



New South Wales

# Statute Law (Miscellaneous Provisions) Act 2002 No 53

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New South Wales

## **Statute Law (Miscellaneous Provisions) Act 2002 No 53**

Act No 53, 2002

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An Act to repeal certain Acts and provisions of Acts and certain statutory rules 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 4 July 2002]

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

This Act is the *Statute Law (Miscellaneous Provisions) Act 2002*.

**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 and 2 is amended as set out in those Schedules.

**4 Repeals**

Each Act and statutory rule specified in Schedule 3 is, to the extent indicated in that Schedule, repealed.

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

Schedule 4 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.

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## Schedule 1 Minor amendments

### 1.1 Children and Young Persons (Care and Protection) Act 1998 No 157

**[1] Section 9 What principles are to be applied in the administration of this Act?**

Omit “welfare” from section 9 (b).  
Insert instead “safety, welfare and well-being”.

**[2] Sections 9 (g), 14 (2) (b) and 135 (1) (b) (i)**

Insert “birth or adoptive” before “parent” and “parents” wherever occurring.

**[3] Sections 44 (heading) and 46 (2)**

Omit “care and protection” wherever occurring.  
Insert instead “care responsibility”.

**[4] Section 50 Discharge of child or young person from Director-General’s care responsibility**

Omit “care and protection” from section 50 (1) and (4) wherever occurring.  
Insert instead “care responsibility”.

**[5] Section 51 Duty of Director-General to give information to certain persons**

Omit “welfare and interests” from section 51 (1) (b).  
Insert instead “safety, welfare, well-being and interests”.

**[6] Section 71 Grounds for care orders**

Insert after section 71 (1) (g):

- (h) section 171 (1) applies in respect of the child or young person.

**[7] Sections 73 (1) (a), 96 (1) and 152 (5)**

Omit “person having parental responsibility for” wherever occurring.  
Insert instead “parent of”.

**[8] Section 80 Requirement to consider care plan**

Omit “an order”. Insert instead “a final order”.

**[9] Section 83 Preparation of permanency plan**

Insert after section 83 (8):

- (9) In this section, *parent*, in relation to the child or young person concerned, means:
  - (a) if the child or young person has been adopted—the child’s or young person’s adoptive parent, or
  - (b) if the child or young person has not been adopted—the child’s or young person’s birth parent.

**[10] Section 84 Requirements of permanency plans involving restoration**

Insert at the end of the section:

- (2) In this section, *parent*, in relation to the child or young person concerned, means:
  - (a) if the child or young person has been adopted—the child’s or young person’s adoptive parent, or
  - (b) if the child or young person has not been adopted—the child’s or young person’s birth parent.

**[11] Section 148 Disclosure of information concerning placement to parents**

Insert after section 148 (2):

- (3) In this section, *parent*, in relation to the child or young person concerned, means:
  - (a) the person (other than the Minister or the Director-General) who had parental responsibility for the child or young person immediately before the child or young person was placed in out-of-home care, and
  - (b) if the person referred to in paragraph (a) (including the Minister and the Director-General) had parental responsibility for the child or young person pursuant to an order of the Children’s Court—the person who had parental responsibility for the child or young person immediately before the order was made.

**[12] Section 158 Physical restraint of child or young person**

Omit “person having parental responsibility under this Act for” from section 158 (1).

Insert instead “parent of”.

**[13] Section 158 (2) and (5)**

Omit “person having parental responsibility” wherever occurring.  
Insert instead “parent”.

**[14] Section 163 Parents’ right to information concerning progress and development of their children**

Insert at the end of the section:

- (2) In this section, *parent*, in relation to the child or young person concerned, means:
- (a) the person (other than the Minister or the Director-General) who had parental responsibility for the child or young person immediately before the child or young person was placed in out-of-home care, and
  - (b) if the person referred to in paragraph (a) (including the Minister and the Director-General) had parental responsibility for the child or young person pursuant to an order of the Children’s Court—the person who had parental responsibility for the child or young person immediately before the order was made.

**[15] Section 177 Ordinary medical and dental treatment**

Insert “or young person” after “a child” where firstly occurring.

**[16] Section 233 Power of search for and removal of children and young persons in need of care and protection**

Insert “and protection” after “care” in section 233 (1) (a).

**[17] Section 255 Reciprocity between States and Territories**

Omit “guardianship” from the definition of *interstate ward* in section 255 (1).  
Insert instead “parental responsibility”.

**[18] Section 265 Review of Act**

Omit “5 years” from section 265 (3). Insert instead “4 years”.

**Explanatory note**

**Consistency of terminology**

Items [1], [3]–[5] and [16] of the proposed amendments amend various provisions of the *Children and Young Persons (Care and Protection) Act 1998* (**the Act**) for consistency with other provisions of the Act.

Items [1] and [5] replace references to the “welfare” of a child or young person in certain provisions of the Act with references to the “safety, welfare and well-being” of the child or young person.

Items [3] and [4] replace certain references to “care and protection” with references to “care responsibility”. (A person who has “care responsibility” in relation to a child or young person has the authority to exercise, in relation to the child or young person concerned, the functions specified in section 157 of the Act.)

Item [16] replaces references to children and young persons in need of “care” to those in need of “care and protection”.

**Meaning of “parent”**

Section 3 of the Act defines *parent* of a child or young person as “a person having parental responsibility for” the child or young person. Items [7], [12] and [13] of the proposed amendments replace references to persons having parental responsibility for children or young persons with the defined term “parent”.

Items [2], [9]–[11] and [14] of the proposed amendments clarify the meaning of *parent* in provisions of the Act in which that term carries a meaning other than that given it by the definition in section 3.

**Grounds on which care orders may be made**

Section 71 of the Act sets out the grounds on which the Children’s Court may make a *care order* in relation to a child or young person. Item [6] of the proposed amendments makes it clear that such an order may be made if the child or young person is deemed, under section 171 (1) of the Act, to be in need of care and protection (because living in unauthorised out-of-home care despite a request from the Director-General of the Department of Community Services that the child or young person be removed from that care).

**Requirement of Children’s Court to consider care plan**

At present, section 80 of the Act requires the Children’s Court to consider a *care plan* presented to it by the Director-General of the Department of Community Services before it makes “an order” for the removal of a child from the care and protection of his or her parents or for the allocation of parental responsibility in respect of the child. However, section 78 of the Act requires the Director-General to present such a plan to the Children’s Court “before final orders are made”.

Item [8] of the proposed amendments amends section 80 so as to render that section consistent with section 78.

**Young persons**

Item [15] of the proposed amendments extends the opening words of section 177 (1) of the Act to young persons for consistency with the remainder of that subsection.

**Interstate wards**

Item [17] of the proposed amendments replaces a reference to “guardianship”, in relation to interstate wards, with a reference to “parental responsibility”.

**Statute law revision**

Item [18] of the proposed amendments renders section 265 (3) consistent with section 265 (2). The latter subsection was repealed and re-enacted by the *Children and Young Persons (Care and Protection) Amendment (Permanency Planning) Act 2001*.

## 1.2 Christ Church Cathedral, Newcastle, Cemetery Act 1966 No 20

### Section 5 Vesting of land in Second Schedule in Corporate Trustees

Omit “and such land shall not be sold, exchanged or otherwise dealt with absolutely or mortgaged or leased without the consent of the Minister” from section 5 (2).

**Explanatory Note**

Section 5 of the *Christ Church Cathedral, Newcastle, Cemetery Act 1966* provides that certain land is vested in the Trustees of Church Property for the Diocese of Newcastle and is to be held by the Trustees for the use, benefit or purposes of the Church of England. Section 5 (2) prevents the Trustees from selling, exchanging or otherwise dealing absolutely with, or mortgaging or leasing, such land without the consent of the Minister.

The proposed amendment removes that restriction.

### 1.3 Conveyancing Act 1919 No 6

#### [1] Section 146 Recovery of annual sums charged on land

Omit section 146 (2). Insert instead:

- (2) If any such annual sum (or part of it) is unpaid 21 or more days after it was due to be paid, the person to whom it is due may recover the annual sum (and any arrears of that sum), from the person in possession of the land, as a debt in any court of competent jurisdiction.

#### [2] Section 177A

Insert after section 177:

##### 177A No distress for rent

- (1) Any common law right of a person to levy distress for rent is abolished.
- (2) Nothing in this section affects any other right of a person to whom rent is due to recover the rent from the person liable to pay the rent.

**Explanatory note**

Section 2 (1) of the *Landlord and Tenant Amendment (Distress Abolition) Act 1930* (**the Abolition Act**) provides as follows: "After the commencement of this Act no distress for rent shall be levied or made." ("Distress for rent" refers to the act of a landlord seizing the goods of a tenant whose rent is in arrears.) Section 5 of the Abolition Act preserves the right of a person to whom rent is owed to recover the rent by civil action. As section 146 (2) of the *Conveyancing Act 1919* makes provision for the levying of distress for rent, section 4 of the Abolition Act provides, "in lieu of the power of distress" contained in section 146 (2), for the recovery of the sum due under section 146 as a debt in a court of competent jurisdiction.

The Abolition Act is repealed by Schedule 3. Item [1] of the proposed amendments preserves the effect of section 4 of that Act, and item [2] preserves the effects of sections 2 (1) and 5 of that Act.

## 1.4 Crown Lands Act 1989 No 6

### Section 106A Limits on compensation payable to reserve trusts

Insert “the trust’s interest in” after “market value of” in section 106A (4) (b).

#### Explanatory note

Section 106A of the *Crown Lands Act 1989* (which was inserted in 2001) sets out the rules for the determination of compensation payable to reserve trusts when the whole or part of a reserve is compulsorily acquired.

