



New South Wales

Statute Law (Miscellaneous Provisions) Act (No 2) 2004 No 91

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New South Wales

Statute Law (Miscellaneous Provisions) Act (No 2) 2004 No 91

Act No 91, 2004

An Act to repeal certain Acts and instruments and provisions of Acts and to amend certain other Acts and instruments in various respects and for the purpose of effecting statute law revision; and to make certain savings. [Assented to 10 December 2004]

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

This Act is the *Statute Law (Miscellaneous Provisions) Act (No 2) 2004*.

2 Commencement

- (1) This Act commences on the date of assent, except as provided by this section.
- (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

The Acts and instruments specified in Schedules 1 and 2 are amended as set out in those Schedules.

4 Repeals

Each Act and instrument specified in Schedule 3 is, to the extent indicated in that Schedule, repealed.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

Schedule 1 Minor amendments

(Section 3)

1.1 Agricultural Livestock (Disease Control Funding) Act 1998 No 139

[1] Section 3 Definitions

Insert in alphabetical order:

Department means the Department of Primary Industries.

[2] Sections 3, definition of “Director-General” and 30 (3)

Omit “of Agriculture” wherever occurring.

[3] Section 32A

Insert after section 32:

32A Delegation

The Director-General may delegate the exercise of any function of the Director-General under this Act (other than this power of delegation) to any member of staff of the Department.

Explanatory note

Items [1] and [2] of the proposed amendments update an outdated reference in the *Agricultural Livestock (Disease Control Funding) Act 1998 (the Act)* to a Department.

Item [3] of the proposed amendments provides the Director-General of the Department of Primary Industries with a power to delegate any of his or her functions under the Act other than the power of delegation.

1.2 Animal Research Act 1985 No 123

[1] Section 3 Definitions

Insert in alphabetical order in section 3 (1):

Department means the Department of Primary Industries.

[2] Section 3 (1), definition of “Director-General”

Omit the definition. Insert instead:

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

[3] Section 59A

Insert after section 59:

59A Delegation

The Director-General may delegate the exercise of any function of the Director-General under this Act (other than this power of delegation) to any member of staff of the Department.

Explanatory note

Items [1] and [2] of the proposed amendments update an outdated reference in the *Animal Research Act 1985 (the Act)* to a Department.

Item [3] of the proposed amendments provides the Director-General of the Department of Primary Industries with a power to delegate any of his or her functions under the Act other than the power of delegation.

1.3 Associations Incorporation Act 1984 No 143

Section 59 Register

Insert at the end of section 59 (6) (b):

, or

- (c) any document an electronic reproduction of which has been incorporated in the register kept under subsection (1) at least 3 months before the destruction or disposal of the document.

Explanatory note

At present, the Commissioner for Fair Trading, Department of Commerce may destroy or dispose of any document lodged or registered in respect of an incorporated association that has been dissolved or has ceased to be registered for not less than 10 years, and any document a transparency of which has been incorporated in the register kept under section 59 (1) of the *Associations Incorporation Act 1984*, if, in the opinion of the Commissioner, it is no longer necessary or desirable to retain it.

To facilitate the electronic storage of documents, the proposed amendment will allow destruction or disposal of a document an electronic reproduction of which has been incorporated in the register at least 3 months before the destruction or disposal of the document.

1.4 Catchment Management Authorities Act 2003 No 104

Schedule 6 Savings, transitional and other provisions

Insert after clause 4 (3):

- (4) Catchment contributions levied under subclause (2) may continue to be collected and recovered in accordance with the former Act after the expiry of the period referred to in that subclause.

Explanatory note

The *Catchment Management Authorities Act 2003 (the 2003 Act)* repealed the *Catchment Management Act 1989 (the 1989 Act)* and abolished catchment management committees and catchment management trusts established under it. Clause 4 of Schedule 6 to the 2003 Act provides that the repeal of the 1989 Act and the regulations made under it does not affect any catchment contribution levied under the 1989 Act and the regulations before their repeal by the 2003 Act. Clause 4 (2) of Schedule 6 to the 2003 Act provides that during the period of 12 months after the commencement of the clause (that is, from 23 January 2004 until 23 January 2005) catchment contributions may (until the regulations otherwise provide) continue to be levied by the Hunter-Central Rivers Catchment Management Authority in the catchment contribution area of the Hunter Catchment Management Trust under the 1989 Act.

The object of the proposed amendment is to remove any doubt that catchment contributions levied during the transitional period can be collected and recovered after that period. Catchment contributions are levied annually based on the financial year. The authority levied them for the one financial year commencing on 1 July 2004, as it was able to do under the transitional provision. The proposed amendment will facilitate the payment of those contributions by instalments, and the recovery of any unpaid contributions, but does not enable any further levying of contributions beyond that approved by Parliament when the 2003 Act was passed.

1.5 Commonwealth Powers (Family Law—Children) Act 1986 No 182

Schedule 1 Statutory provisions

Omit the matters relating to the *Adoption of Children Act 1965* and the *Adoption of Children Regulation 1995*.

Insert instead:

Adoption Act 2000: sections 23 (1), (4) and (5), 50, 51, 75 (1), (7) and (9), 77 (2), 78, 84, 86, 92, 93, 95, 106, 107, 110, 111, 116 and 117.

Explanatory note

The *Commonwealth Powers (Family Law—Children) Act 1986 (the Act)* refers to the Parliament of the Commonwealth certain matters relating to family law. Section 3 (2) of the Act ensures that the referral does not prevent or interfere with:

- (a) a Minister of the Crown, an officer of the State, an officer of an adoption agency approved under a law of the State, or any other person or body, having or acquiring the custody, guardianship, care or control of children “under a provision specified in Schedule 1”, or
- (b) the jurisdiction of the Supreme Court to make orders in respect of children who are in such custody, guardianship, care or control, or
- (c) certain jurisdiction conferred “under a provision specified in Schedule 1”.

Schedule 1 to the Act specifies (among other things) certain provisions of the *Adoption of Children Act 1965* and the *Adoption of Children Regulation 1995*, both of which have been repealed.

The proposed amendment replaces the references to provisions of the *Adoption of Children Act 1965* with references to the relevant provisions of the *Adoption Act 2000*. It is not necessary to make reference to any provision of the *Adoption Regulation 2003*.

1.6 Community Land Development Act 1989 No 201

[1] Section 70 Variation or termination of scheme by Supreme Court

Insert at the end of section 70 (1) (b):

, or

- (c) that the association of a community scheme, each proprietor of a lot within the community scheme and each registered mortgagee, chargee and covenant chargee of a lot within the community scheme have made an application to the Court to terminate the scheme—the Court may vary or terminate the community scheme and any scheme within the community scheme.

[2] Section 71 Proceedings on application to Supreme Court for variation or termination of scheme

Insert “(1) (a) or (b)” after “section 70” in section 71 (1).

[3] Section 71 (2), (3) and (4) (a) and (b)

Insert “for an order under section 70” after “an application” wherever occurring.

Explanatory note

At present, section 70 of the *Community Land Development Act 1989* provides that, for the Supreme Court to vary or terminate a scheme within the meaning of the *Community Land Development Act 1989*, the Court must be satisfied that continuation of the scheme has become impracticable or, in the case of a staged scheme, that completion of the staged scheme has become impracticable.

Item [1] provides for a community scheme to be terminated where the association of, and all the proprietors and other specified interested persons in relation to, a community scheme apply to the Court for such an order. Items [2] and [3] are consequential amendments.

1.7 Conveyancing Act 1919 No 6

[1] Section 6A Application of Act to electronic form plans and other documents

Omit “order” from section 6A (1) (b). Insert instead “orders”.

[2] Section 6B

Insert after section 6A:

6B Arrangements for payment of fees

A provision of this Act to the effect that something may or must be done on or after payment of a fee:

- (a) prescribed by the regulations, enables or requires (as appropriate) the thing to be done if arrangements have been made in accordance with the regulations for the future payment of the fee, or
- (b) prescribed under another Act, enables or requires (as appropriate) the thing to be done if arrangements have been made in accordance with the regulations under that Act for the future payment of the fee.

Explanatory note

Item [2] of the proposed amendments enables the regulations under the *Conveyancing Act 1919* to authorise the making of arrangements for the payment of certain fees. This will bring the provisions of the *Conveyancing Act 1919* relating to the payment of those fees into line with the general procedures prescribed by the regulations under that Act for the future payment of fees set by the regulations.

The amendment also recognises similar arrangements made under other Acts for the future payment of fees prescribed under those Acts (for example, fees prescribed under the *Real Property Act 1900*).

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

1.8 Crimes (Local Courts Appeal and Review) Act 2001 No 120

Section 42 Appeals as of right

Insert after section 42 (2):

- (2A) The prosecutor (other than the Director of Public Prosecutions or the Environment Protection Authority) may appeal to the Land and Environment Court against a sentence imposed by a Local Court in any summary proceedings in relation to an environmental offence, but only on a ground that involves a question of law alone.
- (2B) The prosecutor (including the Director of Public Prosecutions or the Environment Protection Authority) may appeal to the Land and Environment Court against:
 - (a) an order made by a Local Court that stays any summary proceedings for the prosecution of an environmental offence, or
 - (b) an order made by a Local Court dismissing a matter the subject of any summary proceedings with respect to an environmental offence, or
 - (c) an order for costs made by a Local Court against the prosecutor in any summary proceedings with respect to an environmental offence,but only on a ground that involves a question of law alone.

Explanatory note

The *Crimes (Local Courts Appeal and Review) Act 2001 (the Act)* restated certain provisions of the repealed *Justices Act 1902* with respect to appeals and other forms of review in relation to criminal proceedings in Local Courts and other courts of comparable jurisdiction. Sections 104 (2) and 133AVB (2) of the *Justices Act 1902* allowed certain appeals to the Land and Environment Court which were not included in the Act. The amendment to the Act reinstates those rights of appeal.

1.9 Electricity (Consumer Safety) Act 2004 No 4

[1] Section 3 Definitions

Omit paragraph (a) of the definition of *serious electrical accident* in section 3 (1). Insert instead:

- (a) in which an electrical article or electrical installation is involved that is or was used for (or for purposes incidental to) the conveyance, control and use of electricity and electricity was, at the time of the accident, being so conveyed, controlled and used, and

[2] Section 17 Acquisition guarantor and guarantees

Omit “New South Wales” from section 17 (2) (c) (i) and (ii) and (d) (ii) wherever occurring.

Insert instead “Australia”.

[3] Section 17 (2) (d) (i)

Omit “the State”. Insert instead “Australia”.

[4] Schedule 4 Consequential amendment of other Acts and Regulations

Omit Schedule 4.10. Insert instead:

4.10 Home Building Regulation 2004

Clause 14 Exemptions relating to contracting and advertising

Omit the definition of *electrical installation* and *electricity supply authority* from clause 14 (1).

Insert instead:

electrical installation and *electricity supply authority* have the same meanings as they have in the *Electricity (Consumer Safety) Act 2004*.

Commencement

Item [1] of the amendments to the *Electricity (Consumer Safety) Act 2004 (the Act)* commences, or is taken to have commenced, on the commencement of the definition of *serious electrical accident* in section 3 (1) of that Act.

Items [2] and [3] of the amendments to the Act commence, or are taken to have commenced, on the commencement of section 17 of that Act.

Item [4] of the proposed amendments commences, or is taken to have commenced, on the commencement of Schedule 4.10 to that Act.

Explanatory note

Serious electrical accidents

At present, to be within the definition of **serious electrical accident** in section 3 (1) of the Act, the accident must be an accident in which an electrical article or electrical installation is involved.

Item [1] of the proposed amendments amends the definition to provide that, to be within the definition, the electrical article or electrical installation must be an electrical article or electrical installation that is or was used for (or for purposes incidental to) the conveyance, control and use of electricity and electricity was, at the time of the accident, being so conveyed, controlled and used.

Acquisition guarantees

An **acquisition guarantee** under section 17 of the Act is a written guarantee given by a person in respect of an electrical article to the effect that, at the time it was given, the model of electrical article had relevant approval, the article complied with any relevant specifications or requirements and was marked as prescribed by the regulations under that Act. An **acquisition guarantor** is a person who gives an acquisition guarantee. At present, a guarantee is an acquisition guarantee if (among other things) the guarantor resides, or is a corporation that has its place of business, in New South Wales and the guarantee specifies a New South Wales address in respect of the guarantor.

Items [2] and [3] of the proposed amendments provide for the guarantor's residence, place of business and address requirements to refer to Australia instead of New South Wales.

Statute law revision

Item [4] of the proposed amendments gives effect to an amendment to a regulation that has been repealed and replaced.

1.10 Exhibited Animals Protection Act 1986 No 123

[1] Section 5 Definitions

Insert in alphabetical order in section 5 (1):

Department means the Department of Primary Industries.

[2] Section 5 (1), definition of "Director-General"

Omit the definition. Insert instead:

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

[3] Section 49A

Insert after section 49:

49A Delegation

The Director-General may delegate the exercise of any function of the Director-General under this Act (other than this power of delegation) to any member of staff of the Department.

Explanatory note

Items [1] and [2] of the proposed amendments update an outdated reference in the *Exhibited Animals Protection Act 1986 (the Act)* to a Department.

Item [3] of the proposed amendments provides the Director-General of the Department of Primary Industries with a power to delegate any of his or her functions under the Act other than the power of delegation.

1.11 Exotic Diseases of Animals Act 1991 No 73

[1] Section 66 Appointment of Chief Veterinary Officer

Omit “of Agriculture” from section 66 (1).

[2] Dictionary

Insert in alphabetical order:

Department means the Department of Primary Industries.

[3] Dictionary, definition of “Director-General”

Omit the definition. Insert instead:

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

Explanatory note

The proposed amendments update outdated references in the *Exotic Diseases of Animals Act 1991* to a Department.

1.12 Farrer Memorial Research Scholarship Fund Act 1930 No 38

[1] Section 2 Definitions

Insert in alphabetical order:

Department means the Department of Primary Industries.

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

[2] Section 3 Trustees

Omit “of the Department of Agriculture” where firstly occurring.

Insert instead “(or the Director-General’s nominee)”.

[3] Section 3

Omit “Deputy Director-General of the Department of Agriculture”.

Insert instead “a Deputy Director-General of the Department nominated by the Director-General”.

Explanatory note

Item [1] of the proposed amendments updates outdated references in the *Farrer Memorial Research Scholarship Fund Act 1930 (the Act)* to a Department.

Item [2] of the proposed amendments enables the Director-General of the Department of Primary Industries to nominate a person to be a trustee of the fund in place of the Director-General.

