-number paragraph (a) where secondly occurring in section 34E (1) as paragraph (a1).



**[5] Section 157A**

Insert after section 157:

**157A Minister may appoint advisory council as committee**

- (1) The Minister may, if the Minister considers it appropriate to do so, appoint any advisory council established under section 229 for the aquaculture sector of the fishing industry as either or both of the following:
  - (a) the committee required to be appointed under section 156 (6),
  - (b) the committee required to be appointed under section 157 (4).
- (2) An advisory council may be so appointed only if its membership meets the requirement of section 156 (6) or 157 (7), as the case may be, with respect to the majority of members of the committee.

**[6] Schedule 5**

Omit the heading to the Schedule. Insert instead:

**Schedule 5 Vulnerable species**

(Section 220C)

**[7] Schedule 6**

Omit the heading to the Schedule. Insert instead:

**Schedule 6 Key threatening processes**

(Section 220C)

**Explanatory note**

**Definition of “Aboriginal”**

Section 4 (Definitions) of the *Fisheries Management Act 1994* provides that, in the Act, **Aboriginal** has the same meaning as in the *Aboriginal Land Rights Act 1983*. Item [1] of the proposed amendments updates the definition. Item [3] makes a consequential amendment.

**Advisory council for aquaculture sector**

Item [5] of the proposed amendments enables the Minister to appoint any advisory council established under section 229 of the Act for the aquaculture sector of the fishing industry as either or both of the committees required to be appointed under section 156 (6) (to advise the Minister about the level of services provided to the aquaculture industry for certain purposes and about the amount of contributions for the costs of administration directly attributable to the aquaculture industry) and section 157 (4) (to advise the Minister on the amount of contributions

payable into any trust account established for annual contributions made by permit holders and the expenditure of money in the trust account). The requirements under sections 156 (6) and 157 (7) of the Act that the majority of the members of the committees be representatives of the aquaculture industry continue to apply.

**Statute law revision**

Item [2] of the proposed amendments updates a reference to an Act.

Item [4] of the proposed amendments corrects the duplication of a paragraph number.

Items [6] and [7] amend the headings to certain Schedules to the Act to include the enabling section reference for those Schedules.

## 1.6 Freedom of Information Act 1989 No 5

### Sections 7 (1) (a) and (2) and 8 (1) (a) and (3) (b)

Insert “or continued” after “established” wherever occurring.

**Explanatory note**

Sections 7 and 8 of the *Freedom of Information Act 1989* define **public authority** and **public office** as including bodies and offices established for a public purpose by or under the provisions of a legislative instrument. Section 6 (1) of the Act defines a legislative instrument as a Public Act or an instrument made under a Public Act.

The proposed amendment extends the meanings of **public authority** and **public office** to include bodies (such as the Supreme Court of New South Wales) and offices established for a public purpose otherwise than by or under a legislative instrument but continued by or under such an instrument. The amendment does not apply the Act to the judicial functions of courts and tribunals (see section 10 of the Act).

## 1.7 Law and Justice Foundation Act 2000 No 97

### [1] Section 22

Insert after section 21:

#### 22 Regulations

The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

### [2] Schedule 1 Constitution and procedure of Board

Omit “one of the 3 persons” from clause 2 (4).

Insert instead “2 of the 3 persons”.

**Explanatory note**

**Regulations**

Item [1] of the proposed amendments inserts the usual general regulation-making power into the *Law and Justice Foundation Act 2000*.

**Board of the Foundation**

Clause 2 (1) of Schedule 1 to the *Law and Justice Foundation Act 2000* provides that of the 6 members to be appointed by the Attorney General to the Board of the Law and Justice Foundation of New South Wales, 3 are to be persons who have, in the opinion of the Attorney General, special expertise. Clause 2 (4) of that Schedule provides that not more than one of those 3 persons may be a legal practitioner.

Item [2] of the proposed amendments increases, from one to 2, the number of such persons who may be legal practitioners.

**1.8 Local Government Act 1993 No 30**

**[1] Section 124 Orders**

Omit all the matter relating to the *Dog Act 1966* from the note to section 124.

**[2] Section 310A Postal votes**

Omit “counted” from section 310A.  
Insert instead “accepted for further scrutiny”.

**[3] Section 310A (a)**

Insert “by the returning officer” after “received”.

**[4] Section 310A (b)**

Insert “the returning officer is satisfied that” before “the voter”.

**[5] Chapter 16 Offences**

Omit “section 56 of the *Interpretation Act 1987*” from the last paragraph of the Introduction to Chapter 16.  
Insert instead “section 17 of the *Crimes (Sentencing Procedure) Act 1999*”.

**[6] Schedule 6 Regulations**

Insert “and other” after “pecuniary” in item 19A.

**Commencement**

The amendments to section 310A of the *Local Government Act 1993* commence on the date of commencement of Schedule 1 [6] to the *Local Government Amendment Act 2000*.

**Explanatory note**

**Postal votes**

Section 310A of the *Local Government Act 1993* (as proposed to be inserted by Schedule 1 [6] to the *Local Government Amendment Act 2000*) provides that a postal vote in an election under that Act must be “counted” if it is received before 6 pm on the first business day after the close of a poll and the voter has indicated, in accordance with the regulations, that the postal vote was completed before the close of the poll.

Item [2] of the proposed amendments replaces the word “counted” with the words “accepted for further scrutiny” to make it clear that a postal vote that is informal is not required to be included in the final count for such an election.

Items [3] and [4] of the proposed amendments make it clear that it is the returning officer who is to receive the postal vote by the required time and who must be satisfied that the voter has indicated that a postal vote was completed before the close of the poll.

**Disclosure of interests**

Schedule 6 to the *Local Government Act 1993* lists specific matters for or in respect of which regulations may be made under the Act. Item 19A of Schedule 6 provides that regulations may be made for or with respect to the disclosure of pecuniary interests.

Section 449 of the Act requires councillors and certain other persons associated with councils to complete and lodge annual returns of interests in the form "prescribed by the regulations" rather than in the form set out in Part 1 of Schedule 3 to the Act as was previously the case. That form dealt with both pecuniary and other interests.

Item [6] of the proposed amendments adds a reference to interests other than pecuniary interests to Item 19A of Schedule 6 to make it abundantly clear that regulations may be made for or with respect to both pecuniary and other interests.

**Statute law revision**

Item [1] of the proposed amendments omits a reference to a repealed Act.

Item [5] of the proposed amendments updates a reference to a repealed provision.

**1.9 Ombudsman Act 1974 No 68**

**[1] Sections 8A and 10**

Omit "21A" from sections 8A (1) (a) and 10 (2) (b) wherever occurring.  
Insert instead "21C".

**[2] Section 12 Right to complain**

Insert after section 12 (4):

(4A) However, the Ombudsman:

- (a) may accept a complaint that is not in writing if the Ombudsman considers it appropriate to do so, and
- (b) in that event, must reduce the complaint to writing as soon as practicable.

**[3] Section 13AA Preliminary inquiries**

Insert after section 13AA (2):

- (3) If a complaint has been made under section 12 (whether in writing or otherwise), the Ombudsman may, by way of a preliminary inquiry with respect to the complaint, require the complainant to provide further written particulars of the complaint within the time specified by the Ombudsman.

**[4] Section 31AC**

Insert after section 31AB:

**31AC Ombudsman may furnish information to public authority**

The Ombudsman may, at any time:

- (a) furnish to a public authority information obtained by the Ombudsman in discharging functions under this Act with respect to a complaint against or relating to the public authority, and
- (b) make such comments to the authority with respect to the complaint as he or she thinks fit.

**Explanatory note**

**Oral complaints**

Item [2] of the proposed amendments amends section 12 of the *Ombudsman Act 1974* so as to enable the Ombudsman to accept complaints otherwise than in writing if the Ombudsman considers it appropriate to do so. The Ombudsman is to reduce such a complaint to writing as soon as practicable.

**Further written particulars**

Section 13AA of the Act enables the Ombudsman to make preliminary inquiries for the purpose of deciding whether to make particular conduct of a public authority the subject of an investigation under the Act. Item [3] of the proposed amendments enables the Ombudsman, by way of a preliminary inquiry in relation to a complaint made under the Act, to require a complainant to provide further written particulars in relation to the complaint within the time specified by the Ombudsman.

**Disclosure of information to public authority**

Item [4] of the proposed amendments enables the Ombudsman to furnish to a public authority information obtained by the Ombudsman in discharging functions with respect to a complaint against or relating to the public authority (section 26 already enables the Ombudsman to report to the public authority if the Ombudsman has made a finding with respect to a complaint but does not extend to cases in which a finding is not made or an investigation into a complaint is not undertaken or discontinued). The proposed amendment also enables the Ombudsman to make comments to the authority regarding the complaint.

**Statute law revision**

Item [1] of the proposed amendments updates references to a renumbered provision.

**1.10 Passenger Transport Act 1990 No 39**

**[1] Section 29A Definitions**

Omit the definitions of *affiliation* and *authorised taxi-cab operator*.

**[2] Section 29A**

Insert in appropriate order:

*accredited taxi-cab operator* means a person accredited under Division 3 for the purpose of carrying on a taxi-cab service.

*affiliation* means the affiliation of accredited taxi-cab operators with authorised taxi-cab networks, as referred to in Division 6.

- [3] **Section 29A, definition of “taxi-cab network”**  
Omit “authorised”. Insert instead “accredited”.
- [4] **Sections 30 (2) (a), 31 (2), 31A, 31B (3)–(5), 31C–32, 32K (1), 33E (2), 37 (2) (a), 38 (2), 38A, 38B (3)–(5) and 38C–39**  
Omit “authorisation”, “authorise” and “authorised” wherever occurring.  
Insert instead “accreditation”, “accredit” and “accredited”, respectively.
- [5] **Section 30 Taxi-cab service requirements**  
Omit “authorised to carry on” from section 30 (1) (a).  
Insert instead “accredited for the purposes of carrying on”.
- [6] **Section 31 Accreditation**  
Omit “The Director-General may authorise persons to carry on taxi-cab services” from section 31 (1).  
Insert instead “The Director-General may accredit persons for the purpose of carrying on taxi-cab services”.
- [7] **Sections 31 (1) and 38 (1)**  
Omit “authorised” wherever occurring. Insert instead “accredited”.
- [8] **Section 31B Grant or refusal of application**  
Omit section 31B (1). Insert instead:  
(1) Having regard to the purpose of accreditation under this Division, the Director-General may grant an application and accredit the applicant for the purpose of carrying on a taxi-cab service, or may refuse the application.
- [9] **Sections 33, 33B (3) and (5), 33C, 33D (except the heading to section 33 and section 33D (1) (c)), 40, 40B (3) and (5), 40C and 40D (except the heading to section 40 and section 40D (1) (b))**  
Omit “authorisation” and “authorisations” wherever occurring.  
Insert instead “authority” and “authorities”, respectively.
- [10] **Section 33 Authorities**  
Insert “, by the issue of authorities under this Division,” after “may” in section 33 (1).

- [11] Sections 33B (4) and 40B (4)**  
Omit “Particulars of an authorisation are” wherever occurring.  
Insert instead “An authority is”.
- [12] Section 33C (1) and 40C (1)**  
Omit “the particulars of” wherever occurring.
- [13] Section 33D (1) (c)**  
Omit “authorisation” where secondly occurring. Insert instead “authority”.
- [14] Section 33F Variation, suspension or cancellation of authority**  
Omit “authorisation” where secondly occurring. Insert instead “authority”.
- [15] Section 34E Statutory conditions regarding affiliation and service standards**  
Omit “authorised” wherever occurring in section 34E (1) and (4) (a).  
Insert instead “accredited”.
- [16] Section 35A Exemptions regarding networks**  
Omit “authorised”. Insert instead “accredited”.
- [17] Section 36A Definitions**  
Omit the definition of *authorised private hire vehicle operator*.
- [18] Section 36A**  
Insert in alphabetical order:  
*accredited private hire vehicle operator* means a person accredited under Division 3 to carry on a private hire vehicle service.
- [19] Section 37 Private hire vehicle service requirements**  
Omit “authorised to carry on the service” from section 37 (1) (a).  
Insert instead “accredited for the purpose of carrying on the service”.
- [20] Section 38 Accreditation**  
Omit “authorise persons to carry on private hire vehicle services” from section 38 (1).  
Insert instead “accredit persons for the purpose of carrying on private hire vehicle services”.
-

**[21] Section 38B Grant or refusal of application**

Omit section 38B (1). Insert instead:

- (1) Having regard to the purpose of accreditation under this Division, the Director-General may grant an application and accredit the applicant for the purpose of carrying on a private hire vehicle service, or may refuse the application.

**[22] Section 40 Authorities**

Insert “, by the issue of authorities under this Division,” after “may” in section 40 (1).

**[23] Section 40D (1) (b)**

Omit “authorisation” where secondly occurring. Insert instead “authority”.

**[24] Section 40E Variation, suspension or cancellation of authority**

Omit “authorisation” where secondly occurring. Insert instead “authority”.

**[25] Schedule 3 Savings and transitional provisions**

Omit “authorisation” and “authorised” wherever occurring in clauses 12 and 16. Insert instead “accreditation” and “accredited” respectively.

**[26] Schedule 3, clauses 13 (2) and 17 (2)**

Omit “authorisation of that person” wherever occurring. Insert instead “authority”.

**[27] Schedule 3, clause 19**

Omit “authorisations” wherever occurring. Insert instead “authorities”.

**Commencement**

The amendments to the *Passenger Transport Act 1990* commence on the commencement of the *Passenger Transport Amendment Act 2000*.