At present, section 106A (4) provides that, for the purposes of a determination of an amount of compensation:

- (a) the Crown is taken to be the holder in fee simple of the land being acquired or vested, or over which the easement is vested, and
- (b) section 56 (2) of the *Land Acquisition (Just Terms Compensation) Act 1991* applies as if the land value of improvements (including structures) erected or carried out by the trust on the land is the market value of the land.

Section 56 (2) of the *Land Acquisition (Just Terms Compensation) Act 1991* provides that, when the market value of land is being assessed for the purpose of paying compensation to a number of former owners of the land, the sum of the market values of each interest in the land must not (except with Ministerial approval) exceed the market value of the land at the date of acquisition.

The proposed amendment removes any suggestion that market value of the land concerned is to be taken, for the purposes of section 56 (2), to be limited to the value of improvements erected or carried out on the land by the reserve trust constituted in respect of the reserve. The amendment makes it clear that the value of those improvements is to be taken to be the market value of the trust’s interest in the land, rather than the full market value of the land.

The amendment does not affect the determination of the compensation payable to the trust.

## 1.5 Dental Practice Act 2001 No 64

### Schedule 7 Savings and transitional provisions

Insert after clause 3 (2):

- (3) Despite subclause (1), a person who, immediately before the commencement of section 106, held office as an elected member of the old Board commences a new term of office, on the commencement of that section, as an elected member of the new Board (being a term that is, despite clause 4 (1) (b) of Schedule 2, equivalent to the balance of his or her term as an elected member of the old Board).
- (4) Nothing in subclause (3) prevents a member who holds office as an elected member of the new Board as a result of the operation of that subclause from being removed from office under clause 6 of Schedule 2.

#### Commencement

The amendment to the *Dental Practice Act 2001* commences on the commencement of section 106 of that Act.

**Explanatory note**

Clause 3 of Schedule 7 to the *Dental Practice Act 2001* (**the 2001 Act**) provides that a person who, immediately before the repeal of the *Dentists Act 1989* (**the 1989 Act**) (which is effected by the 2001 Act), held office as a member of the Dental Board constituted by the 1989 Act (**the old Board**) ceases to hold office on that repeal but is eligible (if otherwise qualified) to be appointed as a member of the Dental Board constituted by the 2001 Act (**the new Board**). Both Boards include 5 elected members and certain other specified persons nominated by the Minister (eg an officer of the Department of Health or an employee of a **public health organisation** within the meaning of the *Health Services Act 1997*).

It is intended to commence the 2001 Act in 2002, sometime after July. Under the 1989 Act, an election for the purposes of the old Board is required to be held in July 2002.

The proposed amendment removes the necessity to conduct an election under the 2001 Act shortly after the July 2002 election by providing that the members elected to the old Board at that election are to serve the balance of their terms (unless sooner removed by the Governor) as members of the new Board. There is a similar provision in the *Physiotherapists Act 2001*.

## 1.6 Energy Services Corporations Act 1995 No 95

### Schedule 2 Supplementary provisions concerning constitution and procedure

Omit clause 1 (2) (c). Insert instead:

- (c) at least 2, and
    - (i) in the case of Australian Inland Energy Water Infrastructure—not more than 6, and
    - (ii) in the case of each other energy services corporation—not more than 5,
- other directors, to be appointed by the voting shareholders at their discretion.

**Explanatory note**

Clause 1 (2) of Schedule 2 to the *Energy Services Corporations Act 1995* provides for the composition of the boards of directors of energy services corporations. Clause 1 (2) (a) and (b) each provide for one director. Clause 1 (2) (c) currently provides for “at least 2 and not more than 5 other directors, to be appointed by the voting shareholders at their discretion”.

The proposed amendment amends clause 1 (2) (c) so as to permit the appointment of an additional director to the board of Australian Inland Energy Water Infrastructure.

## 1.7 Environmental Planning and Assessment Act 1979 No 203

### Schedule 6 Savings, transitional and other provisions

Insert after clause 18:

#### 18A Saving of assumed concurrences

- (1) A notification given under section 81 before 1 July 1998 and in force immediately before that date is taken (until revoked) to be:

- (a) until 1 January 2001—a notice given under clause 51B of the *Environmental Planning and Assessment Regulation 1994*, and
- (b) on and from 1 January 2001—a notice given under clause 64 of the *Environmental Planning and Assessment Regulation 2000*.

(2) This clause is taken to have commenced on 1 July 1998.

**Explanatory note**

Under the *Environmental Planning and Assessment Act 1979 (the Act)*, a council or other consent authority is required, in certain circumstances, to obtain the concurrence of another person (a **concurrence authority**) before determining a development application by granting a consent. Clause 64 of the *Environmental Planning and Assessment Regulation 2000* enables a concurrence authority to inform a consent authority, by notice in writing, that concurrence may be assumed (subject to such qualifications or conditions as are specified in the notice). Any such notice may be amended or revoked by a further notice.

This “assumed concurrence” provision was earlier contained in section 81 of the Act. When Part 4 of the Act (which includes section 81) was repealed and re-enacted on 1 July 1998, the provision was inserted as clause 51B in the *Environmental Planning and Assessment Regulation 1994*. On the repeal of that Regulation on 1 January 2001 the provision was carried over into the *Environmental Planning and Assessment Regulation 2000* as clause 64.

The proposed amendment provides that notifications that were given under section 81 in its previous form and were in force immediately before the repeal and re-enactment of that section are taken to be notices given under the Regulations.

## 1.8 Environmental Trust Act 1998 No 82

### [1] Section 8 Functions of Trust

Omit “conditionally” from section 8 (a). Insert instead “unconditionally”.

### [2] Section 15 Provisions relating to grants

Insert after section 15 (3):

- (3A) The Trust may, by further notice in writing to the grantee, vary any condition to which the grant is subject (other than a condition prescribed by the regulations), including any condition previously varied under this subsection.

### [3] Section 17 Recovery of grants

Insert “(or, if the condition has been varied under section 15 (3A), the condition as so varied)” after “in accordance with the condition”.

**Explanatory note**

Item [1] of the proposed amendments corrects a typographical error.

Section 15 of the *Environmental Trust Act 1998* provides (among other things) that any grant made from the Environmental Trust Fund:

- (a) is to be made subject to a condition that the grant is to be expended within 3 years after it is made, and

- (b) is subject to any relevant condition prescribed by the regulations, and
- (c) is subject to such other conditions as are specified by the Environmental Trust by notice in writing to the grantee on or after the making of the grant.

Section 15 (4) enables the Environmental Trust to waive the application of any provision of section 15 in a particular case if the Trust thinks special circumstances exist that justify its doing so. However, there is no power for the Trust to vary a condition to which a grant is subject under that section.

Item [2] of the proposed amendments confers that power (except in relation to conditions that apply to the grant because they are prescribed by the regulations). Item [3] makes a consequential amendment.

## **1.9 Fair Trading Act 1987 No 68**

### **[1] Section 25N Membership**

Omit “14 members” from section 25N (1).  
Insert instead “16 members”.

### **[2] Section 25N (2) (b)**

Omit “13 persons”. Insert instead “15 persons”.

#### **Commencement**

The amendment to the *Fair Trading Act 1987* commences on a day to be appointed by proclamation.

#### **Explanatory note**

Section 25M of the *Fair Trading Act 1987* establishes the Retirement Villages Advisory Council. At present, that Council consists of 14 members, one of whom is the Director-General of the Department of Fair Trading (or a nominee of the Director-General) and the other 13 of whom are appointed by the Minister.

The proposed amendments increase the membership of the Council to 16 members.

## **1.10 Freight Rail Corporation (Sale) Act 2001 No 35**

### **[1] Section 14 Special leases**

Omit section 14 (2) (c). Insert instead:

- (c) any person at the direction of a person who has a contractual right to require FreightCorp (as converted to a corporation sole under section 15) to grant a new sublease or sub-sublease of property that is the subject of a special lease.

### **[2] Section 15 Dissolution or conversion of FreightCorp after sale**

Insert after section 15 (5):

- (6) The corporation sole constituted by the Treasurer under this section is a statutory body representing the Crown.

**Explanatory Note**

**Special leases**

The *Freight Rail Corporation (Sale) Act 2001 (the Act)* provides for the sale of FreightCorp's assets, rights and liabilities. Certain special leases are excluded from sale and remain vested in FreightCorp, which is converted under section 15 to a corporation sole constituted by the Treasurer. Section 14 (2) of the Act allows the Treasurer to grant a sublease or sub-sublease of the property that is the subject of a special lease, but only to FreightCorp's purchaser or a related body corporate, or (under paragraph (c)) to a person to whom FreightCorp's purchaser has subsequently transferred the whole or a substantial part of FreightCorp's assets, rights and liabilities.

Item [1] of the proposed amendments replaces paragraph (c) with a paragraph allowing the Treasurer to grant a sublease or sub-sublease under that paragraph to any person at the direction of a person who has a contractual right to require FreightCorp to grant a new sublease or sub-sublease of the property.

**Corporation sole represents Crown**

Item [2] of the proposed amendments makes it clear that the corporation sole to which FreightCorp is converted is a statutory body representing the Crown.

## **1.11 Land Tax Management Act 1956 No 26**

### **Section 47 Land tax to be first charge on land**

Omit section 47 (1B). Insert instead:

- (1B) The application fee for a certificate is to be paid in such manner as may be approved by the Chief Commissioner.

**Explanatory note**

The proposed amendment repeals and re-enacts section 47 (1B) of the Act so as to omit a provision that allows an application fee for a certificate under section 47 of the Act (a land tax certificate) to be paid by way of "affixing" a duty stamp to the application form and by cancelling the stamp as specified in the provision.

Adhesive duty stamps are being abolished (see section 290 of the *Duties Act 1997*).

