



New South Wales

# Statute Law (Miscellaneous Provisions) Act 2005 No 64

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New South Wales

## **Statute Law (Miscellaneous Provisions) Act 2005 No 64**

Act No 64, 2005

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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 1 July 2005]

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

**1 Name of Act**

This Act is the *Statute Law (Miscellaneous Provisions) Act 2005*.

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Each Act and instrument specified in Schedule 3 is, to the extent indicated in that Schedule, repealed.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

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## Schedule 1 Minor amendments

(Section 3)

### 1.1 Apiaries Act 1985 No 16

#### [1] Section 3 Definitions

Insert in alphabetical order in section 3 (1):

*approved* means approved by the Director-General.

*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 7 Application for registration

Omit section 7 (2). Insert instead:

- (2) An application for registration:
  - (a) must be in an approved form, and
  - (b) must be lodged with the Director-General, and
  - (c) must be accompanied by the prescribed registration fee.

#### [4] Section 8 Grant or refusal of application for registration

Omit “the prescribed form” from section 8 (3) (a).

Insert instead “an approved form”.

#### [5] Section 10 Particular duties of a registered beekeeper

Omit “give to the registrar, in or to the effect of the prescribed form, the prescribed particulars of the disposal” from section 10 (3).

Insert instead “notify the registrar of the disposal by means of an approved form”.

#### [6] Section 11 Renewal of registration

Omit section 11 (2). Insert instead:

- (2) An application for renewal of registration:
  - (a) must be in an approved form, and

- (b) must be lodged with the Director-General, and
- (c) must be accompanied by the prescribed registration fee.

**[7] Section 11 (6) (b)**

Omit “the prescribed form”. Insert instead “an approved form”.

**[8] Section 18 Power of Director-General to restrict beekeeping on certain premises**

Omit “Subject to subsection (9), an order” from section 18 (4).

Insert instead “An order”.

**[9] Section 18 (5)**

Omit “unless quashed under section 37”.

Insert instead “unless set aside following an application under section 35 (2)”.

**[10] Section 24A Power to order tests**

Omit “Chief, Division of Animal Industries” from section 24A (1) (b).

Insert instead “Director-General”.

**[11] Section 30 Claims**

Omit section 30 (1). Insert instead:

- (1) Compensation is not payable under this Part in respect of any queen bees that have been destroyed or irradiated unless a claim for compensation is made within 60 days after the destruction or irradiation.

(1A) A claim under this section:

- (a) must be in an approved form, and
- (b) must be verified as provided in the form, and
- (c) must be lodged at an office of the Department.

**[12] Section 35 Applications for review**

Omit “and seeks” from section 35 (1) (f). Insert instead “, and seeking”.

**[13] Section 38 General powers of inspection**

Omit “a traffic sign of a kind prescribed” from section 38 (2).

Insert instead “a traffic sign of an approved kind”.

**[14] Section 38 (9)**

Omit “is to be disposed of”. Insert instead “are to be disposed of”.

**[15] Section 42A**

Insert after section 42:

**42A Penalty notices**

- (1) A prescribed officer may serve a penalty notice on a person if it appears to the prescribed officer that the person has committed an offence against this Act or the regulations, being an offence prescribed by the regulations as a penalty notice offence.
- (2) A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person can pay, within the time and to the person specified in the notice, the amount of the penalty prescribed by the regulations for the offence if dealt with under this section.
- (3) A penalty notice may be served personally or by post.
- (4) If the amount of penalty prescribed for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence.
- (5) Payment under this section is not to be regarded as an admission of liability for the purpose of, and does not in any way affect or prejudice, any civil claim, action or proceeding arising out of the same occurrence.
- (6) The regulations may:
  - (a) prescribe an offence for the purposes of this section by specifying the offence or by referring to the provision creating the offence, and
  - (b) prescribe the amount of penalty payable for the offence if dealt with under this section, and
  - (c) prescribe different amounts of penalties for different offences or classes of offences.
- (7) The amount of a penalty prescribed under this section for an offence is not to exceed the maximum amount of penalty that could be imposed for the offence by a court.
- (8) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.

- (9) In this section, *prescribed officer* means any of the following:
- (a) an inspector,
  - (b) a person of a class specified by the Director-General, by notice published in the Gazette, as a class of persons who may issue penalty notices under this section,
  - (c) any other person authorised in writing by the Director-General for the purposes of this section.

**[16] Section 47A**

Insert after section 47:

**47A 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.

**[17] Section 49 Fees etc to be paid into Consolidated Fund**

Omit “sections 8 (5) and 11 (10)”. Insert instead “sections 8 (8) and 11 (11)”.

**[18] Schedule 5 Savings and transitional provisions**

Insert after clause 6:

**7 Continuity of things done**

Anything done by the Chief, Division of Animal Industries under or for the purposes of section 24A (1) (b) is, to the extent that the thing done had effect immediately before the amendment of that paragraph by the *Statute Law (Miscellaneous Provisions) Act 2005*, taken to have been done by the Director-General.

**8 Prescribed forms**

A form prescribed for the purposes of section 7 (2) (a), 8 (3) (a), 10 (3), 11 (2) (a) or (6) (b) or 30 (1) by a regulation in force immediately before the repeal and re-enactment or amendment (as the case may be) of the provision concerned by the *Statute Law (Miscellaneous Provisions) Act 2005* is, until such time as a different form is approved for the purposes of the provision concerned, taken to be an approved form for the purposes of that provision.

**9 Notice to stop vehicle**

A traffic sign of a kind prescribed for the purposes of section 38 (2) by a regulation in force immediately before the

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amendment of that subsection by the *Statute Law (Miscellaneous Provisions) Act 2005* is, until such time as a traffic sign of a different kind is approved for the purposes of that provision, taken to be a traffic sign of a kind approved by the Director-General.

**Explanatory note**

**Prescribed matters**

At present, an application for registration (or renewal of registration) under the *Apiaries Act 1985 (the Act)* as a beekeeper, a certificate of registration as a beekeeper, a claim for compensation under Part 5 (Compensation for loss of bees etc) of the Act and a traffic sign under section 38 (2) of the Act must be in or to the effect of the “prescribed” forms. The applications and claims must also contain the “prescribed” particulars and be made in the “prescribed” manner. Applications must be accompanied by the “prescribed” registration fee, and claims must be verified “as prescribed”.

Beekeepers are required by section 10 of the Act to give the registrar of beekeepers the “prescribed” particulars of any disposal of a beehive in the “prescribed” form.

Items [3]–[7], [11] and [13] of the proposed amendments remove the requirement for most of those matters to be prescribed. Instead:

- (a) the applications, certificates, claims, notifications concerning disposals of beehives and traffic signs are to be in “approved” forms (that is, forms approved by the Director-General of the Department of Primary Industries (*the Director-General* and *the Department*, respectively)), and
- (b) the applications are to be lodged with the Director-General and the claims are to be lodged at an office of the Department.

(See section 80 of the *Interpretation Act 1987* in relation to the information required by approved forms.)

Application fees are still to be prescribed.

Item [1] of the proposed amendments inserts definitions of *approved* and *Department* for the purposes of the Act.

**Penalty notices**

Item [15] of the proposed amendments inserts a standard provision that allows penalty notices to be issued in respect of offences against the Act or the regulations.

**Delegation**

Item [16] of the proposed amendments allows the Director-General to delegate his or her functions under the Act to any member of the staff of the Department.

**Statute law revision**

Item [2] of the proposed amendments updates the outdated definition of *Director-General*.

Items [8], [9] and [17] of the proposed amendments correct incorrect cross-references.

Item [10] of the proposed amendments updates a reference to a position that no longer exists in the Department.

Items [12] and [14] of the proposed amendments correct grammatical errors.

**Savings and transitional provisions**

Item [18] of the proposed amendments inserts consequential savings and transitional provisions.



## 1.2 Apiaries Regulation 1995

### [1] Clause 3 Definitions

Omit clause 3 (2).

### [2] Clause 5 Application for registration or renewal

Omit clause 5 (1)–(3).

### [3] Clause 5 (4)

Omit “The prescribed registration fee to accompany those applications”.

Insert instead “For the purposes of sections 7 (2) (c) and 11 (2) (c) of the Act, the prescribed registration fee to accompany an application for registration or renewal of registration”.

### [4] Clauses 7, 10 and 16–18

Omit the clauses.

### [5] Clause 15 Compensation claims and proportions

Omit clause 15 (1).

### [6] Schedule 1 Forms

Omit the Schedule.

#### **Explanatory note**

The proposed amendments (apart from the repeal of clauses 16 and 17) are consequential on the amendments to the *Apiaries Act 1985 (the Act)* proposed to be made elsewhere in this Schedule. Those amendments repeal the requirements for certain applications to be in or to the effect of prescribed forms, contain prescribed particulars and be lodged in prescribed ways.

The proposed repeal of clauses 16 and 17 is consequential on the earlier repeal and re-enactment of section 35 of the Act and the repeal, at the same time, of section 36 of the Act.

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

### [1] Section 4 Definitions

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

*Director* means the person employed as the Director of the Art Gallery under section 11.

### [2] Section 8 Powers of Trust

Omit “*Stamp Duties Act 1920*” from section 8 (6).

Insert instead “*Duties Act 1997*”.

**[3] Section 10 Disposal of certain property**

Omit section 10 (1) (c). Insert instead:

- (c) give the property to an educational institution (including an art gallery), or

**[4] Section 11**

Omit the section. Insert instead:

**11 Director and other staff**

A Director of the Art Gallery and such other persons as may be necessary for the administration of this Act may be employed under Chapter 2 of the *Public Sector Employment and Management Act 2002*.

**[5] Sections 20 and 22**

Omit the sections.

**[6] Schedule 1 Provisions relating to trustees and procedure of the Trust**

Omit “*Public Sector Management Act 1988* (Part 8 excepted)” from clause 3.

Insert instead “*Public Sector Employment and Management Act 2002* (other than Chapter 5)”.

**[7] Schedule 1, clause 14**

Insert after clause 13:

**14 Transaction of business outside meetings or by telephone**

- (1) The Trust may, if it thinks fit, transact any of its business by the circulation of papers among all the trustees for the time being, and a resolution in writing approved in writing by a majority of those trustees is taken to be a decision of the Trust.
- (2) The Trust may, if it thinks fit, transact any of its business at a meeting at which trustees (or some trustees) participate by telephone, closed-circuit television or other means, but only if any trustee who speaks on a matter before the meeting can be heard by the other trustees.
- (3) For the purposes of:
  - (a) the approval of a resolution under subclause (1), or
  - (b) a meeting held in accordance with subclause (2),the President and each trustee have the same voting rights as they have at an ordinary meeting of the Trust.

- (4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Trust.
- (5) Papers may be circulated among the trustees for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

**Explanatory note**

Item [1] of the proposed amendments to the *Art Gallery of New South Wales Act 1980* (**the Act**) substitutes the definition of **Director** in the Act as a consequence of the amendment made by item [4].

Items [2] and [6] of the proposed amendments update references to two Acts.

Item [3] of the proposed amendments removes a reference to a repealed Act and provides that the Trust may give surplus property to an educational institution (including an art gallery).

Item [4] of the proposed amendments updates a provision for the employment of staff to take account of the repeal of the *Public Sector Management Act 1988*.

Item [5] of the proposed amendments repeals section 20 of the Act, which provides for the financial year of the Art Gallery of New South Wales Trust (**the Trust**). On the repeal of section 20, the financial year of the Trust will be determined under the *Public Finance and Audit Act 1983* which allows for the financial year for the Trust to be determined by the Treasurer. Section 22 of the Act is repealed as a consequence of the repeal of section 20 to ensure that the date for the annual report of the Trust is kept in line with the financial year. Production of an annual report will now be governed by the *Annual Reports (Statutory Bodies) Act 1984*.

Item [7] of the proposed amendments permits the Trust to conduct its business outside of meetings or by telephone.

## 1.4 Australian Museum Trust Act 1975 No 95

### [1] Section 4 Definitions

Omit the definition of **Director**. Insert instead:

**Director** means the person employed as the Director of the Australian Museum under section 11.

### [2] Section 8 Powers of Trust

Omit “*Stamp Duties Act 1920*” from section 8 (6).

Insert instead “*Duties Act 1997*”.

**[3] Section 11**

Omit the section. Insert instead:

**11 Director and other staff**

A Director of the Australian Museum and such other persons as may be necessary for the administration of this Act may be employed under Chapter 2 of the *Public Sector Employment and Management Act 2002*.

**[4] Sections 16 and 18**

Omit the sections.

**[5] Schedule 1 Composition and procedure of the Trust**

Omit “*Public Sector Management Act 1988* (Part 8 excepted)” from clause 4.

Insert instead “*Public Sector Employment and Management Act 2002* (other than Chapter 5)”.

**[6] Schedule 1, clause 12**

Insert after clause 11:

**12 Transaction of business outside meetings or by telephone**

- (1) The Trust may, if it thinks fit, transact any of its business by the circulation of papers among all the trustees for the time being, and a resolution in writing approved in writing by a majority of those trustees is taken to be a decision of the Trust.
- (2) The Trust may, if it thinks fit, transact any of its business at a meeting at which trustees (or some trustees) participate by telephone, closed-circuit television or other means, but only if any trustee who speaks on a matter before the meeting can be heard by the other trustees.
- (3) For the purposes of:
  - (a) the approval of a resolution under subclause (1), or
  - (b) a meeting held in accordance with subclause (2),the President and each trustee have the same voting rights as they have at an ordinary meeting of the Trust.
- (4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Trust.

- (5) Papers may be circulated among the trustees for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

**Explanatory note**

Item [1] of the proposed amendments to the *Australian Museum Trust Act 1975 (the Act)* substitutes the definition of **Director** in the Act as a consequence of the amendment made by item [3].

Items [2] and [5] of the proposed amendments update references to two Acts.

Item [3] of the proposed amendments updates a provision for the employment of staff to take account of the repeal of the *Public Sector Management Act 1988*.

Item [4] of the proposed amendments repeals section 16 of the Act, which provides for the financial year of the Australian Museum Trust (**the Trust**). On the repeal of section 16, the financial year of the Trust will be determined under the *Public Finance and Audit Act 1983* which allows for the financial year for the Trust to be determined by the Treasurer.

Item [4] of the proposed amendments also repeals section 18 of the Act as a consequence of the repeal of section 16. This ensures that the date for the production of the annual report of the Trust is kept in line with the financial year. Production of an annual report will now be governed by the *Annual Reports (Statutory Bodies) Act 1984*.

Item [6] of the proposed amendments permits the Trust to conduct its business outside of meetings or by telephone.

## 1.5 Coal Industry Act 2001 No 107

### Section 24 Workers compensation funds

Insert after section 24 (1) (b):

- (b1) to pay, to the Minister administering the *District Court Act 1973*, such of the costs of operation of the District Court relating to a coal miner matter under section 105 of the *Workplace Injury Management and Workers Compensation Act 1998*, being costs incurred after 30 June 2005, as the Minister administering the *District Court Act 1973* and the Minister administering this Act agree are to be paid from those premiums and that money, and

**Explanatory note**

The object of the proposed amendment is to provide for the costs of operation of the District Court relating to certain matters that would have been within the jurisdiction of the Compensation Court (had it not been abolished) to be funded by the agencies and organisations that are users and stakeholders, which have separate funding arrangements, rather than from the WorkCover Authority Fund. The relevant matters are those under section 105 (4A) of the *Workplace Injury Management and Workers Compensation Act 1998*, which provides that coal miner matters are dealt with by the District Court. (A **coal miner matter** is any matter arising under the *Workers Compensation Act 1987* or the *Workplace Injury Management and Workers Compensation Act 1998* concerning a claim in respect of a worker employed in or about a coal mine to which the *Coal Mines Regulation Act 1982* applies).

The proposed amendment requires the payment of the costs of the operation of the District Court in relation to coal miner matters from premiums and money received by

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the workers compensation company within the meaning of the *Coal Industry Act 2001* (presently Coal Mines Insurance Pty Ltd) under any workers compensation insurance scheme established, administered or provided by the company. The proposed amendment to the *Workplace Injury Management and Workers Compensation Act 1998* made elsewhere in this Schedule provides that the costs of the District Court relating to the transferred residual jurisdiction of the Compensation Court will no longer be met from the WorkCover Authority Fund.

## **1.6 Commercial Agents and Private Inquiry Agents Act 2004 No 70**

### **[1] Section 4 Definitions**

Omit paragraph (b) of the definition of *disqualified corporation* in section 4 (1).

Insert instead:

- (b) a corporation that has, as one of its directors or as one of the persons concerned in its management, an individual who is a disqualified individual by virtue of paragraph (c) or (d) of the definition of *disqualified individual*.

### **[2] Section 4 (1), definition of “disqualified individual”**

Omit paragraph (a).

### **[3] Section 6 Application to master licences of Licensing and Registration (Uniform Procedures) Act 2002**

Omit section 6 (3). Insert instead:

- (3) For the purposes of applying Part 2 of the applied Act to a master licence:
  - (a) an application for the granting of a master licence may only be made by an individual aged 18 years or more or a corporation, and
  - (b) a master licence may be amended under that Act.

### **[4] Section 7 Grounds for refusing master licence**

Insert at the end of section 7 (2) (b):

, or

- (c) if the applicant does not satisfy such requirements as to qualifications, training or experience as the Commissioner may from time to time determine.

### **[5] Section 11 Offence to carry on activities without operator licence**

Omit “A person” from section 11 (1). Insert instead “An individual”.

**[6] Section 11 (2)**

Omit the subsection.

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

Omit “a person”, “persons” and “that person”, wherever occurring.

Insert instead “an individual”, “individuals” and “that individual”, respectively.

**[8] Section 13 Grounds for refusing operator licence**

Insert at the end of section 13 (2) (b):

, or

- (c) if the applicant does not satisfy such requirements as to qualifications, training or experience as the Commissioner may from time to time determine.

**[9] Section 16 Probationary licences**

Omit “A person’s” wherever occurring. Insert instead “An individual’s”.

**[10] Section 24 Persons not to be employed by licensees**

Omit “a disqualified individual” from section 24 (2).

Insert instead “an individual who is a disqualified individual by virtue of paragraph (c) or (d) of the definition of *disqualified individual*”.

**Explanatory note**

Item [1] of the proposed amendments amends the definition of *disqualified corporation* in section 4 (1) so that the only individuals who are prevented from being directors, or persons concerned in the management, of a corporate licensee are individuals who have been convicted or found guilty of major offences and individuals who, in the opinion of the Commissioner of Police, are not fit and proper persons to hold a licence.

Item [3] of the proposed amendments amends section 6 so as to provide that an application may only be made by an individual or a corporation and not, as is presently provided, by a partnership or other association.

Items [4] and [8] of the proposed amendments amend sections 7 and 13 so as to enable an application for a master licence or operator licence to be refused if the applicant does not satisfy such requirements as to qualifications, training or experience as may be determined by the Commissioner of Police. These requirements replace the existing requirements under the definition of *disqualified individual*, which provides that the applicant must have such qualifications, training or experience as are required by the regulations. Item [2] of the proposed amendments makes the complementary amendment to that definition.

Items [5], [7] and [9] of the proposed amendments amend sections 11 and 16 so as to reflect the fact that an operator licence can only be held by an individual.

Item [6] of the proposed amendments amends section 11 so as to omit a provision that presently exempts an individual who holds a master licence from also having to hold

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an operator licence in order to carry out commercial agent or private inquiry agent activities.