**Explanatory note**

The proposed amendments to the *Passenger Transport Act 1990* will ensure the amendments to that Act by the *Passenger Transport Amendment Act 2000* do not replace terminology that is currently in use by providing that taxi-cab operators and private hire vehicle operators are accredited (rather than authorised) and by providing that taxi-cab drivers and private hire vehicle drivers are granted authorities (rather than authorisations).



## **1.11 Police Integrity Commission Act 1996 No 28**

### **[1] Section 8 Assistant Commissioners**

Insert after section 8 (3):

#### **(4) Holder of judicial office**

Clause 6 of Schedule 1 applies to an Assistant Commissioner employed as referred to in section 10 (2) in the same way as it applies to the Commissioner.

### **[2] Schedule 1 Provisions relating to Commissioner**

Insert after clause 4 (2):

- (3) Despite subclause (2), the person holding the office of Commissioner immediately before the commencement of this subclause may hold the office of Commissioner for terms totalling no more than 6 years.

## **1.12 Property, Stock and Business Agents Act 1941 No 28**

### **[1] Section 38D Audit of licensees' books and other records**

Omit section 38D (2) (b). Insert instead:

- (b) lodge the auditor's report on the audit with the Director-General.

### **[2] Section 91 Corporations**

Insert "or the regulations" after "Act" wherever occurring in section 91 (2).

#### **Explanatory note**

##### **Auditor's reports**

Section 38D (2) of the *Property, Stock and Business Agents Act 1941* requires a person to whom section 38D applies (such as a licensee) to cause the books, papers, accounts and other documents relating to money held in the person's trust account during the person's financial year to be audited within 3 months after the end of that year. It also requires the person to lodge the auditor's report "after ... receipt from the auditor" with the Director-General of the Department of Fair Trading within that time.

Item [1] of the proposed amendments repeals and re-enacts section 38D (2) (b), removing the words quoted above, to make it abundantly clear that the person is required to obtain the report from the auditor (and lodge it with the Director-General) within the 3 month period.

##### **Offences committed with consent of officer of body corporate**

Section 91 of the Act provides that where an offence committed by a body corporate against the Act is proved to have been committed with the consent or approval of an officer of the body corporate, that officer is also guilty of an offence. Item [2] of the proposed amendments extends the operation of the section to the commission of offences against the regulations.

### **1.13 Protected Disclosures Act 1994 No 92**

#### **[1] Section 9 Disclosures to be made voluntarily**

Insert after section 9 (4):

- (5) A disclosure made by a correctional officer, within the meaning of the *Crimes (Administration of Sentences) Act 1999*, is made voluntarily for the purposes of this section even if it relates to the same conduct as an allegation that the officer has made in the performance of a duty imposed on the officer by or under that Act or any other Act.

#### **[2] Schedule 2 Savings, transitional and other provisions**

Insert at the end of the Schedule:

##### **4 Disclosures made by correctional officers**

Section 9 (5), as inserted by the *Statute Law (Miscellaneous Provisions) Act 2001*, applies to a disclosure made by a correctional officer even if the disclosure relates to conduct or activities engaged in, or matters arising, before the commencement of the subsection.

##### **Explanatory note**

Section 9 (1) of the *Protected Disclosures Act 1994* provides that a disclosure by a public official is protected under that Act only if the disclosure is made voluntarily. Section 9 (2) states that a disclosure by a public official is not voluntary if it is made in the exercise of a duty imposed on that official by or under an Act.

Item [1] of the proposed amendments provides that a disclosure made by a correctional officer is taken to have been made voluntarily (and is therefore protected under the Act) even if the disclosure is made in relation to the same conduct or activities regarding a disclosure that is required to be made by or under the *Crimes (Administration of Sentences) Act 1999* or any other Act.

Item [2] of the proposed amendments makes transitional arrangements.

### **1.14 Protection of the Environment Operations Act 1997 No 156**

#### **[1] Section 79 Suspension or revocation of licence by appropriate regulatory authority**

Insert at the end of section 79 (5) (e):

- (f) in the opinion of the appropriate regulatory authority, the holder of the licence is no longer a fit and proper person (as referred to in section 83).

**[2] Section 83 Fit and proper persons**

Omit “an applicant” from section 83 (1). Insert instead “a person”.

**[3] Section 83 (1)**

Insert “and section 79 (5) (f)” after “section 45 (f)”.

**[4] Section 83 (1)**

Omit “that section”. Insert instead “those sections”.

**[5] Section 84 Date from which decision operates**

Omit “or” where secondly occurring in section 84 (2).

**[6] Section 84 (2)**

Insert “or to attach any new conditions to, or to vary any conditions of, a suspension, revocation or surrender of a licence,” after “conditions,”.

**[7] Section 93 Clean-up directions may be given orally**

Insert “by the regulatory authority who gave the direction orally” after “confirmed” in section 93 (3).

**[8] Section 96 Preventive action**

Insert “(whether or not at premises)” after “activity” in section 96 (2) (b).

**[9] Section 172 Nature of environmental audit**

Omit “periodic”.

**[10] Section 212B**

Insert after section 212A:

**212B Extraterritorial application**

A notice may be given under this Chapter to a person in respect of a matter even though the person is outside the State or the matter occurs or is located outside the State, so long as the matter affects the environment of this State.

**[11] Section 218 Other authorities who may also institute proceedings**

Omit “*Water Supply Authorities Act 1987*” from section 218 (2).  
Insert instead “*Water Management Act 2000*”.

**[12] Section 287 Appeals regarding licence applications and licences**

Omit “licence or” from section 287 (2). Insert instead “licence,”.

**[13] Section 287 (2)**

Insert “or to attach any new conditions to, or to vary any conditions of, a suspension, revocation or surrender of a licence” after “licence” where lastly occurring.

**[14] Section 308 Public register**

Omit “granted or” from section 308 (4). Insert instead “granted,”.

**[15] Section 308 (4)**

Insert “or exemptions granted by the EPA under Part 9.1, being exemptions that are no longer in force” after “force”.

**[16] Schedule 2 Regulation-making powers**

Omit “(Section 321)”. Insert instead “(Section 323)”.

**Explanatory note**

**Suspension or revocation of licence**

Chapter 3 (sections 42–88) of the *Protection of the Environment Operations Act 1997* makes provision for environmental protection licences. Section 45 lists matters that a regulatory authority (within the meaning of the Act) is to consider when exercising its licensing functions under Chapter 3, including whether a person is a fit and proper person. Section 79 (5) of the Act provides a non-exhaustive list of the grounds on which a licence can be suspended or revoked.

Item [1] of the proposed amendments adds to that list the ground that the regulatory authority considers the licensee to no longer be a fit and proper person. Items [2]–[4] make consequential amendments.

**Clean-up directions**

Part 4.2 (sections 91–94) of the Act provides for the issue of clean-up notices with respect to pollution incidents. Section 93 enables such a clean-up notice to be given orally but such a notice ceases to have effect 72 hours after the giving of the notice unless it is confirmed by a written clean-up notice.

Item [7] of the proposed amendments makes it clear that the regulatory authority who gave the oral notice is also to provide the written clean-up notice.

**Issue of prevention notices**

Section 96 of the Act makes provision for the issue of a notice to occupiers of premises or persons carrying out activities (or both) to take specified preventive action (a prevention notice) where an activity is carried out in an environmentally unsatisfactory manner.

Item [8] of the proposed amendments removes (for abundant caution) any possible argument that a notice cannot be issued to the person carrying out the activity merely because it is carried out at premises.

**Definition of “environmental audit”**

Chapter 6 (sections 171–183) of the Act makes provision for environmental audits. That term is defined in section 172 of the Act as a periodic documented evaluation of an activity for the particular purposes set out in that section.

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Item [9] of the proposed amendments amends section 172 to remove the word “periodic” from that definition to ensure that the provisions of Chapter 6 apply to and in respect of “one-off” and occasional audits as well as those repeated at particular intervals.

**Extraterritorial application**

Chapter 7 (sections 184–212A) of the Act enables a regulatory authority, by notice in writing, to require a person to furnish records, information and reports in connection with any matter relating to the authority’s responsibilities and functions under the Act.

Item [10] of the proposed amendments enables such a notice with respect to a matter to be served on a person even if the person is, or the matter occurs or is located, outside New South Wales provided that the matter affects the environment of New South Wales.

**Appeals**

Section 81 of the Act provides that a regulatory authority may attach conditions to the suspension, revocation or surrender of a licence under the Act and may attach new conditions to, or vary or revoke any existing conditions of, a suspension, revocation or surrender. Section 287 of the Act enables a person who is aggrieved by a decision of a regulatory authority with respect to a licence (including a decision to impose conditions on a revocation, suspension or surrender of a licence) to appeal to the Land and Environment Court against the decision.

Item [13] of the proposed amendments amends section 287 so as to enable a person to appeal against a decision by a regulatory authority to attach new conditions to, or to vary any existing conditions of, a revocation, suspension or surrender of a licence. Items [5], [6] and [12] make consequential amendments.

**Public register**

Section 308 of the Act requires each regulatory authority under the Act to keep a public register of certain information such as details of each licence application made to, and each licence issued by, that authority. Section 308 (2) (i) in particular requires the EPA to include in its register details of any exemption granted under Part 9.1 of the Act. Section 308 (4) enables regulations to be made authorising the removal from the register of certain matters.

Item [15] of the proposed amendments amends section 308 (4) so as to enable the regulations to authorise the removal from the register kept by the EPA of exemptions that are no longer in force. Item [14] makes a consequential amendment.

**Statute law revision**

Item [11] of the proposed amendments updates a reference to a repealed Act.

Item [16] of the proposed amendments corrects a cross-reference.

## **1.15 Radiation Control Act 1990 No 13**

### **Section 33 Annual report of Council to Parliament**

Insert at the end of the section:

- (3) If a House of Parliament is not sitting when the Minister seeks to table the report, the Minister may present copies of the report to the Clerk of the House concerned.
- (4) The report:
  - (a) on presentation and for all purposes is taken to have been laid before the House, and
  - (b) may be printed by authority of the Clerk of the House, and

- (c) if printed by authority of the Clerk, is for all purposes taken to be a report published by or under the authority of the House, and
- (d) is to be recorded:
  - (i) in the case of the Legislative Council, in the Minutes of the Proceedings of the Legislative Council, and
  - (ii) in the case of the Legislative Assembly, in the Votes and Proceedings of the Legislative Assembly,on the first sitting day of the House after receipt of the report by the Clerk.

**Explanatory note**

Section 33 of the *Radiation Control Act 1990* requires the Minister for the Environment to table the annual report of the Radiation Advisory Council before both Houses of Parliament as soon as practicable after receiving the report from the Council.

The proposed amendment amends section 33 so as to enable the Minister to table the annual report even if a House of Parliament is not sitting when the Minister seeks to do so.

## **1.16 Residential Tenancies Act 1987 No 26**

### **[1] Section 45A**

Insert after section 45:

#### **45A Tenant may apply for refund of overpaid rent**

- (1) A tenant under a residential tenancy agreement may apply to the Tribunal for an order directing the refund of overpaid rent on the ground that the rent increase was not duly notified under section 45.
- (2) The Tribunal may make an order directing the refund.
- (3) An application under this section must be lodged no later than 12 months after the relevant notice of the rent increase was given to the tenant.

### **[2] Section 61 Notice of termination where agreement frustrated**

Insert after section 61 (1):

- (1A) For so long as a residential tenancy agreement is not terminated under subsection (1) (b), then, for the purposes of subsection (1) (a):
  - (a) the landlord and tenant may agree in writing as to the amount of rent payable, or

- 
- (b) failing such agreement, either the landlord or tenant may apply to the Tribunal for an order determining the amount of rent payable.
- (1B) The Tribunal may, on application made under subsection (1A) (b):
- (a) by order, determine the amount of rent payable, from a day specified by the Tribunal, for the purposes of subsection (1) (a), and
- (b) order the landlord to repay to the tenant any rent paid by the tenant since the specified day that is in excess of the amount determined by the Tribunal, and
- (c) make such other orders with respect to the application as the Tribunal thinks fit.

**Explanatory note**

**Repayment of overpaid rent**

Item [1] of the proposed amendments enables a tenant under a residential tenancy agreement under the *Residential Tenancies Act 1987* to apply to the Residential Tribunal for a refund of overpaid rent on the basis that a rent increase was not notified as required by section 45 of that Act.

**Payment of rent when agreement frustrated**

Section 61 of the *Residential Tenancies Act 1987* provides for the abatement of rent and a right by either party to terminate a residential tenancy agreement where the agreement is frustrated (for example, the premises the subject of the agreement are destroyed or rendered partly or wholly uninhabitable).

Item [2] of the proposed amendments will:

- (a) enable the landlord and tenant to agree to the amount of rent payable where the agreement is not so terminated in such circumstances, and
- (b) failing such agreement, enable either party to apply to the Residential Tribunal for an order determining the amount of rent payable, and
- (c) enable the Tribunal to make orders with respect to such an application, including an order with respect to the amount of rent payable by the tenant and the repayment of any rent paid by the tenant in excess of the determined amount.

## 1.17 Residential Tribunal Act 1998 No 168

### Section 27 Procedure of Tribunal generally

Insert at the end of section 27 (5) (h):

- , and
- (i) may, at any stage in proceedings before it, order that the proceedings be stayed.

- (6) The Registrar or Deputy Registrar is to give to any party to proceedings that have been stayed under subsection (5) (i), and who was not present or represented when the proceedings were stayed, a notice that the proceedings are stayed.