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

**[1] Whole Act**

Omit "office of the Rent Controller" wherever occurring.  
Insert instead "Department".

**[2] Whole Act (except section 4 (2), definition of "the Controller" in section 8 (1) and section 11)**

Omit "Rent Controller" wherever occurring (except where occurring in the expression "office of the Rent Controller").  
Insert instead "Director-General".

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**[3] Whole Act (except section 4 (2), definition of “the Controller” in section 8 (1) and section 11)**

Omit “Controller” wherever occurring (except where occurring in the expression “office of the Rent Controller”).  
Insert instead “Director-General”.

**[4] Section 8 Definitions**

Insert in alphabetical order in section 8 (1):

*Department* means the Department of Fair Trading.

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

**[5] Section 8 (1), definition of “the Controller”**

Omit the definition.

**[6] Section 11 Rent Controller**

Omit the section.

**[7] Section 12**

Omit the heading to the section. Insert instead:

**12 Powers of Director-General and Fair Rents Boards**

**Explanatory note**

The proposed amendments abolish the position of Rent Controller and confer the functions of that position on the Director-General of the Department of Fair Trading. The proposed amendments reflect current administrative practice. (Section 6 (1) of the *Landlord and Tenant (Rental Bonds) Act 1977*, which previously referred to the Rent Controller, now refers to the Director-General of the Department of Fair Trading instead.)

**1.13 Liquor Act 1982 No 147**

**[1] Section 72 Constitution of Board**

Insert after section 72 (1):

- (1A) To avoid doubt, it is declared that a licensing magistrate whose appointment as a Magistrate under the *Local Courts Act 1982* is an appointment for a particular term of office (as referred to in section 13 of that Act) is not an ex-officio member of the Board.

**[2] Section 75 Delegation of powers etc of Board**

Omit “or to a Magistrate,” from section 75 (1).

Insert instead “an officer or temporary employee (within the meaning of the *Public Sector Management Act 1988*) of a Government Department or a Magistrate”.

**[3] Section 145C Application of certain Acts**

Insert “, the *Crimes (Local Courts Appeal and Review) Act 2001* and the *Local Courts Act 1982*” after “*Criminal Procedure Act 1986*” in section 145C (1).

**Commencement**

Item [3] of the proposed amendments commences, or is taken to have commenced, on the commencement of Schedule 2.138 [13] to the *Justices Legislation Repeal and Amendment Act 2001*.

**Explanatory note**

**Membership of Liquor Administration Board**

Section 72 (1) of the *Liquor Act 1982* (**the Act**) constitutes the Liquor Administration Board (**the Board**) and provides that the ex-officio members of the Board are “the licensing magistrates for the time being holding office under section 8”.

Persons appointed under section 8 must be either Magistrates (appointed under the *Local Courts Act 1982*) or persons eligible to be appointed as Magistrates. A person who is not a Magistrate when appointed as a licensing magistrate becomes, by virtue of the appointment, a Magistrate (see section 8 (4) of the Act).

Item [1] of the proposed amendments makes it clear that the ex-officio members of the Board do not include licensing magistrates whose appointments as Magistrates are for limited tenure (“acting Magistrates”).

**Delegation of functions of Liquor Administration Board**

At present, section 75 (1) of the Act allows the Chairperson of the Board to delegate the Board's functions to a member or officer of the Board or to a Magistrate. Item [2] of the proposed amendments permits its functions to be delegated also to officers and temporary employees of Government Departments without the necessity for those officers and temporary employees to be officers of the Board. (Certain Government Departments provide administrative and other support to the Board.)

**Application of certain Acts**

At present, section 145C of the Act permits the regulations to declare that specified provisions of the *Justices Act 1902* apply to and in respect of the Licensing Court (whether or not they would otherwise apply). The *Justices Legislation Repeal and Amendment Act 2001* repeals the *Justices Act 1902* and re-enacts many of its provisions as provisions of the *Crimes (Local Courts Appeal and Review) Act 2001*, the *Criminal Procedure Act 1986* and the *Local Courts Act 1982*.

The *Justices Legislation Repeal and Amendment Act 2001* amends section 145C so as to remove the reference to the *Justices Act 1902* and insert a reference to the *Criminal Procedure Act 1986*, but it omits to include references to the other two Acts referred to above. Item [3] of the proposed amendments repairs that omission.

## 1.14 Marine Parks Act 1997 No 64

### Schedule 4 Declaration of marine parks

Omit “south-westerly” from paragraph (i) of Part 1.  
Insert instead “north-westerly”.

#### Explanatory note

The proposed amendment makes a minor correction to the description of the area declared to be Jervis Bay Marine Park. It is clear from a map of the Park that the description is incorrect.

## 1.15 Mines Inspection Act 1901 No 75

### [1] Section 4 Definitions

Transfer the definition of *Chief Inspector* from the end of section 4 (1) to its correct position in alphabetical order in that subsection.

### [2] Section 32 Appointment of inspectors

Omit section 32 (3).

### [3] Section 32A

Insert after section 32:

#### **32A Delegation by Chief Inspector**

The Chief Inspector may, by instrument in writing, delegate to another inspector any function conferred or imposed on the Chief Inspector by or under this Act, other than this power of delegation.

#### Explanatory note

##### Delegation by Chief Inspector of Mines

At present, section 32 (3) of the *Mines Inspection Act 1901 (the Act)* has the effect of allowing the Chief Inspector of Mines to delegate his or her functions to the Deputy Chief Inspector of Mines and to Senior Inspectors of Mines.

Item [2] of the proposed amendments repeals section 32 (3), and item [3] inserts a new section 32A which confers a power of delegation on the Chief Inspector in the standard form (mirroring sections 5D (1) and 76A (1), which confer powers of delegation on general managers of mines and the Director-General of the Department of Mineral Resources, respectively). The new section also extends the Chief Inspector’s power of delegation so as to permit delegation to any inspector appointed under the *Public Sector Management Act 1988* for the purposes of the Act, not merely the Deputy Chief Inspector of Mines and Senior Inspectors of Mines.

##### Statute law revision

Item [1] of the proposed amendments relocates a definition in section 4 (1) of the Act to its correct position in that subsection.

## 1.16 Mining Act 1992 No 29

### [1] Section 365 Disclosure of information etc

Insert at the end of section 365 (1) (e):

, or

- (f) under the *Freedom of Information Act 1989*.

### [2] Schedule 6 Savings, transitional and other provisions

Omit “affect” where secondly occurring in clause 77.

Insert instead “effect”.

#### Explanatory note

##### Disclosure of information

At present, section 365 (1) of the *Mining Act 1992* prohibits the disclosure of information obtained in connection with the administration of that Act unless the disclosure is made as specified in that subsection (for example, with the consent of the person from whom the information was obtained or with the concurrence of the Minister).

Item [1] of the proposed amendments makes it clear that the information concerned may also be disclosed under the *Freedom of Information Act 1989* despite the other restrictions of section 365 (1).

##### Correction

Item [2] of the proposed amendments corrects a typographical error.

## 1.17 Motor Accidents Compensation Act 1999 No 41

### Section 10A

Insert after section 10:

#### 10A Treatment of certain vehicles for purposes of third-party policy

(1) A motor vehicle that is:

- (a) subject to a conditional registration under the *Road Transport (Vehicle Registration) Act 1997*, and
- (b) designed principally for use otherwise than on a road, and
- (c) a motor vehicle, or a motor vehicle of a class, prescribed by the regulations for the purposes of this section,

is taken, for the purposes of a third-party policy under this Act, to be subject to an unregistered vehicle permit and not to a conditional registration.

- 
- (2) However, a regulation made for the purposes of this section does not affect a third-party policy of insurance under this Act that is in force in respect of any particular vehicle at the time that the regulation is made. This subsection is subject to subsection (3).
- (3) The first regulation made for the purposes of this section may provide that subsection (1) applies, from the commencement of the regulation, to a vehicle referred to in subsection (1) (a)–(c) that became subject to a conditional registration on or after 20 May 2002 and before the commencement of the regulation.

**Explanatory note**

A third-party policy of insurance under the *Motor Accidents Compensation Act 1999* (**the Act**) must be in the terms set out in section 10 of the Act. The terms set out in that section provide cover for the owners and drivers of certain motor vehicles only while the vehicles are used or operated on a **road** (as defined in the Act). Owners and drivers of other motor vehicles are covered for the use and operation of the vehicles whether or not on a road. The motor vehicles in respect of which the lesser cover applies are those to which paragraph (b) of the terms of the policy applies—that is, vehicles that are subject to unregistered vehicle permits (**UVPs**) under the *Road Transport (Vehicle Registration) Act 1997*. UVPs are commonly issued in respect of such motor vehicles as tractors and forklifts and the like.

UVPs used to be issued for up to 12 months. Since 20 May 2002, they have been issued for up to 28 days only. Vehicles that would normally be subject to UVPs but are required for longer-term road use than 28 days are now registered conditionally under the *Road Transport (Vehicle Registration) Act 1997*. However, there is nothing to prevent vehicles other than vehicles that are currently (or would previously have been) subject to UVPs from being registered conditionally.

The proposed amendment provides that, for the purposes of third-party policies of insurance under the Act, certain vehicles that are subject to a conditional registration are to be taken to be subject to a UVP and not to conditional registration. The vehicles concerned are those that:

- (a) are designed principally for use otherwise than on a road, and
- (b) are prescribed by the regulations for the purposes of the section.

It is intended that the regulations will prescribe the kinds of vehicles that are currently (or used to be) subject to UVPs. The proposed amendment also provides for transitional arrangements in respect of vehicles of that kind that have been conditionally registered since 20 May 2002.