Item [10] of the proposed amendments amends section 24 so that the only individuals who are prevented from being employed by the holder of a master licence are individuals who have been convicted or found guilty of major offences and individuals who, in the opinion of the Commissioner of Police, are not fit and proper persons to hold a licence.

## **1.7 Community Land Development Act 1989 No 201**

### **[1] Section 35 Creation, release and variation of easements or restrictions**

Insert “or a positive covenant” after “land” in section 35 (1) wherever occurring.

### **[2] Schedule 10 Dealings with association property**

Omit “or restrictions on the use of land” from clause 1 (e).

Insert instead “, restrictions on the use of land or positive covenants”.

### **[3] Schedule 10, clause 1 (f)**

Omit “or restriction on the use of land”.

Insert instead “, restriction on the use of land or positive covenant”.

#### **Explanatory note**

Item [1] of the proposed amendments makes provision for the creation by a community association under the *Community Land Development Act 1989* of a positive covenant which benefits or burdens its community property or the whole of the community parcel. The amendment will make section 35 of the *Community Land Development Act 1989* consistent with corresponding provisions of the *Strata Schemes (Freehold Development) Act 1973* and the *Strata Schemes (Leasehold Development) Act 1986*. Items [2] and [3] are consequential amendments.

## **1.8 District Court Act 1973 No 9**

### **[1] Section 13 Appointment and qualifications of Judges**

Insert after section 13 (7):

- (8) A person who vacates office as a Judge may, despite vacating his or her office, complete or otherwise continue to deal with any matters relating to proceedings that have been heard, or partly heard, by the person before vacating his or her office (including proceedings that were instituted before the commencement of this subsection).
- (9) While a person completes or otherwise continues under subsection (8) to deal with any matters relating to proceedings that have been heard or partly heard by the person before vacating



office, the person has all the entitlements and functions of a Judge and, for the purpose of those proceedings, is taken to continue to be a Judge.

**[2] Section 18 Acting Judges**

Insert after section 18 (3A):

- (3AA) While a person completes or otherwise continues under subsection (3A) to deal with any matters relating to proceedings that have been heard or partly heard by the person before the expiration of the person's appointment, the person has all the entitlements and functions of a Judge (subject to the conditions and limitations specified in the person's commission) and, for the purposes of those proceedings, is taken to continue to be a Judge.

**Explanatory note**

Item [1] of the proposed amendments inserts provisions to allow a former Judge of the District Court to finalise matters that have been heard, or partly heard, by that person as a Judge of the Court.

Item [2] of the proposed amendments inserts a provision to ensure that a former Acting Judge of the District Court retains the powers and authorities that the person had as an Acting Judge for the purpose of finalising matters that have been heard, or partly heard, by that person as an Acting Judge of the Court.

**1.9 Environmental Planning and Assessment Act 1979 No 203**

**[1] Schedule 6 Savings, transitional and other provisions**

Omit "regional environmental plan or" from clause 29 (1).

**[2] Schedule 6, clause 29 (2)**

Insert "or regional environmental plan" after "policy".

**Explanatory note**

Under the existing law, development within the Sydney Cove Development Area is to be regulated by the approved scheme under the former *Sydney Cove Redevelopment Authority Act 1968* until such time as that scheme is displaced by a regional environmental plan or local environmental plan. The mere making of either kind of plan in relation to any land is sufficient to displace the approved scheme in relation to the same land. The effect of the proposed amendments is that the development of land in the Sydney Cove Development Area will be able to be regulated by both the approved scheme and any regional environmental plan that applies to the land, and that the approved scheme will only be displaced in relation to that land by a local environmental plan.

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## 1.10 Film and Television Office Act 1988 No 18

### [1] Section 3 Definitions

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

*Director* means the Director of the Office employed under section 5 (1).

### [2] Section 5 Staff of the Office

Omit section 5 (1). Insert instead:

- (1) A Director of the Office and such other persons as may be necessary to enable the Office to exercise its functions may be employed under Chapter 2 of the *Public Sector Employment and Management Act 2002*.

### [3] Section 8 Financial year

Omit the section.

### [4] Schedule 2 Provisions relating to constitution and procedure of Board

Omit “Part 8 of the *Public Sector Management Act 1988*” from clause 5 (1) (d).

Insert instead “Chapter 5 of the *Public Sector Employment and Management Act 2002*”.

### [5] Schedule 2, clause 9 (1)

Omit “Part 2 of the *Public Sector Management Act 1988*”.

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

#### Explanatory note

Item [1] of the proposed amendments to the *Film and Television Office Act 1988* (**the Act**) replaces the definition of *Director* in the Act as a consequence of the amendment made by item [2].

Item [2] of the proposed amendments updates a provision for the employment of staff to take account of the repeal of the *Public Sector Management Act 1988*.

Item [3] of the proposed amendments repeals a provision of the Act that provides for the financial year of the New South Wales Film and Television Office. This provision is unnecessary as it is addressed by the *Public Finance and Audit Act 1983*.

Items [4] and [5] of the proposed amendments update references to a repealed Act.

## 1.11 Fines Act 1996 No 99

### Schedule 1 Statutory provisions under which penalty notices issued

Insert in alphabetical order:

*Apiaries Act 1985*, section 42A

#### Explanatory note

The proposed amendment provides for the enforcement of penalty notices issued under section 42A of the *Apiaries Act 1985* and is consequential on the insertion of that section by an amendment made elsewhere in this Schedule.

## 1.12 Government and Related Employees Appeal Tribunal Act 1980 No 39

### [1] Section 4 Definitions

Omit paragraph (c1) of the definition of *employee* in section 4 (1).

### [2] Section 4 (1), definition of “employee”

Omit “, (c1)” from paragraph (e).

### [3] Section 48B

Insert after section 48A:

#### 48B Reconstitution of Tribunal during hearing

- (1) The Senior Chairperson may select a person to replace the member or one of the members constituting the Tribunal after the hearing of an appeal by the Tribunal has commenced if:
  - (a) the member becomes unavailable for any reason, or ceases to be a member, before the appeal is determined, and
  - (b) the parties consent.
- (2) The Tribunal as so reconstituted is to have regard to the evidence that was given and decisions that were made in relation to the appeal before the Tribunal was reconstituted.
- (3) If one or more of the parties do not consent to the reconstitution of the Tribunal under this section, the proceedings are to be reconsidered by the Tribunal otherwise constituted in accordance with this Act.
- (4) If proceedings are reconsidered by the Tribunal, the Tribunal may, for the purposes of the proceedings, have regard to any record of the proceedings before the Tribunal as previously constituted including a record of any evidence taken in the proceedings.

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- (5) A person selected under subsection (1):
- (a) to replace the Senior Chairperson must be a Chairperson, and
  - (b) to replace a Chairperson must be the Senior Chairperson or a Chairperson, and
  - (c) to replace an employer's representative or an employee's representative must be a person whose name is included in the panel of persons nominated by the appellant's employer or the appropriate association of employees (as the case may be) in accordance with this Act.
- (6) For the purpose of applying section 48 (4) to a decision of the Tribunal reconstituted under this section in respect of an appeal, the appeal is taken to be heard before the Tribunal as reconstituted.
- (7) Nothing in this section prevents more than one member of the Tribunal being replaced in accordance with this section if the Tribunal is constituted by more than one member.

**Explanatory note**

Items [1] and [2] of the proposed amendments are consequential on the repeal of the *Police Department (Transit Police) Act 1989* by Schedule 3.

Item [3] of the proposed amendments allows the Senior Chairperson of the Government and Related Employees Appeal Tribunal (subject to the consent of the parties) to replace a member of the Tribunal who becomes unavailable or ceases to be a member after the Tribunal has begun to hear an appeal. In continuing its hearing of the appeal, the reconstituted Tribunal is to have regard to the evidence and decisions in relation to the appeal that were given or made before the Tribunal was reconstituted. (If the parties do not consent to the reconstitution, the Tribunal is to be otherwise constituted in accordance with the Act but may have regard to any record of the proceedings before the Tribunal as previously constituted.)

Proposed section 48B (6) clarifies that a decision of a reconstituted Tribunal in respect of an appeal is to be signed by the Senior Chairperson or Chairperson of the Tribunal as reconstituted.

### **1.13 Health Care Complaints Act 1993 No 105**

**[1] Section 4 Definitions**

Omit “•” from the definition of *health registration Act* wherever occurring.

**[2] Section 90B Functions of Director of Proceedings**

Insert after section 90B (1) (a):

- (a1) if the Director determines that the complaint should be prosecuted before a disciplinary body by the Commission, to prosecute the complaint before the disciplinary body,

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

Insert after clause 9 (4):

- (5) Despite any other provision of this clause, the power conferred by section 90B (1) (a1) on the Director of Proceedings to prosecute a complaint extends to enable the Director to continue the prosecution of a complaint that had commenced before the commencement of that paragraph.

**Explanatory note**

Item [1] of the proposed amendments corrects a list.

The Director of Proceedings of the Health Care Complaints Commission has the function of determining whether a complaint under the *Health Care Complaints Act 1993* should be prosecuted before a disciplinary body by the Health Care Complaints Commission. Item [2] of the proposed amendments provides that the function of the Commission of prosecuting complaints before disciplinary bodies is to be exercised by the Director of Proceedings.

Item [3] of the proposed amendments contains a transitional provision that enables the Director to continue with prosecutions already commenced by the Commission before the commencement of the proposed amendments.

**1.14 Legislation Review Act 1987 No 165**

**Section 9 Functions with respect to regulations**

Insert after section 9 (1):

- (1A) The Committee is not precluded from exercising its functions under subsection (1) in relation to a regulation after it has ceased to be subject to disallowance if, while it is subject to disallowance, the Committee resolves to review and report to Parliament on the regulation.

**Explanatory note**

The functions of the Legislation Review Committee include the consideration of all regulations while they are subject to disallowance and the making of reports to Parliament (including as to whether regulations should be disallowed). The proposed amendment allows the Committee to exercise those functions in relation to a regulation that has ceased to be subject to disallowance if the Committee has, during the disallowance period, resolved to review and report on the regulation.

**1.15 Library Act 1939 No 40**

**[1] Section 2 Definitions**

Omit the definition of *Book*.

**[2] Section 2**

Insert in alphabetical order:

*Library material* includes book, periodical, newspaper and any other printed matter and also includes map, music, manuscript, picture, photographic plate and film and any other matter or thing on or by which words, sounds or images are recorded or reproduced.

**[3] Section 2, definition of “State Librarian”**

Omit the definition. Insert instead:

*State Librarian* means the person employed as the State Librarian under section 7.

**[4] Section 3 Constitution of Council**

Omit “under Part 3 or under Part 3A” from section 3 (4).

Insert instead “under Part 3 or 4”.

**[5] Section 4B Powers of Council**

Omit “*Stamp Duties Act 1920*” from section 4B (6).

Insert instead “*Duties Act 1997*”.

**[6] Section 5 Duties of Council**

Omit section 5 (1) (f).

**[7] Sections 6 and 6A**

Omit the sections.

**[8] Section 7**

Omit the section. Insert instead:

**7 State Librarian and other staff**

A State Librarian and such other persons as may be necessary for the administration of this Act may be employed under Chapter 2 of the *Public Sector Employment and Management Act 2002*.

**[9] Section 10**

Omit the section. Insert instead:

**10 Requirements as to services to be provided by local libraries**

(1) A local authority must comply with and observe the following requirements in relation to the provision, control and management by it of any local library:

(a) **Residents and ratepayers entitled to free membership**

Any person who is a resident of the area of the local authority or a ratepayer of the local authority is entitled to membership of the library free of charge.

(b) **Free access to certain materials on library premises**

Any person (whether or not a member of the library) is entitled free of charge to access any library material of the library and any information forming part of the information service of the library (other than information excepted from free access by guidelines issued by the Council) for use on the library premises.

(c) **Free loans of certain library material to members**

Any person who is a member of the library is entitled to borrow free of charge from the library for use away from the library premises any library material of the library which has been classified by the librarian of the library as being of literary, informative or educational value or as being fiction.

(d) **Free delivery to sick or disabled members**

No charge is to be made for the delivery to a member of the library of any library material or information that the member is entitled to borrow free of charge if the member for reasons of ill health or disability cannot reasonably be expected to attend the library in person.

(e) **Free basic reference services to members**

Any person who is a member of the library is entitled to be provided free of charge with basic reference services (being any service classified by guidelines issued by the Council as a basic reference service), including assistance in locating information and sources of information.

(f) **Restriction on use of State subsidy**

Any subsidy paid to the local authority under this Act must be expended in providing the services that are required by this section to be provided free of charge.

- (2) An entitlement under this section to borrow library material from a library for use away from the library premises does not apply to any library material that is classified by the librarian of the library as reference material.
- (3) If two or more local authorities have entered into arrangements for conferring reciprocal library entitlements on the residents and ratepayers of their areas, a resident or ratepayer of any of the areas concerned is for the purposes of this section to be considered to be a resident or ratepayer of each of the other areas concerned also.
- (4) In this section:  
*charge* means any charge made directly or indirectly on a person but does not include a prescribed fee for the late return of library material or a charge made for the loss of or damage to library material.
- (5) The Council may issue guidelines to local authorities for the purposes of this section.

**[10] Section 10A Restrictions on borrowing entitlements and other matters**

Omit “books or the maximum number of books of a particular class of books which” from section 10A (2) (a).

Insert instead “items of library material or the maximum number of items of library material of a particular class of library material that”.

**[11] Section 10A (2) (b)**

Omit “book or class of books”.

Insert instead “item of library material or class of library material”.

**[12] Section 13 Subsidy**

Omit the following from section 13 (4):

An advance against subsidy may be made by the Minister to a local authority in any year in respect of which the Minister considers the local authority would, on the basis of the local authority’s estimated expenditure on libraries, library services and information services in that year from rate income, be eligible for subsidy under this section.

Any such advance shall be payable upon such conditions and at such times as the Minister may determine.



**[13] Section 13 (5) and (5A)**

Insert after section 13 (4):

- (5) An advance against subsidy may be made by the Minister to a local authority in any year in respect of which the Minister considers the local authority would, on the basis of the local authority's estimated expenditure on libraries, library services and information services in that year from rate income, be eligible for subsidy under this section.
- (5A) An advance against subsidy is payable subject to such conditions and at such times as the Minister may determine.

**[14] Parts 3A and 4, headings**

Omit the headings.

**[15] Part 4, heading**

Insert before section 15:

**Part 4 Miscellaneous**

**[16] Section 15 Regulations**

Omit section 15 (2) (b)–(d).

**[17] Section 15 (2) (f)**

Omit "book or other article". Insert instead "item of library material".

**[18] Section 15 (2) (f)**

Omit "book or article". Insert instead "item".

**[19] Section 15 (2) (l)**

Omit "books or manuscripts of a library". Insert instead "library material".

**[20] Section 16 Amendment of Act No 41, 1919**

Omit the section.

**[21] Schedule 1 Composition and procedure of the Council**

Omit "*Public Sector Management Act 1988* (Part 8 excepted)" from clause 4.

Insert instead "*Public Sector Employment and Management Act 2002* (other than Chapter 5)".

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**[22] Schedule 1, clause 12**

Insert after clause 11:

**12 Transaction of business outside meetings or by telephone**

- (1) The Council may, if it thinks fit, transact any of its business by the circulation of papers among all the members for the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the Council.
- (2) The Council may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.
- (3) For the purposes of:
  - (a) the approval of a resolution under subclause (1), or
  - (b) a meeting held in accordance with subclause (2),the President and each member have the same voting rights as they have at an ordinary meeting of the Council.
- (4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Council.
- (5) Papers may be circulated among the members for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

**Explanatory note**

Items [1], [2], [10], [11] and [17]–[19] of the proposed amendments to the *Library Act 1939 (the Act)* replace the term “book” with “library material” throughout the Act.

Item [3] of the proposed amendments replaces the definition of **State Librarian** as a consequence of the amendment made by item [8].

Item [4] of the proposed amendments updates a cross reference as a consequence of the amendments made by items [14] and [15].

Items [5] and [21] of the proposed amendments update references to two Acts.

Items [6] and [16] of the proposed amendments remove requirements in the Act relating to certificates of competency for librarians and library assistants as these matters are no longer dealt with by the regulations.

Item [7] of the proposed amendments repeals section 6A of the Act, which provides for the financial year of the Library Council of New South Wales (**the Council**). On the repeal of section 6A, the financial year of the Council will be determined under the *Public Finance and Audit Act 1983* which allows for the financial year for the Council to be determined by the Treasurer. Section 6 of the Act is repealed as a consequence of

the repeal of section 6A to ensure that the date for the annual report of the Council is kept in line with the financial year. Production of an annual report will now be governed by the *Annual Reports (Statutory Bodies) Act 1984*.

Item [8] of the proposed amendments updates a provision for the employment of staff to take account of the repeal of the *Public Sector Management Act 1988*.

Item [9] of the proposed amendments substitutes section 10 of the Act to replace references to "books" with references to "library materials", to number unnumbered lists and to remove provisions providing that a library is not to charge for the ordering of a book for purchase by a member and that a library is not to provide a commercial service that is unfairly competitive with the private sector.

Items [12] and [13] of the proposed amendments number subsections that were unnumbered.

Items [14] and [15] of the proposed amendments combine Parts 3A and 4 of the Act into Part 4.

Item [20] of the proposed amendments removes a redundant transitional provision.

Item [22] of the proposed amendments permits the Council to conduct its business outside of meetings or by telephone.

## 1.16 Local Government Act 1993 No 30

### [1] Section 55 What are the requirements for tendering?

Omit "of land by the council, other than the leasing" from the fifth dot point in section 55 (3).

Insert instead "or licensing of land by the council, other than the leasing or licensing".

### [2] Chapter 14 Honesty and disclosure of interests

Insert "and Disciplinary" after "Pecuniary Interest" in the flowchart headed "Management of pecuniary interest complaints" in Part 3 wherever occurring.

### [3] Chapter 14, Part 3, flowchart headed "Management of pecuniary interest complaints"

Insert "AND DISCIPLINARY" after "PECUNIARY INTEREST".

### [4] Schedule 4, heading

Insert "and Disciplinary" after "Interest".

### [5] Dictionary

Omit "and Co-operatives" from the definition of *Department*.

#### **Explanatory note**

Item [1] of the proposed amendments extends an existing exception from the tendering requirements provided for in section 55 of the *Local Government Act 1993 (the Act)* (relating to contracts for the leasing of land by local councils other than certain leasing of community land) to contracts for the licensing of land by councils other than certain

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licensing of community land. The reference to both leasing and licensing in the exception makes it consistent with section 46A of the Act, to which the exception currently refers.

Items [2]–[5] of the proposed amendments update references to a body and a department.

## **1.17 Lotteries and Art Unions Act 1901 No 34**

### **[1] Section 4F Conduct of progressive lotteries authorised**

Omit paragraph (b) (iii) from the definition of *progressive lottery* in section 4F (1).

Insert instead:

- (iii) the prize pool is wholly distributed in accordance with the rules of the competition, and

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

Insert after clause 6:

## **Part 4 Provision consequent on enactment of Statute Law (Miscellaneous Provisions) Act 2005**

### **7 Validation**

Anything done in relation to a tipping competition before the commencement of the amendment to section 4F by Schedule 1 to the *Statute Law (Miscellaneous Provisions) Act 2005* that would have been validly done had that amendment been in force at the time the thing was done is validated.

#### **Explanatory note**

Section 3 of the *Lotteries and Art Unions Act 1901* prohibits the selling or disposing of goods by lottery or chance. Section 4F makes lawful the conduct of a range of “progressive lotteries” (as defined in the Act), including tipping competitions. However, it applies to such competitions only if the prize pool is distributed to the participant who accumulates the most points over a stipulated period.