**Explanatory note**

The Residential Tribunal, established under the *Residential Tribunal Act 1998*, has the power to adjourn and dismiss proceedings before it under section 27 of that Act. The proposed amendment enables the Residential Tribunal to stay proceedings before it.

**1.18 Statute Law (Miscellaneous Provisions) Act 2000 No 53**

**[1] Section 2 Commencement**

Omit “12 months” from section 2 (3). Insert instead “3 years”.

**Commencement**

The amendment to the *Statute Law (Miscellaneous Provisions) Act 2000* made by this Act is taken to have commenced on 29 June 2000.

**Explanatory note**

Section 2 (3) of the *Statute Law (Miscellaneous Provisions) Act 2000* provides that the repeal, by section 4 (2) of that Act, of the *School Forest Areas Act 1936* commences on 30 June 2001. The proposed amendment postpones the date of repeal by 2 years to 30 June 2003.

**1.19 Sydney Water Act 1994 No 88**

**[1] Section 13 Form of initial operating licence**

Omit the section.

**[2] Section 54 Publication of terms and conditions of customer contracts**

Omit section 54 (2) and (4).

**[3] Section 55 Owner of land taken to have entered into customer contract**

Omit “a contract” from section 55 (2). Insert instead “ a customer contract”.

**[4] Section 55 (3)**

Omit “, or a contact entered into in accordance with subsection (2),”.

**[5] Section 59 (2)**

Omit “account for service charges” from section 59 (2).  
Insert instead “account or bill”.

**[6] Section 59 (4)**

Omit “Government Pricing Tribunal”.  
Insert instead “Independent Pricing and Regulatory Tribunal”.



**[7] Section 60 Fees and charges generally**

Omit “*Government Pricing Tribunal Act 1992*” from section 60 (7).  
Insert instead “*Independent Pricing and Regulatory Tribunal Act 1992*”.

**[8] Section 62 Occupier may pay, and recover, contract charges in certain cases**

Omit “, availability charges or stormwater drainage area charges” from section 62 (2).

**[9] Section 74 Notice of requirements before grant of compliance certificate**

Omit “*Government Pricing Tribunal Act 1992*” from section 74 (3).  
Insert instead “*Independent Pricing and Regulatory Tribunal Act 1992*”.

**[10] Section 93 Performance of community service obligations**

Omit the section.

**Explanatory note**

**Customer contracts**

Section 55 (1) of the *Sydney Water Act 1994* provides that an owner of land connected to a water or sewer main owned by Sydney Water Corporation is taken to have entered into a customer contract with the Corporation for the provision of services. Section 55 (2) provides that, if a customer contract includes terms and conditions relating to the imposition and payment of charges imposed under section 64 (Availability charges) or 65 (Stormwater drainage area charges) of the Act, a person by whom one or more of the charges are payable is taken to have entered into a contract with the Corporation on those terms and conditions.

Item [3] of the proposed amendments clarifies the operation of section 55 by making it clear that a contract taken to have been entered into under section 55 (2) is also a customer contract.

Items [4] and [8] make consequential amendments.

**Accounts**

Section 59 (2) of the Act requires a notice of variation of a customer contract to accompany the next account for “service” charges issued after the date of publication of the notice. However, the concept of an account for service charges is no longer used in the Act.

Item [5] of the proposed amendments updates the terminology used in section 59 (2) to refer instead to an account or bill, consistently with the terminology used elsewhere in the Act (see, for example, section 19A).

**Statute law revision**

Items [1], [2] and [10] omit spent provisions.

Items [6], [7] and [9] of the proposed amendments update references to an Act and a body.

## **1.20    Technical and Further Education Commission Act 1990 No 118**

### **Section 7 Miscellaneous functions**

Insert at the end of section 7:

- (6) The TAFE Commission may exercise its functions under this Act within or outside the State, including outside Australia. The TAFE Commission is taken always to have had the powers conferred by this subsection.

#### **Explanatory note**

The proposed amendment enables the TAFE Commission to exercise its functions under the *Technical and Further Education Commission Act 1990* outside New South Wales.

## **1.21    Travel Agents Act 1986 No 5**

### **[1]    The whole Act (except sections 3, 9 (2) and 20 (7) and Schedule 2)**

Omit “Commissioner” wherever occurring.  
Insert instead “Director-General”.

### **[2]    Section 3 Definitions**

Omit the definition of *Commissioner*.

### **[3]    Section 3**

Insert in alphabetical order:

*Director-General* means the Director-General of the Department of Fair Trading.

### **[4]    Sections 9 and 20**

Omit “of the Department of Fair Trading” wherever occurring in sections 9 (2) and 20 (7).

### **[5]    Section 11 Conditions of, and restrictions on, licence**

Omit “Commissioner’s” from section 11 (1) (b).  
Insert instead “Director-General’s”.

### **[6]    Section 17 Annual fee and annual statement**

Omit “shall” from section 17 (9). Insert instead “may”.

**[7] Section 17 (9A) and (9B)**

Insert after section 17 (9):

(9A) The Director-General may reinstate a licence cancelled under subsection (9) but only if satisfied that there is a reasonable explanation for the failure to pay the fee or lodge the statement that resulted in the cancellation of the licence.

(9B) The reinstatement of a licence does not take effect until the unpaid fee is paid or the statement is lodged, or both the fee is paid and the statement is lodged, as the case requires.

**Explanatory note**

**Cancellation of licences**

Section 17 of the Act requires the Director-General of the Department of Fair Trading to cancel the licence of a person if the person fails to pay an annual fee or lodge an annual statement as required under that section.

Item [6] of the proposed amendments gives the Director-General the discretion as to whether or not to cancel a licence in such circumstances.

Item [7] enables the Director-General to reinstate a cancelled licence if satisfied that there is a reasonable explanation for the failure to pay the fee or lodge the statement.

**Statute law revision**

Items [1]–[3] and [5] of the proposed amendments update references to an office holder. Item [4] makes a consequential amendment.

**1.22 Water Management Act 2000 No 92**

**[1] Section 13 Membership of committee**

Omit “11” from section 13 (1). Insert instead “12”.

**[2] Section 32 Core provisions**

Insert “and aquifer interference activity” after “controlled activity”.

**[3] Section 33 Additional provisions**

Insert “and aquifer interference activity” after “controlled activity”.

**[4] Section 45 Amendment of bulk access regimes established by management plans**

Insert “for water sharing” after “management committee” in section 45 (2).

**[5] Section 60 Rules of distribution applicable to making of available water determinations**

Omit “and local water utilities” from section 60 (3) (a) (i).

Insert instead “, local water utilities, irrigation corporations, private irrigation boards and private water trusts”.

**[6] Section 61 Granting and renewal of access licences**

Insert after section 61 (4):

- (5) The Minister:
  - (a) may require an applicant for an access licence to provide additional information within a specified time if of the opinion that additional information would be relevant to consideration of the application, and
  - (b) may delay consideration of the application until the information is provided or, if the information is not provided within the time specified, may refuse to consider the application.
- (6) The Minister may refuse to accept an application for an access licence if it appears to the Minister that the application is incomplete.

**[7] Section 83 Register of access licences**

Omit section 83 (1) (c). Insert instead:

- (c) such legal or equitable interests in an access licence as the holder of the access licence, or the holder of any such interest in the access licence, requests to be included in the register.

**[8] Section 83 (2)**

Omit “an interest”. Insert instead “a legal or equitable interest”.

**[9] Section 92 Applications for approvals**

Omit “Subsection (6)” from section 92 (8). Insert instead “Subsection (7)”.

**[10] Section 97 Grounds of refusal of certain applications**

Omit “drainage work” wherever occurring in section 97 (2).  
Insert instead “water management work”.

**[11] Section 97 (3)**

Omit the subsection.

**[12] Section 98 Notice of decision**

Omit “a water use approval”.  
Insert instead “an approval that has been advertised pursuant to section 92”.

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- [13] Section 106 Land benefited by water use approval or water management work approval**  
Omit “an irrigation corporation,” from section 106 (3).  
Insert instead “a major utility, local water utility, irrigation corporation,”.
- [14] Section 117 Definitions**  
Insert “, including any land included in its area of operations under Division 4 but excluding any land excluded from its area of operations under Division 5 of this Part” after “*Water Act 1912*” in the definition of *area of operations*.
- [15] Section 156 Private irrigation board may apply to take over water supply works**  
Omit “management” from section 156 (1). Insert instead “supply”.
- [16] Section 176 Determination of allocation**  
Omit “A board”.  
Insert instead “As soon as practicable after it is elected, the first board”.
- [17] Section 240 Definitions**  
Omit “supply works” and “those works” from the definition of *Fish River water supply works*.  
Insert instead “supply scheme” and “that scheme”, respectively.
- [18] Section 241 Fish River water supply scheme controlled by the Minister**  
Omit “supply works are”. Insert instead “supply scheme is”.
- [19] Section 242 Minister may repair works**  
Omit “portion of the Fish River water supply works”.  
Insert instead “works forming part of the Fish River water supply scheme”.
- [20] Section 243 Minister may supply water**  
Omit “supply works” from section 243 (1). Insert instead “supply scheme”.
- [21] Section 244 Council not to supply outside area without consent**  
Omit “supply works”. Insert instead “supply scheme”.
- [22] Section 246 Special areas**  
Omit “supply works” from section 246 (1). Insert instead “supply scheme”.

**[23] Section 250 Allocation of money**

Omit “the Fish River water supply works” wherever occurring in section 250 (3).

Insert instead “the works forming part of the Fish River water supply scheme”.

**[24] Section 288 Provisions relating to constitution and procedure of water supply authorities**

Omit “Broken Hill Water Board” from section 288 (2).

Insert instead “Australian Inland Energy Water Infrastructure”.

**[25] Section 324 Directions concerning the production of information**

Omit “on waterfront land” from section 324 (3).

Insert instead “in, on or under waterfront land”.

**[26] Section 332 Measures that may be specified in directions**

Omit “in or on waterfront land” from section 332 (1) (c).

Insert instead “in, on or under waterfront land”.

**[27] Section 342 Using water without a water use approval**

Omit section 342 (1). Insert instead:

- (1) A person must not use water on any land for any purpose otherwise than in accordance with a water use approval that authorises the use of water on that land for that purpose.

**[28] Section 344 Unlawful carrying out of certain activities**

Omit “on waterfront land” from section 344 (1) (a).

Insert instead “in, on or under waterfront land”.

**[29] Section 347 Taking water from public or private works**

Insert “the Minister,” after “management of,” in section 347 (1).

**[30] Section 347 (1)**

Insert “the Minister,” after “authority of”.

**[31] Section 364 Proceedings for offences**

Insert the following note at the end of section 364 (2):

**Note.** Subsection (2) overrides section 56 of the *Justices Act 1902* in relation to offences against this Act, but not in relation to offences against the regulations. By operation of that section, proceedings for an offence against the regulations may not be commenced more than 6 months after the date on which the offence was allegedly committed.

- [32] Section 368 Appeals to Land and Environment Court**  
Omit “landholder” from section 368 (1) (n). Insert instead “person”.
- [33] Schedule 3 Water supply authorities**  
Omit “Broken Hill Water Board” from Part 1 of Schedule 3.
- [34] Schedule 5 Constitution and procedure of water supply authorities**  
Omit “Broken Hill Water Board” and “Board” wherever occurring in Part 2 of Schedule 5 (except in Division 1).  
Insert instead “Corporation”.
- [35] Schedule 5, Part 2, Division 1**  
Omit the Division.
- [36] Schedule 5, Part 2, Division 2**  
Omit “Division” wherever occurring, except the heading to Division 2. Insert instead “Part”.
- [37] Schedule 5, Part 2, Division 2, heading**  
Omit the heading.
- [38] Schedule 5, clause 13 (1)**  
Insert in alphabetical order:  
*Corporation* means Australian Inland Energy Water Infrastructure.
- [39] Schedule 5, clause 19 (3)**  
Omit “Board’s”. Insert instead “Corporation’s”.
- [40] Schedule 5, clause 20 (4)**  
Omit “Broken Hill Water”.  
Insert instead “Australian Inland Energy Water Infrastructure”.
- [41] Schedule 8 Amendment of other Acts**  
Omit Schedule 8.15.
- [42] Schedule 8**  
Omit Schedule 8.29 [3]–[6].

**[43] Schedule 9 Savings, transitional and other provisions**

Omit Division 11 of Part 2 of the Schedule.

**[44] Schedule 9**

Omit the definition of *transferor* from clause 51 of Schedule 9. Insert instead:

*transferor* means the person from whom any staff, assets, rights or liabilities are transferred by a transfer order.

**[45] Dictionary, definition of “local water utility”**

Omit “established by this Act” from paragraph (a).

**[46] Dictionary, definition of “water supply work”**

Omit “the Sydney Water Board, the Hunter Water Board” from paragraph (f). Insert instead “the Sydney Water Corporation, the Hunter Water Corporation”.

**[47] Dictionary, definition of “water supply work”**

Omit “as not being” from paragraph (g). Insert instead “not to be”.

**Explanatory note**

**Distribution of supply (item [5])**

Item [5] of the proposed amendments ensures that the same rules of distribution apply, in times of severe water shortage, in respect of irrigation corporations, private irrigation boards and private water trusts as currently apply to other suppliers of domestic and commercial water supplies.

**Applications for approvals (item [6])**

Item [6] of the proposed amendments ensures that the procedures that are applicable to applications for approvals under the Act are also applicable to applications for access licences.