**1.18 Motor Dealers Act 1974 No 52****[1] Section 19 Term of, and authority conferred by, licence**

Omit “under section 20E” from section 19 (4).  
Insert instead “under this Act”.

**[2] Section 19 (5)**

Omit “sections 12 (5) and 17 (2)”. Insert instead “sections 12 and 17”.

**[3] Section 20F Reviews by Administrative Decisions Tribunal**

Insert “(under any provision of this Act)” after “or” where firstly occurring in section 20F (1) (a).

**Explanatory note**

**Suspended licences**

Section 19 (4) of the *Motor Dealers Act 1974* (**the Act**) provides that, for the purposes of the Act (certain sections excepted), a person whose licence under the Act is suspended “under section 20E” is taken to be a person who does not hold a licence.

Licences may also be suspended under sections 29K and 38B. Item [1] of the proposed amendments replaces the reference in section 19 (4) to licences suspended under section 20E by a reference to licences suspended “under this Act”.

**Correction of cross-references**

Item [2] of the proposed amendments corrects incorrect cross-references.

**Administrative Decisions Tribunal reviews of certain decisions**

Section 20F of the Act provides for the review by the Administrative Decisions Tribunal of certain decisions of the Director-General of the Department of Fair Trading under that Act, including decisions to suspend or cancel a licence in force under the Act.

Item [3] of the proposed amendments removes any doubt that a suspension or cancellation under section 29K of the Act is so reviewable.

**1.19 Motor Vehicle Repairs Act 1980 No 71**

**[1] Section 9 Council of Authority**

Omit “NRMA Limited” from section 9 (3) (b).

Insert instead “National Roads and Motorists Association Ltd”.

**[2] Section 9 (5) and (6)**

Insert after section 9 (4):

- (5) Where a body referred to in any provision of subsection (3) changes its name and the Minister is satisfied that the change of name is not accompanied by any change in the nature of the body, the Minister may, by order published in the Gazette, so certify and, subject to subsection (6), as from the date of that publication the reference in the provision is taken to be a reference to the body under that changed name.
- (6) The power of the Minister under subsection (5) may be exercised in relation to a body under a changed name as if that body were referred to in subsection (3) under that changed name.

**[3] Section 16 Application for licence**

Insert “or applicants” after “applicant” where firstly and secondly occurring in section 16 (5).

**[4] Section 22 Tradesperson’s certificate**

Omit “(other than work referred to in subsection (2A))” from section 22 (2).

**[5] Section 44 Determination of disciplinary measures by Authority**

Omit “an additional” from section 44 (2) (a). Insert instead “a”.

**[6] Section 44 (3) (b)**

Omit “Director-General”. Insert instead “Authority”.

**Commencement**

The amendments to section 9 of the *Motor Vehicle Repairs Act 1980* commence on the commencement of Schedule 2 [17] to the *Motor Trade Legislation Amendment Act 2001*.

The amendment to section 16 of the *Motor Vehicle Repairs Act 1980* commences on the commencement of Schedule 2 [21] to the *Motor Trade Legislation Amendment Act 2001*.

The amendment to section 22 of the *Motor Vehicle Repairs Act 1980* commences on the commencement of Schedule 2 [36] to the *Motor Trade Legislation Amendment Act 2001*.

The amendments to section 44 of the *Motor Vehicle Repairs Act 1980* commence on the commencement of Schedule 2 [45] to the *Motor Trades Legislation Amendment Act 2001*.

**Explanatory note**

Item [1] of the proposed amendments updates a reference to a body.

Item [2] of the proposed amendments provides for references to certain bodies to be construed as applying to those bodies, if they are renamed, as renamed.

Item [3] of the proposed amendments reflects the fact that applications for a joint licence under the Act may be made by two or more persons.

Item [4] of the proposed amendments omits a reference to a repealed subsection.

Item [5] of the proposed amendments omits a redundant word.

Item [6] of the proposed amendments updates a reference.

**1.20 National Parks and Wildlife Act 1974 No 80**

**[1] Section 81A Leases, licences and easements subject to plan of management**

Omit “47V” from section 81A (b). Insert instead “47U”.

**[2] Section 99 Harming threatened interstate fauna**

Omit section 99 (4).

**[3] Section 171 Authority to harm or pick**

Omit “taken or killed”, “taking or killing” and “take or kill” from section 171 (1B).

Insert instead, respectively, “harmed”, “harming” and “harm”.

**Explanatory note**

**Cross-reference**

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

**Repeal**

Item [2] of the proposed amendments repeals the superfluous section 99 (4) of the *National Parks and Wildlife Act 1974 (the Act)*. The substance of that subsection has been re-enacted as section 112G (5) (and the repealed section 99 (1) (c), to which section 99 (4) refers, has been re-enacted as section 112G (1)).

**“Harming” of fauna**

Certain amendments to the Act made by the *Threatened Species Conservation Act 1995* replaced the concept of “taking or killing” fauna with that of “harming” fauna. Item [3] of the proposed amendments updates provisions containing the old terminology.

**1.21 Pesticides Act 1999 No 80**

**[1] Section 15 Using pesticide contrary to approved label**

Omit section 15 (3) (a).

**[2] Section 15 (3) (b)**

Omit “another version of”.

**Explanatory note**

At present, section 15 (3) (a) of the *Pesticides Act 1999* provides that it is a defence in any proceedings against a person for the alleged offence of using a registered pesticide in contravention of any instruction on an approved label for the pesticide if the person establishes that he or she did not contravene the relevant instructions on [any other] approved label for the pesticide (regardless of whether or not the other approved label appeared on the container for the pesticide that was used).

The unintended consequence of this provision is that, once a label has been approved, compliance with any more stringent requirements imposed by a later approved label cannot be enforced if the user of the pesticide can demonstrate that he or she complied with the lesser requirements of the earlier approved label.

Item [1] of the proposed amendments repeals section 15 (3) (a) so as to remove this anomaly.

Item [2] of the proposed amendments makes a consequential amendment.

The amendments do not affect the defence afforded by section 15 (3) (b). It is still a defence under that paragraph if the accused establishes that he or she complied with the relevant instructions on an [earlier] approved label for the pesticide, “being an approved label that was, at the time of the alleged offence, affixed or attached to, or appeared on, the container for the pesticide that was used”.

## 1.22 Protection of the Environment Operations Act 1997 No 156

### [1] Section 187 Appointment of authorised officers

Insert after section 187 (2):

- (3) In addition, a regulatory authority that is a local council may appoint any officer or employee of another local council (including a class of such officers or employees) as an authorised officer for the purposes of this Act in respect of the appointing local council's area.

### [2] Section 261 Certificate evidence of certain matters

Insert after section 261 (2) (b):

- (b1) that specified premises were or were not, at a specified time or during a specified period, the subject of a specified licence or a licence of a specified kind,

#### Explanatory note

##### Appointment of authorised officers by local councils

At present, section 187 (2) of the *Protection of the Environment Operations Act 1997* allows a **regulatory authority** (such as a local council) to appoint any officer or employee of the authority as an **authorised officer** for the purposes of the Act. Section 6 (4) of the Act makes it clear that a local council (among other local authorities) may exercise any function imposed on it under the Act only in or in relation to the local council's area.

Some activities under the Act require action across local government boundaries (for example, the activities of the Regional Illegal Dumping Squad in Sydney's west). To facilitate such activities, item [1] of the proposed amendments enables a local council to appoint officers and employees of other local councils (as well as its own officers and employees) as authorised officers in relation to its area.

##### Certificate evidence

Item [2] of the proposed amendments allows evidence as to the licensing under the Act of specific premises to be given in proceedings under the Act by way of a certificate signed by the Director-General of the EPA or by an officer of the EPA designated in writing by the Director-General for the purposes of Part 8.5 (Evidentiary provisions) of the Act.

## 1.23 Public Authorities (Financial Arrangements) Act 1987 No 33

### Section 22A Statutory guarantee

Insert "or 20U" after "section 16" in section 22A (2).

#### Explanatory note

Section 22A of the *Public Authorities (Financial Arrangements) Act 1987* is a statutory Government guarantee of the repayment of certain financial accommodation obtained by public authorities and the payment of interest and other charges relating to that financial accommodation. The section applies to a State owned corporation only to the extent that the board of the corporation and the voting shareholders agree in writing in accordance with section 16 of the *State Owned Corporations Act 1989*, which provides for the guarantee of the obligations of a company State owned corporation.

The proposed amendment makes the same provision in relation to statutory State owned corporations. Under the amended provision, the Government guarantee established by section 22A of the *Public Authorities (Financial Arrangements) Act 1987* will apply to a statutory State owned corporation only to the extent that the board of the corporation and the voting shareholders agree in writing in accordance with section 20U of the *State Owned Corporations Act 1989*, which is a parallel provision to section 16 of the *State Owned Corporations Act 1989* providing for the guarantee of the obligations of statutory State owned corporations.

## **1.24 Real Property Act 1900 No 25**

### **[1] Section 96A Definition**

Omit “, 96F” from paragraph (a) of the definition of *official search*.

### **[2] Section 96D Official search of computer folio**

Insert “, together with the particulars required by subsection (2)” after “the time specified in the certificate”.

### **[3] Section 96D (2)**

Insert at the end of section 96D:

- (2) The certificate must also provide particulars of such of the following as are held by the Registrar-General at the time specified in the certificate:
  - (a) any plan or dealing, whether registered or awaiting registration, the registration of which requires or will require a change to be made in the information recorded in the folio concerned,
  - (b) any caveat that purports to affect land comprised in the folio concerned if information about the caveat is not recorded in that folio.

### **[4] Section 96F Final search of computer folio**

Omit the section.

### **[5] Section 133 Subrogation of rights to claim compensation**

Omit “as co-defendant” from subsection (4).