Item [1] of the proposed amendments provides that a tipping competition in which the prize pool is wholly distributed in accordance with the rules of the competition (for example, to the first, second or last place-getter or to the person who obtains the average score of all participants over the competition) is also exempt from the prohibition in section 3 of the Act.

Item [2] of the proposed amendments validates the conduct of such a progressive lottery before the commencement of the amendment made by item [1].

## 1.18 Lotteries and Art Unions Regulation 2002

### Clause 108 Formulation and display of rules

Omit “highest number of points” from clause 108 (1) (j).

Insert instead “same number of points that, under the rules, entitle the person to a prize”.

#### Explanatory note

The proposed amendment is consequential on the proposed amendment to section 4F of the *Lotteries and Art Unions Act 1901* made elsewhere in this Schedule. That other amendment provides that a tipping competition in which the prize pool is wholly distributed in accordance with the rules of the competition, and not merely to the first place getter, is exempt from the prohibition in section 3 of that Act. The proposed amendment to the Regulation requires the making of rules that give details of what is to happen if two or more persons accumulate the same number of points and not merely the highest number of points.

## 1.19 Marine Pilotage Licensing Act 1971 No 56

### Section 4 Definitions

Omit the definition of *Director-General* from section 4 (1). Insert instead:

*Director-General* means the Department Head of the Department, or the Head of the statutory authority, responsible to the Minister for the administration of this Act.

#### Explanatory note

The proposed amendment updates the definition of *Director-General* by replacing a reference to the outdated concept of an Administrative Office with a reference to the Head of the statutory authority.

## 1.20 Mining Act 1992 No 29

### [1] Section 80 Prevention of damage to prescribed dams

Omit “granted” from section 80 (1).

### [2] Section 100

Omit the section. Insert instead:

#### 100 Conditions of consolidated mining lease

A consolidated mining lease is subject to:

- (a) a condition that the holder of the lease will not suspend mining operations in the mining area otherwise than in accordance with the written consent of the Minister, and
- (b) such conditions as section 93 requires to be included in the lease, and

- 
- (c) such other conditions as the Minister, when granting the lease, may impose.

**[3] Section 159 Records**

Omit “at the head office of the Department” from section 159 (3).

Insert instead “at such offices of the Department as may be prescribed by the regulations”.

**[4] Section 161 Registration of certain interests**

Omit “at the head office of the Department” from section 161 (9).

Insert instead “at such offices of the Department as may be prescribed by the regulations”.

**[5] Section 190 Power of mining registrar in relation to applications**

Insert “(or, in the case of an applicant that is a corporation, a director of the corporation)” after “applicant” in section 190 (2).

**[6] Schedule 1 Public consultation with respect to the granting of assessment leases and mining leases**

Insert “, and any requirement of the regulations under that Act that an application for the modification of a development consent be accompanied by such a consent,” after “concerned” in clause 14.

**Explanatory note**

Item [1] of the proposed amendments amends section 80 so as to remove any implication that a recommendation by the Dams Safety Committee that a mining lease should be amended can only be made in relation to a lease that is about to be granted.

Item [2] of the proposed amendments substitutes section 100 so as to make it clear that a consolidated mining lease must contain a condition forbidding suspension of mining operations without the consent of the Minister for Mineral Resources, and such conditions as section 93 requires to be included in the lease, in addition to the conditions that the Minister may choose to impose.

Items [3] and [4] of the proposed amendments amend sections 159 and 161 so as to provide that certain records must be kept available for public inspection at such offices of the Department of Primary Industries as are prescribed by the regulations instead of (as is currently the case) at the Department's head office. The Department's head office is at Orange. The principal offices of the Department with respect to mining are, however, located in Maitland.

Item [5] of the proposed amendments amends section 190 so as to allow an application for a mineral claim that has been made by a corporation to be refused not only if the corporation has been convicted of an offence (as is currently the case) but also if any of its directors have been so convicted.

Item [6] of the proposed amendments amends clause 14 of Schedule 1 so as to provide that not only are the requirements of the *Environmental Planning and Assessment Act 1979* for a landowner's consent to a development application for mining excluded in

relation to a development application for mining (as is currently the case) but so also are the requirements of the regulations under that Act for a landowner's consent to the modification of a development consent for mining.

## **1.21 Museum of Applied Arts and Sciences Act 1945 No 31**

### **[1] Section 7**

Omit the section. Insert instead:

#### **7 Application of Public Sector Employment and Management Act 2002**

The *Public Sector Employment and Management Act 2002* (other than Chapter 5) does not apply to or in respect of the appointment of a trustee.

### **[2] Section 9A**

Insert after section 9:

#### **9A Transaction of business outside meetings or by telephone**

- (1) The trustees may, if they think fit, transact any of their business by the circulation of papers among all the trustees for the time being, and a resolution in writing approved in writing by a majority of those trustees is taken to be a decision of the trustees.
- (2) The trustees may, if they think fit, transact any of their business at a meeting at which trustees (or some trustees) participate by telephone, closed-circuit television or other means, but only if any trustee who speaks on a matter before the meeting can be heard by the other trustees.
- (3) For the purposes of:
  - (a) the approval of a resolution under subsection (1), or
  - (b) a meeting held in accordance with subsection (2),the President and each trustee have the same voting rights as they have at an ordinary meeting of the trustees.
- (4) A resolution approved under subsection (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the trustees.
- (5) Papers may be circulated among the trustees for the purposes of subsection (1) by facsimile or other transmission of the information in the papers concerned.

**[3] Section 10**

Omit the section. Insert instead:

**10 Staff**

Such persons as may be necessary for the administration of this Act may be employed under Chapter 2 of the *Public Sector Employment and Management Act 2002*.

**[4] Section 12 Power to accept gifts, bequests or devises**

Omit section 12 (3). Insert instead:

- (3) The *Duties Act 1997* does not apply to or in respect of any gift, bequest or devise made or to be made to the Museum or the trustees.

**[5] Sections 16 and 17**

Omit the sections.

**Explanatory note**

Items [1] and [4] of the proposed amendments to the *Museum of Applied Arts and Sciences Act 1945* (**the Act**) update references to Acts.

Item [2] of the proposed amendments permits the trustees of the Museum of Applied Arts and Sciences (**the trustees**) to conduct their business outside of meetings or by telephone.

Item [3] of the proposed amendments updates a provision for the employment of staff to take account of the repeal of the *Public Sector Management Act 1988*.

Item [5] repeals section 17 of the Act, which provides for the financial year of the trustees. On the repeal of section 17, the financial year of the trustees will be determined under the *Public Finance and Audit Act 1983* which allows for the financial year for the trustees to be determined by the Treasurer. Section 16 of the Act is repealed as a consequence of the repeal of section 17 to ensure that the date for the annual report of the trustees is kept in line with the financial year. Production of an annual report will now be governed by the *Annual Reports (Statutory Bodies) Act 1984*.

## **1.22 National Parks and Wildlife Act 1974 No 80**

**[1] Section 58S Application of certain provisions to karst conservation reserves**

Omit “sections 46 and 47” from section 58S (1) (e).

Insert instead “section 46”.

**[2] Section 58U Reservation of lands as Abercrombie, Jenolan and Wombeyan Karst Conservation Reserves**

Omit “, 47” from section 58U (4).



**[3] Section 71S Application of certain provisions to lands reserved under this Division**

Omit “49 (3), 52–55, 58K (3)”. Insert instead “52–55”.

**[4] Section 138 Payments into Fund**

Omit “or the regulations” from section 138 (1) (b) (vii).

Insert instead “or the *Threatened Species Conservation Act 1995* or the regulations made under those Acts”.

**[5] Section 156B Powers of authorised officers**

Insert after section 156B (3):

- (3A) Section 319A of the POEO Act applies in respect of notices given by an authorised officer pursuant to subsection (2) in the same way as it applies to notices given under that Act or the regulations under that Act, except that in so applying that section a reference to a regulatory authority is to be read as a reference to the Director-General.

**[6] Section 160 Penalty notice for certain offences**

Insert after section 160 (1):

- (1A) In this section, a reference to this Act or the regulations includes a reference to the *Threatened Species Conservation Act 1995* or the regulations made under that Act.

**[7] Section 161 Restriction on release of certain information**

Omit “subsection” from section 161 (3).

Insert instead “section in relation to documents relating to the location of Aboriginal objects or the cultural values of an Aboriginal place or Aboriginal object”.

**Explanatory note**

Items [1]–[3] of the proposed amendments omit references to repealed provisions.

Item [4] of the proposed amendments requires payment into the National Parks and Wildlife Fund of penalties recovered for offences under the *Threatened Species Conservation Act 1995* and regulations made under that Act.

Section 156B of the *National Parks and Wildlife Act 1974* confers investigative powers of authorised officers under Chapter 7 of the *Protection of the Environment Operations Act 1997* (**the POEO Act**) on authorised officers under the *National Parks and Wildlife Act 1974* for the purposes of functions under the *National Parks and Wildlife Act 1974* and certain other Acts. Item [5] of the proposed amendments applies section 319A of the POEO Act (which provides that the obligation to comply with a notice under that Act is a continuing obligation even though the time for taking any required action may have expired or no time is specified for compliance with the notice) to notices given under Chapter 7 by authorised officers under the *National Parks and Wildlife Act 1974*.

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Item [6] of the proposed amendments enables penalty notices to be issued for offences against the *Threatened Species Conservation Act 1995* or the regulations made under that Act.

Item [7] of the proposed amendments clarifies that the Director-General is required to consult with Aboriginal people before advising the Minister that certain documents in the possession of the Department of Environment and Conservation should be withheld (namely, those relating to the location of Aboriginal objects or the cultural values of an Aboriginal place or Aboriginal object) but that such consultation is not required in relation to documents relating to the location of threatened species, populations or ecological communities.

### **1.23 Ombudsman Act 1974 No 68**

**[1] Section 34 Disclosure by Ombudsman or officer**

Omit “(including an inquiry under section 197 of the *Police Act 1990*)” from section 34 (1) (b) (ii).

**[2] Section 34 (1) (b4)**

Insert after section 34 (1) (b3):

(b4) for the purpose of any proceedings under section 167A of the *Police Act 1990*,

**[3] Section 35 Ombudsman, officer or expert as witness**

Insert at the end of section 35 (2) (d):

, or

(e) under section 167A of the *Police Act 1990*.

**[4] Schedule 1 Excluded conduct of public authorities**

Omit item 21.

**Explanatory note**

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

Items [2] and [3] of the proposed amendments enable the Ombudsman and officers of the Ombudsman to disclose, or give evidence or produce documents in respect of, any information obtained by them in the course of their office, in legal proceedings under section 167A of the *Police Act 1990* (Offence of making false complaint about conduct of police officer or giving false information).

Item [4] of the proposed amendments is consequential on the repeal of the *Police Department (Transit Police) Act 1989* by Schedule 3.

## 1.24 Petroleum (Onshore) Act 1991 No 84

### Section 126A

Insert after section 126:

#### 126A Delegation of functions by Director-General

The Director-General may delegate any of the Director-General's powers, authorities, duties and functions under this Act (other than this power of delegation) to:

- (a) any member of staff of the Department, or
- (b) any person, or any class of persons, authorised for the purposes of this section by the regulations.

#### Explanatory note

The proposed amendment to the *Petroleum (Onshore) Act 1991* (**the Act**) enables the Director-General of the Department of Primary Industries to delegate any of his or her powers, authorities, duties and functions under the Act (other than the power of delegation).

## 1.25 Petroleum (Onshore) Regulation 2002

### Clause 28 Delegation by Director-General

Omit the clause.

#### Explanatory note

The proposed amendment to the *Petroleum (Onshore) Regulation 2002* omits a redundant provision as a consequence of the amendments to the *Petroleum (Onshore) Act 1991* contained elsewhere in this Schedule.

## 1.26 Police Act 1990 No 47

### [1] Section 165 Ombudsman and officers of Ombudsman not competent or compellable witnesses in respect of certain matters

Omit "or Part 3 of the *Royal Commissions Act 1923*" from section 165 (2).

Insert instead " , Part 3 of the *Royal Commissions Act 1923* or section 167A of this Act".

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**[2] Section 184A**

Insert after section 184:

**184A Consultation with Police Integrity Commission before certain action is taken**

- (1) Before:
  - (a) making an order under section 173 (2) or (3) or 181D (1) with respect to a police officer under PIC investigation, or
  - (b) commencing or authorising the commencement of criminal proceedings against a police officer under PIC investigation,the Commissioner must consult with the Police Integrity Commission.
- (2) Failure to comply with subsection (1) with respect to any order under section 173 (2) or (3) or 181D (1) does not affect the validity of the order.
- (3) In this section, *police officer under PIC investigation* means a police officer in respect of whom the Police Integrity Commission has notified the Commissioner that an investigation of police misconduct is being carried out under the *Police Integrity Commission Act 1996*.

**Explanatory note**

Item [1] of the proposed amendments enables the Ombudsman and officers of the Ombudsman to give evidence or produce documents, obtained during the course of the administration or execution of Part 8A of the *Police Act 1990* (Complaints about conduct of police officers), in legal proceedings under section 167A of the *Police Act 1990* (Offence of making false complaint about conduct of police officer or giving false information).

Sections 173 and 181D enable the Commissioner of Police to take disciplinary action against a police officer. Item [2] of the proposed amendments inserts proposed section 184A which, in the case of a police officer who the Commissioner has been notified is the subject of an investigation of police misconduct under the *Police Integrity Commission Act 1996*, requires the Commissioner to consult with the Police Integrity Commission. Such consultation will be required not only before the Commissioner takes action against the police officer but also before the Commissioner commences or authorises the commencement of criminal proceedings against the police officer, and will thereby avoid any prejudice to the Commission's investigation of the complaint.

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

### **Section 38 Power to summon witnesses and take evidence**

Omit "the Commission" where secondly occurring in section 38 (2).

Insert instead "the hearing".

**Explanatory note**

The proposed amendment more accurately identifies the person at which section 38 (2) is directed (being a person appearing at the hearing before the Commission rather than a person appearing at the Commission).

**1.28 Police (Special Provisions) Act 1901 No 5**

**Section 101 Magistrates or Justices may appoint special constables**

Insert “the Australian Federal Police or” before “the police force” in section 101 (1A) (a).

**Explanatory note**

The proposed amendment enables a Magistrate or two Justices of the Peace to appoint a member of the Australian Federal Police as a special constable at the request of the New South Wales Commissioner of Police.

**1.29 Presbyterian Church (Corporations) Act 1995 No 67**

**[1] Long title**

Omit “to constitute the Presbyterian Church (NSW) Superannuation Corporation and to specify its functions;”.

**[2] Long title**

Omit “other”.

**[3] Section 3 Definitions**

Omit the definition of *Superannuation Act*.

**[4] Section 3, definition of “Superannuation Corporation”**

Insert “as in force immediately before the amendment of this Act by the *Statute Law (Miscellaneous Provisions) Act 2005*” after “by this Act”.

**[5] Section 3, definition of “Superannuation Fund”**

Insert “as in force immediately before the amendment of this Act by the *Statute Law (Miscellaneous Provisions) Act 2005*” after “under this Act”.

**[6] Part 2, Division 1 Superannuation Corporation**

Omit the Division.

**[7] Section 19 Indemnification of certain persons**

Omit “(other than the Superannuation Corporation)” from section 19 (1).

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

Omit the subsection.

- [9] Section 21 By-laws**  
Omit “(other than the Superannuation Corporation)” from section 21 (2) (a).
- [10] Section 21 (3)**  
Omit “and with the Superannuation Act”.
- [11] Section 25**  
Insert after section 24:
- 25 Savings, transitional and other provisions**  
Schedule 3 has effect.
- [12] Schedule 1 Provisions relating to membership and procedure of corporations**  
Omit “meetings, or” from clause 3 (g). Insert instead “meetings.”.
- [13] Schedule 1, clause 3 (h)**  
Omit the paragraph.
- [14] Schedule 1, clause 7**  
Omit “(other than the Superannuation Corporation)” from clause 7 (1).
- [15] Schedule 1, clause 7 (2)**  
Omit the subclause.
- [16] Schedule 1, clause 8**  
Omit “(other than the Superannuation Corporation)” from clause 8 (2).
- [17] Schedule 1, clause 8 (3)**  
Omit the subclause.
- [18] Schedule 1, clause 9**  
Omit “(other than the Superannuation Corporation)” from clause 9 (1).
- [19] Schedule 1, clause 9 (2)**  
Omit the subclause.
- [20] Schedule 1, clause 11**  
Omit the clause.

[21] **Schedule 3**

Insert after Schedule 2:

**Schedule 3 Savings, transitional and other provisions**

(Section 25)

**Part 1 General**

**1 Regulations**

- (1) The Governor may make regulations containing provisions of a savings or transitional nature consequent on the enactment of the following Acts:

*Statute Law (Miscellaneous Provisions) Act 2005*, but only to the extent that it amends this Act

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

**Part 2 Provisions consequent on enactment of Statute Law (Miscellaneous Provisions) Act 2005**

**2 Definitions**

In this Part:

**assets** means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property of any description (including money), and includes securities, choses in action and documents.

**conveyance** includes transfer, assignment and assurance.

*instrument* means an instrument (other than this Act) that creates, modifies or extinguishes rights or liabilities (or would do so if lodged, filed or registered in accordance with any law), and includes any judgment, order or process of a court.

*liabilities* means all liabilities, debts or obligations (whether present or future and whether vested or contingent).

### **3 Dissolution of Superannuation Corporation**

- (1) The Superannuation Corporation is dissolved.
- (2) No compensation is payable to a member of the Superannuation Corporation for loss of office by reason of the dissolution of the Corporation.

### **4 Abolition of Superannuation Fund**

The Superannuation Fund is abolished.

### **5 Transfer of assets, rights and liabilities**

On the day that the Superannuation Corporation is dissolved, the assets, rights and liabilities (if any) of the dissolved Superannuation Corporation are transferred to the Property Trust and the following provisions have effect:

- (a) the assets of the dissolved Superannuation Corporation vest in the Property Trust by virtue of this clause without the need for any conveyance,
- (b) the rights and liabilities of the dissolved Superannuation Corporation become the rights and liabilities of the Property Trust,
- (c) all proceedings commenced before that day by or against the dissolved Superannuation Corporation and pending immediately before that day are taken to be proceedings pending by or against the Property Trust,
- (d) any act, matter or thing related to those assets, rights or liabilities done or omitted to be done before that day, by, to or in respect of the dissolved Superannuation Corporation is (to the extent that the act, matter or thing has any force or effect) taken to have been done by, to or in respect of the Property Trust,
- (e) a reference in any instrument (other than this Act) of any kind to the dissolved Superannuation Corporation is taken to be a reference to the Property Trust.



**Explanatory note**

Item [21] of the proposed amendments dissolves the Presbyterian Church (NSW) Superannuation Corporation, abolishes the Presbyterian Church (NSW) Superannuation Fund and contains provisions of a savings and transitional nature. This amendment is being made as the members of the Presbyterian Church (NSW) Superannuation Corporation have been transferred to another superannuation fund and the property of the Presbyterian Church (NSW) Superannuation Fund has been disposed of. Items [1]–[20] of the proposed amendments make consequential amendments.