**Register of access licences (items [7] and [8])**

Item [7] of the proposed amendments ensures that the interests to be recorded in the register of access licences maintained under the Act are legal and equitable interests. Item [8] makes a consequential amendment.

**Water sources (items [10] and [11])**

Section 97 (2) of the Act currently provides that a drainage work approval is not to be granted unless the Minister is satisfied that adequate arrangements are in force to ensure that minimal harm will be done to any water source, or its dependent ecosystems, as a consequence of the construction or use of the proposed drainage work. Section 97 (3) is a provision in relation to flood works.

Item [10] of the proposed amendments applies section 97 (2) to all *water management works* (that is, drainage works, flood works and water supply works). Item [11] repeals section 97 (3) in consequence of that application.

**Approvals (item [13])**

Item [13] of the proposed amendments ensures that major water utilities and local water utilities that hold water use approvals and water management work approvals have the same rights and obligations in relation to such approvals as other holders of the approvals.



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**Definitions (items [14] and [45])**

Divisions 4 and 5 of Part 1 of Chapter 4 of the Act provide for the inclusion of land in, and the exclusion of land from, an irrigation corporation's area of operations. Item [14] of the proposed amendments amends the definition of **area of operations** of an irrigation corporation to reflect this.

The current definition of **local water utility** inadvertently excludes water supply authorities that are established by Acts other than the *Water Management Act 2000*. Item [45] of the proposed amendments ensures that the definition will include all water supply authorities, however established.

**Allocation of water for irrigation (item [16])**

Section 176 (Determination of allocation) of the Act provides that a board for a private water supply and irrigation district must determine the quantity of water, if any, to be allocated for irrigation to each holding within the private irrigation district.

Item [16] of the proposed amendments makes it clear that this determination is to be made once only, when the first board is elected. (Allocations once made are fixed, subject to the provisions with respect to the subdivision of land.)

**Use of water (item [27])**

Item [27] of the proposed amendments makes it clear that a water use approval authorises the use of water for a specified purpose only. It does not authorise the use of water generally.

**Water supply works (items [29] and [30])**

Item [29] of the proposed amendments ensures that the Minister, who has the control and management of certain water supply works, has the same protections with respect to the taking of water from such works that are provided to other bodies that control and manage such works. Item [30] makes a consequential amendment.

**Appeals (item [32])**

Item [32] of the proposed amendments will enable any person (and not just a landholder) to whom a direction is given under Part 1 of Chapter 7 of the Act (for example, a direction to stop work where an unlawful activity is occurring) to appeal to the Land and Environment Court against the Minister's decision to give the direction.

**Statute law revision (items [1]–[4], [9], [12], [15], [17]–[24], [25], [26], [28], [31], [33], [34]–[44], [46] and [47])**

Items [25], [26], [28] and [47] of the proposed amendments provide for consistency of language in the Act.

Item [1] of the proposed amendments ensures the total number of members of a management committee referred to in section 13 (1) of the Act is equal to the sum of the individual number of members referred to in section 13 (1) (a)–(g) and (i).

Items [2] and [3] of the proposed amendments insert a missing term in sections 32 and 33 of the Act for consistency with section 31 (Application of Division).

Item [4] of the proposed amendments merely reflects the fact that the only management plans that establish a bulk access regime are those that deal with water sharing.

Item [9] of the proposed amendments corrects an incorrect cross-reference.

Item [12] of the proposed amendments is consequential in an amendment made at the committee stage of the Bill for the *Water Management Act 2000* that extended the advertising requirements of section 92 from water use approvals to approvals prescribed by the regulations.

Item [15] of the proposed amendments replaces an incorrect reference to a water management work in section 156 (Private irrigation board may apply to take over water supply works) of the Act with the correct reference (to a water supply work).

Statute Law (Miscellaneous Provisions) Act 2001 No 56

Schedule 1      Minor amendments

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Items [17]–[23] and [46] of the proposed amendments update the description of a water supply scheme and 2 major utilities.

Items [24], [33], [34], [35] and [38]–[40] are consequential on the replacement of the Broken Hill Water Board by the Australian Inland Energy Water Infrastructure effected by legislation that passed through Parliament concurrently with the Bill for the *Water Management Act 2000*. Items [36] and [37] are consequential on item [35].

Item [31] of the proposed amendments adds a Note to section 364 (Proceedings for offences) of the Act explaining how section 364 (2) operates in conjunction with section 56 of the *Justices Act 1902*.

Items [41] and [42] of the proposed amendments omit provisions that duplicate certain amendments made by the *Valuation of Land Amendment Act 2000*.

Item [43] repeals a superfluous amendment as a result of Macquarie Generation having been added to Schedule 2 on the date on which Schedule 2 commenced.

The current definition of **transferor** refers only to the Ministerial Corporation. Item [44] of the proposed amendments reflects the fact that the transfer provisions to which the definition relates deal with transfers by persons and bodies other than the Ministerial Corporation.

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## Schedule 2 Amendments by way of statute law revision

(Section 3)

### 2.1 Associations Incorporation Act 1984 No 143

**[1] The whole Act (except section 3 and Schedule 3)**

Omit “Commissioner” and “Commissioner’s” wherever occurring.  
Insert instead “Director-General” and “Director-General’s” respectively.

**[2] Section 3 Definitions**

Omit the definition of *Commissioner*.

**[3] Section 3**

Insert in alphabetical order:

*Director-General* means the Director-General of the Department of Fair Trading.

**[4] Section 72A Delegation by Director-General**

Insert “under this Act” after “functions” in section 72A (1).

**Explanatory note**

The *Associations Incorporation Act 1984* defines *Commissioner*, for the purposes of that Act, as the Director-General of the Department of Fair Trading.

Items [1]–[3] of the proposed amendments replace references to the Commissioner with direct references to the Director-General of the Department of Fair Trading. Item [4] makes a consequential amendment.

### 2.2 Business Names Act 1962 No 11

**[1] The whole Act (except section 4)**

Omit “Commissioner” and “Commissioner’s” wherever occurring.  
Insert instead “Director-General” and “Director-General’s” respectively.

**[2] Section 4 Interpretation**

Omit the definition of *Commissioner*.

**[3] Section 4**

Insert in alphabetical order:

*Director-General* means the Director-General of the Department of Fair Trading.

**[4] Section 25 Authority of Director-General to destroy documents**

Omit “*Archives Act 1960*” wherever occurring.  
Insert instead “*State Records Act 1998*”.

**[5] Section 31A Delegation by Director-General**

Insert “under this Act” after “functions”.

**Explanatory note**

The *Business Names Act 1962* defines **Commissioner**, for the purposes of that Act, as the Director-General of the Department of Fair Trading.

Items [1]–[3] of the proposed amendments replace references to the Commissioner with direct references to the Director-General of the Department of Fair Trading. Item [5] makes a consequential amendment.

Item [4] of the proposed amendments updates a reference to a repealed Act.

**2.3 Child Protection (Prohibited Employment) Act 1998 No 147**

**Section 9 IRC and ADT may make declarations concerning prohibited persons**

Insert “or” at the end of section 9 (3) (a).

**Explanatory note**

The proposed amendment inserts an omitted word.

**2.4 Children and Young Persons (Care and Protection) Act 1998 No 157**

**Section 135 What is “out-of-home” care?**

Renumber section 135 (3) (as inserted by the *Statute Law (Miscellaneous Provisions) Act 2000*) as section 135 (4).

**Explanatory note**

The proposed amendment corrects the duplication of a subsection number.

**2.5 Coal Mines Regulation Act 1982 No 67**

**[1] Part 4 Mine inspection and safety provisions**

Omit the heading to Division 4 of Part 4. Insert instead:

**Division 4      Inspections on behalf of workers**

**[2] Section 80 Electrical check inspectors**

Omit “, a trade rights certificate or an indenture of electrical tradesman” from section 80 (2) (a).

Insert instead “or be an electrical tradesperson”.

**[3] Section 80 (2) (b)**

Omit “the holder of a trade rights certificate or an indenture of electrical tradesman”.

Insert instead “an electrical tradesperson”.

**Explanatory note**

Item [1] of the proposed amendments replaces gender-specific language with gender-neutral language.

Items [2] and [3] update terminology used in a section.

**2.6 Community Land Management Act 1989 No 202**

**[1] The whole Act (except sections 3 and 78, the headings to sections 109B, 109D and 109E and Division 1 of Part 5A and Schedule 7)**

Omit “Commissioner” and “Commissioner’s” wherever occurring.

Insert instead “Director-General” and “Director-General’s” respectively.

**[2] Section 3 Definitions**

Omit the definition of *Commissioner* from section 3 (1).

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

Insert in alphabetical order:

*Director-General* means the Director-General of the Department of Fair Trading.

**[4] Part 5A**

Omit the heading to Division 1 of Part 5A. Insert instead:

**Division 1 Functions of Director-General under this Act**

**[5] Section 109A**

Omit the section.

**[6] Section 109B Functions of Director-General**

Omit section 109B (1).

**[7] Section 109B (2)**

Insert “under this Act” before “include”.

**[8] Section 109D Staff of Director-General**

Insert “under this Act” after “functions”.

**[9] Section 109E Delegation of functions**

Omit “or any other”.

**[10] Section 109G Annual report of Director-General**

Insert “under this Part” before “during” in section 109G (1).

**Explanatory note**

The *Community Land Management Act 1989* provides that the **Commissioner**, for the purposes of that Act, is the Director-General of the Department of Fair Trading.

Items [1]–[3] of the proposed amendments replace references to the Commissioner with direct references to the Director-General of the Department of Fair Trading.

Items [4] and [6]–[8] and [10] make consequential amendments.

Item [5] consequentially omits a superfluous provision.

Section 109E of the Act currently enables the Commissioner to delegate his or her functions under the *Community Land Management Act 1989* or any other Act. The functions of the Commissioner are conferred solely by that Act. Item [9] omits superfluous words with respect to the conferral of functions on the Commissioner by any other Act.

**2.7 Community Services (Complaints, Reviews and Monitoring) Act 1993 No 2**

**Section 4 Definitions**

Omit “paragraph (d) of the definition of *service provider*” from the definition of *community service*.

Insert instead “paragraph (f) of the definition of *service provider*”.

**Explanatory note**

Paragraph (d) of the definition of *service provider* in section 4 of the *Community Services (Complaints, Reviews and Monitoring) Act 1993* was repealed and re-enacted by the *Statute Law (Miscellaneous Provisions) Act 1996* as paragraph (f) of the definition. The proposed amendment updates a cross-reference to that paragraph.

## **2.8 Companies (Death Duties) Act 1901 No 30**

### **Section 10 Duty on death of members**

Re-number section 10 (1) (a) and (b) (where secondly occurring), (c) and (d) as section 10 (1) (c), (d), (e) and (f) respectively.

#### **Explanatory note**

The proposed amendment corrects the duplication of paragraph identifiers.

## **2.9 Consumer Credit (New South Wales) Act 1995 No 7**

### **Section 8 Conferral of judicial functions**

Omit “Commercial Tribunal” wherever occurring.  
Insert instead “Fair Trading Tribunal”.

#### **Explanatory note**

The proposed amendment updates references to a Tribunal which has been abolished.

## **2.10 Conveyancing Amendment (Building Management Statements) Act 2001 No 9**

### **[1] Schedule 8B Rights and obligations implied in certain easements**

Re-number clauses 7–14 as clauses 1–8, respectively.

### **[2] Schedule 8B, clause 5 (as renumbered by item [1])**

Omit “subsection (1)” from clause 5 (2). Insert instead “subclause (1)”.

#### **Explanatory note**

Item [1] of the proposed amendments renumbers inappropriately numbered clauses in a Schedule.

Item [2] of the proposed amendments corrects an incorrect reference to a subclause.

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

### **[1] Section 3 Definitions**

Omit “profit and loss accounts and balance sheets” from the definition of *accounts*.

Insert instead “statements of financial performance and statements of financial position”.

**[2] Section 3 (1), definition of “accounts”**

Omit “accounts or balance sheets”. Insert instead “statements”.

**[3] The whole Act (except as otherwise amended by this Act)**

Omit “profit and loss account”.

Insert instead “statement of financial performance”.

**[4] The whole Act (except as otherwise amended by this Act)**

Omit “balance sheet”. Insert instead “statement of financial position”.

**[5] Section 134 Directors’ reports**

Renumber section 134 (6) (a) and (b) (where secondly occurring) as section 134 (6) (d) and (e).

**[6] Sections 135 and 143**

Omit “Profit and loss account and balance sheet” wherever occurring.

Insert instead “Statement of financial performance and statement of financial position”.

**Explanatory note**

Items [1], [2]–[4] and [6] of the proposed amendments update references to financial statements.

Item [5] of the proposed amendments corrects the duplication of paragraph identifiers.

**2.12 Credit Act 1984 No 94**

**[1] The whole Act (except section 5 (1))**

Omit “Commissioner” wherever occurring. Insert instead “Director-General”.

**[2] Sections 3 (4), 11 (3), 21 (1), 24 (2) (b) and (5) (c), 102 (4), 107 (6), 112 (2), 114 (1) (a), 117 (5) (c), 132 (4), 139 (2), 140 (1) and 164 (3)**

Insert “or she” after “he” wherever occurring.

**[3] Section 5 Definitions**

Omit the definition of *Commissioner* from section 5 (1).

**[4] Section 5 (1)**

Insert in alphabetical order:

*Director-General* means the Director-General of the Department of Fair Trading.