#### **Explanatory note**

#### **Searches of computer folios**

It is usual for a purchaser of land, before entering into the contract to purchase, to obtain an official search of the computer folio of the Register kept under the *Real Property Act 1900 (the Act)* in relation to the land concerned. Section 96D of the Act provides for such a search. It is also usual for a later search (a final search) to be obtained as close as possible to settlement of the purchase.

Section 96F of the Act provides for a separate “final” search of a computer folio. A certificate under that section sets forth particulars of (among other things) dealings and caveats that affect

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the land to which the certificate relates that have been registered or entered in the Register during the period specified in the certificate, and unregistered dealings, caveats and plans held by the Registrar-General that purport to affect the land.

In practice, section 96F is not used. The final search that is obtained prior to settlement is a second search under section 96D. It is the practice of the Registrar-General to list unregistered dealings on certificates under section 96D. Items [2] and [3] of the proposed amendments amend section 96D so as to make that practice mandatory, so allowing the repeal (by item [4] of the proposed amendments) of the unused section 96F.

Item [1] of the proposed amendments makes an amendment that is consequential on item [4].

#### **Joining of parties**

Court proceedings for compensation in respect of a **compensable loss** under Part 14 of the Act are taken against the Registrar-General as nominal defendant. The Registrar-General is subrogated to the claimant in respect of the claimant's rights against any person against whom the claimant has a cause of action in respect of the loss. Section 133 (4) of the Act provides that the Registrar-General "may join any person as co-defendant in any court proceedings if of the opinion that the claimant has a cause of action against that person in respect of the compensable loss to which the proceedings relate". However, it may be more appropriate for the Registrar-General (standing in the shoes of the claimant) to file a cross-claim against the party to be joined. To permit this, item [5] of the proposed amendments removes the words "as co-defendant" from section 133 (4).

## **1.25 Strata Schemes Management Act 1996 No 138**

### **Schedule 2 Meetings and procedure of owners corporation**

Insert at the end of clause 23:

However, a unanimous resolution of an owners corporation dealing with common property may be amended by a special resolution.

#### **Explanatory note**

In June 2001, the *Strata Schemes (Freehold Development) Act 1973* and the *Strata Schemes (Leasehold Development) Act 1986* were amended to allow common property to be dealt with by special resolution rather than unanimous resolution.

The proposed amendment makes it clear that a unanimous resolution of an owners corporation dealing with common property may be amended by a special resolution.

## **1.26 Sydney Opera House Trust Act 1961 No 9**

### **[1] The whole Act (section 5 excepted)**

Omit "the Schedule" wherever occurring. Insert instead "Schedule 1".

### **[2] Section 6 Trustees**

Omit "9 members" from section 6 (1). Insert instead "10 members".

**[3] Section 8 Casual vacancies**

Omit section 8 (1) (c). Insert instead:

- (c) becomes a mentally incapacitated person,

**[4] Section 11 Procedure, quorum, etc**

Omit “five trustees” from section 11 (2). Insert instead “6 trustees”.

**[5] Section 29**

Insert after section 28:

**29 Savings and transitional provisions**

Schedule 2 has effect.

**[6] Schedule Specific powers of the Trust**

Insert “1” after “Schedule” in the heading to the Schedule.

**[7] Schedule 2**

Insert at the end of the Act:

## **Schedule 2 Savings and transitional provisions**

(Section 29)

### **1 Initial term of office of additional trustee**

- (1) Despite section 6, the initial term of office of the additional trustee begins and ends (subject to subclause (2) and section 8) on such dates as are specified for those purposes in the additional trustee’s instrument of appointment.
- (2) The initial term of office is not to exceed 3 years.
- (3) In this clause, *additional trustee* means the trustee appointed in consequence of the amendment made to section 6 by the *Statute Law (Miscellaneous Provisions) Act 2002*.

#### **Explanatory note**

##### **Membership of The Sydney Opera House Trust**

At present, section 6 of the *Sydney Opera House Trust Act 1961* (**the Act**) provides (among other things) that:

- (a) The Sydney Opera House Trust is to consist of 9 members appointed by the Governor, and
- (b) a trustee’s appointment takes effect on 1 January of the year following that in which the appointment is made, and

- (c) a trustee is to hold office for 3 years (but is eligible for re-appointment, although not for 4 consecutive terms).

Five trustees constitute a quorum (section 11 of the Act).

Item [2] of the proposed amendments increases the number of trustees from 9 to 10. Item [4] increases the number required for a quorum from 5 to 6.

Item [7] of the proposed amendments inserts a Schedule of savings and transitional provisions in the Act in consequence of the provision for an additional trustee. Item [5] inserts a formal provision giving effect to the new Schedule. Item [6] numbers the existing Schedule to the Act in consequence of the insertion of the new Schedule, and item [1] makes a further consequential amendment.

**Statute law revision**

Item [3] of the proposed amendments is an unrelated amendment that replaces obsolete references with a term that is defined in the *Interpretation Act 1987*.

## 1.27 Sydney Water Catchment Management Act 1998 No 171

### [1] Section 7 Board

Omit section 7 (2) (b). Insert instead:

- (b) not fewer than 4 and not more than 8 members appointed by the Minister:
- (i) one of whom is to be a nominee of the NSW Farmers' Association, and
  - (ii) one of whom is to be a nominee of the Nature Conservation Council of New South Wales, and
  - (iii) one of whom is to be a person (selected by the Minister) who is an elected councillor of a local government area within the catchment area.

### [2] Section 7 (4)

Insert "(including nominations for appointment under subsection (2) (b) (iii))" after "the Board".

**Explanatory note**

At present, section 7 (2) of the *Sydney Water Catchment Management Act 1998 (the Act)* provides that the Sydney Catchment Authority Board is to consist of:

- (a) the Chief Executive, and
- (b) not fewer than 4 and not more than 7 members appointed by the Minister, one of whom is to be a nominee of the NSW Farmers' Association and one of whom is to be a nominee of the Nature Conservation Council of New South Wales.

Item [1] of the proposed amendments amends section 7 (2) (b) so as to provide for an additional member of the Board. The additional member is to be an elected councillor, selected by the Minister, of a local government area within the catchment area.

Section 7 (4) of the Act requires the Minister to advertise publicly for nominations for appointment to the Board. Item [2] of the proposed amendments makes it clear that that requirement extends to apply in respect of the appointment of a person who is not a nominee of any body specified in the section.

## 1.28    **Workers Compensation Act 1987 No 70**

### **Section 82 Publication of adjusted amounts**

Insert at the end of the section:

- (2) However, an adjustment under section 80 is not affected by any failure (including a failure that occurred before the commencement of this subsection) to publish the notice referred to in subsection (1).

#### **Explanatory note**

Division 6 (sections 79-82) of Part 3 of the *Workers Compensation Act 1987* provides for the adjustment, on 1 April and 1 October in each year (the **adjustment date**), of certain amounts of workers compensation benefits (the **adjustable amounts**) according to the award rate of pay index. The adjustment is effected by operation of section 80. In addition, section 82 requires the WorkCover Authority, on or before each adjustment date, to declare by notice published in the Gazette the amount at which each adjustable amount is to be construed in accordance with Division 6 on and from that adjustment date until immediately before the next following adjustment date.

The proposed amendment makes it clear that failure to publish the notice referred to in section 82 does not affect the relevant adjustment.

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## Schedule 2 Amendments by way of statute law revision

(Section 3)

### 2.1 Administrative Decisions Tribunal Act 1997 No 76

**[1] Section 14A Certain members of state tribunals acting as members of Tribunal**

Omit “clause” from section 14A (4). Insert instead “section”.

**[2] Section 19 Tribunal to exercise functions in Divisions**

Omit the note to section 19 (1). Insert instead:

**Note.** The Divisions of the Tribunal are presently as follows:

Community Services Division

Equal Opportunity Division

General Division

Legal Services Division

Retail Leases Division

Revenue Division

**Explanatory note**

Item [1] of the proposed amendments corrects a reference to a section.

Item [2] of the proposed amendments updates a note.

### 2.2 Adoption Act 2000 No 75

**Schedule 2 Amendment of other laws**

Omit “*Adoption of Children Act 1965*” from Schedule 2.3 [2].

Insert instead “*Adoption Information Act 1990*”.

**Explanatory note**

The proposed amendment corrects an incorrect reference.

### 2.3 Bail Act 1978 No 161

**[1] Section 9 Presumption in favour of bail for certain offences—exceptions**

Omit “85A,” from section 9 (1) (c). Insert instead “86,”.

**[2] Section 32 Criteria to be considered in bail applications**

Insert “and” at the end of section 32 (1) (a) (i) and (ii) and (b) (i) and (ii).

**[3] Section 32 (1) (b) (iv) and (b1) (iii)**

Omit “and” wherever occurring.

**Explanatory note**

Item [1] of the proposed amendments updates a reference to section 85A of the *Crimes Act 1900*, which has been repealed and re-enacted as section 86.

Items [2] and [3] of the proposed amendments give effect to the convention for linking paragraphs and subparagraphs in New South Wales legislation. (Paragraphs and subparagraphs are linked by “and” (or “or”, as the case may be) unless the opening words to the relevant paragraph or subparagraph refer to “the following”.)

**2.4 Child Protection (Offenders Registration) Act 2000 No 42**

**Section 3 Definitions**

Omit “section 85A” from paragraph (b) of the definition of *Class 2 offence* in section 3 (1).

Insert instead “section 86”.

**Explanatory note**

The proposed amendment updates a reference to section 85A of the *Crimes Act 1900*, which has been repealed and re-enacted as section 86.