**1.30 Public Finance and Audit Act 1983 No 152**

**[1] Section 41C Auditing etc of financial statements**

Omit section 41C (1B) and (1C). Insert instead:

- (1B) An opinion in relation to the financial statements of a statutory body is not to be furnished under subsection (1A) unless the Auditor-General has received a statement made in accordance with a resolution of the statutory body and:
- (a) stating whether, in the opinion of the person or persons by whom the statement is signed:
    - (i) the financial statements exhibit a true and fair view of the financial position and transactions of the statutory body, or
    - (ii) if the statutory body is the Senate, Council or Board of Governors of a university, the financial statements exhibit a true and fair view of the financial position and transactions of the university, and
  - (b) including such matters as are prescribed by the regulations for the purposes of this subsection.
- (1C) The statement referred to in subsection (1B) is to be signed:
- (a) in the case of a statutory body that has a governing body—by at least 2 members of the governing body, or
  - (b) in the case of a statutory body that does not have a governing body—by the chief executive officer of the statutory body or the person who exercises the functions of a chief executive officer in relation to the statutory body, or
  - (c) by a person prescribed by the regulations in respect of the statutory body.

- (1D) For the purposes of subsection (1C), a member of the governing body of a statutory body includes, where the statutory body is the Senate, Council or Board of Governors of a university, a member of the Senate, Council or Board of Governors.

**[2] Section 43A General audit of former statutory bodies**

Omit “the persons who were responsible for the affairs of the body” from section 43A (3).

Insert instead “any person or persons who could have done so had the body not ceased to be a statutory body”.

**[3] Section 45E Nature of financial statements**

Insert after section 45E (1) (b):

, and

- (c) are to exhibit a true and fair view of the financial position and transactions of the Department.

**[4] Section 45F Auditing etc of financial statements**

Omit section 45F (1B). Insert instead:

- (1B) An opinion in relation to the financial statements of a Department is not to be furnished under subsection (1A) unless the Auditor-General has received a statement:

- (a) stating whether, in the opinion of the Department Head, the financial statements exhibit a true and fair view of the financial position and transactions of the Department, and
- (b) including such matters as are prescribed by the regulations for the purposes of this subsection.

**[5] Schedule 4 Savings, transitional and other provisions**

Insert at the end of clause 1 (1):

*Statute Law (Miscellaneous Provisions) Act 2005*, but only to the extent that it amends this Act

**Commencement**

The amendments to the *Public Finance and Audit Act 1983* commence, or are taken to have commenced, on 1 July 2005.

**Explanatory note**

Item [1] of the proposed amendments provides for regulations to be made under section 41C of the *Public Finance and Audit Act 1983* prescribing additional matters to be included in the statement required under that section for the financial statements of a statutory body and makes it clear who is to sign the statement. Item [2] of the proposed amendments makes a consequential amendment.

Under section 45F (1B) of the *Public Finance and Audit Act 1983*, a statement must be received by the Auditor-General as to whether the financial statements of a Department exhibit a true and fair view of the financial position and transactions of the Department. Item [3] of the proposed amendments makes an amendment to make it clear that the financial statements must exhibit a true and fair view of the financial position and transactions of the Department.

Item [4] of the proposed amendments provides for a regulation-making power in respect of the financial statements of a Department that corresponds to the power provided for by item [1] in respect of the financial statements of a statutory body.

Item [5] of the proposed amendments inserts a savings provision.

### 1.31 Road Transport (General) Act 2005 No 11

#### [1] Section 119 Authority may provide information to corresponding Authorities

Omit “*Privacy and Personal Information Protection act 1998*” from section 119 (2).

Insert instead “*Privacy and Personal Information Protection Act 1998*”.

#### [2] Schedule 3 Amendment of other Acts

Omit Schedule 3.37 [8].

##### Explanatory note

Item [1] of the proposed amendments corrects the citation of an Act.

Item [2] of the proposed amendments omits Schedule 3.37 [8] to the *Road Transport (General) Act 2005* as a result of the replacement of section 225 of the *Roads Act 1993* (as inserted by that item) by an amendment contained elsewhere in this Schedule.

### 1.32 Roads Act 1993 No 33

#### Section 225

Omit the section. Insert instead:

#### 225 Certain fines to be paid into RTA Fund

There is appropriated for payment out of the Consolidated Fund into the RTA Fund:

- (a) all amounts paid into the Consolidated Fund in respect of penalties recovered with respect to offences committed on or in connection with classified roads under:
  - (i) this Act or the regulations, or
  - (ii) Part 3.3 of the *Road Transport (General) Act 2005*, or other provisions of that Act or regulations under that Act prescribed for the purposes of this section, and

- (b) all amounts paid into the Consolidated Fund recovered by means of penalty notices for any such offences issued under this Act, the *Road Transport (General) Act 1999* or the *Road Transport (General) Act 2005*.

**Commencement**

The amendment to the *Roads Act 1993* commences on the commencement of Schedule 3.37 [6] to the *Road Transport (General) Act 2005*.

**Explanatory note**

The proposed amendment substitutes section 225 of the *Roads Act 1993*, which was proposed to be substituted by Schedule 3.37 [8] to the *Road Transport (General) Act 2005* as a result of the removal of certain offences relating to mass, dimension and load restraint restrictions to that Act from the *Roads Act 1993*, to correctly reflect the original intention of that section, which was to enable fines and other penalties payable for such offences to be paid to the RTA Fund rather than the Consolidated Fund.

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

**[1] Section 89 Removal or destruction of timber**

Omit “section 27 (3) (a) (vi)” from the note to section 89 (1).

Insert instead “section 27 (3) (a) (va)”.

**[2] Schedule 1 Constitution and procedure of State Council and boards**

Omit “**Board**” from the heading to clause 22.

Insert instead “**State Council or board**”.

**[3] Schedule 2 Election or appointment of directors**

Insert “full” before “name” in clause 10 (1) (a) and (2) (a) wherever occurring.

**Explanatory note**

Item [1] of the proposed amendments corrects an incorrect cross-reference in a note to the Act.

Item [2] of the proposed amendments amends the heading to a clause in a Schedule to the Act to reflect more accurately the subject-matter of the clause.

Item [3] of the proposed amendments requires the full name of an elector to be entered in the electors' roll required under clause 10 of Schedule 2 to the Act.

### **1.34 Sporting Injuries Insurance Act 1978 No 141**

**Section 11 Establishment of Sporting Injuries Fund**

Insert after section 11 (3) (a):

- (a1) to the Minister administering the *District Court Act 1973*, such of the costs of operation of the District Court relating to the determination of applications under section 29, being costs incurred after 30 June 2005, as the Minister

administering the *District Court Act 1973* and the Minister administering this Act agree are to be paid from the Fund,

**Explanatory note**

The object of the proposed amendment is to provide for the costs of operation of the District Court relating to certain matters that would have been within the jurisdiction of the Compensation Court (had it not been abolished) to be funded by the agencies and organisations that are users and stakeholders, which have separate funding arrangements, rather than from the WorkCover Authority Fund. The relevant matters are those under section 29 of the *Sporting Injuries Insurance Act 1978*, which gives the District Court jurisdiction to determine applications by applicants for a benefit under that Act aggrieved by certain decisions of the Sporting Injuries Committee.

The proposed amendment requires the payment of the costs of operation of the District Court in relation to the determination of these applications to be made from the Sporting Injuries Fund established under section 11 of that Act. The proposed amendment to the *Workplace Injury Management and Workers Compensation Act 1998* made elsewhere in this Schedule provides that the costs of the District Court relating to the transferred residual jurisdiction of the Compensation Court will no longer be met from the WorkCover Authority Fund.

### 1.35 State Owned Corporations Act 1989 No 134

#### [1] Section 20H Share capital, shares and shareholders

Insert after section 20H (5):

- (6) If the person holding office as Treasurer ceases to hold that office:
  - (a) each share in each statutory SOC held by the person is taken to be transferred to the person next appointed to that office, and
  - (b) each statutory SOC is required to register the transfer.
- (7) A single instrument of transfer may transfer the shares in any one or more statutory SOC held by the voting shareholder other than the Treasurer:
  - (a) if another Minister is for the time being nominated as that voting shareholder in respect of any one or more of the statutory SOC concerned, or if different Ministers are so nominated in respect of different statutory SOC—to that other Minister or those other Ministers, or
  - (b) to the person next appointed to the office of the Minister for the time being nominated as that voting shareholder in respect of the statutory SOC or SOC concerned.

**Note.** The Premier is empowered to execute a transfer of any issued shares in a statutory SOC—see section 20Q and clause 3 (5) of Schedule 6.

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**[2] Schedule 2, clause 4 (3) and Schedule 8, clause 4 (3)**

Omit “the Labor Council of New South Wales” wherever occurring.

Insert instead “Unions NSW”.

**Explanatory note**

Section 20H of the *State Owned Corporations Act 1989* (**the Act**) provides that (among other things) a statutory State owned corporation (a **statutory SOC**) must have two shareholders. These shareholders (known as **voting shareholders**) are the Treasurer and another Minister for the time being nominated by the Premier. The constitution of each statutory SOC provides that the Premier is empowered to execute transfers of issued shares and that the statutory SOC is required to register the transfers (see clause 3 (5) of Schedule 6 to the Act).

The practical consequence of this is that each time there is a change of Treasurer or other shareholding Minister, the Premier is required to execute a separate share transfer in respect of each statutory SOC concerned.

Item [1] of the proposed amendments inserts new subsections (6) and (7) in section 20H so as to provide that:

- (a) all the Treasurer’s shares in statutory SOCs automatically transfer to the succeeding Treasurer, and
- (b) a single instrument of transfer may transfer shares held by the other voting shareholder in any one or more statutory SOCs.

Item [2] of the proposed amendments updates references to a body.

**1.36 Stock (Chemical Residues) Act 1975 No 26**

**Section 16 Regulations**

Insert “and the tracing of stock” after “voluntary basis)” in section 16 (2) (a).

**Explanatory note**

The proposed amendment makes it clear that the power to make regulations under the *Stock (Chemical Residues) Act 1975* for and with respect to schemes of identification of stock extends to making regulations for and with respect to the tracing of stock.

**1.37 Stock Diseases Act 1923 No 34**

**[1] Sections 7 and 18**

Omit “a Senior Field Veterinary Officer or the Chairperson of the Board of Tick Control” from sections 7 (4) and 18 (3) wherever occurring.

Insert instead “the Chairperson of the Board of Tick Control or a person, or a person of a class, prescribed by the regulations for the purposes of this subsection”.

**[2] Section 9 Occupier etc to give notice**

Omit section 9 (2B) (as inserted by the *Stock Diseases Amendment (Artificial Breeding) Act 2004*).

Insert instead:

- (2B) A written notice referred to in subsection (2A) is to be given to an inspector of a class prescribed by the regulations for the purposes of this subsection or, if no such class is prescribed, an inspector employed by the Department.

**[3] Section 9 (3) (c)**

Omit the paragraph. Insert instead:

- (c) an inspector of a class prescribed by the regulations for the purposes of this paragraph or, if no such class is prescribed, an inspector employed by the Department.

**[4] Section 9 (4)**

Omit “Senior Field Veterinary Officer” (as inserted by the *Stock Diseases Amendment (Artificial Breeding) Act 2004*).

Insert instead “inspector”.

**[5] Section 17 Power to order destruction**

Omit section 17 (4) (b). Insert instead:

- (b) inspectors of a class prescribed by the regulations for the purposes of this paragraph or, if no such class is prescribed, inspectors employed by the Department.

**[6] Sections 20B and 20C**

Omit “a Senior Field Veterinary Officer” from sections 20B (3) (b) and 20C (3) (b) wherever occurring.

Insert instead “the Director-General”.

**[7] Section 23 Regulations**

Insert “and the tracing of stock” after “voluntary basis)” in section 23 (1) (c).

**Commencement**

Items [1]–[6] of the amendments to the *Stock Diseases Act 1923* commence on a day or days to be appointed by proclamation.

**Explanatory note**

**Senior Field Veterinary Officer**

It is likely that the position of Senior Field Veterinary Officer will be deleted from the staff positions of the Department of Primary Industries.

Accordingly, items [1]–[6] of the proposed amendments replace references to the Senior Field Veterinary Officer with references to other persons.

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Section 9 (4) currently refers to an “inspector” instead of a “Senior Field Veterinary Officer”. An uncommenced amendment to that subsection (Schedule 1 [22] to the *Stock Diseases Amendment (Artificial Breeding) Act 2004*) corrects that incorrect reference. However, when item [3] of the proposed amendments commences, that currently incorrect reference will be correct.

**Regulations**

Item [7] of the proposed amendments makes it clear that the power to make regulations under the *Stock Diseases Act 1923* for and with respect to schemes of identification of stock extends to making regulations for and with respect to the tracing of stock.

**1.38 Strata Schemes (Freehold Development) Act 1973 No 68**

**[1] Section 8 Registration of strata plans**

Omit “(unless the plan is lodged by the Crown or a statutory body representing the Crown)” from section 8 (5).

**[2] Section 8 (5) (b)**

Insert “unless the plan is lodged by the Crown or a statutory body representing the Crown—” before “the certificate”.

**[3] Section 8AA Effect of registration of a strata plan creating a stratum parcel**

Omit “the strata scheme is terminated or the easement is otherwise” from section 8AA (3) (b).

Insert instead “the easement is”.

**[4] Section 9 Subdivision of lots and common property**

Insert after section 9 (3) (d):

, and

(e) any by-law conferring a right or privileges referred to in section 51 (1) of the *Strata Schemes Management Act 1996* in respect of common property comprised in the plan has been:

(i) repealed, or

(ii) amended so that the by-law does not so confer the right or privileges.

**[5] Sections 19 (4) (a) and (5) (a) and 21**

Insert “and the *Strata Schemes Management Act 1996*” after “this Act” wherever occurring.



**[6] Section 26 Creation or variation of easements, restrictions and positive covenants**

Omit “as to user” wherever occurring in section 26 (1) (b)–(d).

Insert instead “on the use of land or a positive covenant”.

**[7] Section 42 Provisions applying to strata plans and certain other documents**

Omit “and 196” from section 42 (1). Insert instead “, 196 and 196AA”.

**Explanatory note**

Section 8 (5) of the *Strata Schemes (Freehold Development) Act 1973* provides that a plan intended to be registered as a strata plan that creates a development lot must be accompanied by a copy of the relevant strata development contract unless the plan is lodged by the Crown or a statutory body representing the Crown. Item [1] of the proposed amendments removes the exception in respect of the Crown or a statutory body representing the Crown. Item [2] is a consequential amendment.

Section 8AA (3) (b) of the *Strata Schemes (Freehold Development) Act 1973* provides that an easement created by that section subsists until the strata scheme is terminated or the easement is otherwise extinguished. Item [3] of the proposed amendments omits the provision for the easement to be extinguished automatically by the termination of the strata scheme.

Item [4] of the proposed amendments imposes an additional requirement in respect of the registration of a plan to subdivide lots or common property of a strata scheme under the *Strata Schemes (Freehold Development) Act 1973*. The requirement imposed is that any by-law conferring a right or privileges referred to in section 51 (1) of the *Strata Schemes Management Act 1996* in respect of common property comprised in the plan be repealed or amended so that it does not so confer the right or privileges. An example of such a right or privileges is a right of exclusive use and enjoyment.

Under the *Strata Schemes Management (Miscellaneous Amendments) Act 1996*, certain provisions were omitted from the Act that is now named the *Strata Schemes (Freehold Development) Act 1973*. Corresponding provisions were included in the *Strata Schemes Management Act 1996*. The Act now named the *Strata Schemes (Freehold Development) Act 1973* contains certain references to “this Act” that, prior to the amendments by the *Strata Schemes Management (Miscellaneous Amendments) Act 1996*, included reference to provisions which were subsequently omitted from that Act and, by way of corresponding provisions, inserted in the *Strata Schemes Management Act 1996*. Item [5] of the proposed amendments includes, after those references to “this Act”, a reference to the *Strata Schemes Management Act 1996*.

Section 26 (1) of the *Strata Schemes (Freehold Development) Act 1973* provides for a body corporate to execute or accept a dealing creating an easement or a covenant burdening or benefiting the common property or the whole parcel. Section 26 (1) (a) refers to an easement, restriction on the use of land and a positive covenant. Section 26 (1) (b)–(d) refer only to an easement and a restriction as to user. Item [6] of the proposed amendments is an amendment in the nature of statute law revision to make section 26 (1) (b)–(d) of the *Strata Schemes (Freehold Development) Act 1973* consistent with section 26 (1) (a) of that Act in referring to an easement, restriction on the use of land and a positive covenant.

Item [7] of the proposed amendments includes section 196AA of the *Conveyancing Act 1919* in the provisions of the *Conveyancing Act 1919* that, under section 42 (1) of the *Strata Schemes (Freehold Development) Act 1973*, apply to and in respect of certain plans regarding strata schemes under the *Strata Schemes (Freehold Development) Act 1973* in the same way as those provisions of the *Conveyancing Act 1919* apply to

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plans referred to in those provisions. Section 196AA of the *Conveyancing Act 1919* provides for the Registrar-General, before taking certain action under Part 23, Division 3 of the *Conveyancing Act 1919*, to serve notice on any person the Registrar-General considers should be notified of the action.

### **1.39 Strata Schemes (Leasehold Development) Act 1986 No 219**

**[1] Section 7 Registration of strata plans**

Omit “(unless the plan is lodged by the Crown or a statutory body representing the Crown)” from section 7 (2D).

**[2] Section 7 (2D) (b)**

Insert “unless the plan is lodged by the Crown or a statutory body representing the Crown—” before “the certificate”.

**[3] Section 8 Effect of registration of a strata plan**

Omit “the leasehold strata scheme is terminated (or, where the leasehold strata scheme becomes a strata scheme within the meaning of the *Strata Schemes (Freehold Development) Act 1973*, that strata scheme is terminated) or the easement is otherwise” from section 8 (1) (e) (ii).

Insert instead “the easement is”.

**[4] Section 11 Subdivision of lots and common property**

Insert after section 11 (2) (d):

, and

- (e) any by-law conferring a right or privileges referred to in section 51 (1) of the *Strata Schemes Management Act 1996* in respect of common property comprised in the plan has been:
  - (i) repealed, or
  - (ii) amended so that the by-law does not so confer the right or privileges.

**[5] Sections 22 (6) (a) and 24**

Insert “and the *Strata Schemes Management Act 1996*” after “this Act” wherever occurring.

**[6] Section 30 Creation or variation of easements, restrictions and positive covenants**

Insert “or a positive covenant” after “land” in section 30 (1) (b) and (c) wherever occurring.

**[7] Section 71 Provisions applying to strata plans and certain other documents**

Omit “and 196” from section 71 (1). Insert instead “, 196 and 196AA”.

**Explanatory note**

Section 7 (2D) of the *Strata Schemes (Leasehold Development) Act 1986* provides that a plan intended to be registered as a strata plan that creates a development lot must be accompanied by a copy of the relevant strata development contract unless the plan is lodged by the Crown or a statutory body representing the Crown. Item [1] of the proposed amendments removes the exception in respect of the Crown or a statutory body representing the Crown. Item [2] is a consequential amendment.

Section 8 (1) (e) of the *Strata Schemes (Leasehold Development) Act 1986* provides that an easement created by section 8 (1) (c) of that Act subsists until the leasehold strata scheme is terminated (or, where the leasehold strata scheme becomes a strata scheme within the meaning of the *Strata Schemes (Freehold Development) Act 1973*, that strata scheme is terminated) or the easement is otherwise extinguished. Item [3] of the proposed amendments omits the provision for the easement to be extinguished automatically by the termination of the leasehold strata scheme or, where the leasehold strata scheme becomes a strata scheme within the meaning of the *Strata Schemes (Freehold Development) Act 1973*, the termination of that strata scheme.