- 
- [5] **Section 5 (1), definition of “credit”**  
Omit “him”. Insert instead “the debtor”.
- [6] **Section 5 (1), definition of “credit provider”**  
Omit “him” wherever occurring. Insert instead “that person”.
- [7] **Section 5 (1), definition of “default charge”**  
Omit “his failure to fulfil his”.  
Insert instead “the debtor’s failure to fulfil his or her”.
- [8] **Section 5 (1), definition of “guarantor”**  
Omit “his”. Insert instead “the debtor’s or mortgagor’s”.
- [9] **Section 5 (1), definition of “loan contract”**  
Omit “him” wherever occurring. Insert instead “the person”.
- [10] **Section 5 (1), definition of “services”**  
Omit “him or them”. Insert instead “that or those other persons”.
- [11] **Sections 11 (1) (a) and 62 (1) and (3)**  
Omit “his” wherever occurring. Insert instead “the credit provider’s”.
- [12] **Section 13 Contracts for hiring goods**  
Omit “him” wherever occurring in section 13 (2) (b) and (4).  
Insert instead “that person”.
- [13] **Sections 13 (3) (f), 22, 29 (except 29 (b)) and 117 (3) and (5) (except (5) (c))**  
Omit “him” and “he” wherever occurring. Insert instead “the supplier”.
- [14] **Section 17 Recognised States**  
Omit “he is”.
- [15] **Sections 24 (2) (a) and (b) (except (b) (i)) and (10), 48 (2) (a), 69 (1) (a), 74 (1), 81 (1) (3) and (6), 95 (2) and (4), 98 (1), 102 (2), 105, 110 (1), 113 (1) and (2), 118, 128 (2) (b), 139 (2), 147 (2) (e), 150 (1), 164 (1) (a) and (3)**  
Insert “or her” after “him” and “his” wherever occurring.

- [16] Section 24 (2) (b) (i)**  
Omit “his”.
- [17] Sections 24 (4) and (13) and 25 (3) (c)**  
Omit “he” or “him” wherever occurring. Insert instead “the buyer”.
- [18] Section 29 (b)**  
Omit “him”. Insert instead “the credit provider”.
- [19] Section 32 Form of offer**  
Omit “his” wherever occurring in section 32 (3) and (4).  
Insert instead “the person’s”.
- [20] Sections 32 (5), 117 (2), 121 (1) and 156**  
Omit “him” and “he” wherever occurring. Insert instead “the person”.
- [21] Sections 42 (2), 47 (1), 59 (2), 62 (1) (a) and (4) and 85 (1)**  
Omit “he” and “him” wherever occurring. Insert instead “the debtor”.
- [22] Sections 45 (2), 46, 56, 57 (1), 63, 64 (2), 68 (2), 70 (4), 71 (4), 86 (1) and 104 (2)**  
Omit “he” and “him” wherever occurring. Insert instead “the credit provider”.
- [23] Sections 49 (3) (a) and 59 (2)**  
Omit “his” wherever occurring. Insert instead “the debtor’s”.
- [24] Section 62 (4) (a)**  
Insert “or her” after “his”.
- [25] Sections 70 (6) and 136**  
Omit “he”. Insert instead “the guarantor”.
- [26] Section 74 (1)**  
Omit “he reasonably expects that he”.  
Insert instead “the debtor reasonably expects that he or she”.
- [27] Sections 74 (3), 116 (4) and 139 (4)**  
Omit “he”. Insert instead “the Director-General”.

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- [28] **Sections 81 (1) (b), 114 (1) (except 114 (1) (a)), 115 (3) and (6) and 128 (2) (b)**  
Omit “he” wherever occurring. Insert instead “the mortgagee”.
- [29] **Sections 94 (1), 95 (1), 113 (4) and 115 (1) and (6)**  
Omit “his” wherever occurring. Insert instead “the mortgagee’s”.
- [30] **Section 96 Disclosure of location of goods**  
Omit “his” from section 96 (2) (b). Insert instead “the mortgagor’s”.
- [31] **Sections 98 (2), 99 (1) and (2), 115 (5) (except 115 (5) (b))**  
Omit “him” wherever occurring. Insert instead “the mortgagor”.
- [32] **Section 104 (3)**  
Omit “he”. Insert instead “the debtor or guarantor concerned”.
- [33] **Sections 106 (4) (b), 112 (2) and 115 (5) (b)**  
Omit “him” wherever occurring. Insert instead “the mortgagee”.
- [34] **Section 107 (8)**  
Omit “him”. Insert instead “the debtor or mortgagor concerned”.
- [35] **Section 116 Postponement of exercise of rights**  
Omit “his” from section 116 (1).  
Insert instead “the credit provider’s or mortgagee’s”.
- [36] **Section 116 (3)**  
Omit “he”. Insert instead “the debtor or mortgagor”.
- [37] **Section 116 (4)**  
Omit “him”. Insert instead “the credit provider or mortgagee”.
- [38] **Section 121 (3)**  
Omit “he” where firstly occurring. Insert instead “the person”.
- [39] **Section 121 (3)**  
Insert “or she” after “he” where secondly occurring.
- [40] **Sections 126 and 153**  
Omit “he” wherever occurring.  
Insert instead “the credit provider or mortgagee concerned”.
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- [41] Section 127 Insurance—regulated contracts**  
Omit “his providing” from section 127 (2). Insert instead “the provision of”.
- [42] Section 128 (4)**  
Omit “he” wherever occurring. Insert instead “the mortgagor”.
- [43] Section 131 Premiums to be paid to insurer**  
Omit “him”. Insert instead “the insurer”.
- [44] Section 147 (3)**  
Omit “he represented him, or assisted him”.  
Insert instead “the person represented the debtor or the mortgagor or assisted the debtor or the mortgagor”.
- [45] Section 150 (2)**  
Omit “his” where firstly and thirdly occurring. Insert instead “the person’s”.
- [46] Section 150 (2)**  
Insert “or her” after “his” where secondly occurring.
- [47] Section 150 (2)**  
Omit “he” wherever occurring. Insert instead “the person”.
- [48] Section 150 (2)**  
Omit “him”. Insert instead “the assignor”.
- [49] Section 156**  
Insert “or her” after “his” where firstly and lastly occurring.
- [50] Section 156**  
Omit “his” where secondly occurring. Insert instead “the person’s”.
- [51] Section 160 Offence by corporation**  
Omit “he”.  
Insert instead “the director, manager, secretary or other officer concerned”.
- Explanatory note**  
The proposed amendments update references to an office holder and replace gender specific terms with gender neutral terms.

## 2.13 Credit (Finance Brokers) Act 1984 No 96

### Section 4 Definitions

Omit the definition of *Commissioner* from section 4 (1).

#### Explanatory note

The proposed amendment omits a superfluous definition.

## 2.14 Credit (Home Finance Contracts) Act 1984 No 97

### [1] The whole Act (except section 4)

Omit “Commissioner” wherever occurring. Insert instead “Director-General”.

### [2] Section 4 Definitions

Omit the definition of *Commissioner*.

### [3] Section 4

Insert in alphabetical order:

*Director-General* means the Director-General of the Department of Fair Trading.

#### Explanatory note

The *Credit (Home Finance Contracts) Act 1984* defines *Commissioner*, for the purposes of that Act, as the Director-General of the Department of Fair Trading.

The proposed amendments replace references to the Commissioner with direct references to the Director-General of the Department of Fair Trading.

## 2.15 Crimes Act 1900 No 40

### Section 19A Punishment for murder

Omit “section 442” from section 19A (3).

Insert instead “section 21 (1) of the *Crimes (Sentencing Procedure) Act 1999*”.

#### Explanatory note

The proposed amendment updates a reference to a repealed provision.

## 2.16 Criminal Procedure Act 1986 No 209

### Schedule 1 Indictable offences triable summarily

Re-number paragraph 31 (as inserted by the *Crimes Legislation Further Amendment Act 2000*) in Part 6 of Table 1 as paragraph 30A.

#### Explanatory note

The proposed amendment corrects the duplication of a paragraph number.

## 2.17 Dormant Funds Act 1942 No 25

### Section 3 Certain Acts not affected

Omit “*Unclaimed Money Act 1982*” from section 3 (1).  
Insert instead “*Unclaimed Money Act 1995*”.

#### Explanatory note

The proposed amendment updates a reference to an Act.

## 2.18 Factories, Shops and Industries Act 1962 No 43

### Section 9 Definitions

Re-number paragraphs (a), (b) and (c) (where secondly occurring) and (d), (e), (f), (g) and (h) of the definition of *engine* in section 9 (1) as paragraphs (d), (e), (f), (g), (h), (i), (j) and (k) respectively.

#### Explanatory note

The proposed amendment corrects the duplication of paragraph identifiers.

## 2.19 Funeral Funds Act 1979 No 106

### [1] The whole Act (except to the extent to which its provisions are otherwise amended or repealed by this Act)

Omit “Registrar” and Registrar’s” wherever occurring.  
Insert instead “Director-General” and “Director-General’s” respectively.

### [2] Section 4 Definitions

Omit the definitions of *Deputy Registrar* and *Registrar*.

**[3] Section 4**

Insert in alphabetical order:

*Department* means the Department of Fair Trading.

*Director-General* means the Director-General of the Department.

**[4] Section 6**

Omit the section. Insert instead:

**6 Documents**

All documents lodged under this Act with the Director-General are to be kept in an office of the Department.

**[5] Section 7**

Omit the section.

**[6] Section 9 Delegation**

Insert “under this Act” after “functions” in section 9 (1).

**[7] Section 9 (1)**

Omit “Registrar’s office”. Insert instead “Department”.

**[8] Section 74 Application of Companies (New South Wales) Code**

Omit “Registrar of Funeral Funds” and “Registrar” wherever occurring. Insert instead “Director-General of the Department of Fair Trading”.

**[9] Section 88 Inspection of documents**

Omit “the Registrar’s office”. Insert instead “an office of the Department”.

**[10] Section 88 (b)**

Omit “and seal”.

**Explanatory note**

The functions of both the Registrar and the Deputy Registrar under the *Funeral Funds Act 1979* are exercised by the Director-General of the Department of Fair Trading.

Items [1]–[3] and [7]–[9] of the proposed amendments replace references to the Commissioner with direct references to the Director-General of the Department of Fair Trading and replaces references to the Registrar’s Office with references to the Department of Fair Trading. Item [6] makes a consequential amendment.

Items [5] and [10] make consequential amendments by omitting a superfluous provision and words.

Item [4] of the proposed amendments omits superfluous parts of a section and consequentially restates the remaining operative part of the section.

## 2.20 Habitual Criminals Act 1957 No 19

### Section 5 Proof of previous conviction and imprisonment

Omit “Director-General of Corrective Services” wherever occurring in section 5 (2).

Insert instead “Commissioner of Corrective Services”.

#### Explanatory note

The proposed amendment updates a reference to an office holder.

## 2.21 Health Services Act 1997 No 154

### Section 10 Functions of area health services

Omit “with” where secondly occurring in section 10 (j). Insert instead “under”.

#### Explanatory note

The proposed amendment replaces an incorrect word.

## 2.22 Impounding Act 1993 No 31

### Section 7 Dogs can be impounded in certain areas only

Omit “*Dog Act 1966*” from the note to section 7.

Insert instead “*Companion Animals Act 1998*”.

#### Explanatory note

The proposed amendment updates a reference to a repealed Act.

## 2.23 Independent Pricing and Regulatory Tribunal Act 1992 No 39

### [1] Section 11 Investigations and reports by Tribunal—standing reference

Insert “the determination of” before “the proportion” in section 11 (3) (a) and (b).

### [2] Section 11 (3) (c)

Insert “the determination of” before “the repayment”.

### [3] Schedule 4 Savings and transitional provisions

Omit “with the respect” from clause 10 (1). Insert instead “with respect”.

#### Explanatory note

Items [1] and [2] of the proposed amendments makes the language of section 11 (3) consistent with language used elsewhere in the *Independent Pricing and Regulatory Tribunal Act 1992*. Item [3] of the proposed amendments omits a superfluous word.



## 2.24 Industrial Relations Act 1996 No 17

### Dictionary

Omit the definition of *penalty unit*. Insert instead:

*penalty unit* see section 17 of the *Crimes (Sentencing Procedure) Act 1999*.

### Explanatory note

The proposed amendment updates a reference to a repealed provision.

## 2.25 Justices Act 1902 No 27

### Section 48E Direction to witness to attend

Omit “that Act” wherever occurring in section 48E (9).  
Insert instead “the *Crimes Act 1900*”.

### Explanatory note

The proposed amendment updates references to an Act.

## 2.26 Land and Environment Court Act 1979 No 204

### [1] Section 20 Class 4—environmental planning and protection and development contract civil enforcement

Renumber paragraph (cii) of section 20 (1) as paragraph (cia).

### [2] Section 20 (1) (de)

Omit “64”. Insert instead “63”.

### Explanatory note

Item [1] of the proposed amendments corrects the numbering of a paragraph.  
Item [2] of the proposed amendments corrects a cross-reference.

## 2.27 Landlord and Tenant (Amendment) Act 1948 No 25

### [1] Section 36 Certain payments prohibited

Renumber section 36 (1) (b) (i), (ii) and (iii) (where secondly occurring) as section 36 (1) (b) (A), (B) and (C) respectively.

**[2] Section 70 Court to consider hardship**

Re-number section 70 (2A) (a) and (b) (where secondly occurring) as section 70 (2A) (d) and (e).

**Explanatory note**

The proposed amendments correct the duplication of paragraph identifiers.