Item [3] of the proposed amendments clarifies which Deputy Director-General of the Department of Primary Industries is to be appointed as a trustee of the fund.

1.13 Fertilisers Act 1985 No 5

[1] Section 3 Definitions

Omit the definitions of *Department*, *Deputy Director-General* and *Director-General* from section 3 (1).

Insert instead:

Department means the Department of Primary Industries.

Deputy Director-General means a Deputy Director-General of the Department.

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

[2] Section 39A

Insert after section 39:

39A Delegation

The Director-General may delegate the exercise of any function of the Director-General under this Act (other than this power of delegation) to any member of staff of the Department.

Explanatory note

Item [1] of the proposed amendments updates outdated references in the *Fertilisers Act 1985 (the Act)* to a Department.

Item [2] of the proposed amendments provides the Director-General of the Department of Primary Industries with a power to delegate any of his or her functions under the Act other than the power of delegation.

1.14 Fines Act 1996 No 99

Schedule 1 Statutory provisions under which penalty notices issued

Omit “*Water Supply Authorities Act 1987*, section 51”.

Insert instead “*Water Management Act 2000*, section 365”.

Explanatory note

Part 3 of the *Fines Act 1996* sets out the procedure for the issue and enforcement of penalty notices under any of the statutory provisions set out in Schedule 1 to the Act. (A penalty notice (or “on-the-spot fine”) is a notice to the effect that the person to whom it is directed has committed a specified offence and that, if the person does not wish to have the matter dealt with by a court, the person may pay the specified amount for the offence to a specified person within a specified time.)

The proposed amendment inserts section 365 (Penalty notices for certain offences) of the *Water Management Act 2000* in the list of statutory provisions under which penalty notices can be issued. As a result, a penalty notice can be issued and enforced under Part 3 of the *Fines Act 1996* in respect of any offence against the *Water Management Act 2000* prescribed by the regulations made under that Act.

The proposed amendment also omits a reference to the *Water Supply Authorities Act 1987*, which has been repealed.

1.15 Firearms Act 1996 No 46

Section 8 Licence categories and authority conferred by licence

Omit “Any pistol manufactured after 1 January 1946 is” from the matter relating to firearms collector licences in section 8 (1).

Insert instead “Except as otherwise provided by this Act, post-1946 pistols are”.

Explanatory note

The proposed amendment makes it clear that pistols manufactured after 1946 may be kept under the authority of a firearms collector licence in certain circumstances.

1.16 Fisheries Management Act 1994 No 38

[1] Section 221K

Insert section 221K (as in force immediately before its repeal by the *Statute Law (Miscellaneous Provisions) Act 2004*) after section 221J.

[2] Section 221IK Transitional limitation on making orders relating to salt water fish

Omit the section.

Explanatory note

The *Statute Law (Miscellaneous Provisions) Act 2004* repealed section 221K of the *Fisheries Management Act 1994*, explaining that the section “is spent or no longer of practical utility or...has expired or ceased to have effect”. However, section 221K has not expired or ceased to have effect and is of continuing utility. The section that should have been repealed is section 221IK, which ceased to have effect on 1 January 2003.

Item [1] of the proposed amendments reinstates section 221K without making any changes to that section. Item [2] repeals section 221IK.

1.17 Funeral Funds Act 1979 No 106

[1] Section 4 Definitions

Omit the definition of *pre-paid funeral fund* in section 4 (1).

Insert instead:

pre-paid funeral fund means:

- (a) a person or a group of individuals that is for the time being registered under section 37 to act as trustee or trustees of trust funds under pre-paid contracts, or
- (b) a person for the time being registered under section 39B to act as trustee of trust funds under a pre-paid contract.

[2] Section 34 Trustee under pre-arranged contract to be registered under this Act

Omit “corporation” from section 34 (1) (a). Insert instead “company”.

[3] Section 35 Application for registration

Omit “corporation” from section 35 (1). Insert instead “company”.

[4] Section 36 Requirements for registration

Omit “corporation” from section 36 (1) wherever occurring.

Insert instead “company”.

[5] Section 36 (1) (d)

Insert at the end of section 36 (1) (c):

, and

- (d) in the case of a company—the company, under the rules of the company, is required to have not less than 3 directors.

[6] Section 37 Registration of pre-arranged funeral funds

Omit “corporation” wherever occurring. Insert instead “company”.

[7] Section 37 (2) (ba) (as inserted by the Funeral Funds Amendment Act 2003)

Omit “corporation”. Insert instead “company”.

[8] Section 66A Notices to show cause

Insert “(not being a fund registered under section 39B)” after “fund” in section 66A (1) (b) (ii).

[9] Section 66B Determination of disciplinary measures by the Director-General

Omit “company or” wherever occurring in section 66B (1) (d).

[10] Section 77 Appeal against refusal to register pre-arranged funeral fund or decision to cancel that registration etc

Omit “corporation or any group of individuals” from section 77 (1) (a).

Insert instead “person”.

[11] Section 77 (1)

Omit “corporation, individuals, individual or fund”. Insert instead “person”.

[12] Section 77 (2) (b)

Omit “corporation or group of individuals”. Insert instead “person”.

[13] Section 127

Insert in appropriate order (so as to be in appropriate order in proposed Part 10 as inserted on the commencement of Schedule 1 [57] to the *Funeral Funds Amendment Act 2003*):

127 Registration of corporations

An amendment made to Part 4 by the *Statute Law (Miscellaneous Provisions) Act (No 2) 2004* does not apply:

- (a) to a corporation registered under section 37 before the commencement of that amendment, and
- (b) in respect of an application for registration by a corporation that applied to the Director-General under section 36 but had not been registered under section 37 before the commencement of that amendment.

[14] Section 128

Insert after section 127 (as inserted by this Act):

128 Requirements for registration

For the purposes of section 66A (1) (b) (ii), a corporation referred to in section 127 (a) or (b) meets the requirements for registration specified in section 36 if it meets the requirements for registration

specified in section 36 as in force immediately before the commencement of the amendment made to section 36 by the *Statute Law (Miscellaneous Provisions) Act (No 2) 2004*.

Commencement

Items [1], [7], [8], [9] and [14] of the amendments to the *Funeral Funds Act 1979* commence on the date of assent to this Act or the commencement of Schedule 1 [30] to the *Funeral Funds Amendment Act 2003*, whichever is the later.

Explanatory note

At present, a corporation or any group of 3 or more natural persons may apply to the Commissioner for Fair Trading, Department of Commerce to be registered under section 37 of the *Funeral Funds Act 1979* as a pre-arranged funeral fund (which, on the commencement of Schedule 1 [1] to the *Funeral Funds Amendment Act 2003*, will be referred to as a pre-paid funeral fund).

The proposed amendments limit registration of a person (not being a group of natural persons) as a pre-arranged funeral fund to a company (item [3] of the proposed amendments) with at least 3 directors (item [5] of the proposed amendments). **Company** is defined under section 4 (1) of the *Funeral Funds Act 1979* to mean a company within the meaning of the *Corporations Act 2001* of the Commonwealth. Accordingly, any corporations that are not companies with at least 3 directors that would otherwise have been eligible to be registered will cease to be eligible on the commencement of the proposed amendments. The proposed amendments do not affect the entitlement of a group of individuals to be registered as a pre-arranged funeral fund. Items [1], [2], [4], [6], [7], [9], [10], [11] and [12] of the proposed amendments make consequential amendments. Items [13] and [14] insert savings provisions. Item [8] of the proposed amendments makes it clear that a requirement to comply with section 36 does not apply to fund registered under section 39B.

1.18 Heritage Act 1977 No 136

[1] Section 4 Definitions

Insert in alphabetical order in section 4 (1):

Department means the Department of Infrastructure, Planning and Natural Resources.

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

[2] Sections 8 (2) (a) (iv), 82 (1)–(4) and 121 (5) (c)

Omit “of the Department of Urban Affairs and Planning” wherever occurring.

[3] Section 8 (2) (a) (iv)

Omit “that Department”. Insert instead “the Department”.

[4] Section 8 (2) (a) (v)

Omit “Royal Australian Planning Institute”.

Insert instead “Planning Institute of Australia”.

[5] Section 8 (3) (b) and (6)

Omit “Director-General of National Parks and Wildlife” wherever occurring.
Insert instead “Director-General of the Department of Environment and Conservation”.

[6] Section 8 (5)

Omit “Government Architect’s Branch of the Department of Public Works and Services”.
Insert instead “Government Architect’s Office in the Department of Commerce”.

[7] Section 8 (6)

Omit “National Parks and Wildlife Service”.
Insert instead “Department of Environment and Conservation”.

[8] Section 9 Term of office

Omit “one further term of office”.
Insert instead “2 further terms of office each”.

[9] Section 9

Omit “the reappointment”. Insert instead “each reappointment”.

[10] Section 11 Vacation of office

Omit “of Urban Affairs and Planning” from section 11 (g).

[11] Section 170 Heritage and Conservation Register

Omit “the Department” from section 170 (4) (b) (ii).

Insert instead “the relevant Department”.

Explanatory note

Items [1]–[7], [10] and [11] of the proposed amendments update outdated references in the *Heritage Act 1977* (*the Act*) to the names of several Departments and a body.

Section 9 of the Act permits a person who has been appointed to the Heritage Council to be appointed for one further term of office, that second term being for a period of up to 3 years. Items [8] and [9] of the proposed amendments enable a person to be appointed to the Heritage Council for a third term of office, that third term also being for a period of up to 3 years.

1.19 Mine Subsidence Compensation Act 1961 No 22

Section 5 Appointment and constitution of the Board

Omit section 5 (2) (a). Insert instead:

- (a) the chairperson who is to be the Director-General of the Department of Primary Industries or a member of staff of that Department nominated by the Director-General,

Explanatory note

The proposed amendment to the *Mine Subsidence Compensation Act 1961* permits the Director-General of the Department of Primary Industries to nominate a member of staff of that Department to be the chairperson of the Mine Subsidence Board in place of the Director-General.

1.20 National Parks and Wildlife Act 1974 No 80

[1] Section 61A Effect of declaration of wild river

Omit “Division 7” from section 61A (3). Insert instead “Division 12”.

[2] Section 69F Registration of agreements

Omit section 69F (1). Insert instead:

- (1) On being notified by the Minister that a conservation agreement has been entered into, or that any such agreement has been varied or terminated, the Registrar-General must:
 - (a) in the case of a conservation agreement relating to land under the *Real Property Act 1900*—make an entry concerning the agreement, variation or termination in any folio of the Register kept under that Act that relates to that land, or
 - (b) in the case of a conservation agreement relating to land not under the *Real Property Act 1900*:
 - (i) register the agreement, variation or termination in the General Register of Deeds kept under Division 1 of Part 23 of the *Conveyancing Act 1919*, and
 - (ii) if appropriate, make an entry concerning the agreement, variation or termination in any official record relating to Crown land that relates to that land.

Explanatory note

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

Division 12 of Part 4 of the *National Parks and Wildlife Act 1974 (the Act)* provides for the Minister, or the Minister and the Nature Conservation Trust, to enter into a conservation agreement relating to land with the owner of the land. Section 69F of the Act requires the Registrar-General to register agreements and any variation or termination of agreements. At present the Registrar-General is required to register every agreement, variation or termination in the General Register of Deeds and, if appropriate, make an entry in any folio of the Register kept under the *Real Property Act*

1900, or in any official record relating to Crown land, that relates to the conservation area.

Item [2] of the proposed amendments provides that a conservation agreement, variation or termination that relates to Torrens title land (that is, land under the *Real Property Act 1900*) is to be entered only in the Register under the *Real Property Act 1900*. A conservation agreement, variation or termination that relates to land under old system title (that is, land not under the *Real Property Act 1900*) is to be registered in the General Register of Deeds and, if appropriate, in any official record relating to Crown land that relates to the land to which the agreement relates.

1.21 Natural Resources Commission Act 2003 No 102

[1] Section 10 Staff of the Commission

Omit “The staff of the Commission are to be employed” from section 10 (1).

Insert instead “Staff of the Commission may be employed”.

[2] Section 10 (1A)

Insert after section 10 (1):

- (1A) The Commission may also employ staff. Chapter 2 of the *Public Sector Employment and Management Act 2002* does not apply to or in respect of any such staff.

[3] Section 10 (3)

Insert “or (1A)” after “subsection (1)”.

Explanatory note

At present, section 10 (1) of the *Natural Resources Commission Act 2003* provides that the staff of the Natural Resources Commission (**the Commission**) “are to be employed under Chapter 2 of the *Public Sector Employment and Management Act 2002*” (**the PSEM Act**).

Item [2] of the proposed amendments inserts a new subsection in section 10 so as to permit the Commission to employ staff directly. The amendment is consistent with the employment provisions of certain other statutory bodies such as the Independent Pricing and Regulatory Tribunal.

Item [1] of the proposed amendments is consequential on the insertion of the new subsection. It amends section 10 (1) so as to provide that staff of the Commission “may” (rather than must) be employed under the PSEM Act. However, the proposed amendments do not change the employment status of any current employee of the Commission.

Item [3] of the proposed amendments makes a further consequential amendment.

1.22 Nature Conservation Trust Act 2001 No 10

Section 36 Registration of agreement

Omit section 36 (2). Insert instead:

- (2) On being notified by the Trust that a Trust agreement has been entered into and the parties have consented to the registration of the agreement, the Registrar-General must:
 - (a) in the case of a Trust agreement relating to land under the *Real Property Act 1900*—make an entry concerning the agreement in any folio of the Register kept under that Act that relates to that land, or
 - (b) in the case of a Trust agreement relating to land not under the *Real Property Act 1900*:
 - (i) register the agreement in the General Register of Deeds kept under Division 1 of Part 23 of the *Conveyancing Act 1919*, and
 - (ii) if appropriate, make an entry concerning the agreement in any official record relating to Crown land that relates to that land.

Explanatory note

Part 3 of the *Nature Conservation Trust Act 2001 (the Act)* provides for the Nature Conservation Trust to enter into a Trust agreement with any landholder for the purpose of managing the land to which the agreement relates so as to protect the natural heritage (and any cultural heritage associated with the natural heritage) of that land. Section 36 of the Act requires the Registrar-General to register agreements and variations or terminations of agreements. At present the Registrar-General is required to register every agreement, variation or termination in the General Register of Deeds and, if appropriate, make an entry in any folio of the Register kept under the *Real Property Act 1900*, or in any official record relating to Crown land, that relates to the land to which the agreement relates.