Item [4] of the proposed amendments imposes an additional requirement in respect of the registration of a plan to subdivide lots or common property of a strata scheme under the *Strata Schemes (Leasehold Development) Act 1986*. The requirement imposed is that any by-law conferring a right or privileges referred to in section 51 (1) of the *Strata Schemes Management Act 1996* in respect of common property comprised in the plan be repealed or amended so that it does not so confer the right or privileges. An example of such a right or privileges is a right of exclusive use and enjoyment.

Item [5] of the proposed amendments makes an amendment corresponding to an amendment made by this Act to the *Strata Schemes (Freehold Development) Act 1973* by providing for the inclusion of, after certain references in the *Strata Schemes (Leasehold Development) Act 1986* to “this Act”, a reference to the *Strata Schemes Management Act 1996*.

Section 30 (1) of the *Strata Schemes (Leasehold Development) Act 1986* provides for a body corporate to execute or accept a dealing creating an easement or a covenant burdening or benefiting the common property or the whole parcel. Section 30 (1) (a) and (d) refer to an easement, restriction on the use of land and a positive covenant. Section 30 (1) (b) and (c) refer only to an easement and a restriction on the use of land. Item [6] of the proposed amendments is an amendment in the nature of statute law revision to make section 30 (1) (b) and (c) of the *Strata Schemes (Leasehold Development) Act 1986* consistent with section 30 (1) (a) and (d) of that Act in referring to an easement, restriction on the use of land and a positive covenant.

Item [7] of the proposed amendments includes section 196AA of the *Conveyancing Act 1919* in those provisions of the *Conveyancing Act 1919* that, under section 71 (1) of the *Strata Schemes (Leasehold Development) Act 1986*, apply to and in respect of certain plans regarding strata schemes under the *Strata Schemes (Leasehold Development) Act 1986* in the same way as those provisions of the *Conveyancing Act 1919* apply to plans referred to in those provisions. Section 196AA of the *Conveyancing Act 1919* provides for the Registrar-General, before taking certain action under Part 23, Division 3 of the *Conveyancing Act 1919*, to serve notice on any person the Registrar-General considers should be notified of the action.

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## 1.40 Strata Schemes Management Act 1996 No 138

### [1] Section 24 Who can exercise functions relating to the finances and accounts of the owners corporation?

Insert after section 24 (d):

- (d1) a member of the National Institute of Accountants authorised by the owners corporation to exercise the function, or

### [2] Dictionary

Omit “prescribed authority” and “that authority” from paragraph (c) of the definition of *owner* of a lot in a leasehold strata scheme in Part 1.

Insert instead “proprietor” and “the proprietor” respectively.

#### **Explanatory note**

Item [1] of the proposed amendments includes a member of the National Institute of Accountants as a person who may be authorised by an owners corporation to exercise certain functions of the owners corporation or the treasurer of the owners corporation.

Item [2] of the proposed amendments replaces an outdated reference to a prescribed authority with a reference to a proprietor so as to be consistent with the terms of section 35 of the *Strata Schemes (Leasehold Development) Act 1986*.

## 1.41 Subordinate Legislation Act 1989 No 146

### Section 10 Staged repeal of statutory rules

Omit section 10 (3). Insert instead:

- (3) Despite the other provisions of this Part, the following regulations remain in force until 1 September 2006, unless sooner repealed:
  - (a) the *Podiatrists Regulation 1995*,
  - (b) the *Residential Tenancies (Residential Premises) Regulation 1995*,
  - (c) the *Seeds Regulation 1994*,
  - (d) the *Veterinary Surgeons Regulation 1995*.

#### **Explanatory note**

##### **Staged repeal of statutory rules**

The *Subordinate Legislation Act 1989 (the Act)* provides for the automatic repeal of statutory rules. The repeal takes effect on the fifth anniversary of the date on which the statutory rule was published (in the case of a statutory rule published on 1 September in any year) or on the 1 September following the fifth anniversary of the date on which it was published (in any other case)—see section 10 (2) of the Act. Unless it is intended to allow the statutory rule to lapse, a statutory rule that is due for repeal under the Act is usually remade in advance of the repeal date.

Section 11 of the Act permits the repeal of a statutory rule to be postponed, by order of the Governor, for a period of one year. However, the repeal of a particular statutory rule cannot be postponed on more than five occasions.

The repeals of the four Regulations to which the proposed amendment relates (**the Regulations**) have each been postponed on five occasions, and the Regulations are now due to be repealed on 1 September 2005. However, the *Noxious Weeds Amendment Act 2005* will repeal the *Seeds Regulation 1994*, the *Podiatrists Act 2003* will repeal the *Podiatrists Regulation 1995*, and the *Veterinary Practice Act 2003* will repeal the *Veterinary Surgeons Regulation 1995*.

It is also intended to review the *Residential Tenancies Act 1987* (under which the *Residential Tenancies (Residential Premises) Regulation 1995* is made) during 2005. The outcome of the review is likely to impact on the matters dealt with by that Regulation.

In view of the foregoing, there seems little point in remaking the Regulations, three of which will be repealed by other legislation, and the other of which is likely to require substantial amendment following the review and amendment of its parent Act. On the other hand, it is desirable to keep the regulatory schemes of the Regulations in place until such time as replacement provisions come into force under new or revised legislation.

Accordingly, the proposed amendment has the effect of keeping the four Regulations in force for a further period of one year after the date on which they would otherwise be repealed by the Act. However, any of the Regulations may be sooner repealed by other legislation (such as the commencement of the *Noxious Weeds Amendment Act 2005*).

The current section 10 (3) of the Act, which the proposed amendment repeals and re-enacts, has the effect of keeping the *Seeds Regulation 1994*, which was due to be repealed on 1 September 2004, in force until 1 September 2005.

## 1.42 Sydney Opera House Trust Act 1961 No 9

### [1] Section 9

Omit the section. Insert instead:

#### 9 Application of Public Sector Employment and Management Act 2002

- (1) The *Public Sector Employment and Management Act 2002* (other than Chapter 5) does not apply to or in respect of the appointment of a trustee.
- (2) The office of a trustee is, for the purposes of the *Constitution Act 1902*, or any Act amending or replacing that Act, taken not to be an office or place of profit under the Crown.

### [2] Section 11 Procedure of Trust and quorum

Re-number section 11 (3) (a), (b) and (c) as section 11 (3), (4) and (5) respectively.

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**[3] Section 11A**

Insert after section 11:

**11A Transaction of business outside meetings or by telephone**

- (1) The Trust may, if it thinks fit, transact any of its business by the circulation of papers among all the trustees for the time being, and a resolution in writing approved in writing by a majority of those trustees is taken to be a decision of the Trust.
- (2) The Trust may, if it thinks fit, transact any of its business at a meeting at which trustees (or some trustees) participate by telephone, closed-circuit television or other means, but only if any trustee who speaks on a matter before the meeting can be heard by the other trustees.
- (3) For the purposes of:
  - (a) the approval of a resolution under subsection (1), or
  - (b) a meeting held in accordance with subsection (2),the Chairperson and each trustee have the same voting rights as they have at an ordinary meeting of the Trust.
- (4) A resolution approved under subsection (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Trust.
- (5) Papers may be circulated among the trustees for the purposes of subsection (1) by facsimile or other transmission of the information in the papers concerned.

**[4] Section 18 Gifts, endowments, bequests and devises**

Omit section 18 (3). Insert instead:

- (3) The *Duties Act 1997* does not apply to or in respect of any gift inter vivos, endowment, bequest or devise made or to be made to the Opera House or the Trust.

**[5] Section 19 Sale or disposal of certain property**

Omit “The proceeds of any sale made by the Trust in the exercise of the power conferred on the Trust by paragraph (a) shall, after deduction therefrom of the costs of and incidental to the sale, be held by the Trust for the objects of the Trust.” from section 19 (1).

**[6] Section 19 (1A)**

Insert after section 19 (1):

- (1A) The proceeds of any sale under subsection (1) (a) are, after deducting the costs of the sale (including incidental costs), to be held by the Trust for the objects of the Trust.

**[7] Sections 23 and 27**

Omit the sections.

**Explanatory note**

Item [1] of the proposed amendments to the *Sydney Opera House Trust Act 1961 (the Act)* updates a reference to a repealed Act and numbers subsections that had no numbers.

Item [2] of the proposed amendments renumbers subsections that are incorrectly numbered as paragraphs.

Item [3] of the proposed amendments permits the Sydney Opera House Trust (*the Trust*) to conduct its business outside of meetings or by telephone.

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

Items [5] and [6] of the proposed amendments number a subsection that was unnumbered. Item [6] re-enacts that subsection in modern form.

Item [7] of the proposed amendments repeals section 23 of the Act, which provides for the financial year of the Trust. On the repeal of section 23, the financial year of the Trust will be determined under the *Public Finance and Audit Act 1983* which allows for the financial year for the Trust to be determined by the Treasurer. Section 27 of the Act is repealed as a consequence of the repeal of section 23 to ensure that the date for the annual report of the Trust is kept in line with the financial year. Production of an annual report will now be governed by the *Annual Reports (Statutory Bodies) Act 1984*.

**1.43 Threatened Species Conservation Amendment Act 2002  
No 78**

**[1] Schedule 1 Amendment of Threatened Species Conservation Act 1995**

Omit the last sentence of section 56 (6) of the *Threatened Species Conservation Act 1995* (as inserted by Schedule 1 [37]).

**[2] Schedules 1 [53], 2.1 [4] and 2.2 [5]**

Insert “or critically endangered ecological community” after “endangered ecological community” in section 94 (3) (c) of the *Threatened Species Conservation Act 1995* (as inserted by Schedule 1 [53]), section 5A (2) (c) of the *Environmental Planning and Assessment Act 1979* (as inserted by Schedule 2.1 [4]) and section 220ZZ (2A) (c) of the *Fisheries Management Act 1994* (as inserted by Schedule 2.2 [5]).

**Explanatory note**

Item [1] of the proposed amendments removes a sentence from an uncommenced provision of the *Threatened Species Conservation Act 1995* (inserted by the *Threatened Species Conservation Amendment Act 2002*) that refers to a provision of

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the *Threatened Species Conservation Act 1995* that is repealed by Schedule 1 [62] (also uncommenced) to the *Threatened Species Legislation Amendment Act 2004*.

Uncommenced amendments to the *Threatened Species Conservation Act 1995* made by the *Threatened Species Legislation Amendment Act 2004* establish an additional category of “critically endangered” for the listing of species and ecological communities under the first-mentioned Act. (The 2004 Act makes a number of consequential amendments to legislation to accommodate these additional categories. However, the 2004 Act omitted to amend the provisions dealt with in item [2].)

Item [2] of the proposed amendments inserts reference to “critically endangered ecological community” into certain uncommenced provisions of the *Threatened Species Conservation Act 1995*, the *Environmental Planning and Assessment Act 1979* and the *Fisheries Management Act 1994* (as inserted or substituted by the *Threatened Species Conservation Amendment Act 2002*) that set out the test to be applied by certain licensing authorities, and consent authorities and determining authorities, in determining whether there is likely to be a significant effect on threatened species, populations or ecological communities, or their habitats, for the purposes of the Act concerned.

#### **1.44 Threatened Species Legislation Amendment Act 2004 No 88**

**[1] Schedule 1 Amendment of Threatened Species Conservation Act 1995 No 101**

Omit “the nomination is made” from section 19 (6) of the *Threatened Species Conservation Act 1995* (as inserted by Schedule 1 [25]).

Insert instead “the nomination is tabled at a meeting of the Committee”.

**[2] Schedule 1 [33]**

Insert “and the reasons for it” after “final determination” where secondly occurring in section 23 (3) of the *Threatened Species Conservation Act 1995* (as inserted by Schedule 1 [33]).

**Explanatory note**

The proposed amendments amend uncommenced provisions of the *Threatened Species Conservation Act 1995* inserted by the *Threatened Species Legislation Amendment Act 2004*.

Item [1] of the proposed amendments requires the Scientific Committee to give notice of a nomination for the inclusion on, omission from or amendment of the lists of threatened species, populations and ecological communities under the Act within 14 days after the nomination is tabled at a meeting of the Committee (rather than 14 days after the nomination is made, as is currently the case).

Item [2] of the proposed amendments requires the Scientific Committee to include in its notice to the Minister of its proposed final determination (to accept or reject a proposal for the inclusion on, omission from or amendment of the lists of threatened species, populations and ecological communities under the Act) the reasons for its final determination.



## 1.45 Timber Marketing Act 1977 No 72

### [1] Section 4 Definitions

Insert in alphabetical order in section 4 (1):

*approved* means approved by the Commission.

### [2] Sections 18 (2), 23 (2), 24 (2) and 25 (3)

Omit “prescribed” wherever occurring. Insert instead “approved”.

### [3] Section 18 (3)

Omit the subsection.

### [4] Schedule 2 Savings and transitional provisions

Insert after clause 2:

#### 3 Prescribed forms

A form prescribed for the purposes of section 18 (2), 23 (2), 24 (2) or 25 (3) by a regulation in force immediately before the amendment of the provision concerned by the *Statute Law (Miscellaneous Provisions) Act 2005* is, until such time as a different form is approved for the purposes of the provision concerned, taken to be an approved form for the purposes of that provision.

#### Explanatory note

Item [2] of the proposed amendments repeals the requirements that various applications under the *Timber Marketing Act 1977 (the Act)* be in prescribed forms and provide, instead, for them to be in forms approved by the Forestry Commission of New South Wales.

Item [1] of the proposed amendments inserts a definition of *approved* for the purposes of the Act.

Item [3] of the proposed amendments repeals a requirement that an applicant for approval of a preservative treatment and the registration of a brand to brand timber who is not resident in New South Wales specify an address in New South Wales for the giving of notices under the Act. It is intended that an address for the giving of notices will be required by the approved form.

Item [4] of the proposed amendments inserts consequential savings and transitional provisions.

## 1.46 Timber Marketing Regulation 2000

### [1] Clauses 15–19

Omit clauses 15 (1), 16 (1), 17 (1), 18 (1) and 19 (1).

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**[2] Clause 20 Form of certificate of authority**

Insert “set out in Schedule 3” after “Form 5”.

**[3] Schedule 3 Forms**

Omit “Clauses 15–20” from the matter immediately below the heading to Schedule 3.

Insert instead “Clause 20”.

**[4] Schedule 3, Forms 1–4**

Omit the Forms.

**Explanatory note**

Items [1] and [4] of the proposed amendments are consequential on the amendments to the *Timber Marketing Act 1977* (**the Act**) proposed to be made elsewhere in this Schedule. Those amendments repeal the requirements for certain applications under the Act to be in or to the effect of prescribed forms and provide, instead, that the applications are to be made in forms approved by the Forestry Commission of New South Wales.

Items [2] and [3] of the proposed amendments are consequential on item [4].

## **1.47 University of Wollongong Act 1989 No 127**

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

Omit “a student” from section 9 (1) (f) (i).

Insert instead “an undergraduate student”.

**[2] Section 9 (1) (f) (iii)**

Insert “undergraduate” before “students”.

**[3] Section 9 (1) (f1)**

Insert after section 9 (1) (f):

(f1) one person:

- (i) who is a postgraduate student of the University but who is not a member of the academic or non-academic staff of the University, and
- (ii) who has such qualifications as may be prescribed by the by-laws, and
- (iii) who is elected by postgraduate students of the University in the manner prescribed by the by-laws, and

**[4] Schedule 1 Provisions relating to members and procedure of the Council**

Omit “or (f)” from clause 1 (1) (c). Insert instead “, (f) or (f1)”.

**Explanatory note**

The object of items [1]–[3] of the proposed amendments is to increase the student membership of the Council of the University of Wollongong (the University’s governing body) from 1 to 2 students (being an undergraduate student elected by undergraduate students of the University and a postgraduate student elected by postgraduate students of the University). Item [4] makes a consequential amendment.

**1.48 Very Fast Train (Route Investigation) Act 1989 No 44**

**[1] Section 3 Definitions**

Insert in alphabetical order:

*Director-General* means the Director-General of the Department of State and Regional Development.

**[2] Section 3, definition of “survey”**

Omit “*Survey Co-ordination Act 1949*”. Insert instead “*Surveying Act 2002*”.

**[3] Sections 7 (3) (b), 12 (1) and 20 (a)**

Omit “Director of Public Works” wherever occurring.

Insert instead “Director-General”.

**[4] Section 13 Rights conferred by permits**

Omit “the prescribed written notice of the person’s intention to enter the land has been given in accordance with the regulations” from section 13 (2) (b).

Insert instead “written notice of the person’s intention to enter the land has been given in accordance with this section in a form approved by the Minister”.

**[5] Section 13 (3)–(6)**

Insert after section 13 (2):

- (3) A notice under this section must be served personally or by post on the owner and each occupier of the land at least 7 days before the land is first entered under the authority of the permit concerned.
- (4) Service on the owner of the land may be effected by serving the notice on any person who, according to the records of the local council or any other statutory authority, is liable for a rate or other charge that is or may become a charge on the land.

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- (5) If, after reasonable inquiry, the land appears to be unoccupied, service on occupiers of the land may be effected by causing a copy of the notice to be displayed:
- (a) on each gate providing access to the land, or
  - (b) if there is no such gate, in a prominent position on the boundary of the land nearest to a public road,
- for at least 7 days before the land is first entered under the authority of the permit concerned.
- (6) In the case of land in which there are native title rights and interests but in respect of which there is no approved determination of native title (within the meaning of the *Native Title Act 1993* of the Commonwealth), the notice is to be served in accordance with section 103 of the *Native Title (New South Wales) Act 1994* at least 7 days before the land is first entered under the authority of the permit concerned.

**[6] Section 16 Interference with authorised activities**

Omit “in the prescribed form” from section 16 (2).

Insert instead “in a form approved by the Minister”.

**[7] Section 23**

Insert after section 22:

**23 Transitional provision**

A form prescribed for the purposes of section 13 (2) (b) or 16 (2) by a regulation in force immediately before the commencement of this section is taken to be a form approved by the Minister for the purposes of the section concerned.

**Explanatory note**

**Prescribed matters**

At present, section 13 (2) (b) of the *Very Fast Train (Route Investigation) Act 1989* (**the Act**) provides that a person who holds a permit to enter land that is issued under the Act must not enter the land unless “prescribed written notice” of the person’s intention to do so has been given “in accordance with the regulations”.

Item [4] of the proposed amendments repeals the requirement for “prescribed” written notice to be given “in accordance with the regulations” and provides, instead, that the notice is to be in a form approved by the Minister and is to be given in accordance with section 13.

Item [5] of the proposed amendments inserts subsections (3)–(6) in section 13 to specify the way in which the notice is to be given. The new subsections transfer to the Act the relevant provisions of the current regulations.

At present, section 16 (2) of the Act provides a defence to the offence of preventing a person from entering land under the authority of a permit under the Act, or of hindering or obstructing a person who is attempting to do such a thing, if the person prevented,

hindered or obstructed did not produce a notice “in the prescribed form” issued by the holder of the permit and confirming the person’s authority to enter the land.

Item [6] of the proposed amendments repeals the requirement that the notice be “in the prescribed form” and provides, instead, that it be in a form approved by the Minister.

Item [7] of the proposed amendments inserts a transitional provision that preserves the forms that are currently prescribed for the purposes of sections 13 and 16.