**2.28 Law Reform (Miscellaneous Provisions) Act 1965 No 32**

**Parts 4, 10 and 11**

Omit the headings to the Parts.

**Explanatory note**

The proposed amendment omits redundant Part headings.

**2.29 Legal Aid Commission Act 1979 No 78**

**[1] Schedule 2 Membership of Board**

Omit “section 8 (1) (a)” from the definition of *Chairperson* in clause 1.  
Insert instead “section 14 (2) (b) (i)”.

**[2] Schedule 2, clause 1**

Omit “*commissioner* does not include the Chief Executive Officer.”

Insert instead:

*member* of the Board does not include the Chief Executive Officer.

**Explanatory note**

Item [1] of the proposed amendments corrects a cross-reference.

Item [2] of the proposed amendments replaces a reference to a commissioner with a reference to a member of the Board (of the Legal Aid Commission).

Both amendments are consequential on the amendment of the *Legal Aid Commission Act 1979* by the *Legal Aid Commission Amendment Act 2000* (which, among other things, constituted the Board).

**2.30 Mines Inspection Act 1901 No 75**

**Section 65 Publication of abstract of Act and general rules and copy of special rules**

Re-number section 65 (a) and (b) (where secondly occurring) as section 65 (c) and (d).

**Explanatory note**

The proposed amendment corrects the duplication of paragraph identifiers.

## 2.31 Mining Act 1992 No 29

### Schedule 3 The Geological and Mining Museum

Omit the Schedule.

#### Explanatory note

The *Mining and Petroleum Legislation Amendment Act 2000* repealed Part 16 of the *Mining Act 1992*. That Part established the Geological and Mining Museum Trust which no longer functioned at the time of that repeal.

The proposed amendment repeals redundant provisions of the *Mining Act 1992* that provide for the constitution and procedure of the Trust.

## 2.32 National Park Estate (Southern Region Reservations) Act 2000 No 103

### Section 8 Dedication as Crown reserves under Crown Lands Act 1989 of certain former State forests, Crown land and other land

Omit section 8 (3). Insert instead:

- (3) The National Parks and Wildlife Reserve Trust established under section 9 of the *Forestry and National Park Estate Act 1998* is appointed as trustee of the reserve consisting of all of the land described in Schedule 4.

#### Explanatory note

Section 8 (3) of the *National Park Estate (Southern Region Reservations) Act 2000* provides for the establishment of a National Parks and Wildlife Reserve Trust, under the control of the Director-General of National Parks and Wildlife, as the trustee of the land described in Schedule 4 to that Act. A trust by that name is also established by section 9 of the *Forestry and National Park Estate Act 1998* as trustee of similar land. The proposed amendment clarifies that there are not 2 separate trusts but only one trust by that name.

## 2.33 Public Works Act 1912 No 45

### Section 82 Power to take temporary possession of land

Re-number section 82 (1) (a), (b) and (c) (where secondly occurring) and (d) as section 82 (1) (d), (e), (f) and (g) respectively.

#### Explanatory note

The proposed amendment corrects the duplication of paragraph identifiers.

## **2.34 Rural Lands Protection Act 1998 No 143**

### **Schedule 2 Election or appointment of directors**

Insert “subject to subclause (2),” before “the person” in clause 4 (1A) (a).

#### **Explanatory note**

The proposed amendment makes it explicit that clause 4 (2) of Schedule 2 to the *Rural Lands Protection Act 1998* (which provides that a director of a rural lands protection board is, if otherwise qualified, eligible for re-election or re-appointment for a further term at the conclusion of his or her term of office) has effect according to its terms and is not rendered inoperative by an extended interpretation of a provision that has been inserted into the Act (namely clause 4 (1A) of Schedule 2) to prevent a person holding more than one office of director concurrently on the same rural lands protection board or holding offices as director concurrently on more than one rural lands protection board.

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

### **Section 22 Preservation of proclaimed works**

Re-number section 22 (4) (a) and (b) (where secondly occurring) as section 22 (4) (e) and (f).

#### **Explanatory note**

The proposed amendment corrects the duplication of paragraph identifiers.

## **2.36 State Owned Corporations Act 1989 No 134**

### **[1] Schedule 6 Provisions to be included in memorandum or articles of association of statutory SOCs**

Insert “of any requirement” after “contravention” in clause 3 (2) of Part 2 of the Schedule.

### **[2] Schedule 7 Provisions to be included in memorandum or articles of association of subsidiaries of statutory SOCs**

Insert “of any requirement” after “contravention” in clause 3 (2) of Part 2 of the Schedule.

#### **Explanatory note**

The proposed amendments insert omitted words.

## **2.37 Statutory and Other Offices Remuneration Act 1975 (1976 No 4)**

### **Schedule 2 Public offices**

Omit “Director-General of Corrective Services” and “Deputy Director-General of Corrective Services” from Part 1.

Insert instead “Commissioner of Corrective Services” and “Deputy Commissioner of Corrective Services” respectively.

#### **Explanatory note**

The proposed amendment updates references to office holders.

## **2.38 Strata Schemes (Freehold Development) Act 1973 No 68**

### **[1] The whole Act (except sections 5, 28QC (5), 28QE (c), 49 and 91 and Schedule 4)**

Omit “Commissioner” wherever occurring. Insert instead “Director-General”.

### **[2] Section 5 Definitions**

Omit the definition of *Commissioner* from section 5 (1).

### **[3] Section 5 (1)**

Insert in alphabetical order:

*Director-General* means the Director-General of the Department of Fair Trading.

### **[4] Section 28QC Investigation of application for assistance**

Omit section 28QC (5). Insert instead:

- (5) On completion of an investigation by a delegate of the Director-General of an application, the delegate must report to the Director-General on the results of the investigation.

### **[5] Section 28QE Application of Fair Trading Act 1987 to applications for assistance**

Omit “under section 98 of this Act” from section 28QE (b).

**[6] Section 28QE (c)**

Omit the paragraph.

**Explanatory note**

Items [1]–[3] of the proposed amendments update references to an office holder.

Items [4] and [6] make consequential amendments.

Item [5] of the proposed amendments omits a reference to a repealed section.

**2.39 Strata Schemes (Leasehold Development) Act 1986 No 219**

**[1] The whole Act (except sections 4, 57AC (5), 57AE (c), 78 and 123 and Schedule 5)**

Omit “Commissioner” wherever occurring. Insert instead “Director-General”.

**[2] Section 4 Definitions**

Omit the definition of *Commissioner* from section 4 (1).

**[3] Section 4 (1)**

Insert in alphabetical order:

*Director-General* means the Director-General of the Department of Fair Trading.

**[4] Section 57AC Investigation of application for assistance**

Omit section 57AC (5). Insert instead:

(5) On completion of an investigation by a delegate of the Director-General of an application, the delegate must report to the Director-General on the results of the investigation.

**[5] Section 57AE Application of Fair Trading Act 1987 to application for assistance**

Omit section 57AE (c).

**Explanatory note**

Items [1]–[3] of the proposed amendments update references to an office holder.

Item [4] repeals and re-enacts a provision in consequence of the update.

Item [5] omits a superfluous provision.

**2.40 Strata Schemes Management Act 1996 No 138**

**[1] The whole Act (except Schedule 4 and the Dictionary)**

Omit “Commissioner” and “Commissioner’s” wherever occurring.

Insert instead “Director-General” and “Director-General’s” respectively.

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- [2] **Chapter 5 Disputes and orders of Adjudicators and Board**  
Omit “Strata Schemes Commissioner” from the Introductory note to Part 2 of Chapter 5.  
Insert instead “Director-General”.
- [3] **Section 205 Payment of penalties or costs**  
Omit “of the Department of Fair Trading” wherever occurring.
- [4] **Chapter 6 Administration**  
Omit “a Strata Schemes Commissioner and for” from the Introductory note to Chapter 6.
- [5] **Chapter 6, Part 1**  
Omit the heading to Part 1. Insert instead:

## **Part 1 Functions of Director-General under this Act**

- [6] **Section 211 Strata Schemes Commissioner**  
Omit the section.
- [7] **Section 213 Staff**  
Insert “under this Act” after “functions”.
- [8] **Section 214 Delegation of functions**  
Omit “or any other”.
- [9] **Section 212 Functions of Director-General**  
Omit section 212 (1).
- [10] **Section 212 (2)**  
Insert “under this Act” before “include”.
- [11] **Section 216 Annual report of Director-General**  
Insert “under this Act” before “during” in section 216 (1).
- [12] **Chapter 7 General**  
Omit “Commissioner” from the Introductory note to Chapter 7.  
Insert instead “Director-General”.

**[13] Dictionary**

Omit the definition of *Commissioner*.

**[14] Dictionary**

Insert in alphabetical order:

*Director-General* means the Director-General of the Department of Fair Trading.

**Explanatory note**

Items [1], [13] and [14] of the proposed amendments update references to an office holder. Items [2]–[5] and [7]–[12] make consequential amendments. Item [6] omits a superfluous provision.

**2.41 Surveyors Act 1929 No 3**

**Section 14 Power of board to deal with offences**

Renumber section 14 (1) (i) (where secondly occurring) and (ii) as section 14 (1) (j) and (k).

**Explanatory note**

The proposed amendment corrects paragraph identifiers.

**2.42 Sydney Harbour Foreshore Authority Act 1998 No 170**

**Sections 37, 38 and 46**

Omit “section 56 of the *Interpretation Act 1987*” from the notes to the sections. Insert instead “section 17 of the *Crimes (Sentencing Procedure) Act 1999*”.

**Explanatory note**

The proposed amendment updates a reference to a repealed provision.

**2.43 Trade Measurement Administration Act 1989 No 234**

**[1] Section 3 Definitions**

Omit the definition of *Commissioner* from section 3 (1).

**[2] Section 3**

Insert in alphabetical order:

*Director-General* means the Director-General of the Department of Fair Trading.



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**[3] Sections 4, 8, 20 and 25**

Omit “Commissioner” wherever occurring. Insert instead “Director-General”.

**[4] Section 5 Superintendent and other staff**

Insert “, for the purposes of this Act,” after “use” in section 5 (2).

**Explanatory note**

The *Trade Measurement Administration Act 1989* defines **Commissioner**, for the purposes of that Act, as the Director-General of the Department of Fair Trading.

Items [1]–[3] of the proposed amendments replace references to the Commissioner with direct references to the Director-General of the Department of Fair Trading. Item [4] makes a consequential amendment.

**2.44 Transport Administration Act 1988 No 109**

**[1] Section 19F Powers of RIC relating to rail infrastructure facilities and land**

Omit “RAC”. Insert instead “RIC”.

**[2] Schedule 6A Powers of RIC relating to rail infrastructure facilities and land**

Omit “RAC’s” from clauses 3 (1) (b), 8 (1) (d) and (e) and (5) (b) wherever occurring.

Insert instead “RIC’s”.

**Explanatory note**

The proposed amendments update references to a statutory body.

**2.45 Trustee Companies Act 1964 No 6**

**Second and Third Schedules**

Omit “IOOF Australia Trustees (N.S.W.) Limited” wherever occurring.

Insert instead “Tower Trust (NSW) Limited”.

**Explanatory note**

The proposed amendments are consequential on the change of name of a company.

## 2.46 Uncollected Goods Act 1995 No 68

### Sections 6, 14 and 29

Omit “*Unclaimed Money Act 1982*” wherever occurring in the sections.  
Insert instead “*Unclaimed Money Act 1995*”.

#### Explanatory note

The proposed amendment updates references to a repealed Act.

## 2.47 University of Western Sydney Act 1997 No 116

### Schedule 4 Savings, transitional and other provisions

Omit “this Act” from clause 1 (2). Insert instead “the Act concerned”.

#### Explanatory note

The proposed amendment amends a provision concerning the effect of regulations of a savings or transitional nature made under the *University of Western Sydney Act 1997*.

The amendment is consequential on the enactment of an additional Act under which such regulations may be made.

## 2.48 Valuers Registration Act 1975 No 92

### [1] Section 19 Removal of name of real estate valuer from register

Omit “temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the *Mental Health Act 1958* or a person under detention under Part 7 of that Act”.

Insert instead “a protected person within the meaning of the *Protected Estates Act 1983* or a temporary patient, a continued treatment patient or a forensic patient within the meaning of the *Mental Health Act 1990*”.

### [2] Section 30 Regulations

Omit “14 (b),” from section 30 (4).

### [3] Section 30A Provision relating to Valuers Registration Regulation

Omit the section.

#### Explanatory note

Item [1] of the proposed amendments updates references to terminology and to a repealed Act.

Item [2] of the proposed amendments omits a redundant cross-reference.

Item [3] of the proposed amendments omits a spent provision.

## **2.49 Victims Support and Rehabilitation Act 1996 No 115**

### **Section 77B Directions for compensation**

Insert “of the *Crimes (Sentencing Procedure) Act 1999*” after “Part 3” in section 77B (1).

#### **Explanatory note**

The proposed amendment inserts omitted words.

## **Schedule 3 Amendments to facilitate implementation of SGML as a markup language for legislation**

(Section 3)

### **3.1 Forestry and National Park Estate Act 1998 No 163**

**[1] Schedule 1 State forest reserved as national park or historic site or dedicated as nature reserve**

Renumber Parts 1.1, 1.2, 1.5, and 1.6 as clauses 1, 2, 5 and 6 and add a colon and the subheading with respect to each existing Part to the end of the clause headings as renumbered.

**[2] Schedule 1, Part 1.3**

Renumber the Part as clause 3 and number the subheadings in clause 3 (as renumbered) as subclauses (1)–(14).