The proposed amendment provides that a Trust agreement, variation or termination that relates to Torrens title land (that is, land under the *Real Property Act 1900*) is to be entered only in the Register under the *Real Property Act 1900*. A Trust agreement, variation or termination that relates to land under old system title (that is, land not under the *Real Property Act 1900*) is to be registered in the General Register of Deeds and, if appropriate, in any official record relating to Crown land that relates to the land to which the agreement relates.

1.23 Noxious Weeds Regulation 2003

Clause 7 Certificates of authority: section 50

Omit “, the Director-General or the Chief, Division of Plant Industries” from clause 7 (d).

Insert instead “or the Director-General”.

Explanatory note

The proposed amendment removes an outdated reference in the *Noxious Weeds Regulation 2003* to a position in a Department.

1.24 Pawnbrokers and Second-hand Dealers Act 1996 No 13

Section 28 Pawnbroker's record of pledges

Omit "A record under this section" from section 28 (4).

Insert instead "The original record, or hard copy, signed under subsection (3)".

Explanatory note

Section 28 (3) of the *Pawnbrokers and Second-hand Dealers Act 1996* provides that a pledge under the Act is not validly made unless the person pawning the goods signs the original record of the agreement by which the goods are pawned or, if the original record is kept in electronic form, signs a hard copy of the record.

Section 28 (4) requires a record to be retained for a period of 3 years after it was made.

The proposed amendment makes it clear that the record that must be retained is the signed record.

1.25 Plant Diseases Act 1924 No 38

[1] Sections 3 (1), definition of "Approved", 7 (1), 9 (1), 19 (3) and 24 (2)

Omit "Chief, Division of Plant Industries" wherever occurring.

Insert instead "Director-General".

[2] Section 3 Definitions

Omit the definition of *Chief, Division of Plant Industries* from section 3 (1).

[3] Section 3 (1)

Insert in alphabetical order:

Department means the Department of Primary Industries.

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

[4] Section 3A Power of Minister to delegate functions

Omit "a Government department concerned with the administration of this Act" from section 3A (5).

Insert instead "the Department".

[5] Sections 10 (1), 11 (1) and 13B (2) and (4) and Schedule 4, clause 1 (a)

Omit "of the Department of Agriculture" wherever occurring.

[6] Section 13B Objection to works authorised by control order

Omit section 13B (4).

[7] Section 26 Offences

Omit “of Agriculture” from section 26 (6).

[8] Section 28C

Insert after section 28B:

28C Delegation

The Director-General may delegate the exercise of any function of the Director-General under this Act (other than this power of delegation) to any member of staff of the Department.

[9] Schedule 3 Savings and transitional provisions

Insert after Part 3:

Part 4 Provisions consequent on enactment of Statute Law (Miscellaneous Provisions) Act (No 2) 2004

7 Continuity of things done by Chief, Division of Plant Industries

Anything done by the Chief, Division of Plant Industries under or for the purposes of a provision of this Act is, to the extent that the thing done had effect immediately before the amendment of this Act by the *Statute Law (Miscellaneous Provisions) Act (No 2) 2004*, taken to have been done by the Director-General.

Explanatory note

Items [1]–[5] and [7] of the proposed amendments update outdated references in the *Plant Diseases Act 1924 (the Act)* to a Department and a position in a Department.

Item [8] of the proposed amendments provides the Director-General of the Department of Primary Industries with a power to delegate any of his or her functions under the Act other than the power of delegation. Item [6] of the proposed amendments makes a consequential amendment.

Item [9] of the proposed amendments includes a savings provision to ensure that anything done by the Chief, Division of Plant Industries that had effect immediately before the proposed amendments to the Act continues to have effect.

1.26 Police Act 1990 No 47

[1] Section 10 Positions in NSW Police

Omit “, and not to a separate position in NSW Police” from section 10 (4).

Insert instead “, and hold a position (but not a separate position) in NSW Police”.

[2] Section 67 Transfer of non-executive officers

Omit section 67 (1)–(1D). Insert instead:

- (1) If the Commissioner considers it to be in the interests of NSW Police to do so, the Commissioner may transfer a non-executive officer from one non-executive position to another non-executive position:
 - (a) if the position to which the officer is transferred entitles its holder to the same remuneration as the officer’s former remuneration, or
 - (b) if the position to which the officer is transferred entitles its holder to a lower level of remuneration than the officer’s former remuneration and:
 - (i) the officer consents to the transfer at the lower level of remuneration, or
 - (ii) the officer requested the transfer or the transfer is made pursuant to an order under section 173, or
 - (c) if the officer concerned is a police officer being transferred from a position of the rank of superintendent to which the officer is permanently appointed to another position within that rank—regardless of whether the position to which the officer is transferred entitles its holder to a remuneration that is the same as or different from the officer’s former remuneration.

- (1A) An officer transferred under subsection (1) (c) is entitled, for the balance of the term for which the officer holds office pursuant to section 72A, to the same level of remuneration in respect of the new position as the officer’s former remuneration if the position to which the officer is transferred ordinarily entitles its holder to a level of remuneration that is lower than the officer’s former remuneration (unless the officer requested the transfer or it was made pursuant to an order under section 173).

Explanatory note

Meaning of “police officer”

At present, **police officer** is defined in section 3 (1) of the Police Act 1990 (**the Act**) as a member of NSW Police holding a position that is designated under the Act as a

position to be held by a police officer. However, section 10 (4) of the Act provides that police officers of the rank of constable (or such of those officers as the Commissioner of Police determines) are to be appointed to that rank or to a grade within that rank, and not to a separate position. Item [1] of the proposed amendments amends section 10 (4) of the Act to make it clear that officers holding such a rank hold a position and are police officers.

Transfer of non-executive police officers

At present, section 67 (1) of the Act provides for non-executive officers of NSW Police to be transferred to another non-executive position that entitles its holder to the same level of remuneration as the former remuneration of the officer being transferred. Section 67 (1A)–(1D) provide for the transfer of non-executive police officers of the rank of superintendent to another position within that rank regardless of whether the new position entitles its holder to remuneration that is the same as or different from the officer's former remuneration, but make it clear that a superintendent transferred to another position of superintendent that pays a lower level of remuneration is entitled to the same level of remuneration in respect of that position as the superintendent's former remuneration for the balance of the term for which the superintendent holds office under section 72A (that is, a term of five years or the superintendent's balance of service to retirement, whichever is shorter) unless the transfer was made at the officer's request or as a result of the officer's misconduct.

Item [2] of the proposed amendments repeals 67 (1)–(1D) and replaces those subsections with a two subsections that re-enact the substance of the repealed subsections and also permit the transfer of a non-executive officer to a non-executive position entitling its holder to a lower level of remuneration than the officer's former remuneration if the officer consents to the transfer on that basis. The new subsections do not affect the right of a superintendent being transferred to another position of superintendent paying a lower rate of remuneration to retain his or her former salary.

1.27 Public Finance and Audit Act 1983 No 152

[1] Section 4 Definitions

Insert in alphabetical order in section 4 (1):

Audit Office means the Audit Office of New South Wales established by this Act.

[2] Part 3, Division 1A

Insert after Division 1:

Division 1A The Audit Office

33A Establishment of Audit Office

- (1) The Audit Office of New South Wales is established by this Act.
- (2) The Audit Office consists of those persons who are for the time being appointed by the Auditor-General under section 33B.

- (3) The Auditor-General is not a member of the Audit Office but is taken, for all purposes, to be the person who exercises the functions of chief executive officer in relation to the Audit Office.

33B Staff of Audit Office

- (1) The Auditor-General may appoint, as members of staff of the Audit Office, such persons as may be necessary to enable the Auditor-General to exercise the Auditor-General's functions.
- (2) Those persons are taken to be employed by the Government of New South Wales in the service of the Crown, except as provided by section 33E.
- (3) Each person who is appointed as a member of staff of the Audit Office continues, subject to the provisions of this Division and the terms of the person's appointment, to be employed in the Audit Office at the discretion of the Auditor-General.
- (4) Chapter 2 of the *Public Sector Employment and Management Act 2002* does not apply to the appointment or employment of a person as a member of staff of the Audit Office.

33C Auditor-General may determine employment conditions

- (1) The Auditor-General may from time to time make determinations fixing the conditions and benefits of employment of the members of staff of the Audit Office and their salary, wages and other remuneration. Such a determination can provide for redundancy and severance payments and for remuneration packaging.
- (2) The conditions, benefits, salary, wages and other remuneration of a member of staff of the Audit Office are, except in so far as provision is otherwise made by law, such as may be fixed by a determination made under this section.
- (3) A member of staff may sue for and recover the amount of remuneration of the member that is determined under this section. For that purpose, the determination is taken to be a State industrial instrument.

33D Auditor-General may enter into agreements

- (1) The Auditor-General may enter into an agreement with any association or organisation representing a group or class of staff of the Audit Office with respect to industrial matters.

- (2) Any such agreement binds all persons in the class or group affected by the agreement, and no such person (whether a member of the association or organisation with which the agreement was entered into or not) has any right of appeal against the terms of the agreement.
- (3) An agreement under this section is not an enterprise agreement within the meaning of the *Industrial Relations Act 1996*. However, the Auditor-General may enter into such an enterprise agreement as the employer of the members of staff concerned.

33E Role of Auditor-General in industrial proceedings

The Auditor-General is, for the purposes of any proceedings relating to members of staff of the Audit Office held before a competent tribunal having jurisdiction to deal with industrial matters, taken to be the employer of the staff.

33F Executive officers

- (1) In this section:
employment of an executive officer means:
 - (a) the appointment of, or failure to appoint, a person to a vacant executive position, or
 - (b) the removal, retirement, termination of employment or other cessation of office of the executive officer, or
 - (c) any disciplinary proceedings or disciplinary action taken against the executive officer, or
 - (d) the remuneration or conditions of employment of the executive officer.*executive officer* means a person holding an executive position.
executive position means a position in the Audit Office that:
 - (a) has a salary greater than the maximum salary applicable to a grade 12 clerk's position in the Public Service, and
 - (b) is designated by the Auditor-General as an executive position.
- (2) The contract of employment of an executive officer may provide for the payment of compensation to the officer on the removal or termination of employment of the executive officer.
- (3) The Auditor-General may remove an executive officer from an executive position at any time for any or no reason and without notice. The person is not, except as may be provided in the person's contract of employment, entitled to any compensation for the removal from office.

- (4) The employment of an executive officer, or any matter, question or dispute relating to any such employment, is not an industrial matter for the purposes of the *Industrial Relations Act 1996*. This subsection applies whether or not any person has been appointed to a vacant executive position.
- (5) Part 6 (Unfair dismissals) and Part 9 (Unfair contracts) of Chapter 2 of the *Industrial Relations Act 1996* do not apply to or in respect of the employment of an executive officer.
- (6) Any State industrial instrument (whether made before or after the commencement of this section) does not have effect in so far as it relates to the employment of executive officers.
- (7) Subsection (6) does not prevent the Auditor-General from applying the provisions of an award or industrial agreement (including a determination under section 33C) to the employment of an executive officer.
- (8) An appeal does not lie to the Government and Related Employees Appeal Tribunal in relation to the employment of an executive officer.
- (9) No proceedings for an order in the nature of prohibition, certiorari or mandamus or for a declaration or injunction or for any other relief, lie in respect of the appointment of or failure to appoint a person to an executive position, the entitlement or non-entitlement of a person to be so appointed or the validity or invalidity of any such appointment.
- (10) This section prevails over any inconsistent provision of any other Act or law or of the terms of appointment of, or contract of employment with, an executive officer.

33G Delegation of functions

The Auditor-General may delegate any of the Auditor-General's functions under this Division (other than this power of delegation) to a member of staff of the Audit Office.

[3] Sections 39 (2A), 41A, 43 (1), 47, 48 (1) and 48A (1) (Review of Audit Office)

Omit "Auditor-General's Office" wherever occurring.

Insert instead "Audit Office".

[4] Part 3, Division 5, heading

Omit "Auditor-General's". Insert instead "Audit".

[5] Section 63D Personal liability

Omit “the Auditor-General’s Office” wherever occurring.

Insert instead “staff of the Audit Office”.

[6] Schedule 4 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

Statute Law (Miscellaneous Provisions) Act (No 2) 2004, but only to the extent that it amends this Act

[7] Schedule 4, clause 2 Definition

Omit “Schedule”. Insert instead “Part”.

[8] Schedule 4, Part 4

Insert after Part 3:

Part 4 Provisions consequent on enactment of Statute Law (Miscellaneous Provisions) Act (No 2) 2004

7 Definitions

In this Part:

Audit Office means the Audit Office established by this Act.

executive position has the same meaning as in section 33F.

former Department means the group of staff comprising The Audit Office (as a Department of the Public Service) immediately before 1 January 2005.

8 Abolition of The Audit Office as a Department

The Department of the Public Service with the name of The Audit Office of New South Wales is abolished.

9 Transfer of staff of former Department to the Audit Office

- (1) Each person who, immediately before 1 January 2005, was a member of staff of the former Department is entitled, on that date, to be appointed to a position in the Audit Office at a salary not less than the salary which the person was paid immediately before that date.
- (2) Any such person who, pursuant to subclause (1), becomes a member of staff of the Audit Office:

- (a) retains any rights to leave (including annual leave, extended leave and sick leave) accrued or accruing to the person as a member of staff of the former Department, and
- (b) is, until such time as provision is otherwise made under any Act or law, to continue to be employed in accordance with any State industrial instrument or determination that applied to the person as a member of staff of the former Department.

10 Appointment of incumbent officers to executive positions

- (1) If a position in the Audit Office is designated by the Auditor-General, as at 1 January 2005 or on any subsequent date, as an executive position, the person (if any) holding the position is to continue to hold that position until the person or some other person is duly appointed to the position.
- (2) While the person continues to hold the position, the conditions of employment (including remuneration) of the person are to be the same as those which applied to the person immediately before the position was designated as an executive position.
- (3) The person who continues to hold the position may be appointed to the position without the vacancy being advertised.
- (4) If the person who continues to hold the position is not appointed to the position or to another executive position and the person was a member of staff of the former Department immediately before 1 January 2005, the following provisions apply:
 - (a) if the person is an existing non-SES officer—the person is entitled to continue to be employed in some other position in the Audit Office at a salary not less than the person's existing salary,
 - (b) if the person is an existing SES officer who made an election, as referred to in clause 11 of Schedule 4 to the *Public Sector Employment and Management Act 2002*, to retain a right of return to the public sector—the person is entitled to an engagement in the public sector as provided by that clause,
 - (c) if the person is an existing SES officer who did not make such an election—the person is entitled to compensation under section 78 of the *Public Sector Employment and Management Act 2002* as if the person were an executive officer to whom that section applies.