#### **Director of Public Works**

At present:

- (a) section 7 (3) (b) of the Act provides that an application under the Act for a permit to enter land is to be lodged with the Director of Public Works, and
- (b) section 12 (1) of the Act provides that the holder of such a permit may surrender it by a written notice given to the Director of Public Works, and
- (c) section 20 of the Act permits the Minister to delegate the powers, authorities, duties or functions imposed on the Minister by the Act or the regulations to (among other people) the Director of Public Works.

The office of “Director of Public Works” no longer exists. Accordingly, item [3] of the proposed amendments replaces references to the Director of Public Works with references to the Director-General of the Department that administers the Act.

Item [1] of the proposed amendments inserts a definition of **Director-General** for the purposes of the Act.

#### **Statute law revision**

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

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

### **Schedule 6 Savings, transitional and other provisions**

Insert at the end of clause 1 (1) of Part 20:

*Statute Law (Miscellaneous Provisions) Act 2005*—to the extent that it amends the *Coal Industry Act 2001*, the *Sporting Injuries Insurance Act 1978*, the *Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987*, the *Workers’ Compensation (Dust Diseases) Act 1942* and the *Workplace Injury Management and Workers Compensation Act 1998*

#### **Explanatory note**

The proposed amendment provides for the making of savings and transitional regulations consequent on the amendments made by this Schedule to the *Coal Industry Act 2001*, the *Sporting Injuries Insurance Act 1978*, the *Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987*, the *Workers’ Compensation (Dust Diseases) Act 1942* and the *Workplace Injury Management and Workers Compensation Act 1998*.

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## **1.50 Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987 No 83**

### **[1] Section 19 Bush Fire Fighters Compensation Fund**

Insert after section 19 (3) (a):

- (a1) to the Minister administering the *District Court Act 1973*, such of the costs of operation of the District Court relating to determinations under section 16 (4), being costs incurred after 30 June 2005, as the Minister administering the *District Court Act 1973* and the Minister administering this Act agree are to be paid from the Fund,

### **[2] Section 31 Emergency and Rescue Workers Compensation Fund**

Insert after section 31 (3) (a):

- (a1) to the Minister administering the *District Court Act 1973*, such of the costs of operation of the District Court relating to determinations under section 30 (4), being costs incurred after 30 June 2005, as the Minister administering the *District Court Act 1973* and the Minister administering this Act agree are to be paid from the Fund,

#### **Explanatory note**

The object of the proposed amendments is to provide for the costs of operation of the District Court relating to certain matters that would have been within the jurisdiction of the Compensation Court (had it not been abolished) to be funded by the agencies and organisations that are users and stakeholders, which have separate funding arrangements, rather than from the WorkCover Authority Fund. The relevant matters are those under sections 16 and 30 of the *Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987*, which provides for the District Court to determine disputes between a claimant for compensation under that Act and the WorkCover Authority.

The proposed amendments require the costs of the operation of the District Court in relation to the determination of those disputes to be met from the Bush Fire Fighters Compensation Fund and the Emergency and Rescue Workers Compensation Fund, established under sections 19 and 31 of that Act, respectively, depending on the type of dispute. The proposed amendment to the *Workplace Injury Management and Workers Compensation Act 1998* made elsewhere in this Schedule provides that the costs of the District Court relating to the transferred residual jurisdiction of the Compensation Court will no longer be met from the WorkCover Authority Fund.

## **1.51 Workers' Compensation (Dust Diseases) Act 1942 No 14**

### **Section 6 Constitution of Fund**

Insert after section 6 (2) (d1):

- (d2) to the Minister administering the *District Court Act 1973*, such of the costs of operation of the District Court relating to appeals under section 8I, being costs incurred after 30

June 2005, as the Minister administering the *District Court Act 1973* and the Minister administering this Act agree are to be paid from the Fund,

**Explanatory note**

The object of the proposed amendment is to provide for the costs of operation of the District Court relating to certain matters that would have been within the jurisdiction of the Compensation Court (had it not been abolished) to be funded by the agencies and organisations that are users and stakeholders, which have separate funding arrangements, rather than from the WorkCover Authority Fund. The relevant matters are those under section 81 of the *Workers' Compensation (Dust Diseases) Act 1942*, which gives jurisdiction to the District Court to hear and determine appeals by claimants for compensation under that Act and appeals by the Minister against a decision of the Workers' Compensation (Dust Diseases) Board or the medical authority.

The proposed amendment requires payment from the Workers' Compensation (Dust Diseases) Fund, established under section 6 of that Act, of the costs of the operation of the District Court in relation to the determination of those appeals. The proposed amendment to the *Workplace Injury Management and Workers Compensation Act 1998* made elsewhere in this Schedule provides that the costs of the District Court relating to the transferred residual jurisdiction of the Compensation Court will no longer be met from the WorkCover Authority Fund.

## **1.52 Workplace Injury Management and Workers Compensation Act 1998 No 86**

### **[1] Section 29 Membership and procedure of Council**

Omit "the Labor Council of New South Wales" from section 29 (1) (c).

Insert instead "Unions NSW".

### **[2] Section 35A Certain ongoing costs of Compensation Court jurisdiction**

Insert ", incurred on or before 30 June 2005," after "District Court" in section 35A (1) (b).

**Explanatory note**

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

Section 35A of the *Workplace Injury Management and Workers Compensation Act 1998* provides for the residual and ongoing costs of the Compensation Court (which has been abolished) to be paid from the WorkCover Authority Fund. Those costs include the costs of operation of the District Court relating to matters that would have been matters within the jurisdiction of the Compensation Court (had it not been abolished), namely jurisdiction under the *Sporting Injuries Insurance Act 1978*, the *Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987*, the *Workers' Compensation (Dust Diseases) Act 1942* and the *Workplace Injury Management and Workers Compensation Act 1998* (as applied to the *Coal Industry Act 2001*).

Item [2] of the proposed amendments provides that the costs of the District Court relating to the transferred residual jurisdiction of the Compensation Court will no longer be met from the WorkCover Authority Fund. This amendment is consequential on other amendments made by Schedule 1, which provide for the payment of the costs of the District Court relating to certain matters that would have been within the jurisdiction of the Compensation Court (had it not been abolished) to be funded by the agencies and

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organisations that are users and stakeholders, which have separate funding arrangements, rather than from the WorkCover Authority Fund. The change is effective from 1 July 2005.



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

(Section 3)

### **2.1 Auburn Local Environmental Plan 2000**

#### **Clause 29 Land acquisition in the Special Uses 5 (b) Zone**

Omit “green houses” from the definition of *vacant land* in clause 29 (7).

Insert instead “greenhouses”.

#### **Explanatory note**

The proposed amendment corrects a typographical error.

### **2.2 Baulkham Hills Local Environmental Plan 1991**

#### **[1] Clause 26 Acquisition and development of land reserved for roads**

Omit “green houses” from the definition of *vacant land* in clause 26 (7).

Insert instead “greenhouses”.

#### **[2] Clause 26 (7), definition of “vacant land”**

Omit “stys”. Insert instead “sties”.

#### **[3] Schedule 3A Exempt development**

Omit “GREEN HOUSES” from the first column of the Schedule.

Insert instead “GREENHOUSES”.

#### **Explanatory note**

The proposed amendments correct typographical errors.

### **2.3 Building and Construction Industry Long Service Payments Act 1986 No 19**

#### **Section 8 (2) (b) and Schedule 1, clause 7 (2) (a)**

Omit “the Labor Council of New South Wales” wherever occurring.

Insert instead “Unions NSW”.

#### **Explanatory note**

The proposed amendment updates references to a body.

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## 2.4 Cancer Institute (NSW) Act 2003 No 14

### Schedule 3 Amendment of other legislation

Omit Schedule 3.2. Insert instead:

### 3.2 Public Authorities (Financial Arrangements) Regulation 2000

#### Clause 520 Additional investment powers—Cancer Council

Omit the clause.

#### Explanatory note

The proposed amendment omits redundant amendments to the *Public Authorities (Financial Arrangements) Regulation 2000*.

## 2.5 Canterbury Local Environmental Plan No 138—Canterbury Precinct

### [1] Clause 22 Acquisition and development of land reserved for roads

Omit “green houses” from the definition of *vacant land* in clause 22 (1).

Insert instead “greenhouses”.

### [2] Clause 22 (1), definition of “vacant land”

Omit “stys”. Insert instead “sties”.

#### Explanatory note

The proposed amendments correct typographical errors.

## 2.6 Coastal Protection Act 1979 No 13

### Section 4A Meaning of maps outlining coastal zone

Omit “administering Part 2” wherever occurring from section 4A (1) (a) and (b).

#### Explanatory note

The proposed amendment omits cross-references to a repealed provision.

## 2.7 Coffs Harbour City Local Environmental Plan 2000

### Schedule 2 Exempt development

Omit “GREEN HOUSES” from the first column of the Schedule.

Insert instead “GREENHOUSES”.

#### Explanatory note

The proposed amendment corrects a typographical error.

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

### **Section 42 Contempt of Tribunal**

Omit “Sections 152 and 152A of the *Justices Act 1902*” from section 42 (2).

Insert instead “Sections 27A and 27B of the *Local Courts Act 1982*”.

#### **Explanatory note**

The proposed amendment updates cross-references.

## **2.9 Conveyancing Act 1919 No 6**

### **Section 169 Statutory declarations**

Omit “, 25, and 26 (A)” from section 169 (2). Insert instead “and 25”.

#### **Explanatory note**

The proposed amendment omits a cross-reference to a repealed provision.

## **2.10 Coolamon Local Environmental Plan 1995**

### **[1] Clause 8 Zones indicated on the map**

Omit “lerttered”. Insert instead “lettered”.

### **[2] Clause 16 Subdivision of land in Zone No 2 (v)**

Omit “locaity”. Insert instead “locality”.

#### **Explanatory note**

The proposed amendments correct typographical errors.

## **2.11 Employment Protection Act 1982 No 122**

### **Section 16 Conduct of proceedings**

Omit “the Labor Council of New South Wales” from section 16 (3).

Insert instead “Unions NSW”.

#### **Explanatory note**

The proposed amendment updates a reference to a body.

## **2.12 Energy Services Corporations Act 1995 No 95**

### **[1] Schedule 2 Supplementary provisions concerning constitution and procedure**

Omit “the Labor Council of New South Wales” from clause 1 (2) (b) (ii).

Insert instead “Unions NSW”.

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**[2] Schedule 2, clause 1 (2) (b)**

Omit “the Labor Council, and”. Insert instead “Unions NSW, and”.

**Explanatory note**

The proposed amendments update references to a body.

**2.13 Environmental Planning and Assessment Model Provisions 1980**

**[1] Clause 4 Definitions**

Omit “aboriculture, silviculture” from the definition of *forestry* in clause 4 (1).

Insert instead “arboriculture, silviculture”.

**[2] Clause 4 (1), definition of “public building”**

Omit “organization”. Insert instead “organisation”.

**Explanatory note**

The proposed amendments correct typographical errors.

**2.14 Environmentally Hazardous Chemicals Act 1985 No 14**

**Schedule 1 Provisions relating to the Committee**

Omit “the Labor Council of New South Wales” from clause 2 (j).

Insert instead “Unions NSW”.

**Explanatory note**

The proposed amendment updates a reference to a body.

**2.15 Fire Brigades Act 1989 No 192**

**[1] Section 3 Definitions**

Omit “*Public Sector Management Act 1988*” from the definition of *Commissioner* in section 3 (1).

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

**[2] Section 66 (1) and Schedule 2, clause 7 (1)**

Omit “Part 2 of the *Public Sector Management Act 1988*” wherever occurring.

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

**[3] Schedule 2, clause 5 (1) (d)**

Omit “Part 8 of the *Public Sector Management Act 1988*”.

Insert instead “Chapter 5 of the *Public Sector Employment and Management Act 2002*”.

**Explanatory note**

The proposed amendments update cross-references.

## **2.16 Freedom of Information Regulation 2005**

### **Schedule 3 Public authorities**

Omit “*Energy Administration Act 1987*” from the first column in Part 3.

Insert instead “*Energy and Utilities Administration Act 1987*”.

**Explanatory note**

The proposed amendment updates the citation of an Act.

## **2.17 Gilgandra Local Environmental Plan 2004**

**[1] Clause 3 Definitions**

Insert after clause 3 (2):

- (3) Notes included in this plan do not form part of this plan.

**[2] Clause 34 Land subject to flooding**

Omit “cumulative” from clause 34 (4) (a). Insert instead “cumulative”.

**Explanatory note**

Item [1] of the proposed amendments inserts a provision clarifying the status of notes.

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

## **2.18 Great Lakes Local Environmental Plan 1996**

### **Clause 20 Land acquisition**

Omit “green houses” from the definition of *vacant land* in clause 20 (9).

Insert instead “greenhouses”.

**Explanatory note**

The proposed amendment corrects a typographical error.

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## 2.19 Greater Taree Local Environmental Plan 1995

**[1] Clause 33 Acquisition of land reserved for roads in Zone No 9 (a)**

Omit “green houses” from the definition of *vacant* in clause 33 (1).

Insert instead “greenhouses”.

**[2] Clause 33 (1), definition of “vacant”**

Omit “stys”. Insert instead “sties”.

**Explanatory note**

The proposed amendments correct typographical errors.

## 2.20 Hastings Local Environmental Plan 1987

**[1] Clause 11 Zones indicated on the map**

Omit “Zone 9 (b)”. Insert instead “Zone No 9 (b)”.

**[2] Clause 12 Zone objectives and development control table**

Omit “consisting” from item 3 of the matter relating to Zone No 7 (h) in the Table to the clause.

Insert instead “consisting”.

**[3] Clause 29AA Multiple occupancy**

Re-number clause 29 (as inserted by *Hastings Local Environmental Plan 1987 (Amendment No 10)*) as clause 29AA.

**[4] Clause 41 Preservation of trees**

Omit “preseration”. Insert instead “preservation”.

**[5] Clause 49 Development for certain additional purposes**

Omit “suclause” from clause 49 (4). Insert instead “subclause”.

**[6] Clause 57 Development of certain land—Greenmeadows Drive and Colonel Barney Drive, Port Macquarie**

Omit “consits” from clause 57 (1). Insert instead “consists”.

**[7] Schedule 6 Considerations for multiple occupancy**

Omit “(Clause 29)”. Insert instead “(Clauses 29 and 29AA)”.

**Explanatory note**

Items [1], [2] and [4]–[6] of the proposed amendments correct typographical errors.

Item [3] of the proposed amendments corrects duplicated clause numbering.

Item [7] of the proposed amendments updates a cross-reference.

## 2.21 Health Services Act 1997 No 154

### **Section 121Q Effect on incumbent when position ceases to be executive position**

Omit “authorised” from section 121Q (1) (b). Insert instead “unattached”.

#### **Explanatory note**

The proposed amendment corrects a typographical error.

## 2.22 Heritage Act 1977 No 136

### **Section 8 Members of Heritage Council**

Omit “the Labor Council of New South Wales” from section 8 (2) (a) (vi).

Insert instead “Unions NSW”.

#### **Explanatory note**

The proposed amendment updates a reference to a body.

## 2.23 Holroyd Local Environmental Plan 1991

### **[1] Clause 12 Acquisition and development on land zoned 7 (a)**

Omit “green houses” from the definition of *vacant land* in clause 12 (7).

Insert instead “greenhouses”.

### **[2] Clause 12 (7), definition of “vacant land”**

Omit “stys”. Insert instead “sties”.

#### **Explanatory note**

The proposed amendments correct typographical errors.

## 2.24 Home Building Act 1989 No 147

### **Section 115D Membership of Advisory Council**

Omit “the Labor Council of New South Wales” from section 115D (1) (f).

Insert instead “Unions NSW”.

#### **Commencement**

The amendment to the *Home Building Act 1989* commences on the commencement of Schedule 5 [3] to the *Home Building Amendment Act 2004*.

#### **Explanatory note**

The proposed amendment updates a reference to a body.

## **2.25 Hunter Water Act 1991 No 53**

### **[1] Section 4B Board of Corporation**

Omit “the Labor Council of New South Wales” from section 4B (2) (b).

Insert instead “Unions NSW”.

### **[2] Section 4B (2)**

Omit “3 persons nominated by the Labor Council”.

Insert instead “3 persons nominated by Unions NSW”.

#### **Explanatory note**

The proposed amendments update references to a body.

## **2.26 Industrial Relations Act 1996 No 17**

### **Section 215 and Dictionary, paragraph (a) of the definition of “State peak council”**

Omit “the Labor Council of New South Wales” wherever occurring.

Insert instead “Unions NSW”.

#### **Explanatory note**

The proposed amendment updates references to a body.

## **2.27 Industrial Relations (Ethical Clothing Trades) Act 2001 No 128**

### **Section 6 Membership and procedure of Council**

Omit “Labor Council of New South Wales” from section 6 (1) (e).

Insert instead “Unions NSW”.

#### **Explanatory note**

The proposed amendment updates a reference to a body.

## **2.28 Kiama Local Environmental Plan 1996**

### **Schedule 5 Development of master plan sites**

Omit “new public street” from paragraph (e) of the matter under the heading “**Development requirements**” in clause 3.

Insert instead “new public street”.

#### **Explanatory note**

The proposed amendment corrects a typographical error.



## **2.29 Lake Macquarie Local Environmental Plan 2004**

### **Schedule 1 Exempt development**

Omit “green houses” from column 1 of the Table to the Schedule.

Insert instead “greenhouses”.

#### **Explanatory note**

The proposed amendment corrects a typographical error.

## **2.30 Land Acquisition (Just Terms Compensation) Act 1991 No 22**

### **Section 21 Definition of “land designated for acquisition for a public purpose”**

Omit “section 26 (c)” wherever occurring in section 21 (1) (b) and (3).

Insert instead “section 26 (1) (c)”.

#### **Explanatory note**

The proposed amendment corrects incorrect cross-references.

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

### **Section 10 Land exempted from tax**

Omit “the Labor Council of New South Wales” from section 10 (1) (f) (iv).

Insert instead “Unions NSW”.

#### **Explanatory note**

The proposed amendment updates a reference to a body.

## **2.32 Legal Aid Commission Act 1979 No 78**

### **Section 14 Constitution of Board**

Omit “the Labor Council of New South Wales” from section 14 (2) (b) (iv).

Insert instead “Unions NSW”.

#### **Explanatory note**

The proposed amendment updates a reference to a body.

## **2.33 Legal Profession Act 2004 No 112**

### **[1] Section 4 Definitions**

Insert “or” at the end of paragraphs (a) and (c) of the definition of *disqualified person* in section 4 (1).

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**[2] Section 14 Prohibition on engaging in legal practice when not entitled**

Omit “*Conveyancers Licencing Act 2003*” from section 14 (2) (e).

Insert instead “*Conveyancers Licensing Act 2003*”.

**[3] Section 17 Associates who are disqualified or convicted persons**

Insert “or” after “Council,” in section 17 (3) (b).

**[4] Section 731 Offences**

Omit “constituted by a Magistrate sitting alone” from section 731 (1).

**Explanatory note**

Items [1] and [3] of the proposed amendments insert missing conjunctions.

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

Item [4] of the proposed amendments updates a reference to the constitution of a court.

## **2.34 Lismore Local Environmental Plan 2000**

### **Clause 9 Exempt and complying development**

Omit “*Development Control Plan No 39—Exempt Complying Development*” from clause 9 (3).

Insert instead “*Development Control Plan No 39—Exempt Development*”.

**Explanatory note**

The proposed amendment corrects the citation of an instrument.