**[3] Schedule 1, Part 1.4**

Renumber the Part as clause 4 and number the subheadings in clause 4 (as renumbered) as subclauses (1)–(4).

**[4] Schedule 1, Part 2.1**

Renumber the Part as clause 7 and number the subheadings in clause 7 (as renumbered) as subclauses (1)–(3).

**[5] Schedule 1**

Renumber Parts 2.2, 2.4, 2.5, 2.7, 2.9–2.12, 2.14–2.18, 2.20, 2.23–2.33, 2.36–2.38, 2.41–2.43, 2.48, 2.50, 2.51, 2.54, 2.56, 2.57, 2.59, 2.62, 2.64 and 2.65 as clauses 8, 10, 11, 13, 15–18, 20–24, 26, 29–39, 42–44, 47–49, 54, 56, 57, 60, 62, 63, 65, 68, 70 and 71 and add a colon and the subheading with respect to each existing Part to the end of the clause headings as renumbered.

**[6] Schedule 1, Part 2.3**

Renumber the Part as clause 9 and number the subheadings in clause 9 (as renumbered) as subclauses (1)–(3).

**[7] Schedule 1, Part 2.6**

Renumber the Part as clause 12 and number the subheadings in clause 12 (as renumbered) as subclauses (1)–(5).

- [8] Schedule 1, Part 2.8**  
Renumber the Part as clause 14 and number the subheadings in clause 14 (as renumbered) as subclauses (1) and (2).
- [9] Schedule 1, Part 2.13**  
Renumber the Part as clause 19 and number the subheadings in clause 19 (as renumbered) as subclauses (1) and (2).
- [10] Schedule 1, Part 2.19**  
Renumber the Part as clause 25 and number the subheadings in clause 25 (as renumbered) as subclauses (1)–(4).
- [11] Schedule 1, Part 2.21**  
Renumber the Part as clause 27 and number the subheadings in clause 27 (as renumbered) as subclauses (1)–(3).
- [12] Schedule 1, Part 2.22**  
Renumber the Part as clause 28 and number the subheadings in clause 28 (as renumbered) as subclauses (1) and (2).
- [13] Schedule 1, Part 2.34**  
Renumber the Part as clause 40 and number the subheadings in clause 40 (as renumbered) as subclauses (1) and (2).
- [14] Schedule 1, Part 2.35**  
Renumber the Part as clause 41 and number the subheadings in clause 41 (as renumbered) as subclauses (1)–(4).
- [15] Schedule 1, Part 2.39**  
Renumber the Part as clause 45 and number the subheadings in clause 45 (as renumbered) as subclauses (1)–(5).
- [16] Schedule 1, Part 2.40**  
Renumber the Part as clause 46 and number the subheadings in clause 46 (as renumbered) as subclauses (1) and (2).
- [17] Schedule 1, Part 2.44**  
Renumber the Part as clause 50 and number the subheadings in clause 50 (as renumbered) as subclauses (1) and (2).
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- [18] Schedule 1, Part 2.45**  
Renumber the Part as clause 51 and number the subheadings in clause 51 (as renumbered) as subclauses (1)–(5).
- [19] Schedule 1, Part 2.46**  
Renumber the Part as clause 52 and number the subheadings in clause 52 (as renumbered) as subclauses (1)–(7).
- [20] Schedule 1, Part 2.47**  
Renumber the Part as clause 53 and number the subheadings in clause 53 (as renumbered) as subclauses (1)–(3).
- [21] Schedule 1, Part 2.49**  
Renumber the Part as clause 55 and number the subheadings in clause 55 (as renumbered) as subclauses (1) and (2).
- [22] Schedule 1, Part 2.52**  
Renumber the Part as clause 58 and number the subheadings in clause 58 (as renumbered) as subclauses (1)–(3).
- [23] Schedule 1, Part 2.53**  
Renumber the Part as clause 59 and number the subheadings in clause 59 (as renumbered) as subclauses (1) and (2).
- [24] Schedule 1, Part 2.55**  
Renumber the Part as clause 61 and number the subheadings in clause 61 (as renumbered) as subclauses (1)–(3).
- [25] Schedule 1, Part 2.58**  
Renumber the Part as clause 64 and number the subheadings in clause 64 (as renumbered) as subclauses (1) and (2).
- [26] Schedule 1, Part 2.60**  
Renumber the Part as clause 66 and number the subheadings in clause 66 (as renumbered) as subclauses (1) and (2).
- [27] Schedule 1, Part 2.61**  
Renumber the Part as clause 67 and number the subheadings in clause 67 (as renumbered) as subclauses (1)–(3).

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**[28] Schedule 1, Part 2.63**

Renumber the Part as clause 69 and number the subheadings in clause 69 (as renumbered) as subclauses (1)–(3).

**[29] Schedule 1**

Renumber Parts 3.1, 3.2, 3.4–3.7, 3.9–3.16, 3.19, 3.21, 3.22, 3.25–3.27, 3.32–3.34, 3.38, 3.40–3.43, 3.45–3.47 and 3.50 as clauses 72, 73, 75–78, 80–87, 90, 92, 93, 96–98, 103–105, 109, 111–114, 116–118 and 121 and add a colon and the subheading with respect to each existing Part to the end of the clause headings as renumbered.

**[30] Schedule 1, Part 3.3**

Renumber the Part as clause 74 and number the subheadings in clause 74 (as renumbered) as subclauses (1) and (2).

**[31] Schedule 1, Part 3.8**

Renumber the Part as clause 79 and number the subheadings in clause 79 (as renumbered) as subclauses (1) and (2).

**[32] Schedule 1, Part 3.17**

Renumber the Part as clause 88 and number the subheadings in clause 88 (as renumbered) as subclauses (1) and (2).

**[33] Schedule 1, Part 3.18**

Renumber the Part as clause 89 and number the subheadings in clause 89 (as renumbered) as subclauses (1) and (2).

**[34] Schedule 1, Part 3.20**

Renumber the Part as clause 91 and number the subheadings in clause 91 (as renumbered) as subclauses (1)–(4).

**[35] Schedule 1, Part 3.23**

Renumber the Part as clause 94 and number the subheadings in clause 94 (as renumbered) as subclauses (1)–(3).

**[36] Schedule 1, Part 3.24**

Renumber the Part as clause 95 and number the subheadings in clause 95 (as renumbered) as subclauses (1) and (2).

- [37] Schedule 1, Part 3.28**  
Renumber the Part as clause 99 and number the subheadings in clause 99 (as renumbered) as subclauses (1)–(3).
- [38] Schedule 1, Part 3.29**  
Renumber the Part as clause 100 and number the subheadings in clause 100 (as renumbered) as subclauses (1) and (2).
- [39] Schedule 1, Part 3.30**  
Renumber the Part as clause 101 and number the subheadings in clause 101 (as renumbered) as subclauses (1) and (2).
- [40] Schedule 1, Part 3.31**  
Renumber the Part as clause 102 and number the subheadings in clause 102 (as renumbered) as subclauses (1) and (2).
- [41] Schedule 1, Part 3.35**  
Renumber the Part as clause 106 and number the subheadings in clause 106 (as renumbered) as subclauses (1) and (2).
- [42] Schedule 1, Part 3.36**  
Renumber the Part as clause 107 and number the subheadings in clause 107 (as renumbered) as subclauses (1)–(3).
- [43] Schedule 1, Part 3.37**  
Renumber the Part as clause 108 and number the subheadings in clause 108 (as renumbered) as subclauses (1) and (2).
- [44] Schedule 1, Part 3.39**  
Renumber the Part as clause 110 and number the subheadings in clause 110 (as renumbered) as subclauses (1) and (2).
- [45] Schedule 1, Part 3.44**  
Renumber the Part as clause 115 and number the subheadings in clause 115 (as renumbered) as subclauses (1)–(5).
- [46] Schedule 1, Part 3.48**  
Renumber the Part as clause 119 and number the subheadings in clause 119 (as renumbered) as subclauses (1)–(6).



**[47] Schedule 1, Part 3.49**

Re-number the Part as clause 120 and number the subheadings in clause 120 (as re-numbered) as subclauses (1) and (2).

**[48] Schedule 1, Part 3.51**

Re-number the Part as clause 122 and number the subheadings in clause 122 (as re-numbered) as subclauses (1)–(3).

**[49] Schedule 2 Crown lands reserved as national park or dedicated as nature reserve**

Re-number Parts 1.1–1.6 of Schedule 2 as clauses 1–6.

**[50] Schedule 3 Parts of State forests set apart as flora reserves under Forestry Act 1916**

Re-number Parts 1.1–1.6 of Schedule 3 as clauses 1–6.

**[51] Schedule 3, Parts 2.1–2.5**

Re-number the Parts as clauses 7–11.

**[52] Schedule 3, Part 3.1**

Re-number the Part as clause 12.

**[53] Schedule 4 State forests dedicated as Crown reserves under Crown Lands Act 1989**

Omit:

*Part Yurammie State Forest No 133*

Insert instead:

**1 Part Yurammie State Forest No 133**

**[54] Schedule 4, Part 2.1**

Re-number the Part as clause 2 and number the subheadings in clause 2 (as re-numbered) as subclauses (1) and (2).

**[55] Schedule 4**

Re-number Parts 2.2 and 2.3 as clauses 3 and 4 and add a colon and the subheading with respect to each existing Part to the end of the clause headings as re-numbered.

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**[56] Schedule 4, Part 3.1**

Re-number the Part as clause 5 and number the subheadings in clause 5 (as re-numbered) as subclauses (1)–(3).

**[57] Schedule 4**

Re-number Parts 3.2–3.4 as clauses 6–8 and add a colon and the subheading with respect to each existing Part to the end of the clause headings as re-numbered.

**[58] Schedule 6 State forests and Crown lands to be transferred to Aboriginal ownership**

Omit:

**Part 1.1 Eden Local Aboriginal Land Council**

Wonboyn area

*Part East Boyd State Forest No 127*

Insert instead:

**1 Eden Local Aboriginal Land Council**

(1) **Wonboyn area: Part East Boyd State Forest No 127**

**[59] Schedule 6, Part 1**

Omit:

*Part Nadgee State Forest No 125*

Insert instead:

(2) **Wonboyn area: Part Nadgee State Forest No 125**

**[60] Schedule 6, Part 1**

Omit:

**Kiah area**

*Part Nullica State Forest No 545*

Insert instead:

(3) **Kiah area: Part Nullica State Forest No 545**

**[61] Schedule 6, Part 1**

Omit:

**Fisheries Beach area**  
*Part East Boyd State Forest No 127*

Insert instead:

(4) **Fisheries Beach area: Part East Boyd State Forest No 127**

**[62] Schedule 6, Part 2**

Renumber Part 2.1 as clause 2 and number the subheadings in clause 2 (as renumbered) as subclauses (1)–(3).

**3.2 Imperial Acts Application Act 1969 No 30**

**Part 3, Division 9 Landlord and Tenant**

Omit the heading “*Waste*”.

**3.3 National Park Estate (Southern Region Reservations) Act 2000 No 103**

**[1] Schedule 1 State forest reserved as national park or state recreation area or dedicated as nature reserve**

Add a colon and the subheading with respect to clauses 1, 2, 5–12, 14–20, 22, 24, 28, 29, 31 and 33–35 to the end of each of the relevant clause headings.

**[2] Schedule 4 State forests and other land dedicated as Crown reserves under Crown Lands Act 1989**

Add a colon and the subheading with respect to clauses 1–6 to the end of each of the relevant clause headings.

**[3] Schedule 4, clause 7**

Number the subheadings to the clause as subclauses (1) and (2).

**3.4 Parliamentary Evidence Act 1901 No 43**

**[1] Section 7 Non-attendance of witness to be certified to a Judge**

Omit “the second Schedule hereto”. Insert instead “Schedule 2”.

Schedule 3 Amendments to facilitate implementation of SGML as a markup language for legislation

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**[2] Section 8 Issue of warrant**

Omit “the Third Schedule hereto”. Insert instead “Schedule 3”.