**2.5 Classification (Publications, Films and Computer Games) Enforcement Act 1995 No 63**

**Section 34 Computer games to display determined markings and consumer advice**

Omit the matter relating to maximum penalty from after section 34 (4A).

**Explanatory note**

The proposed amendment omits unnecessary matter. (The penalty appearing at the end of a section applies to all offences under the section.)

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

**Section 8 Conferral of judicial functions**

Omit “Fair Trading Tribunal” wherever occurring.

Insert instead “Consumer, Trader and Tenancy Tribunal”.

**Explanatory note**

The proposed amendment updates references to a Tribunal.

## **2.7 Consumer, Trader and Tenancy Tribunal Act 2001 No 82**

### **[1] Section 12 Functions of Chairperson**

Insert “of” after “the staff” in section 12 (5).

### **[2] Section 43 Enforcement of certain Tribunal orders**

Omit “a claim has” from section 43 (4). Insert instead “proceedings have”.

### **[3] Schedule 6 Savings, transitional and other provisions**

Insert “is” before “to be” where secondly occurring in clause 9.

#### **Explanatory note**

Items [1] and [3] of the proposed amendments insert missing words.  
Item [2] of the proposed amendments corrects a reference to proceedings.

## **2.8 Co-operatives Act 1992 No 18**

### **Section 289 Maximum permissible level of share interest**

Re-number section 289 (3) where secondly occurring (as inserted by the *Co-operatives Legislation Amendment Act 2001*) as section 289 (4).

#### **Explanatory note**

The proposed amendment corrects a duplication of subsection numbers.

## **2.9 Courts Legislation Further Amendment Act 2001 No 108**

### **Schedule 5 Amendment of Supreme Court Act 1970 No 52**

Omit “section 26 (2) (b)” from Schedule 5 [3].  
Insert instead “section 26 (3) (b)”.

#### **Explanatory note**

The proposed amendment corrects an incorporation direction.

## **2.10 Crimes Act 1900 No 40**

### **[1] Section 349 Punishment of accessories after the fact to murder etc**

Omit “section 85A” from section 349 (2). Insert instead “section 86”.

**[2] Section 428B Offences of specific intent to which Part applies**

Omit from item (a) of the Table the matter relating to sections 85A, 86, 87 and 89.

Insert instead in appropriate order:

86	Kidnapping
87	Child abduction

**Explanatory note**

Section 85A of the *Crimes Act 1900* has been repealed and re-enacted as section 86. The previous section 86 and section 89 have been repealed. Section 87 has been replaced. The proposed amendments update cross-references to those provisions.

**2.11 Crimes Amendment (Child Protection—Physical Mistreatment) Act 2001 No 89**

**Schedule 1 Amendments**

Omit the heading “*Defence of lawful correction*” from Schedule 1 [1].

Insert instead:

**Division 9A Defence of lawful correction**

**Explanatory note**

The proposed amendment corrects the style of heading used in an Act.

**2.12 District Court Act 1973 No 9**

**[1] Section 18C Chairperson and deputy chairperson of Rule Committee**

Omit “chairman” from section 18C (1) wherever occurring.

Insert instead “chairperson”.

**[2] Section 18C (2)**

Omit the subsection.

**Explanatory note**

Item [1] of the proposed amendments removes gender-specific language from a provision. Item [2] of the proposed amendments omits an unnecessary provision. The substance of the provision is covered by section 19 (2) of the *Interpretation Act 1987*.

## 2.13 Evidence on Commission Act 1995 No 26

### Section 18 Definitions

Insert at the end of paragraph (e) of the definition of *superior court* in section 18:

- and  
(f) the District Court,

#### Explanatory note

The proposed amendment inserts a reference to a relevant court that was inadvertently omitted from Part 3 of the *Evidence on Commission Act 1995*. The provisions of Part 3 (Examination of witnesses outside the State but within Australia), which fail to refer to the District Court, otherwise parallel those of Part 2 (Examination of witnesses abroad), which refer to the District Court.

It is clear from the Explanatory Note to the Bill for the *Courts Legislation Further Amendment Act 2001* (which inserted the reference to the District Court in Part 2) that it was intended that such a reference also be inserted in Part 3. That Explanatory Note provides that one of the objects of the Bill is “to amend the *Evidence on Commission Act 1995* to allow the District Court to take evidence on commission outside New South Wales (whether interstate or overseas)”.

## 2.14 Firearms Act 1996 No 46

### Section 45 Recording of transactions

Omit from the end of section 45 (1) the matter setting out the maximum penalty for an offence.

#### Explanatory note

The proposed amendment omits unnecessary matter. The maximum penalty for an offence against any subsection of section 45 is set out at the end of the section.

## 2.15 Fisheries Management Act 1994 No 38

### [1] Section 17 Bag limits—taking of fish

Omit “RFAC” from section 17 (6).  
Insert instead “the Advisory Council on Recreational Fishing”.

### [2] Section 221J Form of species impact statements

Omit “or” where lastly occurring in section 221J (2).

### [3] Section 221J (2)

Renumber section 221J (2) (c) where secondly occurring (as inserted by the *Plantations and Reafforestation Act 1999*) as paragraph (d).

**[4] Section 275A Application of Division**

Omit “fishing approval” from section 275A (2) (b).  
Insert instead “fishing authority”.

**Explanatory note**

Item [1] of the proposed amendments replaces a reference to a dissolved body (the Recreational Fishing Advisory Council) with a reference to the body that replaced it.  
Item [2] of the proposed amendments omits a redundant word.  
Item [3] of the proposed amendments corrects a duplication of paragraph numbering.  
Item [4] of the proposed amendments corrects terminology.

**2.16 Heritage Act 1977 No 136**

**[1] Section 170A Heritage management by government instrumentalities**

Re-number section 170 (1) (b) where secondly occurring as section 170 (1) (c).

**[2] Schedule 1 Savings and transitional provisions**

Omit “that Act” from clause 10. Insert instead “the 2001 amending Act”.

**Explanatory note**

Item [1] of the proposed amendments corrects a duplication of paragraph numbering.  
Item [2] of the proposed amendments clarifies a reference to an amending Act.

**2.17 Higher Education Act 2001 No 102**

**Part 2, Division 3**

Insert “and delivery of courses overseas” after “overseas students” in the heading to Division 3 of Part 2.

**Commencement**

The amendment to the *Higher Education Act 2001* commences, or is taken to have commenced, on the commencement of Division 3 of Part 2 to the Act.

**Explanatory note**

The proposed amendment adds to the heading to a Division to accommodate a provision that was inserted in the Division by an amendment in committee.

**2.18 HomeFund Restructuring Act 1993 No 112**

**[1] Section 15 Other relief**

Omit “*Fair Trading Tribunal Act 1998*” from section 15 (4).  
Insert instead “*Consumer, Trader and Tenancy Tribunal Act 2001*”.

**[2] Section 20 Suspension of limitation period**

Omit “*Fair Trading Tribunal Act 1998*” from section 20 (1) (d).  
Insert instead “*Consumer, Trader and Tenancy Tribunal Act 2001*”.

**Explanatory note**

The proposed amendments update references to an Act.

**2.19 Local Government and Other Authorities (Superannuation) Act 1927 No 35**

**Section 7C Additional contributions to Provident Fund**

Re-number paragraphs (i) and (ii) of section 7C (3), where firstly occurring as paragraphs (d) and (e), respectively.

**Explanatory note**

The proposed amendment corrects duplicate numbering.

**2.20 Medical Practice Act 1992 No 94**

**Section 127B Practitioners to notify convictions, criminal findings and charges**

Omit “practice or medicine” from section 127B (1) (b).  
Insert instead “practice of medicine”.

**Explanatory note**

The proposed amendment corrects a typographical error.

**2.21 Mental Health Act 1990 No 9**

**Section 3**

Omit the section. Insert instead:

**3 Definitions**

Words and expressions that are defined in Schedule 1 to this Act have the meanings set out in that Schedule.

**Explanatory note**

The proposed amendment removes a list of terms defined in Schedule 1 to the *Mental Health Act 1990*.

## **2.22 Pawnbrokers and Second-hand Dealers Act 1996 No 13**

### **Section 36 Disciplinary action by Director-General**

Omit “Fair Trading Tribunal” from section 36 (5).  
Insert instead “Consumer, Trader and Tenancy Tribunal”.

#### **Explanatory note**

The proposed amendment updates a reference to a Tribunal.

## **2.23 Public Lotteries Act 1996 No 86**

### **Section 39 Advertising of public lotteries**

Re-number section 39 (2) where firstly occurring (as inserted by the *Gambling Legislation Amendment (Responsible Gambling) Act 1999*) as section 39 (1B).

#### **Explanatory note**

The proposed amendment corrects a duplication of subsection numbers.

## **2.24 Retail Leases Act 1994 No 46**

### **Section 4 Notes**

Insert “except where occurring in Schedule 2” after “Act”.

#### **Explanatory note**

The proposed amendment clarifies that certain notes form part of the *Retail Leases Act 1994*.

## **2.25 Statute Law (Miscellaneous Provisions) Act (No 2) 2001 No 112**

### **Schedule 2 Amendments by way of statute law revision**

Omit “clauses 18 and 19” from Schedule 2.35 [2].  
Insert instead “clauses 19 and 20”.

#### **Explanatory note**

The proposed amendment corrects an incorporation direction.

## **2.26 University of Newcastle Act 1989 No 68**

### **Schedule 3 Savings and transitional provisions**

Re-number clause 13 (Validation) as clause 14.

#### **Explanatory note**

The proposed amendment corrects duplicated numbering.

## **2.27 University of New England Act 1993 No 68**

### **Schedule 1 Provisions relating to members and procedure of the Council**

Omit clause 5 (b). Insert instead:

- (b) any person acting under the direction of the University or the Council,

if the matter or thing was done or omitted to be done in good faith for the purpose of executing this or any other Act, subjects a member of the Council or a person so acting personally to any action, liability, claim or demand.