- (5) In subclause (4):

existing non-SES officer means a member of staff of the former Department who, immediately before 1 January 2005, held a position in the former Department other than a senior executive position within the meaning of the *Public Sector Employment and Management Act 2002*.

existing SES officer means a member of staff of the former Department who, immediately before 1 January 2005, held a senior executive position (within the meaning of the *Public Sector Employment and Management Act 2002*) in the former Department.

11 Position no longer designated as executive position

If a position in the Audit Office ceases to be designated as an executive position, the person (if any) holding the position continues to be employed in that position, subject to and in accordance with the relevant provisions applying to the staff (other than executive officers) of the Audit Office, for the balance of the person's term of office.

12 Construction of certain references

A reference in any Act (other than this Act), or in any instrument made under any Act, or in any other instrument, or in any contract or agreement, to the Auditor-General's Office or to The Audit Office (as a Department of the Public Service) is to be construed as a reference to the Audit Office.

Commencement

The amendments to the *Public Finance and Audit Act 1983* commence on 1 January 2005.

Explanatory note

At present, The Audit Office of New South Wales is a Department of the Public Service. Its staff (which does not include the Auditor-General who is a statutory officer but who has Department Head functions) are employed under the *Public Sector Employment and Management Act 2002* (**the PSE&M Act**).

The proposed amendments to the *Public Finance and Audit Act 1983* (**the PFA Act**) establish the Audit Office as a separate public sector service. It will consist of those persons who are appointed as members of staff by the Auditor-General under the PFA Act. The Auditor-General will have the function of determining the employment conditions (such as salary) of members of staff. The proposed amendments also provide that **executive officers** employed in the Audit Office (ie members of staff with a salary above a grade 12 clerical position in the Public Service and who are designated as executive officers by the Auditor-General) will be subject to provisions similar to those applying to public sector executive officers under Part 3.1 of the PSE&M Act. These provisions include the power of the Auditor-General to remove an executive officer at any time and the exclusion of rights of appeal to the Industrial Relations Commission and GREAT (cf sections 72 and 77 (1) of the PSE&M Act).

Provision is also made to abolish the existing Audit Office as a Department. Existing staff are, however, entitled to be appointed to positions in the new Office at not less than their existing salaries. Existing rights to leave are also carried over.

The proposed amendments supersede, but are consistent with, the uncommenced amendments to the PFA Act contained in Schedule 3 to the *Public Finance and Audit (Auditor-General) Amendment Act 1991*. Those uncommenced amendments would, if commenced, constitute the Auditor-General's Office as a body corporate for the purposes only of employing staff. However, those amendments would need to be amended before they commenced mainly because the name of the body corporate does not reflect the current name of the Office as it is now known (ie the Audit Office) and also because they contain other outdated references to the Auditor-General's Office as a Department.

1.28 Public Sector Employment and Management Act 2002 No 43

[1] Schedule 1 Departments

Omit the matter relating to The Audit Office of New South Wales.

[2] Schedule 2 Executive positions (other than non-statutory SES positions)

Omit "Auditor-General," from Part 1.

Commencement

The amendments to the *Public Sector Employment and Management Act 2002* commence on 1 January 2005.

Explanatory note

The proposed amendments are consequential on the amendments to the *Public Finance and Audit Act 1983* contained elsewhere in this Schedule.

1.29 Real Property Act 1900 No 25

Section 3B

Insert after section 3A:

3B Arrangements for payment of fees

Except as provided by section 96J, a provision of this Act to the effect that something may or must be done on or after payment of a fee prescribed by the regulations enables or requires (as appropriate) the thing to be done if arrangements have been made in accordance with the regulations for the future payment of the fee.

Explanatory note

The proposed amendment enables the regulations under the *Real Property Act 1900* to authorise the making of arrangements for the payment of certain fees. This will bring the provisions of the *Real Property Act 1900* relating to the payment of those fees into line with the general procedures prescribed by the regulations under that Act for the future payment of fees set by the regulations.

1.30 Residential Parks Act 1998 No 142

Section 5 Application of Act

Insert as the second paragraph of the Note to the section:

Section 7 (3) of the *Residential Tenancies Act 1987* provides that, to avoid doubt, Part 6 of the *Residential Tenancies Act 1987* applies to matters that arise by virtue of jurisdiction conferred on the Tribunal by the *Residential Parks Act 1998*.

Explanatory note

The proposed amendment inserts a note referring to the application of Part 6 of the *Residential Tenancies Act 1987* to matters that arise by virtue of jurisdiction conferred on the Consumer, Trader and Tenancy Tribunal by the *Residential Parks Act 1998*.

1.31 Road Transport (Safety and Traffic Management) Act 1999 No 20

Section 58 Unsafe loads

Omit “*Load Restraint Guide—Guidelines for the safe carriage of loads on road vehicles* published by the Australian Government Publishing Service on 12 December 1994” from section 58 (6).

Insert instead “*Load Restraint Guide: Guidelines and performance standards for the safe carriage of loads on road vehicles, Second Edition*, as published by the National Transport Commission in April 2004”.

Explanatory note

Section 58 of the *Road Transport (Safety and Traffic Management) Act 1999* creates offences concerning death, personal injury or damage to property caused by unsafe loading of a motor vehicle or trailer. The section provides for the use of the *Load Restraint Guide* publication as proof of what constitutes unsafe loading for the purposes of prosecution under the section. The proposed amendment updates a reference to the *Load Restraint Guide* to take account of the release of a second edition of the guide.

1.32 Roman Catholic Church Communities’ Lands Act 1942 No 23

Section 19 Exemption from duty

Omit “stamp duty and” wherever occurring.

Explanatory note

The proposed amendment removes outdated references in the *Roman Catholic Church Communities’ Lands Act 1942* to stamp duty.

1.33 Roman Catholic Church Trust Property Act 1936 No 24

Section 16 Exemption from duty

Omit “stamp duty” wherever occurring.

Insert instead “duty under the *Duties Act 1997*”.

Explanatory note

The proposed amendment replaces outdated references in the *Roman Catholic Church Trust Property Act 1936* to stamp duty with references to duty under the *Duties Act 1997*.

1.34 Rural Lands Protection Act 1998 No 143

[1] **Sections 235 (3), note and 241 (2) and Dictionary, definition of “Director-General”**

Omit “of Agriculture” wherever occurring.

[2] **Schedule 7 Savings and transitional provisions**

Omit “*Aboriginal Lands Rights Act 1983*” from clause 23.

Insert instead “*Aboriginal Land Rights Act 1983*”.

[3] **Dictionary**

Omit the definition of *Chief of the Division of Animal Industries*.

[4] **Dictionary**

Insert in alphabetical order:

Department means the Department of Primary Industries.

Explanatory note

Items [1] and [4] of the proposed amendments update outdated references in the *Rural Lands Protection Act 1998* to a Department.

Item [2] of the proposed amendments corrects an incorrect citation of an Act.

Item [3] of the proposed amendments removes a redundant definition.

1.35 Stock (Artificial Breeding) Regulation 1995

[1] **Clause 3 Definitions**

Omit “Chief, Division of Animal Industries” from the definition of *approved*.

Insert instead “Director-General”.

[2] **Clause 3, definition of “Chief, Division of Animal Industries”**

Omit the definition.

[3] Clause 17 Annual declaration of stock health

Omit “Chief, Division of Animal Industries”.

Insert instead “Director-General”.

Explanatory note

Items [1]–[3] of the proposed amendments update outdated references in the *Stock (Artificial Breeding) Regulation 1995* to a position in a Department.

1.36 Stock (Chemical Residues) Act 1975 No 26

[1] Section 3 Definitions

Omit the definition of *Chief, Division of Animal Industries*.

[2] Section 3

Insert in alphabetical order:

Department means the Department of Primary Industries.

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

[3] Sections 5A (1) (a) and (6), 7 (1) and (1A), 7A (2), 8 (1), 9 (1), 13A (1), 14 (1) (a) and 16 (5)

Omit “Chief, Division of Animal Industries” wherever occurring.

Insert instead “Director-General”.

[4] Section 13A Delegation of functions

Omit “of Agriculture” from section 13A (2) (a).

[5] Section 13A (3)

Insert after section 13A (2):

- (3) The Director-General may delegate any of the Director-General’s powers, authorities, duties and functions under this Act (apart from this power of delegation) to any officer (or class of officers) of the Department.

[6] Schedule 1 Savings and transitional provisions

Insert after Part 3:

**Part 4 Provisions consequent on enactment of
Statute Law (Miscellaneous Provisions)
Act (No 2) 2004**

5 Continuity of things done by Chief, Division of Animal Industries

Anything done by the Chief, Division of Animal Industries under or for the purposes of a provision of this Act is, to the extent that the thing done had effect immediately before the amendment of this Act by the *Statute Law (Miscellaneous Provisions) Act (No 2) 2004*, taken to have been done by the Director-General.

Explanatory note

Items [1]–[4] of the proposed amendments update outdated references in the *Stock (Chemical Residues) Act 1975 (the Act)* to a Department and a position in a Department.

Item [5] of the proposed amendments provides the Director-General of the Department of Primary Industries with a power to delegate any of his or her powers, authorities, duties and functions under the Act apart from the power of delegation.

Item [6] of the proposed amendments includes a savings provision to ensure that anything done by the Chief, Division of Animal Industries that had effect immediately before the proposed amendments to the Act continues to have effect.

1.37 Stock Diseases Act 1923 No 34

[1] Section 3 Definitions

Omit the definitions of *Chief, Division of Animal Industries* and *Director-General* from section 3 (1).

[2] Section 3 (1)

Insert in alphabetical order:

Department means the Department of Primary Industries.

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

[3] Sections 5 (5) (a), 6 (4) and 21B

Omit “of Agriculture” wherever occurring.

-
- [4] **Sections 7 (1) (bii), (4) and (5), 8 (1) (c1) and (3), 12A (1), 15B (6), 16 (5), 17 (4) (a), 18 (3), 20B (3A) (b), 20C (3A) (b), 20O (3), 21 (1) and 21A (2)**
Omit “Chief, Division of Animal Industries” wherever occurring.
Insert instead “Director-General”.
- [5] **Section 8 Further powers of inspectors**
Omit “Chief, Division of Animal Industries” from section 8 (3A) (as inserted by the *Stock Diseases Amendment (Artificial Breeding) Act 2004*).
Insert instead “Director-General”.
- [6] **Section 22C**
Insert after section 22B:
- 22C Delegation**
- (1) The Director-General may delegate the exercise of any function of the Director-General under this Act (other than this power of delegation) to any member of staff of the Department.
 - (2) In this section:
exercise a function includes perform a duty.
function includes a power, authority or duty.
- [7] **Schedule 2 Savings, transitional and other provisions**
Insert at the end of the Schedule with appropriate Part and clause numbers:

Part Provisions consequent on enactment of Statute Law (Miscellaneous Provisions) Act (No 2) 2004

Continuity of things done by Chief, Division of Animal Industries

Anything done by the Chief, Division of Animal Industries under or for the purposes of a provision of this Act is, to the extent that the thing done had effect immediately before the amendment of this Act by the *Statute Law (Miscellaneous Provisions) Act (No 2) 2004*, taken to have been done by the Director-General.

Explanatory note

Items [1]–[5] of the proposed amendments update outdated references in the *Stock Diseases Act 1923 (the Act)* to a Department and a position in a Department.

Item [6] of the proposed amendments provides the Director-General of the Department of Primary Industries with a power to delegate any of his or her functions under the Act other than the power of delegation.

Item [7] of the proposed amendments includes a savings provision to ensure that anything done by the Chief, Division of Animal Industries that had effect immediately before the proposed amendments to the Act continues to have effect.

1.38 Stock Diseases (General) Regulation 2004

Clauses 52 (4), 55 (1) and (3) and 58 (7), paragraph (a) (i) of the definition of “authorised officer”

Omit “Chief, Division of Animal Industries” wherever occurring.

Insert instead “Director-General”.

Explanatory note

The proposed amendment updates outdated references in the *Stock Diseases (General) Regulation 2004* to a position in a Department.

1.39 Stock Foods Regulation 1997

Clause 12 Taking of samples: section 21

Omit “Chief, Division of Animal Industries” wherever occurring in clause 12 (3) and (4).

Insert instead “Director-General”.

Explanatory note

The proposed amendment updates outdated references in the *Stock Foods Regulation 1997* to a position in a Department.

1.40 Swine Compensation Act 1928 No 36

[1] Sections 3, definition of “Approved form” and 8 (4) (c)–(e) and (5)

Omit “Chief, Division of Animal Industries” wherever occurring.

Insert instead “Director-General”.

[2] Section 3, definition of “Chief, Division of Animal Industries”

Omit the definition.

[3] Section 3

Insert in alphabetical order:

Department means the Department of Primary Industries.

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

[4] Section 19 and Schedule 1

Insert after section 18:

19 Savings, transitional and other provisions

Schedule 1 has effect.

Schedule 1 Savings, transitional and other provisions

(Section 19)

Part 1 Provisions consequent on enactment of Statute Law (Miscellaneous Provisions) Act (No 2) 2004

1 Continuity of things done by Chief, Division of Animal Industries

Anything done by the Chief, Division of Animal Industries under or for the purposes of a provision of this Act is, to the extent that the thing done had effect immediately before the amendment of this Act by the *Statute Law (Miscellaneous Provisions) Act (No 2) 2004*, taken to have been done by the Director-General.

Explanatory note

Items [1]–[3] of the proposed amendments update outdated references in the *Swine Compensation Act 1928 (the Act)* to a Department and a position in a Department.

Item [4] of the proposed amendments includes a savings provision to ensure that anything done by the Chief, Division of Animal Industries that had effect immediately before the proposed amendments to the Act continues to have effect.

1.41 Valuation of Land Act 1916 No 2

Section 33 Form of objection

Omit “writing, must specify the grounds on which it is made and must identify, and be signed by or on behalf of, the objector”.

Insert instead “a form approved by the Valuer-General”.

Commencement

The amendment to the *Valuation of Land Act 1916* commences on a day to be appointed by proclamation.

Explanatory note

Section 33 of the *Valuation of Land Act 1916* requires an objection to a valuation by the Valuer-General to be in writing, to specify the grounds on which it is made and to identify, and be signed by or on behalf of, the objector.

To assist a person seeking to lodge an objection to understand and clearly express the nature of the objection and, by this means, to achieve efficiencies in the processing and determination of the objection, the proposed amendment removes this requirement and requires, instead, that an objection be made in a form approved by the Valuer-General.

1.42 Water Management Act 2000 No 92

Section 56 Access licences

Insert after section 56 (4):

- (5) For the purposes of this Act, an access licence may also be referred to as a *water access licence* or a *WAL*.