## **2.35 Liverpool Local Environmental Plan 1997**

### **Clause 6 Definitions**

Omit “green houses” from the definition of *Vacant land* in clause 6 (1).

Insert instead “greenhouses”.

**Explanatory note**

The proposed amendment corrects a typographical error.

## **2.36 Manly Local Environmental Plan 1988**

### **Schedule 8 Exempt development**

Omit “Green houses” from column 2 of item 5 of the Table to the Schedule.

Insert instead “Greenhouses”.

**Explanatory note**

The proposed amendment corrects a typographical error.

## **2.37 Motor Vehicle Repairs Act 1980 No 71**

### **Section 9 Council of Authority**

Omit “the Labor Council of New South Wales” from section 9 (3) (f).

Insert instead “Unions NSW”.

#### **Explanatory note**

The proposed amendment updates a reference to a body.

## **2.38 Muswellbrook Local Environmental Plan 1985**

### **[1] Clause 29 Limitations on residential development**

Omit “clauses” from clause 29 (3). Insert instead “clause”.

### **[2] Clause 52 Development for certain additional purposes**

Omit “pan” from clause 52 (1). Insert instead “plan”.

### **[3] Schedule 3 Development for certain additional purposes**

Omit “Musellbrook”. Insert instead “Muswellbrook”.

#### **Explanatory note**

The proposed amendments correct typographical errors.

## **2.39 Nambucca Local Environmental Plan 1995**

### **Clause 49 What restrictions apply to development of flood prone land?**

Omit “Pubic Works” from clause 49 (8). Insert instead “Public Works”.

#### **Explanatory note**

The proposed amendment corrects a typographical error.

## **2.40 New South Wales Lotteries Corporatisation Act 1996 No 85**

### **[1] Section 11A Board of directors**

Omit “the Labor Council of New South Wales” from section 11A (2) (b) (ii).

Insert instead “Unions NSW”.

### **[2] Section 11A (2) (b)**

Omit “the Labor Council, and”. Insert instead “Unions NSW, and”.

#### **Explanatory note**

The proposed amendments update references to a body.

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## 2.41 Newcastle Local Environmental Plan 2003

### **Clauses 21 (1), definition of “vacant land” and 37 (1), definition of “intensive agriculture”**

Omit “green houses” wherever occurring. Insert instead “greenhouses”.

#### **Explanatory note**

The proposed amendment corrects typographical errors.

## 2.42 North Sydney Local Environmental Plan 1989

### **[1] Clause 26 Acquisition and development of land reserved for roads— Zone No 9 (d)**

Omit “green houses” from the definition of *vacant land* in clause 26 (7).

Insert instead “greenhouses”.

### **[2] Schedule 5 Exempt development**

Omit “green houses”. Insert instead “greenhouses”.

#### **Explanatory note**

The proposed amendments correct typographical errors.

## 2.43 North Sydney Local Environmental Plan 2001

### **[1] Clause 36 Acquisition and development of land reserved for roads**

Omit “green houses” from the definition of *vacant land* in clause 36 (7).

Insert instead “greenhouses”.

### **[2] Schedule 8 Complying development certificate standard conditions**

Omit “*Water Act 1994*” from clause 18.

Insert instead “*Sydney Water Act 1994*”.

### **[3] Schedule 11 Operational land**

Omit “*Local Government Act 1999*” from the note to Part 1.

Insert instead “*Local Government Act 1993*”.

#### **Explanatory note**

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

Items [2] and [3] of the proposed amendments correct the citation of Acts.

## 2.44 Oaths Act 1900 No 20

### Section 26 Before whom oaths or affidavits may be taken

Omit “and in section 26A” from section 26 (2).

#### Explanatory note

The proposed amendment omits a cross-reference to a repealed provision.

## 2.45 Penrith Local Environmental Plan No 201 (Rural Lands)

### Clause 25 Acquisition and development of land reserved for roads

Omit “green houses” from the definition of *vacant land* in clause 25 (7).

Insert instead “greenhouses”.

#### Explanatory note

The proposed amendment corrects a typographical error.

## 2.46 Privacy and Personal Information Protection Act 1998 No 133

### [1] Section 3 Definitions

Omit “the Police Service” wherever occurring from the definitions of *law enforcement agency*, *public sector agency* and *public sector official* in section 3 (1).

Insert instead “NSW Police”.

### [2] Section 4 Definition of “personal information”

Omit “*Police Service Act 1990*” from section 4 (3) (h).

Insert instead “*Police Act 1990*”.

### [3] Section 27 Specific exemptions (ICAC, NSW Police, PIC, Inspector of PIC and Inspector’s staff and NSW Crime Commission)

Omit “the Police Service” wherever occurring from section 27 (1) and (2).

Insert instead “NSW Police”.

#### Explanatory note

Items [1] and [3] of the proposed amendments update references to a body.

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

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## **2.47 Public Sector Employment and Management Act 2002 No 43**

### **Schedule 1 Departments**

Omit “\* Commissioner of the New South Wales Crime Commission” from Column 2.

Insert instead “\* Commissioner for the New South Wales Crime Commission”.

#### **Explanatory note**

The proposed amendment corrects an incorrect reference.

## **2.48 Road Transport (Safety and Traffic Management) Act 1999 No 20**

### **Section 76 Removal of unattended motor vehicles or trailers from certain places**

Omit section 76 (3). Insert instead:

- (3) A motor vehicle or trailer is removed in accordance with this section if it is removed to a nearby place at which, in the opinion of the authorised officer concerned, the vehicle may lawfully stand without being likely to cause danger to the public or undue traffic congestion, or an obstruction to the passage of a light rail vehicle.

#### **Explanatory note**

The proposed amendment updates the numbering of a provision because of the repeal of part of an alphabetical list in the provision.

## **2.49 Smoke-free Environment Regulation 2000**

### **Clause 3 Definition**

Omit clause 3 (2). Insert instead:

- (2) Notes included in this Regulation do not form part of this Regulation.

#### **Explanatory note**

The proposed amendment clarifies the status of notes.

## **2.50 Southern Cross University Act 1993 No 69**

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

Omit “In this Part” from clause 1. Insert instead “In this Schedule”.

#### **Explanatory note**

The proposed amendment corrects an incorrect reference.

## **2.51 Stamp Duties Act 1920 No 47**

### **Second Schedule Stamp duties and exemptions**

Omit “the Labor Council of New South Wales” from paragraph (25) (c) of Part 2.

Insert instead “Unions NSW”.

#### **Explanatory note**

The proposed amendment updates a reference to a body.

## **2.52 State Water Corporation Act 2004 No 40**

### **Section 7 Board of directors of Corporation**

Omit “the Labor Council of New South Wales” from section 7 (3) wherever occurring.

Insert instead “Unions NSW”.

#### **Explanatory note**

The proposed amendment updates references to a body.

## **2.53 Summary Offences Act 1988 No 25**

### **Section 27G Conduct of search**

Omit “search observation member of staff” from section 27G (5) (b).

Insert instead “search observation staff member”.

#### **Explanatory note**

The proposed amendment replaces an undefined term with a term defined in section 27A of the *Summary Offences Act 1988*.

## **2.54 Superannuation Administration Act 1996 No 39**

### **[1] Sections 25 (3), 27 (1), 70 (3), 72 (1) and 127 (6)**

Omit “the Labor Council of New South Wales” wherever occurring.

Insert instead “Unions NSW”.

### **[2] Sections 27 (2) and 72 (2)**

Omit “The Labor Council” wherever occurring.

Insert instead “Unions NSW”.

**[3] Sections 27 (3) and 72 (3)**

Omit “the Labor Council fails” wherever occurring.

Insert instead “Unions NSW fails”.

**Explanatory note**

The proposed amendments update references to a body.

**2.55 Superannuation Administration Authority Corporatisation Act 1999 No 5**

**[1] Schedule 3 Special provisions concerning management of the Corporation**

Omit “the Labor Council of New South Wales” from clause 1 (1) (b) (ii).

Insert instead “Unions NSW”.

**[2] Schedule 3, clause 1 (1) (b)**

Omit “the Labor Council, and”. Insert instead “Unions NSW, and”.

**Explanatory note**

The proposed amendments update references to a body.

**2.56 Teaching Service Act 1980 No 23**

**Section 76 Retirement or transfer of officers through invalidity or incapacity**

Omit “transfer him” from section 76 (1) (e).

Insert instead “may transfer the officer”.

**Explanatory note**

The proposed amendment inserts a missing word and replaces gender specific language with gender neutral language.

**2.57 Tenterfield Local Environmental Plan 1996**

**Schedule 4 Exempt development**

Omit “green houses” and “green houses” from Column 1.

Insert instead “greenhouses” and “greenhouses” respectively.

**Explanatory note**

The proposed amendment corrects typographical errors.



## 2.58 Thoroughbred Racing Act 1996 No 37

### Section 31 Membership

Omit “the Labor Council of New South Wales” from section 31 (1) (b).

Insert instead “Unions NSW”.

#### Explanatory note

The proposed amendment updates a reference to a body.

## 2.59 Transport Administration Act 1988 No 109

### [1] Sections 13 (4) (b), 19NA (2) (b), 35H (3) (b) and 54 (2) (b) (iv)

Omit “the Labor Council of New South Wales” wherever occurring.

Insert instead “Unions NSW”.

### [2] Sections 13 (4), 19NA (2) and 35H (3)

Omit “3 persons nominated by the Labor Council” wherever occurring.

Insert instead “3 persons nominated by Unions NSW”.

### [3] Section 19NA Board of directors of RIC

Omit “the Labor Council” from section 19NA (3).

Insert instead “Unions NSW”.

### [4] Section 93 Search of vehicles and luggage on certain railway premises

Omit “, or a person employed in the transit police service,” from the definition of *authorised officer* in section 93 (6).

#### Explanatory note

Items [1]–[3] of the proposed amendments update references to a body.

Item [4] of the proposed amendments is consequential on the repeal of the *Police Department (Transit Police) Act 1989* by Schedule 3.

## 2.60 Transport Administration (General) Regulation 2000

### Clause 3 Definitions

Omit paragraph (b) of the definition of *traffic control officer*.

#### Explanatory note

The proposed amendment is consequential on the repeal of the *Police Department (Transit Police) Act 1989* by Schedule 3.

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## 2.61 Tweed Local Environmental Plan 2000 (Amendment No 51)

### Clause 4 Amendment of Tweed Local Environmental Plan 2000

Omit “*Tweed Local Environmental Plan 1997*”.

Insert instead “*Tweed Local Environmental Plan 2000*”.

#### Commencement

The amendment to the *Tweed Local Environmental Plan 2000 (Amendment No 51)* is taken to have commenced on 11 March 2005.

#### Explanatory note

The proposed amendment corrects an incorporation direction.

## 2.62 Ulmarra Local Environmental Plan 1992

### Schedule 5 Restricted development along arterial roads

Omit “Commerical premises”. Insert instead “Commercial premises”.

#### Explanatory note

The proposed amendment corrects a typographical error.

## 2.63 University of New England Act 1993 No 68

### Schedule 3 Savings and transitional provisions

Omit “In this Part” from clause 1. Insert instead “In this Schedule”.

#### Explanatory note

The proposed amendment corrects an incorrect reference.

## 2.64 University of Western Sydney Act 1997 No 116

### Section 4 Notes

Omit the section.

#### Explanatory note

The proposed amendment removes a redundant provision.

## 2.65 Valuation of Land Act 1916 No 2

### Section 92 Confidentiality

Omit section 92 (2) and (3) (including the penalty provision).

#### Explanatory note

The proposed amendment removes redundant provisions.

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

### **Schedule 1 Compensable injuries**

Omit “In this paragraph:” from clause 6. Insert instead “In this clause:”.

#### **Explanatory note**

The proposed amendment corrects an incorrect reference.

## **2.67 Waste Recycling and Processing Corporation Act 2001 No 59**

### **[1] Section 7 Board of directors**

Omit “the Labor Council of New South Wales” from section 7 (2) (a) (ii).

Insert instead “Unions NSW”.

### **[2] Section 7 (2) (a)**

Omit “the Labor Council, and”. Insert instead “Unions NSW, and”.

#### **Explanatory note**

The proposed amendments update references to a body.

## **2.68 Water Act 1912 No 44**

### **Section 114 Inquiry**

Omit “paragraph (c) of subsection (2) of the preceding section” from section 114 (1).

Insert instead “section 113 (2) (c)”.

#### **Explanatory note**

The proposed amendment corrects an incorrect cross-reference.

## **2.69 Water Sharing Plan for the Gwydir Regulated River Water Source 2002**

### **Clause 30 Volume of the long-term extraction limit**

Omit “and the planned environmental water rules” from clause 30 (4) (b) (ii).

#### **Explanatory note**

The proposed amendment removes duplicated text.

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## **2.70 Water Sharing Plan for the Lachlan Regulated River Water Source 2003**

### **Clause 31 Volume of the long-term extraction limit**

Omit “and the planned environmental water rules” from clause 31 (4) (b) (ii).

#### **Explanatory note**

The proposed amendment removes duplicated text.

## **2.71 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 “and the planned environmental water rules” from clause 31 (5) (b).

### **[2] Clause 56 Rules for interstate assignment of water allocations**

Omit “71L” wherever occurring in clause 56 (2) (b) and (3) (b).

Insert instead “section 71Z”.

#### **Explanatory note**

Item [1] of the proposed amendments removes duplicated text.

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

## **2.72 Water Sharing Plan for the Upper Namoi and Lower Namoi Regulated River Water Sources 2003**

### **Clause 30 Volume of the long-term extraction limit**

Omit “and the planned environmental water rules” from clause 30 (4) (a) (ii).

#### **Explanatory note**

The proposed amendment removes duplicated text.

## **2.73 Waverley Local Environmental Plan 1996**

### **Clause 35 Acquisition and development of land within the Arterial Road Reservation Zone**

Omit “stys” from the definition of *vacant land* in clause 35 (7).

Insert instead “sties”.

#### **Explanatory note**

The proposed amendment corrects a typographical error.

## 2.74 Willoughby Local Environmental Plan 1995

### Clause 50 Acquisition and development of land—Zone 5 (c)

Omit “green houses” from clause 50 (1). Insert instead “greenhouses”.

#### Explanatory note

The proposed amendment corrects a typographical error.

## 2.75 Wingecarribee Local Environmental Plan 1989

### [1] Clause 9 Zone objectives and development control table

Omit “; recreation gardens” where secondly occurring from item 2 of the matter relating to Zone No 2 (a2) in the Table to the clause.

### [2] Clause 9, Table

Omit “section 16CB” wherever occurring from item 3 of the matter relating to Zones Nos 7 (a) and 7 (b).

Insert instead “clause 16CB”.

### [3] Clause 16CA Local rural industries—restrictions on development

Omit “*Hawksbury-Nepean*” from clause 16CA (3) (d).

Insert instead “*Hawkesbury-Nepean*”.

### [4] Clause 17A Subdivision of land within Zone No 2 (a2)

Omit “*Singe*” from clause 17A (2). Insert instead “*Single*”.

### [5] Clause 32 Acquisition and development of land within Zone No 6 (d), 9 (a) or 9 (b)

Omit “green houses” from the definition of *vacant land* in clause 32 (7).

Insert instead “greenhouses”.

### [6] Clause 38G Protection of items of environmental heritage

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

### [7] Clause 68 Special provisions—certain land in Colo Street, Mittagong

Omit “aboriginal” from clause 68 (3). Insert instead “Aboriginal”.

#### Explanatory note

Item [1] of the proposed amendments removes redundant wording.

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

Items [3]–[7] of the proposed amendments correct typographical errors.

## **2.76 Wollondilly Local Environmental Plan 1991**

**[1] Clause 18 Acquisition of land—Zones Nos 9 (a), 9 (b), 9 (c) and 9 (d)**

Omit “green houses” from the definition of *vacant land* in clause 18 (7).

Insert instead “greenhouses”.

**[2] Clause 18 (7), definition of “vacant land”**

Omit “stys”. Insert instead “sties”.

**Explanatory note**

The proposed amendments correct typographical errors.

## **2.77 Yass Local Environmental Plan 1987**

**Clause 5 Interpretation**

Insert after clause 5 (2):

(3) Notes included in this plan do not form part of this plan.

**Explanatory note**

The proposed amendment inserts a provision clarifying the status of notes.

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## Schedule 3 Repeals

(Section 4)

<b>Name of Act or instrument</b>	<b>Extent of repeal</b>
<i>Aboriginal Land Rights Amendment (Gandangara Estate) Act 2004</i> No 69	Whole Act <sup>1</sup>
<i>Administrative Decisions Tribunal Amendment Act 2004</i> No 81	Whole Act <sup>1</sup>
<i>Administrative Decisions Tribunal Legislation Further Amendment Act 1998</i> No 156	Schedule 1 [1]–[20] and [25]–[30] and Schedules 2–5 <sup>5</sup>
<i>Agricultural Industry Services Amendment (Interstate Arrangements) Act 2002</i> No 81	Whole Act <sup>1</sup>
<i>Albury-Wodonga Development Repeal Act 2000</i> No 18	Section 17 and Schedule 1 <sup>5</sup>
<i>Animal Diseases Legislation Amendment (Civil Liability) Act 2004</i> No 2	Whole Act <sup>1</sup>
<i>Appropriation Act 2003</i> No 31	Whole Act <sup>4</sup>
<i>Appropriation (Budget Variations) Act 2003</i> No 2	Whole Act <sup>4</sup>
<i>Appropriation (Parliament) Act 2003</i> No 32	Whole Act <sup>4</sup>
<i>Appropriation (Special Offices) Act 2003</i> No 33	Whole Act <sup>4</sup>
<i>Architects Act 2003</i> No 89	Section 87 and Schedule 2 <sup>5</sup>
<i>Australian Crime Commission (New South Wales) Act 2003</i> No 13	Section 24 and Schedule 1 <sup>5</sup>
<i>Bail Amendment (Terrorism) Act 2004</i> No 34	Whole Act <sup>1</sup>
<i>Building Legislation Amendment (Quality of Construction) Act 2002</i> No 134	Schedule 1, Schedule 2.1 [1], [5]–[16] and [18]–[22] and 2.2–2.4 and Schedule 3 <sup>5</sup>
<i>Business Names Act 2002</i> No 97	Section 42 and Schedule 1 <sup>5</sup>
<i>Catchment Management Authorities Act 2003</i> No 104	Section 41 and Schedule 5 <sup>5</sup>
<i>Child Protection Legislation Amendment Act 2002</i> No 98	Sections 3, 4 and 6, Schedules 1 and 2, Schedule 3 [1]–[5] and [7]–[12] and Schedule 4 <sup>5</sup>
<i>Child Protection Legislation Amendment Act 2003</i> No 90	Section 3 (1) and Schedules 1 and 2 [1]–[5] and [7]–[9] <sup>5</sup>