**Explanatory note**

The proposed amendment corrects text ranging.

## **2.28 Water Management Act 2000 No 92**

### **Section 145 Alteration of private irrigation district**

Omit “section 142” from section 145 (1). Insert instead “section 144”.

**Explanatory note**

The proposed amendment corrects an incorrect cross-reference.

**Schedule 3 Repeals**

(Section 4)

<b>Name of Act or statutory rule</b>	<b>Extent of repeal</b>
Notification of Births Act 1915 No 4	Whole Act <sup>3</sup>
Women's Legal Status Act 1918 No 50	Whole Act <sup>3</sup>
Landlord and Tenant Amendment (Distress Abolition) Act 1930 No 49	Whole Act <sup>3</sup>
Income Tax Management Act 1941 No 48	Whole Act <sup>3</sup>
Supreme Court Procedure Act 1957 No 13	Whole Act <sup>3</sup>
Banking (Interpretation of References) Act 1959 No 32	Whole Act <sup>3</sup>
Fruit-growing Reconstruction Agreement Act 1973 No 51	Whole Act <sup>3</sup>
Statute Law (Miscellaneous Provisions) (No 1) (Interpretation) Regulation 1987	Whole Regulation <sup>3</sup>
Miscellaneous Acts (Community Welfare) Repeal and Amendment Act 1987 No 58	Schedule 3, to the extent that it: <ul style="list-style-type: none"> <li>(a) amends the <i>Defamation Act 1974</i>, and</li> <li>(b) makes a second amendment to the <i>Statutory and Other Offices Remuneration Act 1975</i><sup>4</sup></li> </ul>
Catchment Management Act 1989 No 235	Section 69 (b) and Part 3 of Schedule 6 <sup>4</sup>
Nurses (First Election) Regulation 1991	Whole Regulation <sup>3</sup>
Nurses (Last Board Examination) Regulation 1992	Whole Regulation <sup>3</sup>
Centennial Park and Moore Park Trust (Macquarie Sydney Common) Amendment Act 1992 No 114	Whole Act <sup>2</sup>
Police Service (Complaints, Discipline and Appeals) Amendment Act 1993 No 38	Whole Act <sup>5</sup>
Justices (National Parks and Wildlife) (Repeal, Savings and Transitional) Regulation 1995	Whole Regulation <sup>3</sup>

<b>Name of Act or statutory rule</b>	<b>Extent of repeal</b>
Justices (Passenger Transport) (Repeal, Savings and Transitional) Regulation 1995	Whole Regulation <sup>3</sup>
Justices (Transport Administration) (Repeal, Savings and Transitional) Regulation 1995	Whole Regulation <sup>3</sup>
Criminal Procedure Amendment (Indictable Offences) Act 1995 No 22	Schedule 2.3 [1], [2] and [4]–[6] <sup>4</sup>
Summary Offences (Short Description of Offences) (Repeal and Transitional) Regulation 1996	Whole Regulation <sup>3</sup>
Gas Supply Act 1996 No 38	Clause 8 of Schedule 2 <sup>4</sup>
Regulatory Reduction Act 1996 No 107	Schedules 1.4, 1.10, 2.1, 2.2, 2.4 and 2.13 <sup>4</sup>
WorkCover Legislation Amendment Act 1996 No 120	Schedule 2.5 [1]–[3] <sup>4</sup>
Local Government Amendment (Tribunals) Act 1996 No 124	Whole Act <sup>2</sup>
Co-operatives Amendment Act 1997 No 39	Schedule 1 [144] <sup>4</sup>
Administrative Decisions Legislation Amendment Act 1997 No 77	Schedule 5.7 [2] and 5.8 <sup>4</sup>
Children (Protection and Parental Responsibility) Act 1997 No 78	Clause 2 of Schedule 2 <sup>4</sup>
Road and Rail Transport (Dangerous Goods) Act 1997 No 113	Schedule 1 <sup>5</sup>
Road Transport (Vehicle Registration) Act 1997 No 119	Schedule 1 <sup>5</sup>
Visy Mill Facilitation Act 1997 No 139	Section 15 and Schedule 1 <sup>4</sup>
Pollution Control Amendment (Load-based Licensing) Act 1997 No 146	Whole Act <sup>4</sup>
Timber Plantations (Harvest Guarantee) Amendment Act 1997 No 150	Whole Act <sup>4</sup>
Periodic Detention of Prisoners (Short Description of Offences) Repeal Regulation 1998	Whole Regulation <sup>3</sup>
Justices (Short Descriptions of Impounding Offences) Repeal Regulation 1998	Whole Regulation <sup>3</sup>

Statute Law (Miscellaneous Provisions) Act 2002 No 53

Schedule 3 Repeals

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<b>Name of Act or statutory rule</b>	<b>Extent of repeal</b>
Co-operative Housing and Starr-Bowkett Societies Act 1998 No 11	Clause 7 of Schedule 5 and Schedule 6.1 [1], 6.4, 6.8 and 6.21 <sup>4</sup>
Judges' Pensions Amendment Act 1998 No 42	Whole Act <sup>1</sup>
Criminal Procedure Legislation Amendment (Bail Agreements) Act 1998 No 107	Whole Act <sup>5</sup>
Retail Leases Amendment Act 1998 No 169	Whole Act <sup>1</sup>
Environmental Trust Regulation 1999	Whole Regulation <sup>3</sup>
Justices (Motor Traffic and Other Offences) (Repeal, Savings and Transitional) Regulation 1999	Whole Regulation <sup>3</sup>
Sydney Water Catchment Management Transitional Regulation 1999	Whole Regulation <sup>3</sup>
Gambling Legislation Amendment (Responsible Gambling) Act 1999 No 49	Whole Act <sup>1</sup>
Fertilisers Amendment Act 1999 No 62	Whole Act <sup>1</sup>
Justices (Fisheries Offences) Repeal Regulation 2000	Whole Regulation <sup>2</sup>
Conveyancing Amendment (Law of Support) Act 2000 No 12	Whole Act <sup>1</sup>
Protected Estates Amendment (Investment) Act 2000 No 15	Whole Act <sup>1</sup>
Evidence (Audio and Audio Visual Links) Amendment Act 2000 No 16	Whole Act <sup>1</sup>
Coal and Oil Shale Mine Workers (Superannuation) Amendment (1999 Superannuation Agreement) Act 2000 No 17	Whole Act <sup>1</sup>
Protection of the Environment Operations Amendment (Littering) Act 2000 No 20	Whole Act <sup>1</sup>
New South Wales Lotteries Corporatisation Amendment Act 2000 No 22	Whole Act <sup>1</sup>
Legal Profession Amendment (Mortgage Practices) Act 2000 No 23	Whole Act <sup>1</sup>

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<b>Name of Act or statutory rule</b>	<b>Extent of repeal</b>
Motor Accidents Compensation Amendment (Medical Assessments) Act 2000 No 25	Whole Act <sup>1</sup>
Summary Offences Amendment Act 2000 No 26	Whole Act <sup>1</sup>
Parking Space Levy Amendment Act 2000 No 27	Whole Act <sup>1</sup>
Real Property Amendment (Compensation) Act 2000 No 28	Whole Act <sup>1</sup>
Courts Legislation Amendment Act 2000 No 31	Whole Act <sup>1</sup>
State Emergency and Rescue Management Amendment Act 2000 No 32	Whole Act <sup>1</sup>
Administrative Decisions Tribunal Legislation Amendment Act 2000 No 33	Whole Act <sup>1</sup>
Intoxicated Persons Amendment Act 2000 No 34	Whole Act <sup>1</sup>
Legal Profession Amendment (Complaints and Discipline) Act 2000 No 35	Whole Act <sup>1</sup>
Supreme Court Amendment (Referral of Proceedings) Act 2000 No 36	Whole Act <sup>1</sup>
Veterinary Surgeons Amendment Act 2000 No 37	Whole Act <sup>1</sup>
Transport Administration Amendment (Parramatta Rail Link) Act 2000 No 38	Whole Act <sup>1</sup>
Trustee Companies Amendment Act 2000 No 39	Whole Act <sup>1</sup>
Crimes Legislation Amendment Act 2000 No 43	Whole Act <sup>1</sup>
Public Authorities (Financial Arrangements) Amendment Act 2000 No 45	Whole Act <sup>1</sup>
Workplace Injury Management and Workers Compensation Amendment (Private Insurance) Act 2000 No 46	Whole Act <sup>1</sup>
Appropriation Act 2000 No 47	Whole Act <sup>3</sup>
Appropriation (Further Budget Variations) Act 2000 No 48	Whole Act <sup>3</sup>

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Statute Law (Miscellaneous Provisions) Act 2002 No 53

Schedule 3 Repeals

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Name of Act or statutory rule	Extent of repeal
Appropriation (Parliament) Act 2000 No 49	Whole Act <sup>3</sup>
Appropriation (Special Offices) Act 2000 No 50	Whole Act <sup>3</sup>
State Revenue Legislation Amendment Act 2000 No 51	Whole Act <sup>1</sup>
Unclaimed Money Amendment Act 2000 No 52	Whole Act <sup>1</sup>
Fair Trading Amendment (Enforcement and Compliance Powers) Act 2000 No 55	Whole Act <sup>1</sup>
Home Building Amendment Act 2000 No 56	Whole Act <sup>1</sup>
Children's Court Amendment Act 2000 No 58	Whole Act <sup>1</sup>
Independent Pricing and Regulatory Tribunal and Other Legislation Amendment Act 2000 No 60	Whole Act <sup>1</sup>
Liquor and Registered Clubs Legislation Amendment Act 2000 No 62	Whole Act <sup>1</sup>
Lotteries and Art Unions Amendment Act 2000 No 63	Whole Act <sup>1</sup>
Justices Legislation Repeal and Amendment Act 2001 No 121	Schedule 2.45 <sup>4</sup>
Fertilisers (Repeal) Regulation 2002	Whole Regulation <sup>3</sup>