**[3] Second Schedule**

Omit the heading. Insert instead:

**Schedule 2 Certificate**

**[4] Third Schedule**

Omit the heading. Insert instead:

**Schedule 3 Warrant**

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## Schedule 4 Repeals

(Section 4)

<b>Name of Act</b>	<b>Extent of repeal</b>
Anti-Discrimination Amendment (Carers' Responsibilities) Act 2000 No 24 <sup>2</sup>	Whole of Act
Anzac Memorial (Building) Amendment Act 1999 No 44 <sup>1</sup>	Whole of Act
Appropriation Act 1999 No 32 <sup>3</sup>	Whole of Act
Appropriation (Parliament) Act 1999 No 33 <sup>3</sup>	Whole of Act
Appropriation (Special Offices) Act 1999 No 34 <sup>3</sup>	Whole of Act
Appropriation (1998–99 Budget Variations) Act 1999 No 8 <sup>3</sup>	Whole of Act
Casino Control Amendment Act 2000 No 57 <sup>2</sup>	Whole of Act
Centennial Park and Moore Park Trust Amendment (Eastern Distributor) Act 1997 No 19 <sup>1</sup>	Whole of Act
Children (Detention Centres) Amendment Act 1999 No 68 <sup>1</sup>	Whole of Act
Consumer Credit (New South Wales) Act 1993 No 7 <sup>4</sup>	Schedule 1
Conveyancing Amendment (Central Register of Restrictions) Act 2000 No 4 <sup>2</sup>	Whole of Act
Co-operatives Legislation Amendment Act 1999 No 2 <sup>1</sup>	Whole of Act
Correctional Centres Legislation Amendment (Assumed Identities) Act 1999 No 57 <sup>1</sup>	Whole of Act
Courts Legislation Amendment Act 1999 No 39 <sup>1</sup>	Whole of Act
Crimes and Courts Legislation Amendment Act 1999 No 91 <sup>1</sup>	Whole of Act
Crimes Legislation Amendment (Police and Public Safety) Act 1998 No 38 <sup>1</sup>	Whole of Act
Crimes Legislation Amendment (Sentencing) Act 1999 No 94 <sup>1</sup>	Whole of Act
Criminal Procedure Amendment (Sexual Assault Communications Privilege) Act 1999 No 48 <sup>1</sup>	Whole of Act
Drug Court Amendment Act 1999 No 47 <sup>1</sup>	Whole of Act

Statute Law (Miscellaneous Provisions) Act 2001 No 56

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Repeals

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Education Amendment (Special Courses of Study) Act 1999 No 75 <sup>1</sup>	Whole of Act
Election Funding Amendment Act 1999 No 53 <sup>1</sup>	Whole of Act
Electricity Supply Amendment Act 1999 No 35 <sup>1</sup>	Whole of Act
Fair Trading Tribunal Act 1998 No 161 <sup>4</sup>	Schedule 4
Forestry Restructuring and Nature Conservation Amendment Act 1999 No 50 <sup>1</sup>	Whole of Act
Gambling Legislation Amendment (Gaming Machine Restrictions) Act 2000 No 13 <sup>2</sup>	Whole of Act
Gas Supply Amendment (Safety) Act 1999 No 25 <sup>1</sup>	Whole of Act
General Government Debt Elimination Amendment Act 1999 No 9 <sup>1</sup>	Whole of Act
Health Legislation Amendment Act 1999 No 76 <sup>1</sup>	Whole of Act
Home Building Amendment Act 1999 No 26 <sup>1</sup>	Whole of Act
Industrial Relations Amendment Act 2000 No 67 <sup>2</sup>	Whole of Act
Industrial Relations Amendment (Council Swimming Centres) Act 2000 No 74 <sup>2</sup>	Whole of Act
Institute of Rural Studies Act 1973 No 54 <sup>3</sup>	Whole of Act
Irrigation Corporations Amendment Act 1999 No 78 <sup>1</sup>	Whole of Act
Law Enforcement and National Security (Assumed Identities) Amendment (Corrective Services) Act 1999 No 54 <sup>1</sup>	Whole of Act
Law Enforcement (Controlled Operations) Amendment Act 1999 No 79 <sup>1</sup>	Whole of Act
Liquor Amendment Act 1999 No 63 <sup>1</sup>	Whole of Act
Liquor and Registered Clubs Legislation Amendment Act 1999 No 12 <sup>1</sup>	Whole of Act
Liquor and Registered Clubs Legislation Amendment (Community Partnership) Act 1998 No 12 <sup>1</sup>	Whole of Act
Liquor and Registered Clubs Legislation Further Amendment Act 1999 No 27 <sup>1</sup>	Whole of Act
Local Courts Amendment (Part-time Magistrates) Act 1999 No 69 <sup>1</sup>	Whole of Act
Local Government (Areas) Act 1948 No 30 <sup>4</sup>	Second Schedule

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Meat Industry Amendment Act 1999 No 51 <sup>1</sup>	Whole of Act
Natural Resources Legislation Amendment (Rural Environmental Services) Act 1999 No 96 <sup>1</sup>	Whole of Act
Parliamentary Committees Legislation Amendment Act 1999 No 16 <sup>1</sup>	Whole of Act
Parliamentary Contributory Superannuation Amendment Act 1999 No 89 <sup>1</sup>	Whole of Act
Parliamentary Electorates and Elections Amendment Act 1999 No 70 <sup>1</sup>	Whole of Act
Parliamentary Evidence Act 1901 No 43 <sup>4</sup>	Section 2, First Schedule
Penalty Notices Validation Act 2000 No 19 <sup>3</sup>	Whole of Act
Police Service Amendment Act 1999 No 73 <sup>1</sup>	Whole of Act
Professional Standards Amendment Act 1999 No 56 <sup>1</sup>	Whole of Act
Property (Relationships) Legislation Amendment Act 1999 No 4 <sup>1</sup>	Whole of Act
Racing Administration Amendment Act 1999 No 17 <sup>1</sup>	Whole of Act
Real Property and Conveyancing Legislation Amendment Act 1999 No 58 <sup>1</sup>	Whole of Act
Registration of Interests in Goods Amendment Act 1999 No 28 <sup>1</sup>	Whole of Act
Residential Tribunal Act 1998 No 168 <sup>4</sup>	Schedule 4
Road Transport (Driver Licensing) Amendment Act 1999 No 59 <sup>1</sup>	Whole of Act
Road Transport Legislation Amendment Act 1999 No 19 <sup>1</sup>	Whole of Act
Road Transport (Safety and Traffic Management) Amendment (Camera Devices) Act 1999 No 82 <sup>1</sup>	Whole of Act
Royal Botanic Gardens and Domain Trust Amendment Act 1999 No 71 <sup>1</sup>	Whole of Act
State Revenue Legislation Further Amendment Act 1999 No 60 <sup>1</sup>	Whole of Act
Statute Law (Miscellaneous Provisions) Act 1985 No 231 <sup>1</sup>	Whole of Act
Statute Law (Miscellaneous Provisions) Act (No 2) 1986 No 218 <sup>1</sup>	Whole of Act

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Statute Law (Miscellaneous Provisions) Act (No 1) 1987 No 48 <sup>1</sup>	Whole of Act
Statute Law (Miscellaneous Provisions) Act 1988 No 20 <sup>1</sup>	Whole of Act
Statute Law (Miscellaneous Provisions) Act (No 2) 1988 No 92 <sup>1</sup>	Whole of Act
Statute Law (Miscellaneous Provisions) Act (No 3) 1988 No 131 <sup>1</sup>	Whole of Act
Statute Law (Miscellaneous Provisions) Act 1989 No 89 <sup>1</sup>	Whole of Act
Statute Law (Miscellaneous Provisions) (No 2) Act 1989 No 132 <sup>1</sup>	Whole of Act
Statute Law (Miscellaneous Provisions) Act (No 3) 1989 No 226 <sup>1</sup>	Whole of Act
Statute Law (Miscellaneous Provisions) Act 1990 No 46 <sup>1</sup>	Whole of Act
Statute Law (Miscellaneous Provisions) Act (No 2) 1990 No 108 <sup>1</sup>	Whole of Act
Statute Law (Miscellaneous Provisions) Act 1991 No 17 <sup>1</sup>	Whole of Act
Statute Law (Miscellaneous Provisions) Act (No 2) 1991 No 94 <sup>1</sup>	Whole of Act
Statute Law (Miscellaneous Provisions) Act 1992 No 34 <sup>1</sup>	Whole of Act
Statute Law (Miscellaneous Provisions) Act (No 2) 1992 No 57 <sup>1</sup>	Whole of Act
Statute Law (Miscellaneous Provisions) Act (No 3) 1992 No 111 <sup>1</sup>	Whole of Act
Statute Law (Miscellaneous Provisions) Act 1993 No 46 <sup>1</sup>	Whole of Act
Statute Law (Miscellaneous Provisions) Act (No 2) 1993 No 108 <sup>1</sup>	Whole of Act
Statute Law (Miscellaneous Provisions) Act 1994 No 32 <sup>1</sup>	Whole of Act
Statute Law (Miscellaneous Provisions) Act (No 2) 1994 No 95 <sup>1</sup>	Whole of Act

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Statute Law (Miscellaneous Provisions) Act 1995 No 16 <sup>1</sup>	Whole of Act
Statute Law (Miscellaneous Provisions) Act (No 2) 1995 No 99 <sup>1</sup>	Whole of Act
Statute Law (Miscellaneous Provisions) Act 1996 No 30 <sup>1</sup>	Whole of Act
Statute Law (Miscellaneous Provisions) Act (No 2) 1996 No 121 <sup>1</sup>	Whole of Act
Statute Law (Miscellaneous Provisions) Act 1997 No 55 <sup>1</sup>	Whole of Act
Statute Law (Miscellaneous Provisions) Act (No 2) 1997 No 147 <sup>1</sup>	Whole of Act
Statute Law (Miscellaneous Provisions) Act 1998 No 54 <sup>1</sup>	Whole of Act
Statute Law (Miscellaneous Provisions) Act (No 2) 1998 No 120 <sup>1</sup>	Whole of Act
Statute Law (Miscellaneous Provisions) Act 1999 No 31 <sup>1</sup>	Whole of Act
Stock (Chemical Residues) Amendment Act 1999 No 65 <sup>1</sup>	Whole of Act
Stock Diseases Amendment Act 1999 No 64 <sup>1</sup>	Whole of Act
Strata Schemes (Leasehold Development) Amendment Act 1999 No 52 <sup>1</sup>	Whole of Act
Strata Schemes Legislation Amendment (Strata Approvals) Act 1999 No 74 <sup>1</sup>	Whole of Act
Superannuation Legislation Amendment Act 1999 No 6 <sup>1</sup>	Whole of Act
Superannuation Legislation Further Amendment Act 1999 No 86 <sup>1</sup>	Whole of Act
Technical Education Trust Funds Amendment Act 1999 No 14 <sup>1</sup>	Whole of Act
Transport Legislation (Repeal and Amendment) Act 1988 No 114 <sup>1</sup>	Whole of Act
Victims Compensation Amendment Act 2000 No 41 <sup>2</sup>	Whole of Act
Water Amendment (Flood Control Works) Act 1999 No 87 <sup>1</sup>	Whole of Act

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Water Legislation Amendment Act 1999 No 98 <sup>1</sup>	Whole of Act
Water Legislation Amendment (Drinking Water and Corporate Structure) Act 1998 No 145 <sup>1</sup>	Whole of Act
Workers Compensation Legislation Amendment Act 1999 No 24 <sup>1</sup>	Whole of Act

**Key**

- <sup>1</sup> Acts passed in 1999 or earlier that contain only amendments or spent provisions.
- <sup>2</sup> More recent amending Acts that contain only amendments that have been incorporated in a reprint of the relevant Principal Acts.
- <sup>3</sup> Acts that are no longer of practical utility.
- <sup>4</sup> Provisions of Acts that were assented to at least 2 years ago, have commenced and, in some instances, have been included in a reprint of the relevant Act.

**Explanatory note**

The repeals are explained in detail in the Explanatory note relating to this Act. In relation to the repeal of amending Acts, it should be noted that the Acts are repealed simply to rationalise the legislation in force and that the repeals have no substantive effect on the amendments made by the Acts or any associated provisions. The Acts that were amended by the Acts or provisions being repealed are up-to-date on the Legislation Database maintained by the Parliamentary Counsel's Office and are available electronically.

Section 30 (2) of the *Interpretation Act 1987* ensures that, when an Act is amended or 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,
- (d) the operation of any savings or transitional provision contained in the Act.

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## Schedule 5 General savings, transitional and other provisions

(Section 5)

### 1 Effect of amendment of amending provisions

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

- (2) In this clause:

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

- (a) the repeal or omission of matter contained in the amended Act without the insertion of any matter instead of the repealed or omitted matter, or
- (b) the omission of matter contained in the amended Act and the insertion of matter instead of the omitted matter, or
- (c) the insertion into the amended Act of matter, not being matter inserted instead of matter omitted from the Act,

whether the provision was enacted before or after the commencement of the *Reprints Act 1972*.

#### Explanatory note

This clause ensures that certain amendments, including amendments correcting errors in the technical provisions (for example, headings indicating the section to be amended or directions as to where a new section is to be inserted) and rectifying minor drafting errors (for example, corrections in numbering of provisions, correction or insertion of cross-references, omission of unnecessary matter or insertion of omitted matter), will commence on the date the amendments to which they relate commenced.

### 2 Effect of amendment or repeal on acts done or decisions made

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.

**3 Effect of amendment on regulations**

Except where expressly provided to the contrary, any regulation made under an Act amended by this Act, and in force immediately before the commencement of the amendment, is taken to have been made under the Act as amended.

**Explanatory note**

This clause ensures that, unless expressly provided, any regulation made under an Act amended by the proposed Act, and in force immediately before the commencement of the amendment, will be taken to have been made under the amended Act.

**4 Regulations**

- (1) The Governor may make regulations containing provisions of a savings or transitional nature consequent on the enactment of this Act.
- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to this Act or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
  - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

**Explanatory note**

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

## Notes

### Index of Acts amended, or partially repealed, by Schedules 1–4

Art Gallery of New South Wales Act 1980 No 65—Schedule 1  
Child Protection (Prohibited Employment) Act 1998 No 147—Schedule 2  
Children and Young Persons (Care and Protection) Act 1998 No 157—Schedule 2  
Coal Mines Regulation Act 1982 No 67—Schedule 2  
Community Services (Complaints, Reviews and Monitoring) Act 1993  
No 2—Schedule 2  
Companies (Death Duties) Act 1901 No 30—Schedule 2  
Consumer Credit (New South Wales) Act 1995 No 7—Schedule 4  
Conveyancers Licensing Act 1995 No 57—Schedule 1  
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No 9—Schedule 2  
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Independent Pricing and Regulatory Tribunal Act 1992 No 39—Schedule 2  
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[Minister's second reading speech made in—

Legislative Assembly on 20 June 2001

Legislative Council on 2 July 2001 pm]

BY AUTHORITY

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