Explanatory note

The proposed amendment permits access licences under the *Water Management Act 2000* to be referred to by an alternative term or an abbreviation.

1.43 Wine Grapes Marketing Board (Reconstitution) Act 2003 No 100

[1] Section 3 Definitions

Insert in alphabetical order:

Department means the Department of Primary Industries.

exercise a function includes perform a duty.

function includes a power, authority or duty.

[2] Section 3, definition of “Director-General”

Omit the definition. Insert instead:

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

[3] Section 21A

Insert after section 21:

21A Delegation

The Director-General may delegate the exercise of any function of the Director-General under this Act (other than this power of delegation) to any member of staff of the Department.

[4] Section 26 Repeal of Act

Omit “expires on 31 December 2007”.

Insert instead “is repealed at the beginning of 1 January 2008”.

Explanatory note

Items [1] and [2] of the proposed amendments update outdated references in the *Wine Grapes Marketing Board (Reconstitution) Act 2003 (the Act)* to a Department and insert definitions of **exercise** and **function**.

Item [3] of the proposed amendments enables the Director-General of the Department of Primary Industries to delegate any of his or her functions under the Act other than the power of delegation.

Item [4] of the proposed amendments clarifies the point in time at which the Act is repealed.

1.44 Young Offenders Act 1997 No 54

Section 70 Youth Justice Advisory Committee

Omit section 70 (1) (g). Insert instead:

- (g) the Director-General of the Department of Community Services or a nominee of the Director-General,

Explanatory note

The proposed amendment replaces a category of membership of the Youth Justice Advisory Committee (constituted under the *Young Offenders Act 1997*) to reflect recent administrative changes relating to the transfer of the Office of Children and Young People from the Cabinet Office to the Department of Community Services.

Schedule 2 Amendments by way of statute law revision

(Section 3)

2.1 Adoption Act 2000 No 75

Section 33 Aboriginal participation in decision making

Omit “that community” from section 33 (b). Insert instead “that community,”.

Explanatory note

The proposed amendment corrects a grammatical error.

2.2 Annual Reports (Statutory Bodies) Act 1984 No 87

[1] Section 4 Auditor

Omit “Auditor-General’s Office” from section 4 (b) and (c) wherever occurring.

Insert instead “Audit Office”.

[2] Section 6A Application of Act to Audit Office

Omit “Auditor-General’s Office”. Insert instead “Audit Office”.

[3] Section 12A Annual report of Audit Office

Omit “Auditor-General’s Office” from section 12A (1).

Insert instead “Audit Office”.

Commencement

The amendments to the *Annual Reports (Statutory Bodies) Act 1984* commence on 1 January 2005.

Explanatory note

The proposed amendments are consequential on the amendments to the *Public Finance and Audit Act 1983* contained in Schedule 1.

2.3 Armidale Local Environmental Plan 1988

[1] Clause 5 Definitions

Omit “*ancillary dwelling*” from clause 5 (1).

Insert instead “*ancillary dwelling*”.

[2] Clause 9 Zone objectives and development controls

Omit “dama;” from item 3 of the matter relating to Zone No 6 (a) (Public Open Space) in the Table to the clause.

Insert instead “dams;”.

[3] Clause 14 Development of rural land or land within the environment protection zone

Omit “infrastrucuture” from clause 14 (1) (e). Insert instead “infrastructure”.

Explanatory note

The proposed amendments correct typographical errors.

2.4 Ashfield Local Environmental Plan 1985

[1] Clause 6 Interpretation

Omit “footstuffs” from the definition of *bulky goods salesroom or showroom* in clause 6 (1).

Insert instead “foodstuffs”.

[2] Clause 31 Interpretation

Omit “*Archeological*”. Insert instead “*Archaeological*”.

[3] Clause 31, definition of “Archaeological site” (as amended by item [2])

Omit “archeological” wherever occurring. Insert instead “archaeological”.

[4] Clause 36 Development of known or potential archaeological sites

Omit “archeological” wherever occurring in clause 36 (2).

Insert instead “archaeological”.

[5] Schedule 7 Heritage items and heritage conservation areas

Omit “Aquaduct”. Insert instead “Aqueduct”.

Explanatory note

The proposed amendments correct typographical errors.

2.5 Baulkham Hills Local Environmental Plan 1991

Clause 38 Temporary use of non-residential land

Omit “perons’s” from clause 38 (3). Insert instead “person’s”.

Explanatory note

The proposed amendment corrects a typographical error.

2.6 Blacktown Local Environmental Plan 1988

Clause 20 Development of land affected by the 1% annual exceedance probability flood

Omit “occurring” from the definition of *1% annual exceedance probability flood* in clause 20 (1).

Insert instead “occurring”.

Explanatory note

The proposed amendment corrects a typographical error.

2.7 Byron Local Environmental Plan 1988

[1] Clause 9 Zone objectives and development control table

Omit “takeaway” from item 4 of the matter relating to Zone No 2 (a) in the Table to the clause.

Insert instead “takeaway”.

[2] Clause 9, Table

Omit “schlerophyl” from item 1 (a) of the matter relating to Zone No 7 (b).

Insert instead “schlerophyll”.

[3] Schedule 11 Land referred to in clause 47

Omit “Billundgel” from Part 1. Insert instead “Billinudgel”.

Explanatory note

The proposed amendments correct typographical errors.

2.8 Camden Local Environmental Plan No 46

Clause 6 Definitions

Omit “grain” from the definition of *animal boarding establishment* in clause 6 (1).

Insert instead “gain”.

Explanatory note

The proposed amendment corrects a typographical error.

2.9 Camden Local Environmental Plan No 47

[1] Clause 14A What is exempt and complying development?

Renumber clause 14 where secondly occurring as clause 14A.

[2] Schedule 1

Omit “Takeway”. Insert instead “Takeaway”.

[3] Schedule 1

Omit “Tobbaconist’s”. Insert instead “Tobacconist’s”.

Explanatory note

Item [1] of the proposed amendments corrects duplicate clause numbering.
Items [2] and [3] of the proposed amendments correct typographical errors.

2.10 Central Darling Local Environmental Plan 2004

Clause 27 Flood liable land

Omit “the the” from clause 27 (2) (a). Insert instead “the”.

Explanatory note

The proposed amendment omits a superfluous word.

2.11 Children’s Services Regulation 2004

Clause 16 Information about premises to accompany application— centre based or mobile children’s service

Omit “entitled to use the title “architect”, “architectural draftsman” or “architectural assistant” under the *Architects Act 1921*” wherever occurring in clause 16 (1) (c) (v) and (d) (iv).

Insert instead “an architect within the meaning of the *Architects Act 2003*”.

Explanatory note

The proposed amendment updates a reference to persons regulated under a repealed Act.

2.12 Crimes Act 1900 No 40

Section 562WA Review and appeal provisions concerning making, variation or revocation of apprehended violence orders

Omit “Part 3 of Chapter 4” from section 562WA (2).

Insert instead “Part 2 of Chapter 4”.

Explanatory note

The proposed amendment corrects an incorrect cross-reference.

2.13 Crimes (Administration of Sentences) Act 1999 No 93

Section 56A Penalty for possession of a mobile phone

Omit “Tor” from section 56A (2). Insert instead “To”.

Explanatory note

The proposed amendment corrects a typographical error.

2.14 Crimes (Administration of Sentences) Regulation 2001

[1] Clauses 54, 151 (a), 253 (3), 254 (2) (where secondly occurring) and 256 (2) and (3)

Omit “Corrections Health Service” wherever occurring (including where occurring in the heading to clause 151).

Insert instead “Justice Health”.

[2] Clause 113B Inmate possession of a mobile phone

Insert at the end of the clause:

Note. Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

[3] Clause 249N Certificate evidence of concentration of alcohol in blood other than in relation to breath test or breath analysis

Omit “the the” from clause 249N (6). Insert instead “the”.

[4] Chapter 8, Part 2, heading

Omit the heading. Insert instead:

Part 2 Justice Health matters

[5] Clauses 250 (1) and (2), 251, 252 (1), 253 (1), 254 (1), (2) and (4), 255, 256 (1) and 257

Omit “CHS officer” wherever occurring.

Insert instead “Justice Health officer”.

[6] Clause 254 Medical records

Omit “the Corrections Health Service” from clause 254 (2).

Insert instead “Justice Health”.

[7] Dictionary

Omit the definition of *nursing officer*. Insert instead:

nursing officer means a registered nurse (within the meaning of the *Nurses and Midwives Act 1991*) employed by Justice Health.

[8] Dictionary, definition of “prescribed CHS officer”

Omit the definition. Insert instead in alphabetical order:

prescribed Justice Health officer, in relation to a provision of this Regulation, means:

- (a) the Chief Executive Officer, Justice Health, or
- (b) a medical officer or other member of staff of Justice Health authorised by the Chief Executive Officer, Justice Health, to exercise the functions of a prescribed Justice Health officer for the purposes of that provision.

Explanatory note

Items [1] and [4]–[8] of the proposed amendments update references to a renamed statutory health corporation.

Item [2] of the proposed amendments inserts a note to provide consistency in the Regulation.

Item [3] of the proposed amendments omits a superfluous word.

2.15 Crookwell Local Environmental Plan 1994

[1] Clause 5 What do terms in this plan mean?

Omit “childrens” from paragraph (a) of the definition of *recreation area* in clause 5 (1).

Insert instead “children’s”.

[2] Clause 20 What are the restrictions on development fronting main and arterial roads?

Omit “on on-site” from clause 20 (2) (f). Insert instead “on-site”.

Explanatory note

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

Item [2] of the proposed amendments omits a superfluous word.

2.16 Crown Lands Act 1989 No 6

Schedule 5 Procedure of a trust board

Omit “of a meeting” from clause 3. Insert instead “at a meeting”.

Explanatory note

The proposed amendment corrects a typographical error.

2.17 Culcairn Local Environmental Plan 1998

[1] Clause 5 Interpretation

Omit “livestocj” from the definition of *intensive livestock keeping establishment* in clause 5 (1).

Insert instead “livestock”.

[2] Clause 5 (1), definition of “intensive livestock keeping establishment”

Omit “disadter”. Insert instead “disaster”.

[3] Clause 5 (1), definition of “potential Aboriginal relic or place”

Omit “archaelological”. Insert instead “archaeological”.

[4] Clause 5 (1), definition of “potential Aboriginal relic or place”

Omit “strams” wherever occurring. Insert instead “streams”.

[5] Clause 5 (1), definition of “potential archaeological site”

Omit “mens”. Insert instead “means”.

[6] Clause 5 (1), definition of “potential archaeological site”

Omit “archaelological potenital”. Insert instead “archaeological potential”.

[7] Clause 5 (1), definition of “recreation area”

Omit “playgroung” from paragraph (a). Insert instead “playground”.

[8] Clause 5 (1), definition of “recreation area”

Omit “faciluities” from paragraph (b). Insert instead “facilities”.

[9] Clause 5 (1), definition of “recreation area”

Omit “facilties” from paragraph (b). Insert instead “facilities”.

[10] Clause 5 (1), definition of “recreation area”

Omit “pupose” from paragraph (c) (ii). Insert instead “purpose”.

Explanatory note

The proposed amendments correct typographical errors.

2.18 Defamation Act 1974 No 18

Section 17Q Matters arising under the Public Finance and Audit Act 1983

Omit “the Auditor-General’s Office”.

Insert instead “staff of the Audit Office”.

Commencement

The amendment to the *Defamation Act 1974* commences on 1 January 2005.

Explanatory note

The proposed amendment is consequential on the amendments to the *Public Finance and Audit Act 1983* contained in Schedule 1.

2.19 Drug Court Act 1998 No 150

Section 18A Definitions (as inserted by the Compulsory Drug Treatment Correctional Centre Act 2004)

Omit “Corrections Health Service” from paragraph (c) of the definition of *multi-disciplinary team*.

Insert instead “Justice Health”.

Commencement

The amendment to the *Drug Court Act 1998* commences, or is taken to have commenced, immediately after the commencement of Schedule 1 [6] to the *Compulsory Drug Treatment Correctional Centre Act 2004*.

Explanatory note

The proposed amendment updates a reference to a renamed statutory health corporation.

2.20 Drummoyne Local Environmental Plan 1986

Clause 8 Zones indicated on the map

Omit “colored”. Insert instead “coloured”.

Explanatory note

The proposed amendment corrects a typographical error.

2.21 Dubbo Local Environmental Plan 1997—Rural Areas

[1] Schedule 1 Dictionary

Omit “archeological” from paragraph (c) of the definition of *Environmental conservation* in Part A.

Insert instead “archaeological”.

[2] Schedule 7, heading

Omit “*archeological*”. Insert instead “*archaeological*”.

Explanatory note

The proposed amendments correct typographical errors.

2.22 Dubbo Local Environmental Plan 1998—Urban Areas

[1] Schedule 1 Dictionary

Omit “*archeological*” from paragraph (c) of the definition of *environmental conservation* in Part 1.

Insert instead “*archaeological*”.

[2] Schedule 1, Part 2, definition of “potential archeological site”

Omit “*archeological*”. Insert instead “*archaeological*”.

Explanatory note

The proposed amendments correct typographical errors.

2.23 Dumaresq Local Environmental Plan No 1

[1] Clause 9 Zone objectives and development control table

Omit “**Zone No (9) (b)**” from the Table to the clause.

Insert instead “**Zone No 9 (b)**”.

[2] Clause 9, Table

Omit “retrict” from item 1 of the matter relating to Zone No 9 (b) (as amended by item [1]).

Insert instead “restrict”.

[3] Clause 12A Subdivision—Zone No 4 (a)

Omit “wiil” from clause 12A (3) (a). Insert instead “will”.

Explanatory note

The proposed amendments correct typographical errors.

2.24 Dungog Local Environmental Plan 1990

[1] Schedule 2 Heritage items

Omit “Pavillions” from item 10. Insert instead “Pavilions”.

[2] Schedule 6 Development for certain purposes

Omit “heaving” from the matter relating to Lot 52 in DP 602609, Glen William Road, Glen William.

Insert instead “heavy”.

Explanatory note

The proposed amendments correct typographical errors.

2.25 Duties Act 1997 No 123

[1] Schedule 2 Principal place of residence exemption—concessions and restrictions

Omit “Subsection (1)” from clause 3 (2). Insert instead “Subclause (1)”.

[2] Schedule 2

Omit “section” from clauses 6 (3) and 7 (3) wherever occurring.

Insert instead “clause”.

Explanatory note

The proposed amendments correct incorrect cross-references.

2.26 Electricity Supply Act 1995 No 94

Dictionary

Omit “a Rail Corporation” from the definition of *rail network electricity system*.