**Key**

- <sup>1</sup> indicates repeal of an Act that was assented to in 2000 or earlier and that contains only amendments or amendments and repeals
- <sup>2</sup> indicates repeal of an Act that was assented to in 2000 or earlier and that contains only amendments and spent provisions
- <sup>3</sup> indicates repeal of an Act, statutory rule or provision that is spent or no longer of practical utility
- <sup>4</sup> indicates repeal of an uncommenced Act (or provision) that cannot be commenced
- <sup>5</sup> indicates repeal of an Act (or part of an Act) containing, among other things, uncommenced provisions that cannot be commenced

**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.

## Schedule 4 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 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

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## Notes

### Index of Acts amended by Schedules 1 and 2

Administrative Decisions Tribunal Act 1997 No 76—Schedule 2  
Adoption Act 2000 No 75—Schedule 2  
Bail Act 1978 No 161—Schedule 2  
Child Protection (Offenders Registration) Act 2000 No 42—Schedule 2  
Children and Young Persons (Care and Protection) Act 1998 No 157—Schedule 1  
Christ Church Cathedral, Newcastle, Cemetery Act 1966 No 20—Schedule 1  
Classification (Publications, Films and Computer Games) Enforcement Act 1995 No 63—Schedule 2  
Consumer Credit (New South Wales) Act 1995 No 7—Schedule 2  
Consumer, Trader and Tenancy Tribunal Act 2001 No 82—Schedule 2  
Conveyancing Act 1919 No 6—Schedule 1  
Co-operatives Act 1992 No 18—Schedule 2  
Courts Legislation Further Amendment Act 2001 No 108—Schedule 2  
Crimes Act 1900 No 40—Schedule 2  
Crimes Amendment (Child Protection—Physical Mistreatment) Act 2001 No 89—Schedule 2  
Crown Lands Act 1989 No 6—Schedule 1  
Dental Practice Act 2001 No 64—Schedule 1  
District Court Act 1973 No 9—Schedule 2  
Energy Services Corporations Act 1995 No 95—Schedule 1  
Environmental Planning and Assessment Act 1979 No 203—Schedule 1  
Environmental Trust Act 1998 No 82—Schedule 1  
Evidence on Commission Act 1995 No 26—Schedule 2  
Fair Trading Act 1987 No 68—Schedule 1  
Firearms Act 1996 No 46—Schedule 2  
Fisheries Management Act 1994 No 38—Schedule 2  
Freight Rail Corporation (Sale) Act 2001 No 35—Schedule 1  
Heritage Act 1977 No 136—Schedule 2  
Higher Education Act 2001 No 102—Schedule 2  
HomeFund Restructuring Act 1993 No 112—Schedule 2  
Land Tax Management Act 1956 No 26—Schedule 1  
Landlord and Tenant (Amendment) Act 1948 No 25—Schedule 1  
Liquor Act 1982 No 147—Schedule 1  
Local Government and Other Authorities (Superannuation) Act 1927 No 35—Schedule 2  
Marine Parks Act 1997 No 64—Schedule 1  
Medical Practice Act 1992 No 94—Schedule 2  
Mental Health Act 1990 No 9—Schedule 2

Mines Inspection Act 1901 No 75—Schedule 1  
Mining Act 1992 No 29—Schedule 1  
Motor Accidents Compensation Act 1999 No 41—Schedule 1  
Motor Dealers Act 1974 No 52—Schedule 1  
Motor Vehicle Repairs Act 1980 No 71—Schedule 1  
National Parks and Wildlife Act 1974 No 80—Schedule 1  
Pawnbrokers and Second-hand Dealers Act 1996 No 13—Schedule 2  
Pesticides Act 1999 No 80—Schedule 1  
Protection of the Environment Operations Act 1997 No 156—Schedule 1  
Public Authorities (Financial Arrangements) Act 1987 No 33—Schedule 1  
Public Lotteries Act 1996 No 86—Schedule 2  
Real Property Act 1900 No 25—Schedule 1  
Retail Leases Act 1994 No 46—Schedule 2  
Statute Law (Miscellaneous Provisions) Act (No 2) 2001 No 112—Schedule 2  
Strata Schemes Management Act 1996 No 138—Schedule 1  
Sydney Opera House Trust Act 1961 No 9—Schedule 1  
Sydney Water Catchment Management Act 1998 No 171—Schedule 1  
University of Newcastle Act 1989 No 68—Schedule 2  
University of New England Act 1993 No 68—Schedule 2  
Water Management Act 2000 No 92—Schedule 2  
Workers Compensation Act 1987 No 70—Schedule 1

**Index of Acts and statutory rules wholly repealed by Schedule 3**

Administrative Decisions Tribunal Legislation Amendment Act 2000 No 33  
Appropriation Act 2000 No 47  
Appropriation (Further Budget Variations) Act 2000 No 48  
Appropriation (Parliament) Act 2000 No 49  
Appropriation (Special Offices) Act 2000 No 50  
Banking (Interpretation of References) Act 1959 No 32  
Centennial Park and Moore Park Trust (Macquarie Sydney Common) Amendment Act 1992 No 114  
Children's Court Amendment Act 2000 No 58  
Coal and Oil Shale Mine Workers (Superannuation) Amendment (1999 Superannuation Agreement) Act 2000 No 17  
Conveyancing Amendment (Law of Support) Act 2000 No 12  
Courts Legislation Amendment Act 2000 No 31  
Crimes Legislation Amendment Act 2000 No 43  
Criminal Procedure Legislation Amendment (Bail Agreements) Act 1998 No 107  
Environmental Trust Regulation 1999  
Evidence (Audio and Audio Visual Links) Amendment Act 2000 No 16  
Fair Trading Amendment (Enforcement and Compliance Powers) Act 2000 No 55  
Fertilisers Amendment Act 1999 No 62  
Fertilisers (Repeal) Regulation 2002  
Fruit-growing Reconstruction Agreement Act 1973 No 51

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Gambling Legislation Amendment (Responsible Gambling) Act 1999 No 49  
Home Building Amendment Act 2000 No 56  
Independent Pricing and Regulatory Tribunal and Other Legislation Amendment Act 2000 No 60  
Income Tax Management Act 1941 No 48  
Intoxicated Persons Amendment Act 2000 No 34  
Judges' Pensions Amendment Act 1998 No 42  
Justices (Fisheries Offences) Repeal Regulation 2000  
Justices (Motor Traffic and Other Offences) (Repeal, Savings and Transitional) Regulation 1999  
Justices (National Parks and Wildlife) (Repeal, Savings and Transitional) Regulation 1995  
Justices (Passenger Transport) (Repeal, Savings and Transitional) Regulation 1995  
Justices (Short Descriptions of Impounding Offences) Repeal Regulation 1998  
Justices (Transport Administration) (Repeal, Savings and Transitional) Regulation 1995  
Landlord and Tenant Amendment (Distress Abolition) Act 1930 No 49  
Legal Profession Amendment (Complaints and Discipline) Act 2000 No 35  
Legal Profession Amendment (Mortgage Practices) Act 2000 No 23  
Liquor and Registered Clubs Legislation Amendment Act 2000 No 62  
Local Government Amendment (Tribunals) Act 1996 No 124  
Lotteries and Art Unions Amendment Act 2000 No 63  
Motor Accidents Compensation Amendment (Medical Assessments) Act 2000 No 25  
New South Wales Lotteries Corporatisation Amendment Act 2000 No 22  
Notification of Births Act 1915 No 4  
Nurses (First Election) Regulation 1991  
Nurses (Last Board Examination) Regulation 1992  
Parking Space Levy Amendment Act 2000 No 27  
Periodic Detention of Prisoners (Short Description of Offences) Repeal Regulation 1998  
Police Service (Complaints, Discipline and Appeals) Amendment Act 1993 No 38  
Pollution Control Amendment (Load-based Licensing) Act 1997 No 146  
Protected Estates Amendment (Investment) Act 2000 No 15  
Protection of the Environment Operations Amendment (Littering) Act 2000 No 20  
Public Authorities (Financial Arrangements) Amendment Act 2000 No 45  
Real Property Amendment (Compensation) Act 2000 No 28  
Retail Leases Amendment Act 1998 No 169  
State Revenue Legislation Amendment Act 2000 No 51  
State Emergency and Rescue Management Amendment Act 2000 No 32  
Statute Law (Miscellaneous Provisions) (No 1) (Interpretation) Regulation 1987  
Summary Offences Amendment Act 2000 No 26  
Summary Offences (Short Description of Offences) (Repeal and Transitional) Regulation 1996  
Supreme Court Amendment (Referral of Proceedings) Act 2000 No 36

Supreme Court Procedure Act 1957 No 13  
Sydney Water Catchment Management Transitional Regulation 1999  
Timber Plantations (Harvest Guarantee) Amendment Act 1997 No 150  
Transport Administration Amendment (Parramatta Rail Link) Act 2000 No 38  
Trustee Companies Amendment Act 2000 No 39  
Unclaimed Money Amendment Act 2000 No 52  
Veterinary Surgeons Amendment Act 2000 No 37  
Women's Legal Status Act 1918 No 50  
Workplace Injury Management and Workers Compensation Amendment (Private Insurance) Act 2000 No 46

[Second reading speech made in—  
Legislative Council on 11 June 2002  
Legislative Assembly on 19 June 2002]