Insert instead “Rail Corporation”.

Explanatory note

The proposed amendment omits a superfluous word.

2.27 Environmental Planning and Assessment Act 1979 No 203

[1] Section 79BA Consultation and development consent—certain bush fire prone land

Omit “*Planning for Bushfire Protection 2001*” from section 79BA (1) (a).

Insert instead “*Planning for Bushfire Protection*, ISBN 0 9585987 8 9,”

[2] Section 79BA (1) (b)

Omit “the consent authority”.

Explanatory note

Item [1] of the proposed amendments corrects an incorrect citation of a document.

Item [2] of the proposed amendments removes superfluous words.

2.28 Environmental Planning and Assessment Regulation 2000

[1] Clause 5 What is advertised development?

Omit “*Water Act 1912*” from clause 5 (1) (b) (ii).

Insert instead “*Water Management Act 2000*”.

[2] Clause 162A Critical stage inspections required by section 109E (3) (d)

Renumber clause 162A (7) where secondly appearing as subclause (8).

Explanatory note

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

Item [2] of the proposed amendments corrects duplicate subclause numbering.

2.29 First State Superannuation Act 1992 No 100

Schedule 1 Employers

Omit “Auditor-General’s Office”. Insert instead “Audit Office”.

Commencement

The amendment to the *First State Superannuation Act 1992* commences on 1 January 2005.

Explanatory note

The proposed amendment is consequential on the amendments to the *Public Finance and Audit Act 1983* contained in Schedule 1.

2.30 Fisheries Management (General) Regulation 2002

Clause 357 Deputies

Omit “apointment” from clause 357 (2). Insert instead “appointment”.

Explanatory note

The proposed amendment corrects a typographical error.

2.31 Freedom of Information Regulation 2000

Schedule 5 Prescribed agencies

Omit “The Audit Office”. Insert instead “Audit Office”.

Commencement

The amendment to the *Freedom of Information Regulation 2000* commences on 1 January 2005.

Explanatory note

The proposed amendment is consequential on the amendments to the *Public Finance and Audit Act 1983* contained in Schedule 1.

2.32 Gaming Machine Tax Act 2001 No 72

Section 19 Constitution of Committee

Omit “Auditor-General’s Office” from section 19 (1) (a).

Insert instead “Audit Office”.

Commencement

The amendment to the *Gaming Machine Tax Act 2001* commences on 1 January 2005.

Explanatory note

The proposed amendment is consequential on the amendments to the *Public Finance and Audit Act 1983* contained in Schedule 1.

2.33 Goulburn Local Environmental Plan 1990

[1] Clause 3 Aims, objectives etc

Omit “naturally-occurring” from clause 3 (2) (c).

Insert instead “naturally-occurring”.

[2] Clause 8 Zone objectives and land use management table

Omit “servicable” from item 1 (2) (a) of the matter relating to Zone No 4 in the Table to the clause.

Insert instead “serviceable”.

Explanatory note

The proposed amendments correct typographical errors.

2.34 Guardianship Act 1987 No 257

Section 3 Definitions

Omit the definition of *Department* from section 3 (1). Insert instead:

Department means the Department of Ageing, Disability and Home Care.

Explanatory note

The proposed amendment clarifies the effect of certain Administrative Changes Orders to make clear that a reference to the Department in the *Guardianship Act 1987* is a reference to the Department of Ageing, Disability and Home Care.

2.35 Gunnedah Local Environmental Plan 1998

[1] Clause 8B What is complying development?

Omit “*Panning*” from clause 8B (2) (e). Insert instead “*Planning*”.

[2] Schedule 5 Exempt development

Omit “proposes” from clause 8 (c). Insert instead “purposes”.

[3] Schedule 5, clause 21 (k)

Omit “perlin” and “perlins”.

Insert instead “purlin” and “purlins” respectively.

Explanatory note

The proposed amendments correct typographical errors.

2.36 Guyra Local Environmental Plan 1988

[1] Clause 5 Interpretation

Omit “Enviromental” from the definition of *the map* in clause 5 (1).

Insert instead “Environmental”.

[2] Clause 9 Zone objectives and development control table

Omit “Agricultue” from item 2 of the matter relating to Zone No 1 (b) in the Table to the clause.

Insert instead “Agriculture”.

Explanatory note

The proposed amendments correct typographical errors.

2.37 Hastings Local Environmental Plan 2001

Dictionary

Omit “stiple” from the definition of *potential archaeological site*.

Insert instead “stipple”.

Explanatory note

The proposed amendment corrects a typographical error.

2.38 Hawkesbury Local Environmental Plan 1989

[1] Clause 45 Prohibited signs

Omit “ny” from clause 45 (b). Insert instead “any”.

[2] Schedule 1 Heritage items

Omit “Goal” from the matter relating to Upper MacDonald Road, St Albans.

Insert instead “Gaol”.

Explanatory note

The proposed amendments correct typographical errors.

2.39 Hornsby Shire Local Environmental Plan 1994

[1] Clause 22 Exceptions

Omit “High-techology” from the matter relating to No 50 Carters Road, Dural in the Table to clause 22 (1).

Insert instead “High-technology”.

[2] Schedule D

Omit “333 BandC” from the matter relating to Lot 19, DP 263536 under the heading **Pennant Hills**.

Insert instead “333B and 333C”.

[3] Schedule D

Omit “Westwod” from the matter relating to Lot 12, DP 7505 under the heading **Pennant Hills**.

Insert instead “Westwood”.

Explanatory note

The proposed amendments correct typographical errors.

2.40 Hunter’s Hill Local Environmental Plan No 1

Clause 17A Integrated housing development

Omit “wether” from clause 17A (1) (e). Insert instead “whether”.

Explanatory note

The proposed amendment corrects a typographical error.

2.41 Illawarra Regional Environmental Plan No 1

Schedule 1 Items of the environmental heritage

Omit “ancilliary” from the matter relating to the Shoalhaven Subregion.

Insert instead “ancillary”.

Explanatory note

The proposed amendment corrects a typographical error.

2.42 Jervis Bay Regional Environmental Plan 1996

Clause 13 Cultural heritage

Omit “archeological” from the note to the clause and clause 13 (1) wherever occurring.

Insert instead “archaeological”.

Explanatory note

The proposed amendment corrects typographical errors.

2.43 Law Enforcement (Powers and Responsibilities) Act 2002 No 103

Schedule 4 Amendment of other Acts and instrument

Omit “**Part 6**” from Schedule 4.20. Insert instead “**Chapter 7, Part 2**”.

Explanatory note

The proposed amendment updates a cross-reference to a renumbered Part.

2.44 Legal Profession Act 1987 No 109

[1] Section 41 Solicitor to be insured and to make contributions

Omit the note to section 41 (1).

[2] Section 171F Appeals against orders and decisions of Tribunal

Omit “*Administrative Decisions Act 1997*” from section 171F (5).

Insert instead “*Administrative Decisions Tribunal Act 1997*”.

[3] Schedule 8 Savings, transitional and other provisions

Omit “In this section” from clause 100 in Part 23.

Insert instead “In this Part”.

Explanatory note

Item [1] of the proposed amendments omits a reference to a Schedule that has been repealed.

Items [2] and [3] of the proposed amendments correct incorrect cross-references.

2.45 Liquor Regulation 1996

Clause 18B Categories of SIA

Omit “the the” from clause 18B (4). Insert instead “the”.

Explanatory note

The proposed amendment omits a superfluous word.

2.46 Liverpool Local Environmental Plan 1997

[1] Clause 6 Definitions

Omit “accessories” from paragraph (h) of the definition of *Bulky goods salesroom or showroom* in clause 6 (1).

Insert instead “accessories”.

[2] Clause 11 Development that does not require consent

Omit “the the” from clause 11 (4) (d). Insert instead “the”.

Explanatory note

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

Item [2] of the proposed amendments omits a superfluous word.

2.47 Local Government Act 1993 No 30

[1] Section 56 Application of Division

Insert after section 56 (2):

Note. See clause 2 of the *Public Sector Employment and Management (Town Water) Order 2003*, published on 28 November 2003 in Gazette No 186 at page 10775 for the way in which the references to the Minister for Land and Water Conservation in sections 57–66 are to be construed.

[2] Dictionary

Omit the note to the definition of *public car park*.

Explanatory note

Item [1] of the proposed amendments inserts a Note relating to the construction of certain references to the Minister for Land and Water Conservation.

Item [2] of the proposed amendments omits a redundant Note.

2.48 Maitland Local Environmental Plan 1993

Clause 28 What restrictions apply to the development of wetlands?

Omit “the the” from paragraph (a) of the definition of *clearing* in clause 28 (1).

Insert instead “the”.

Explanatory note

The proposed amendment omits a superfluous word.

2.49 Mental Health Act 1990 No 9

[1] Section 228 Appointment of official visitors

Omit “Corrections Health Service” from paragraph (b) of the definition of *area health service* in section 228 (4).

Insert instead “Justice Health”.

[2] Schedule 3 Medical certificate as to examination of prisoner

Omit “the the”. Insert instead “the”.

Explanatory note

Item [1] of the proposed amendments updates a reference to a renamed statutory health corporation.

Item [2] of the proposed amendments omits a superfluous word.

2.50 Mining Regulation 2003

[1] Clause 45 Returns

Omit “and, and” from clause 45 (1) (a) (ii). Insert instead “and”.

[2] Clause 45 (1) (a) (iii)

Omit “shown.”. Insert instead “shown, and”.

Explanatory note

Item [1] of the proposed amendments omits a superfluous word.

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

2.51 Motor Accidents Act 1988 No 102

Section 41 Application of Part

Number the second sentence of the section as subsection (2).

Explanatory note

The proposed amendment inserts a missing subsection number.

2.52 Nambucca Local Environmental Plan 1995

[1] Schedule 1 Considerations for rural-residential subdivisions

Omit “ajdoining” from paragraph (d). Insert instead “adjoining”.

[2] Schedule 1, paragraph (d)

Omit “othewise”. Insert instead “otherwise”.

Explanatory note

The proposed amendments correct typographical errors.

2.53 Narrabri Local Environmental Plan No 2

[1] Clause 5 Definitions

Omit “context of”. Insert instead “context or”.

[2] Clause 24 Items of the environmental heritage

Omit “archeological” from clause 24 (2) (b) and (c) wherever occurring.

Insert instead “archaeological”

Explanatory note

The proposed amendments correct typographical errors.

2.54 Narramine Local Environmental Plan 1997

Clause 5 Interpretation

Omit “*wetland* means an area of land that is periodically wet and where the vegetation and fauna living in that area are adapted to wet conditions and is shown on the map by parallel broken lines.” from clause 5 (1).

Explanatory note

The proposed amendment removes a redundant definition.

2.55 Native Vegetation Act 2003 No 103

Section 23 Continuation of existing farming activities

Omit “that” from section 23 (1) (b). Insert instead “than”.

Explanatory note

The proposed amendment corrects a typographical error.

2.56 New South Wales Crime Commission Act 1985 No 117

[1] Section 32 Staff of Commission

Omit “Part 2 of the *Public Sector Management Act 1988*” from section 32 (1) and (2) wherever occurring.

Insert instead “Chapter 2 of the *Public Sector Employment and Management Act 2002*”.

[2] Schedule 1 Provisions relating to Commissioner and Assistant Commissioners

Omit “The *Public Sector Management Act 1988*” from clause 10 (1).

Insert instead “The *Public Sector Employment and Management Act 2002*”.

Explanatory note

The proposed amendments update references to a repealed Act.

2.57 Newcastle Local Environmental Plan 2003

Schedule 6 Heritage items and heritage conservation areas

Omit “Hunter Stree” from the matter relating to Lots A–F DP 80153 in Part 1.

Insert instead “Hunter Street”.

Explanatory note

The proposed amendment corrects a typographical error.

2.58 Newington College Council Act 1922

Section 14A Vacancy in office of headmaster

Omit “the the” from section 14A (1) (b). Insert instead “the”.

Explanatory note

The proposed amendment omits a superfluous word.

2.59 North Sydney Local Environmental Plan 2001

Schedule 7 Complying development

Omit “stabilised” wherever occurring. Insert instead “stabilised”

Explanatory note

The proposed amendment corrects a typographical error.

2.60 NSW Grain Corporation Holdings Limited Act 1992 No 31

Section 5 Negotiations and agreements for sale of Grain Holdings

Omit “the the” from section 5 (1). Insert instead “the”.

Explanatory note

The proposed amendment omits a superfluous word.

2.61 Nundle Local Environmental Plan 2000

Clause 28 Development of known or potential archaeological sites

Omit “archeological” from clause 28 (1) wherever occurring.

Insert instead “archaeological”.

Explanatory note

The proposed amendment corrects typographical errors.

2.62 Occupational Health and Safety Amendment (Dangerous Goods) Act 2003 No 38

Schedule 2 Amendment of Acts and instruments

Omit Schedule 2.12. Insert instead:

2.12 Home Building Regulation 2004

Clause 7 Definition of “relevant law”

Omit clause 7 (a) (iii) and (v).

Explanatory note

The proposed amendment gives effect to an amendment that was made to a superseded regulation.

2.63 Partnership Act 1892 No 12

Sections 55 and 59

Omit the notes to the sections.

Explanatory note

The proposed amendment omits redundant notes.

2.64 Police Regulation (Superannuation) Act 1906 No 28

[1] Section 10 Superannuation allowance where member hurt on duty

Omit “multiplied by the equivalent service ratio of the member as at the date of the member’s discharge, resignation or retirement.” from section 10 (1A).

[2] Section 10 (1A) (c)

Insert at the end of the paragraph:

multiplied by the equivalent service ratio of the member as at the date of the member’s discharge, resignation or retirement.

Explanatory note

The proposed amendments clarify the meaning of a provision.

2.65 Protection of the Environment Operations Act 1997 No 156

Section 205 Definitions

Omit “aircraft” from the definition of *article*. Insert instead “aircraft,”.

Explanatory note

The proposed amendment corrects a grammatical error.

2.66 Railway Construction (East Hills to Campbelltown) Act 1983 No 111

Section 10 Maintenance of roads and bridges

Omit “the the” from section 10 (1). Insert instead “the”.

Explanatory note

The proposed amendment omits a superfluous word.

2.67 Railway Construction (Maldon to Port Kembla) Act 1983 No 112

Section 10 Maintenance of roads and bridges

Omit “the the” from section 10 (1). Insert instead “the”.

Explanatory note

The proposed amendment omits a superfluous word.

2.68 Randwick Local Environmental Plan 1998

[1] Schedule 3 Heritage items

Omit “1930s19” from the matter relating to 296 Alison Road, Coogee.

Insert instead “1930s”.

[2] Schedule 3

Omit “191620” from the matter relating to 370 Alison Road, Coogee.

Insert instead “1916”.

Explanatory note

The proposed amendments correct typographical errors.

2.69 Residential Tenancies Act 1987 No 26

Section 7 Application of Act to moveable dwellings, residential parks and holiday parks

Omit “Part 6 (The Residential Tenancies Tribunal of New South Wales)” from section 7 (3).

Insert instead “Part 6 (Powers of Tribunal and Tenancy Commissioner)”.

Explanatory note

The proposed amendment corrects an incorrect cross-reference.

2.70 Royal Botanic Gardens and Domain Trust Regulation 2002

Clause 6 Fees and charges

Omit “*Road Transport (Safety and Traffic Management) Regulation 1999*” from clause 6 (1).

Insert instead “*Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999*”.

Explanatory note

The proposed amendment corrects an incorrect citation of a regulation.

2.71 Scone Local Environmental Plan 1986

[1] Clause 8 Zones and development control table

Insert “and” at the end of item 1 (b) of the matter relating to Zone No 1 (d) in the Table to the clause.

[2] Clause 8, Table

Omit “impacts, and” from item 1 (c) of the matter relating to Zone No 1 (d).
Insert instead “impacts.”.

[3] Clause 8, Table

Omit paragraph (d) from item 1 of the matter relating to Zone No 1 (d).

[4] Clause 8, Table

Omit “*National Parks and Wildlife Service Act 1974*” from item 2 of the matter relating to Zone No 8 (c).

Insert instead “*National Parks and Wildlife Act 1974*”.

[5] Clause 11A Subdivision of land within Zone No 1 (c1)

Renumber clause 11A (3) where secondly occurring as clause 11A (4).

[6] Schedule 7 Classification and reclassification of public land as operational land

Omit “Clause 42”. Insert instead “Clause 45”.

Explanatory note

Item [3] of the proposed amendments omits superfluous paragraph numbering. Items [1] and [2] of the proposed amendments make consequential amendments.

Item [4] of the proposed amendments corrects an incorrect citation of an Act.

Item [5] of the proposed amendments corrects duplicate subclause numbering.

Item [6] of the proposed amendments corrects an incorrect cross-reference.

2.72 Shoalhaven Local Environmental Plan 1985

[1] Clause 2 Aims, objectives etc

Omit “communtiy” from clause 2 (2) (j). Insert instead “community”.

[2] Clause 9 Zone objectives and development control table

Omit “othar” from item 3 of the matter relating to Zone No 2 (b2) in the Table to the clause.

Insert instead “other”.

[3] Clause 9, Table

Omit “may may” from item 3 of the matter relating to Zone No 8 (a).

Insert instead “way may”.

Explanatory note

The proposed amendments correct typographical errors.

2.73 State Authorities Non-contributory Superannuation Act 1987 No 212

Schedule 1 Employers

Omit “Auditor-General’s Office” from Part 1.

Insert instead “Audit Office”.

Commencement

The amendment to the *State Authorities Non-contributory Superannuation Act 1987* commences on 1 January 2005.

Explanatory note

The proposed amendment is consequential on the amendments to the *Public Finance and Audit Act 1983* contained in Schedule 1.

2.74 State Authorities Superannuation Act 1987 No 211

Schedule 1 Employers

Omit “Auditor-General’s Office” from Part 1.

Insert instead “Audit Office”.

Commencement

The amendment to the *State Authorities Superannuation Act 1987* commences on 1 January 2005.

Explanatory note

The proposed amendment is consequential on the amendments to the *Public Finance and Audit Act 1983* contained in Schedule 1.

2.75 State Environmental Planning Policy No 65—Design Quality of Residential Flat Development

Part 4 Application of design quality principles

Insert “residential flat development achieves the design quality of the” after “the qualified designer verifies that the” in the note to the matter headed “Issue of occupation certificates”.

Explanatory note

The proposed amendment inserts missing words.

2.76 Superannuation Act 1916 No 28

[1] Schedule 3 List of employers

Omit “Auditor-General’s Office” from Part 1.

Insert instead “Audit Office”.

[2] Schedule 26

Omit “The Audit Office of New South Wales” from Part 1.

Insert instead “Audit Office”.

[3] Schedule 26, Part 1

Omit “Corrections Health Service”.

Insert instead “Justice Health”.

Commencement

Items [1] and [2] of the amendments to the *Superannuation Act 1916* commence on 1 January 2005.

Explanatory note

Items [1] and [2] of the proposed amendments are consequential on the amendments to the *Public Finance and Audit Act 1983* contained in Schedule 1.

Item [3] of the proposed amendments updates a reference to a renamed statutory health corporation.

2.77 Sydney Olympic Park Authority Act 2001 No 57

Section 21 Environmental planning instruments and development control plans

Omit “planing”. Insert instead “planning”.

Explanatory note

The proposed amendment corrects a typographical error.

2.78 Sydney Regional Environmental Plan No 26—City West

Clause 24 Application of urban design planning principles

Omit “the the”. Insert instead “the”.

Explanatory note

The proposed amendment omits a superfluous word.

2.79 Sydney Regional Environmental Plan No 28—Parramatta

Schedule 6 Heritage items

Omit “archeological” from the matter relating to 235, 237 Church Street in Part 1.

Insert instead “archaeological”.

Explanatory note

The proposed amendment corrects a typographical error.

2.80 Temora Local Environmental Plan 1987

Clause 9 Zone objectives and development control table

Omit “hazadous” from item 4 of the matter relating to Zone No 2 (a) in the Table to the clause.

Insert instead “hazardous”.

Explanatory note

The proposed amendment corrects a typographical error.

2.81 Transport Administration Act 1988 No 109

Section 19E Functions of RIC

Omit “the the” from section 19E (6) (a) and (b) wherever occurring.

Insert instead “the”.

Explanatory note

The proposed amendment omits superfluous words.

2.82 Trustee Companies Regulation 2000

Schedule 2 Forms

Omit “incomne” from Form 1. Insert instead “income”.

Explanatory note

The proposed amendment corrects a typographical error.

2.83 Tumut Local Environmental Plan 1990

[1] Clause 5 Definitions

Omit “aboriculture” from the definition of *forestry* in clause 5 (1).

Insert instead “arboriculture”.

[2] Clause 31 Acquisition of land in Zone No 6 (a), 9 (a) or 9 (b)

Omit “be be” from clause 31 (2). Insert instead “be”.

Explanatory note

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

Item [2] of the proposed amendments omits a superfluous word.

2.84 Uralla Local Environmental Plan 1988

Clause 13 Subdivision for other purposes within Zone No 1 (a) or 1 (b)

Omit “ot” from clause 13 (2). Insert instead “to”.

Explanatory note

The proposed amendment corrects a typographical error.

2.85 Veterinary Practice Act 2003 No 87

[1] Schedule 3 Amendment of other Acts and Regulations

Omit Schedule 3.14. Insert instead:

3.14 Lord Howe Island Regulation 2004

Clauses 83 (3) (b) and 86 (2)

Omit “veterinary surgeon registered under the *Veterinary Surgeons Act 1986*” wherever occurring.

Insert instead “veterinary practitioner (within the meaning of the *Veterinary Practice Act 2003*)”.

[2] Schedule 3.25

Omit the subschedule. Insert instead:

3.25 Stock Diseases (General) Regulation 2004

Clauses 7 (1) (a) and (b) and 9 (2) (b)

Omit “veterinary surgeon” wherever occurring.

Insert instead “veterinary practitioner”.

Explanatory note

The proposed amendments gives effect to amendments that were made to superseded regulations.

2.86 Wagga Wagga Local Environmental Plan—Reclassification of Public Land

Schedule

Omit “OLYPMIC” from the matter relating to Wagga Wagga NE in Part 1.

Insert instead “OLYMPIC”.

Explanatory note

The proposed amendment corrects a typographical error.

2.87 Warringah Local Environmental Plan 2000

[1] Clause 47 Flood affected land

Omit “excedence”. Insert instead “exceedence”.

[2] Appendix B Narrabeen Lagoon Catchment Locality Statements

Omit “Develo(i)pment” from the matter relating to Locality B11 Forest Way Village.

Insert instead “Development”.

[3] Appendix E Dee Why Locality Statements

Omit “boulevarde” from the matter relating to Locality E17 Town Centre South.

Insert instead “boulevard”.

Explanatory note

The proposed amendments correct typographical errors.

2.88 Water Management (Private Water Trusts—General) Savings and Transitional Regulation 1995

[1] Part 2, heading

Omit the heading.

[2] Part 3, heading

Omit the heading.

Explanatory note

The proposed amendments omit redundant Part headings.

2.89 Water Sharing Plan for the Adelong Creek Water Source 2003

Clause 54 Rules relating to constraints within this water source

Omit “sections 71D, 71F, and 71J” from clause 54 (1).

Insert instead “sections 71Q, 71S and 71W”.

Explanatory note

The proposed amendment corrects numbering that is incorrect because of a renumbering.

2.90 Water Sharing Plan for the Alstonville Plateau Groundwater Sources 2003

Clause 44 Rules relating to constraints within a groundwater source

Omit “sections 71D, 71F, and 71J” from clause 44 (1).

Insert instead “sections 71Q, 71S and 71W”.

Explanatory note

The proposed amendment corrects numbering that is incorrect because of a renumbering.

2.91 Water Sharing Plan for the Apsley River Water Source 2003

Clause 55 Rules relating to constraints within this water source

Omit “sections 71D, 71F and 71J” from clause 55 (1).

Insert instead “sections 71Q, 71S and 71W”.

Explanatory note

The proposed amendment corrects numbering that is incorrect because of a renumbering.

2.92 Water Sharing Plan for the Castlereagh River above Binnaway Water Source 2003

Clause 54 Rules relating to constraints within this water source

Omit “sections 71D, 71F and 71J” from clause 54 (1).

Insert instead “sections 71Q, 71S and 71W”.

Explanatory note

The proposed amendment corrects numbering that is incorrect because of a renumbering.

2.93 Water Sharing Plan for the Commissioners Waters Water Source 2003

Clause 55 Rules relating to constraints within this water source

Omit “sections 71D, 71F and 71J” from clause 55 (1).

Insert instead “sections 71Q, 71S and 71W”.

Explanatory note

The proposed amendment corrects numbering that is incorrect because of a renumbering.

2.94 Water Sharing Plan for the Coopers Creek Water Source 2003

[1] Clause 33 Aboriginal assessment of new access licences

Omit “sections 71D, 71F, 71J and 71G” from clause 33 (1).

Insert instead “sections 71Q, 71S, 71T and 71W”.

[2] Clause 55 Rules relating to constraints within this water source

Omit “sections 71D, 71F and 71J” from clause 55 (1).

Insert instead “sections 71Q, 71S and 71W”.

Explanatory note

The proposed amendments correct numbering that is incorrect because of a renumbering.

2.95 Water Sharing Plan for the Dorrigo Plateau Surface Water Source and Dorrigo Basalt Groundwater Source 2003

[1] Clause 64 Rules relating to constraints within this surface water source

Omit “sections 71D, 71F and 71J” from clause 64 (1).

Insert instead “sections 71Q, 71S and 71W”.

[2] Clause 65 Rules relating to constraints within this groundwater source

Omit “sections 71D, 71F, and 71J” from clause 65 (1).

Insert instead “sections 71Q, 71S and 71W”.

Explanatory note

The proposed amendments correct numbering that is incorrect because of a renumbering.

2.96 Water Sharing Plan for the Gwydir Regulated River Water Source 2002

[1] Clause 50 Rules relating to constraints within this water source

Omit “sections 71B, 71D, 71G, and 71J” from clause 50 (1).

Insert instead “sections 71O, 71Q, 71T and 71W”.

[2] Schedule 1 Dictionary

Omit “71B or 71E” from the definition of *conversion factor*.

Insert instead “section 71O or 71R”.

Explanatory note

The proposed amendments correct numbering that is incorrect because of a renumbering.

2.97 Water Sharing Plan for the Hunter Regulated River Water Source 2003

[1] Clause 53 Rules relating to constraints within this water source

Omit “sections 71B, 71D and 71J” from clause 53 (1).

Insert instead “sections 71O, 71Q and 71W”.

[2] Schedule 1 Dictionary

Omit “71B or 71E” from the definition of *conversion factor*.

Insert instead “section 71O or 71R”.

Explanatory note

The proposed amendments correct numbering that is incorrect because of a renumbering.

2.98 Water Sharing Plan for the Jilliby Jilliby Creek Water Source 2003

Clause 54 Rules relating to constraints within this water source

Omit “sections 71D, 71F and 71J” from clause 54 (1).

Insert instead “sections 71Q, 71S and 71W”.

Explanatory note

The proposed amendment corrects numbering that is incorrect because of a renumbering.

2.99 Water Sharing Plan for the Kangaroo River Water Source 2003

Clause 54 Rules relating to constraints within this water source

Omit “sections 71D, 71F and 71J” from clause 54 (1).

Insert instead “sections 71Q, 71S and 71W”.

Explanatory note

The proposed amendment corrects numbering that is incorrect because of a renumbering.

2.100 Water Sharing Plan for the Karuah River Water Source 2003

Clause 55 Rules relating to constraints within this water source

Omit “sections 71D, 71F and 71J” from clause 55 (1).

Insert instead “sections 71Q, 71S and 71W”.

Explanatory note

The proposed amendment corrects numbering that is incorrect because of a renumbering.

2.101 Water Sharing Plan for the Kulnura Mangrove Mountain Groundwater Sources 2003

Clause 45 Rules relating to constraints within a groundwater source

Omit “sections 71D, 71F, and 71J” from clause 45 (1).

Insert instead “sections 71Q, 71S and 71W”.

Explanatory note

The proposed amendment corrects numbering that is incorrect because of a renumbering.

2.102 Water Sharing Plan for the Lachlan Regulated River Water Source 2003

[1] Clause 51 Rules relating to constraints within this water source

Omit “sections 71B, 71D, and 71J” from clause 51 (1).

Insert instead “sections 71O, 71Q and 71W”.

[2] Schedule 1 Dictionary

Omit “71B or 71E” from the definition of *conversion factor*.

Insert instead “section 71O or 71R”.

Explanatory note

The proposed amendments correct numbering that is incorrect because of a renumbering.

2.103 Water Sharing Plan for the Lower Gwydir Groundwater Source 2003

Schedule 1 Dictionary

Omit “the the” from the definition of *drawdown*. Insert instead “the”.

Explanatory note

The proposed amendment omits a superfluous word.

2.104 Water Sharing Plan for the Lower Lachlan Groundwater Source 2003

Schedule 1 Dictionary

Omit “the the” from the definition of *drawdown*. Insert instead “the”.

Explanatory note

The proposed amendment omits a superfluous word.

2.105 Water Sharing Plan for the Lower Macquarie Groundwater Sources 2003

Schedule 1 Dictionary

Omit “the the” from the definition of *drawdown*. Insert instead “the”.

Explanatory note

The proposed amendment omits a superfluous word.

2.106 Water Sharing Plan for the Lower Murrumbidgee Groundwater Sources 2003

Schedule 1 Dictionary

Omit “the the” from the definition of *drawdown*. Insert instead “the”.

Explanatory note

The proposed amendment omits a superfluous word.

2.107 Water Sharing Plan for the Macquarie and Cudgegong Regulated Rivers Water Source 2003

[1] Clause 50 Rules relating to constraints within this water source

Omit “section 71O, 71D and 71J” from clause 50 (1).

Insert instead “sections 71O, 71Q and 71W”.

[2] Clause 51 Rules for change of water source

Omit “sections 71E” from clause 51 (1). Insert instead “section 71R”.

[3] Schedule 1 Dictionary

Omit “71B or 71E” from the definition of *conversion factor*.

Insert instead “section 71O or 71R”.

Explanatory note

The proposed amendments correct numbering that is incorrect because of a renumbering.

2.108 Water Sharing Plan for the Mandagery Creek Water Source 2003

Clause 54 Rules relating to constraints within this water source

Omit “sections 71D, 71F and 71J” from clause 54 (1).

Insert instead “sections 71Q, 71S and 71W”.

Explanatory note

The proposed amendment corrects numbering that is incorrect because of a renumbering.

2.109 Water Sharing Plan for the Murrumbidgee Regulated River Water Source 2003

[1] Clause 32 Volume of the long-term extraction limit

Omit “or 71H” from clause 32 (2). Insert instead “or 71U”.

[2] Clause 53 Rules relating to constraints within a water source

Omit “sections 71D, 71F and 71J” from clause 53 (1).

Insert instead “sections 71Q, 71S and 71W”.

[3] Schedule 1 Definitions

Omit “71B or 71E” from the definition of *conversion factor*.

Insert instead “section 71O or 71R”.

Explanatory note

The proposed amendments correct numbering that is incorrect because of a renumbering.

2.110 Water Sharing Plan for the New South Wales Murray and Lower Darling Regulated Rivers Water Sources 2003

[1] Clause 31 Volume of the long-term extraction limit

Omit “or 71H” from clause 31 (2). Insert instead “or 71U”.

[2] Clause 51 Rules relating to constraints within this water source

Omit “sections 71B, 71D, 71G, and 71J” from clause 51 (1).

Insert instead “sections 71O, 71Q, 71T and 71W”.

[3] Clause 57 Mandatory conditions on access licences

Omit “71A, 71B, 71C, 71D, 71E and 71H” from clause 57 (11) (b).

Insert instead “sections 71M, 71O, 71P, 71Q, 71R and 71U”.

[4] Schedule 1 Dictionary

Omit “71B or 71E” from the definition of *conversion factor*.

Insert instead “section 71O or 71R”.

Explanatory note

The proposed amendments correct numbering that is incorrect because of a renumbering.

**2.111 Water Sharing Plan for the Ourimbah Creek Water Source
2003**

Clause 54 Rules relating to constraints within this water source

Omit “sections 71D, 71F and 71J” from clause 54 (1).

Insert instead “sections 71Q, 71S and 71W”.

Explanatory note

The proposed amendment corrects numbering that is incorrect because of a renumbering.

**2.112 Water Sharing Plan for the Phillips Creek, Mooki River,
Quirindi Creek and Warrah Creek Water Sources 2003**

Clause 54 Rules relating to constraints within this water source

Omit “sections 71D, 71F and 71J” from clause 54 (1).

Insert instead “sections 71Q, 71S and 71W”.

Explanatory note

The proposed amendment corrects numbering that is incorrect because of a renumbering.

2.113 Water Sharing Plan for the Rocky Creek, Cobbadah, Upper Horton and Lower Horton Water Source 2003

Clause 54 Rules relating to constraints within this water source

Omit “sections 71D, 71F and 71J” from clause 54 (1).

Insert instead “sections 71Q, 71S and 71W”.

Explanatory note

The proposed amendment corrects numbering that is incorrect because of a renumbering.

2.114 Water Sharing Plan for the Stuarts Point Groundwater Source 2003

Clause 44 Rules relating to constraints within a groundwater source

Omit “sections 71D, 71F, and 71J” from clause 44 (1).

Insert instead “sections 71Q, 71S and 71W”.

Explanatory note

The proposed amendment corrects numbering that is incorrect because of a renumbering.

2.115 Water Sharing Plan for the Tarcutta Creek Water Source 2003

Clause 54 Rules relating to constraints within this water source

Omit “sections 71D, 71F and 71J” from clause 54 (1).

Insert instead “sections 71Q, 71S and 71W”.

Explanatory note

The proposed amendment corrects numbering that is incorrect because of a renumbering.

2.116 Water Sharing Plan for the Tenterfield Creek Water Source 2003

Clause 54 Rules relating to constraints within this water source

Omit “sections 71D, 71F and 71J” from clause 54 (1).

Insert instead “sections 71Q, 71S and 71W”.

Explanatory note

The proposed amendment corrects numbering that is incorrect because of a renumbering.

2.117 Water Sharing Plan for the Tomago Tomaree Stockton Groundwater Sources 2003

Clause 42 Rules relating to constraints within a groundwater source

Omit “sections 71D, 71F, and 71J” from clause 42 (1).

Insert instead “sections 71Q, 71S and 71W”.

Explanatory note

The proposed amendment corrects numbering that is incorrect because of a renumbering.

2.118 Water Sharing Plan for the Toorumbree Creek Water Source 2003

Clause 48 Rules relating to constraints within this water source

Omit “sections 71D, 71F, and 71J” from clause 48 (1).

Insert instead “sections 71Q, 71S and 71W”.

Explanatory note

The proposed amendment corrects numbering that is incorrect because of a renumbering.

2.119 Water Sharing Plan for the Upper Billabong Water Source 2003

Clause 54 Rules relating to constraints within this water source

Omit “sections 71D, 71F and 71J” from clause 54 (1).

Insert instead “sections 71Q, 71S and 71W”.

Explanatory note

The proposed amendment corrects numbering that is incorrect because of a renumbering.

2.120 Water Sharing Plan for the Upper Brunswick River Water Source 2003

[1] Clause 33 Aboriginal assessment of new access licences

Omit “sections 71D, 71F, 71J and 71G” from clause 33 (1).

Insert instead “sections 71Q, 71S, 71T and 71W”.

[2] Clause 55 Rules relating to constraints within this water source

Omit “sections 71D, 71F and 71J” from clause 55 (1).

Insert instead “sections 71Q, 71S and 71W”.

Explanatory note

The proposed amendments correct numbering that is incorrect because of a renumbering.

2.121 Water Sharing Plan for the Upper Namoi and Lower Namoi Regulated River Water Sources 2003

[1] Clause 51 Rules relating to constraints within these water sources

Omit “sections 71B, 71D, 71G, and 71J” from clause 51 (1).

Insert instead “sections 71O, 71Q, 71T and 71W”.

[2] Schedule 1 Dictionary

Omit “71B or 71E” from the definition of *conversion factor*.

Insert instead “section 71O or 71R”.

Explanatory note

The proposed amendments correct numbering that is incorrect because of a renumbering.

2.122 Water Sharing Plan for the Wandella Creek Water Source 2003

Clause 54 Rules relating to constraints within this water source

Omit “sections 71D, 71F and 71J” from clause 54 (1).

Insert instead “sections 71Q, 71S and 71W”.

Explanatory note

The proposed amendment corrects numbering that is incorrect because of a renumbering.

2.123 Water Sharing Plan for the Wybong Creek Water Source 2003

Clause 59 Rules relating to constraints within this water source

Omit “sections 71D, 71F and 71J” from clause 59 (1).

Insert instead “sections 71Q, 71S and 71W”.

Explanatory note

The proposed amendment corrects numbering that is incorrect because of a renumbering.

2.124 Wollondilly Local Environmental Plan 1991

[1] Clause 6 Definitions

Omit “fo” from the definition of *extractive material* in clause 6 (1).

Insert instead “of”.

[2] Schedule 1 Items of the environmental heritage

Omit “Avairy” from item 2 of the matter relating to Camden.

Insert instead “Aviary”.

Explanatory note

The proposed amendments correct typographical errors.

2.125 Wollongong Local Environmental Plan No 38

Clause 20 Development in Zone No 7 (c)

Omit “intto” from clause 20 (2). Insert instead “into”.

Explanatory note

The proposed amendment corrects a typographical error.

2.126 Woollahra Local Environmental Plan 1995

[1] Clause 8 Development control tables

Omit “incidental” from item 5 of the matter relating to Zone No 5 in the Table to the clause.

Insert instead “incidental”.

[2] Clause 22 Foreshore building lines

Omit “subcaluse” from clause 22 (3). Insert instead “subclause”.

[3] Clauses 25 (1) and (2) and 31 (1) (c) and (2) (c)

Omit “satisfied” wherever occurring. Insert instead “satisfied”.

[4] Schedule 1 Definitions

Omit “habitataion” from paragraph (b) of the definition of *relic*.

Insert instead “habitation”.

Explanatory note

The proposed amendments correct typographical errors.

2.127 Wyong Local Environmental Plan 1991

Clause 7 Definitions

Omit “silviculture” from the definition of *forestry* in clause 7 (1).

Insert instead “silviculture”.

Explanatory note

The proposed amendment corrects a typographical error.

Schedule 3 Repeals

(Section 4)

Name of Act or instrument	Extent of repeal
<i>Agricultural Livestock (Disease Control Funding) Amendment Act 2004 No 45</i>	Whole Act ¹
<i>Bail Amendment (Firearms and Property Offences) Act 2003 No 84</i>	Whole Act ²
<i>Broken Hill Proprietary Company Limited (Reclamation and Exchange) Agreement Ratification Act 1950 No 11</i>	Whole Act ⁴
<i>Broken Hill Proprietary Company Limited (Steelworks) Agreement Ratification Act 1950 No 12</i>	Whole Act ⁴
<i>Crimes (Administration of Sentences) Amendment Act 2004 No 47</i>	Whole Act ¹
<i>Crimes (Administration of Sentences) Further Amendment Act 2002 No 79</i>	Whole Act ¹
<i>Crimes Legislation Amendment Act 2004 No 11</i>	Whole Act ¹
<i>Energy Administration (Natural Gas Rationing) Regulation 2004</i>	Whole Regulation ³
<i>Energy Administration (Natural Gas Rationing) Regulation (No 2) 2004</i>	Whole Regulation ³
<i>Fair Trading Amendment Act 2003 No 35</i>	Whole Act ¹
<i>Fair Trading Amendment Act 2004 No 21</i>	Whole Act ¹
<i>Fisheries Management (Continuation of Activities in Lowland Darling River Catchment) Interim Order 2004</i>	Whole Order ³
<i>Fisheries Management (Continuation of Activities in Lowland Darling River Catchment—Menindee Lakes) Interim Order 2004</i>	Whole Order ³
<i>Fisheries Management (Continuation of Activities in the Lowland Darling River Catchment) Interim Order 2003</i>	Whole Order ³
<i>Food Legislation Amendment Act 2004 No 16</i>	Whole Act ¹
<i>Health Legislation Amendment Act 2004 No 37</i>	Whole Act ¹
<i>Interim Development Order No 1—Shire of Gunning</i>	Whole Order ⁴
<i>Interim Development Order No 43—Municipality of Port Macquarie</i>	Whole Order ⁴

Name of Act or instrument	Extent of repeal
<i>Legal Profession Amendment Act 2004</i> No 51	Whole Act ¹
<i>Licensing and Registration (Uniform Procedures) Act 2002</i> No 28	Schedule 4.5, 4.12, 4.16 and 4.21 ²
<i>Lord Howe Island Amendment Act 2004</i> No 12	Whole Act ¹
<i>Public Finance and Audit (Auditor-General) Amendment Act 1991</i> No 88	Whole Act ²
<i>Public Lotteries Legislation Amendment Act 2004</i> No 13	Whole Act ¹
<i>Registered Clubs Amendment Act 2003</i> No 93	Whole Act ¹
<i>Retirement Villages Amendment Act 2004</i> No 14	Whole Act ¹
<i>Superannuation Administration Amendment Act 2004</i> No 10	Whole Act ¹
<i>The Synod of Eastern Australia Property Amendment Act 2004</i> No 6	Whole Act ¹
<i>Thoroughbred Racing Legislation Amendment Act 2004</i> No 23	Whole Act ¹
<i>Totalizator Legislation Amendment Act 2003</i> No 101	Whole Act ¹
<i>Veterinary Practice Act 2003</i> No 87	Schedule 3.2 ²
<i>Water Management Amendment Act 2004</i> No 39	Whole Act ¹

Key

- 1 contains only amendments, or amendments and repeals, that have commenced
- 2 contains amendments that are redundant
- 3 expired instrument
- 4 redundant Act or instrument

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 amendment or 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 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 be taken to have commenced 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 an instrument, or
- (b) repeals and re-enacts (with or without modification) a provision of an Act or an instrument,

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 provided, vitiate any act done or decision made under the provision as in force before the amendment or repeal.

3 Application of Interpretation Act 1987 to amendments to statutory rules

Sections 39, 40 and 41 of the *Interpretation Act 1987* do not apply to any amendments to statutory rules made by this Act.

Explanatory note

This clause makes it clear that certain provisions concerning the making, tabling and disallowance of statutory rules do not apply to amendments to statutory rules made by the proposed Act.

4 Effect of amendment on regulations

Except where expressly provided to the contrary, any regulation made under an Act amended by this Act, that is 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.

5 Effect of amendment on environmental planning instruments

The amendment of an environmental planning instrument by this Act does not prevent its later amendment or repeal by another environmental planning instrument.

Explanatory note

This clause ensures that the amendment of a local environmental plan or other environmental planning instrument does not prevent its amendment or repeal by an environmental planning instrument.

6 Effect of amendment on water sharing plan

The amendment by this Act of a water sharing plan made under section 50 of the *Water Management Act 2000* does not prevent its later amendment or repeal by another such water sharing plan or other instrument.

Explanatory note

This clause ensures that the amendment of a water sharing plan does not prevent its amendment or repeal by another water sharing plan or other instrument.

7 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.

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- (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.

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BY AUTHORITY