<b>Name of Act or instrument</b>	<b>Extent of repeal</b>
<i>Children and Young Persons (Care and Protection) Amendment (Permanency Planning) Act 2001</i> No 91	Schedule 1 [1]–[20] and [22]–[25] <sup>5</sup>
<i>Children (Criminal Proceedings) Amendment (Adult Detainees) Act 2001</i> No 123	Section 3 and Schedule 1 <sup>5</sup>
<i>Children (Detention Centres) Amendment Act 2004</i> No 28	Whole Act <sup>1</sup>
<i>Civil Liability Amendment Act 2003</i> No 94	Whole Act <sup>1</sup>
<i>Civil Liability Amendment (Offender Damages) Act 2004</i> No 29	Whole Act <sup>1</sup>
<i>Civil Liability Amendment (Personal Responsibility) Act 2002</i> No 92	Whole Act <sup>1</sup>
<i>Classification (Publications, Films and Computer Games) Enforcement Amendment Act 2001</i> No 95	Section 4 and Schedule 1 <sup>5</sup>
<i>Compensation Court Repeal Act 2002</i> No 23	Section 12 and Schedule 1 <sup>5</sup>
<i>Constitution Amendment Act 2000</i> No 30	Section 3 and Schedule 1 <sup>5</sup>
<i>Consumer Credit Administration Amendment (Finance Brokers) Act 2003</i> No 15	Whole Act <sup>1</sup>
<i>Corporations (Ancillary Provisions) Act 2001</i> No 32	Section 26 and Schedule 2 <sup>5</sup>
<i>Courts Legislation Amendment Act 2004</i> No 68	Schedules 1–4 and 6–9 <sup>5</sup>
<i>Crimes (Administration of Sentences) Amendment Act 2002</i> No 36	Section 3 and Schedule 1 <sup>5</sup>
<i>Crimes (Administration of Sentences) Amendment (Norfolk Island Prisoners) Act 2004</i> No 71	Whole Act <sup>1</sup>
<i>Crimes Amendment (Child Neglect) Act 2004</i> No 41	Whole Act <sup>1</sup>
<i>Crimes Amendment (Child Pornography) Act 2004</i> No 95	Whole Act <sup>1</sup>
<i>Crimes Legislation Amendment Act 2002</i> No 130	Schedules 1–3, Schedule 4 [1] and [6]–[8] and Schedules 5–9 <sup>5</sup>
<i>Crimes Legislation Amendment (Terrorism) Act 2004</i> No 48	Whole Act <sup>1</sup>
<i>Crimes Legislation Further Amendment Act 2003</i> No 85	Schedules 1–5, Schedule 6 [7]–[9] and Schedule 7 <sup>5</sup>
<i>Crimes (Sentencing Procedure) Amendment (Victim Impact Statements) Act 2004</i> No 3	Whole Act <sup>1</sup>



Statute Law (Miscellaneous Provisions) Act 2005 No 64

Schedule 3 Repeals

<b>Name of Act or instrument</b>	<b>Extent of repeal</b>
<i>Criminal Procedure Amendment (Sexual Offence Evidence) Act 2004 No 50</i>	Whole Act <sup>1</sup>
<i>Crown Lands Legislation Amendment (Budget) Act 2004 No 63</i>	Whole Act <sup>1</sup>
<i>Dental Practice Act 2001 No 64</i>	Section 159 and Schedule 6 <sup>5</sup>
<i>Duties Amendment (Land Rich) Act 2004 No 96</i>	Whole Act <sup>1</sup>
<i>Education Amendment (Non-Government Schools Registration) Act 2004 No 15</i>	Whole Act <sup>1</sup>
<i>Electricity Supply Amendment Act 2000 No 109</i>	Whole Act <sup>1</sup>
<i>Energy Services Corporations (Country Energy) Regulation 2001</i>	Whole Regulation <sup>1</sup>
<i>Energy Services Corporations (Eraring Energy) Regulation 2000</i>	Whole Regulation <sup>1</sup>
<i>Filming Approval Act 2004 No 38</i>	Section 15 and Schedule 1 <sup>5</sup>
<i>Fines Amendment Act 2004 No 43</i>	Whole Act <sup>1</sup>
<i>Fisheries Management Amendment Act 2004 No 26</i>	Whole Act <sup>1</sup>
<i>Fisheries Management and Environmental Assessment Legislation Amendment Act 2000 No 86</i>	Whole Act <sup>1</sup>
<i>Food Act 2003 No 43</i>	Section 143 and Schedule 1 <sup>5</sup>
<i>Freedom of Information Amendment (Terrorism and Criminal Intelligence) Act 2004 No 30</i>	Whole Act <sup>1</sup>
<i>Funeral Funds Amendment Act 2003 No 61</i>	Whole Act <sup>1</sup>
<i>Game and Feral Animal Control Act 2002 No 64</i>	Section 62 and Schedule 3 <sup>5</sup>
<i>Gaming Machines Amendment Act 2004 No 97</i>	Whole Act <sup>1</sup>
<i>Gene Technology (GM Crop Moratorium) Amendment Act 2004 No 93</i>	Whole Act <sup>1</sup>
<i>Greyhound and Harness Racing Administration Act 2004 No 36</i>	Section 52 and Schedule 3 <sup>5</sup>
<i>Hairdressers Act 2003 No 62</i>	Section 10 and Schedule 1 <sup>5</sup>
<i>Health Care Complaints Amendment (Special Commission of Inquiry) Act 2004 No 18</i>	Whole Act <sup>1</sup>
<i>Health Legislation Further Amendment Act 2004 No 87</i>	Whole Act <sup>1</sup>

<b>Name of Act or instrument</b>	<b>Extent of repeal</b>
<i>Health Records and Information Privacy Act 2002</i> No 71	Section 77 and Schedule 3 <sup>5</sup>
<i>Health Services Amendment Act 2004</i> No 92	Whole Act <sup>1</sup>
<i>Higher Education Act 2001</i> No 102	Section 27 and Schedule 2 <sup>5</sup>
<i>Home Building Legislation Amendment Act 2001</i> No 51	Section 5 and Schedules 1, 2, 3 [1]–[6], [8], [9] and [12]–[30], 4, 5, 6 [1], [2] and [4]–[23] and 7–10 <sup>5</sup>
<i>Industrial Relations Leave Legislation Amendment (Bonuses) Act 2000</i> No 61	Whole Act <sup>1</sup>
<i>Institute of Sport Amendment Act 2003</i> No 46	Whole Act <sup>1</sup>
<i>Jury Amendment Act 2004</i> No 102	Whole Act <sup>1</sup>
<i>Justice Legislation Amendment (Non-association and Place Restriction) Act 2001</i> No 100	Sections 3 and 4 and Schedules 1 and 2 <sup>5</sup>
<i>Justices of the Peace Act 2002</i> No 27	Section 16 <sup>5</sup>
<i>Juvenile Offenders Legislation Amendment Act 2004</i> No 103	Whole Act <sup>1</sup>
<i>Law Enforcement (Powers and Responsibilities) Amendment (In-car Video Systems) Act 2004</i> No 104	Whole Act <sup>1</sup>
<i>Legal Profession Amendment (National Competition Policy Review) Act 2002</i> No 25	Whole Act <sup>1</sup>
<i>Legal Profession Legislation Amendment (Advertising) Act 2003</i> No 98	Whole Act <sup>1</sup>
<i>Liquor Amendment (Racing Clubs) Act 2004</i> No 80	Whole Act <sup>1</sup>
<i>Local Government Amendment (Council and Employee Security) Act 2004</i> No 25	Whole Act <sup>1</sup>
<i>Local Government Amendment (Discipline) Act 2004</i> No 73	Whole Act <sup>1</sup>
<i>Local Government Amendment (Elections) Act 2003</i> No 23	Whole Act <sup>1</sup>
<i>Local Government Amendment (Mayoral Elections) Act 2004</i> No 44	Whole Act <sup>1</sup>
<i>Mining Amendment (Miscellaneous Provisions) Act 2004</i> No 75	Schedule 1 [1], [7]–[15], [17], [20], [27], [30], [34], [37] and [39]–[41] <sup>5</sup>

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Schedule 3 Repeals

<b>Name of Act or instrument</b>	<b>Extent of repeal</b>
<i>Mining Legislation Amendment (Health and Safety) Act 2002</i> No 50	Whole Act <sup>1</sup>
<i>Motor Accidents Legislation Amendment Act 2004</i> No 77	Whole Act <sup>1</sup>
<i>National Park Estate (Southern Region Reservations) Act 2000</i> No 103	Section 15 (1) and Schedule 8 <sup>5</sup>
<i>National Parks and Wildlife Amendment Act 2001</i> No 130	Section 4 and Schedule 1 [1]–[4], [6]–[9], [11]–[14], [16]–[18], [20]–[41], [43], [44], [46]–[51], [53]–[74], [76]–[138], [141]–[149], [151]–[153], [155], [156], [158], [160], [162]–[167], [169], [171] and [172], Schedule 2, Schedule 3 [10]–[46] and Schedules 4–6 <sup>5</sup>
<i>National Parks and Wildlife Amendment (Kosciuszko National Park Roads) Act 2004</i> No 5	Whole Act <sup>1</sup>
<i>Natural Resources Commission Act 2003</i> No 102	Section 23 and Schedule 2 <sup>5</sup>
<i>Optometrists Act 2002</i> No 30	Section 137 and Schedule 6 <sup>5</sup>
<i>Parliamentary Remuneration Amendment Act 1998</i> No 84	Whole Act <sup>1</sup>
<i>Partnership Amendment (Venture Capital Funds) Act 2004</i> No 8	Whole Act <sup>1</sup>
<i>Passenger Transport Amendment (Bus Reform) Act 2004</i> No 54	Whole Act <sup>1</sup>
<i>Pawnbrokers and Second-hand Dealers Amendment Act 2002</i> No 104	Whole Act <sup>1</sup>
<i>Police Amendment (Senior Executive Transfers) Act 2004</i> No 76	Whole Act <sup>1</sup>
<i>Police Department (Transit Police) Act 1989</i> No 58	Whole Act <sup>4</sup>
<i>Police Department (Transit Police) Regulation 2000</i>	Whole Regulation <sup>4</sup>
<i>Powers of Attorney Act 2003</i> No 53	Section 55 and Schedule 4 <sup>5</sup>
<i>Prevention of Cruelty to Animals Amendment (Tail Docking) Act 2004</i> No 24	Whole Act <sup>1</sup>
<i>Professional Standards Amendment Act 2004</i> No 83	Whole Act <sup>1</sup>

<b>Name of Act or instrument</b>	<b>Extent of repeal</b>
<i>Protected Estates Amendment (Missing Persons) Act 2004</i> No 86	Whole Act <sup>1</sup>
<i>Regulatory Reduction Act 1996</i> No 107	Section 4 and Schedule 1.3, 1.5–1.9, 1.11 and 1.12 and Schedule 2 <sup>5</sup>
<i>Research Involving Human Embryos (New South Wales)</i> <i>Act 2003</i> No 21	Section 21 <sup>5</sup>
<i>Residential Parks Act 1998</i> No 142	Section 159 and Schedule 3 <sup>5</sup>
<i>Road Transport Legislation Amendment (Public Transport Lanes) Act 2004</i> No 22	Whole Act <sup>1</sup>
<i>Road Transport (Safety and Traffic Management)</i> <i>Amendment (Alcohol) Act 2004</i> No 17	Whole Act <sup>1</sup>
<i>Road Transport (Safety and Traffic Management)</i> <i>Amendment (Blood Sampling) Act 2000</i> No 78	Whole Act <sup>1</sup>
<i>Roman Catholic Church Communities' Lands Amendment</i> <i>Act 2001</i> No 11	Whole Act <sup>1</sup>
<i>Rookwood Necropolis Amendment Act 2004</i> No 108	Whole Act <sup>1</sup>
<i>Royal Blind Society (Corporate Conversion) Act 2003</i> No 64	Sections 4 and 16 and Schedules 1 and 2 <sup>5</sup>
<i>Shops and Industries Amendment (Special Shop Closures)</i> <i>Act 2004</i> No 109	Whole Act <sup>1</sup>
<i>Smoke-free Environment Amendment Act 2004</i> No 110	Section 4, Schedule 1 [1]–[12], [14] and [15] and Schedule 2 <sup>5</sup>
<i>Special Commission of Inquiry (James Hardie Records)</i> <i>Amendment Act 2004</i> No 90	Whole Act <sup>1</sup>
<i>Sporting Venues (Pitch Invasions) Act 2003</i> No 44	Section 17 and Schedule 2 <sup>5</sup>
<i>State Revenue Legislation Amendment Act 2004</i> No 33	Whole Act <sup>1</sup>
<i>Stock Act 1901</i> No 27	Whole Act <sup>4</sup>
<i>Stock Diseases Amendment (False Information) Act 2004</i> No 20	Whole Act <sup>1</sup>
<i>Strata Schemes Management Amendment Act 2004</i> No 9	Whole Act <sup>1</sup>
<i>Superannuation Administration Authority Corporatisation</i> <i>Act 1999</i> No 5	Sections 16 and 17 and Schedules 4 and 5 <sup>5</sup>

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Schedule 3 Repeals

<b>Name of Act or instrument</b>	<b>Extent of repeal</b>
<i>Superannuation Legislation Amendment (Family Law) Act 2003</i> No 77	Schedule 1 [1], Schedules 3, 4, 8, 9 and 13 <sup>5</sup>
<i>Sustainable Energy Development Repeal Act 2004</i> No 64	Whole Act <sup>1</sup>
<i>Sydney Opera House Trust Amendment Act 2004</i> No 49	Whole Act <sup>1</sup>
<i>Teaching Services Amendment Act 2004</i> No 114	Whole Act <sup>1</sup>
<i>Threatened Species Conservation Amendment Act 2002</i> No 78	Schedule 1 [1], [4], [6], [8], [9], [11]–[17], [19]–[36], [38]–[52], [56]–[58], [61]–[79] and [81]–[83], Schedule 2.1 [5] and [8]–[16], 2.2 [1]–[4] and [7], 2.3, 2.4 and 2.5 <sup>5</sup>
<i>Threatened Species Legislation Amendment Act 2004</i> No 88	Schedule 3.1 [1], [8] and [10]–[17] and 3.2 <sup>5</sup>
<i>Transport Administration Amendment (New South Wales and Commonwealth Rail Agreement) Act 2004</i> No 31	Whole Act <sup>1</sup>
<i>Transport Administration Amendment (Rail Agencies) Act 2003</i> No 96	Section 4 and Schedules 1 and 3 <sup>5</sup>
<i>Transport Administration Amendment (Sydney Ferries) Act 2003</i> No 99	Whole Act <sup>1</sup>
<i>Transport Employees Retirement Benefits Act 1967</i> No 96	Part 5 <sup>4</sup>
<i>University Legislation Amendment Act 2004</i> No 115	Whole Act <sup>1</sup>
<i>University of Western Sydney Act 1997</i> No 116	Section 43 and Schedule 3 <sup>5</sup>
<i>Western Lands Amendment Act 2002</i> No 68	Schedule 1 [1] and Schedules 2–5 <sup>5</sup>
<i>Wine Grapes Marketing Board (Reconstitution) Act 2003</i> No 100	Sections 24 and 25 and Schedule 2 <sup>5</sup>
<i>Wollongong Sportsground and Old Roman Catholic Cemetery Legislation Amendment (Transfer of Land) Act 2001</i> No 103	Schedule 1 [1]–[4] and [6]–[10] and Schedule 2 [1], [2], [4] and [5] <sup>5</sup>
<i>Wool, Hide and Skin Dealers Act 2004</i> No 7	Section 45 and Schedule 2 <sup>5</sup>
<i>Workers Compensation and Other Legislation Amendment Act 2004</i> No 111	Schedule 1, Schedule 2 [1], [2], [4] and [5] and Schedules 3–6 <sup>5</sup>

<b>Name of Act or instrument</b>	<b>Extent of repeal</b>
<i>Workers Compensation Legislation Amendment Act 2000</i> No 87	Schedules 1–8 and 10–23 <sup>5</sup>
<i>Workers Compensation Legislation Amendment Act 2002</i> No 124	Schedule 2 [4]–[7], [9], [10] and [12], Schedules 3 and 4 <sup>5</sup>
<i>Workers Compensation Legislation Amendment Act 2003</i> No 29	Schedules 1 and 2, Schedule 3 [1] and [4]–[17] and Schedules 4–7 <sup>5</sup>
<i>Workers Compensation Legislation Amendment Act 2004</i> No 56	Whole Act <sup>1</sup>
<i>Workers Compensation Legislation Further Amendment Act 2001</i> No 94	Schedule 1.1, 1.2 [1]–[7] and [9]–[21] and 1.3 and Schedules 2–10 <sup>5</sup>

**Key**

- 1 indicates repeal of a whole Act or instrument that contains only amendments, or amendments and repeals, that have commenced and provisions that are redundant
- 2 indicates repeal of a whole Act that contains amendments that are redundant
- 3 indicates repeal of an expired instrument
- 4 indicates repeal of a redundant Act or instrument or provisions
- 5 indicates repeal of amendments that have commenced

**Explanatory note**

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

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

- (a) the proof of any past act or thing,
- (b) any right, privilege, obligation or liability saved by the operation of the Act,
- (c) any amendment or validation made by the Act,
- (d) the operation of any savings or transitional provision contained in the Act.

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## 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.

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**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 Effect of amendment to Marine Pilotage Licensing Act 1971**

- (1) For the avoidance of doubt, the Director-General of the Ministry of Transport is taken, for the purpose of the definition of **Director-General** in section 4 (1) of the *Marine Pilotage Licensing Act 1971* (as in force immediately before the commencement of this Act), to have been the Department Head of the Department responsible to the Minister for the administration of the *Marine Pilotage Licensing Act 1971* during the period commencing on 21 January 2005 and ending immediately before the commencement of this Act (the **relevant period**).



- (2) Accordingly, any act, matter or thing done by the Director-General of the Ministry of Transport during the relevant period for the purposes of administering the *Marine Pilotage Licensing Act 1971* that would have been valid if subclause (1) had been in force at that time is validated to the extent of any invalidity.

**Explanatory note**

This clause ensures that there is no doubt as to the validity of any act, matter or thing done by the Director-General of the Ministry of Transport for the purposes of administering the *Marine Pilotage Licensing Act 1971* during the relevant period.

**8 Regulations**

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

**Explanatory note**

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

## Notes

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*Auburn Local Environmental Plan 2000*—Schedule 2  
*Australian Museum Trust Act 1975* No 95—Schedule 1  
*Baulkham Hills Local Environmental Plan 1991*—Schedule 2  
*Building and Construction Industry Long Service Payments Act 1986* No 19—Schedule 2  
*Cancer Institute (NSW) Act 2003* No 14—Schedule 2  
*Canterbury Local Environmental Plan No 138—Canterbury Precinct*—Schedule 2  
*Coal Industry Act 2001* No 107—Schedule 1  
*Coastal Protection Act 1979* No 13—Schedule 2  
*Coffs Harbour City Local Environmental Plan 2000*—Schedule 2  
*Commercial Agents and Private Inquiry Agents Act 2004* No 70—Schedule 1  
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*District Court Act 1973* No 9—Schedule 1  
*Employment Protection Act 1982* No 122—Schedule 2  
*Energy Services Corporation Act 1995* No 95—Schedule 2  
*Environmental Planning and Assessment Act 1979* No 203—Schedule 1  
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*Environmentally Hazardous Chemicals Act 1985* No 14—Schedule 2  
*Film and Television Office Act 1988* No 18—Schedule 1  
*Fines Act 1996* No 99—Schedule 1  
*Fire Brigades Act 1989* No 192—Schedule 2  
*Freedom of Information Regulation 2005*—Schedule 2  
*Gilgandra Local Environmental Plan 2004*—Schedule 2  
*Government and Related Employees Appeal Tribunal Act 1980* No 39—Schedule 1  
*Great Lakes Local Environmental Plan 1996*—Schedule 2  
*Greater Taree Local Environmental Plan 1995*—Schedule 2  
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*Heritage Act 1977* No 136—Schedule 2  
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*Home Building Act 1989* No 147—Schedule 2  
*Hunter Water Act 1991* No 53—Schedule 2  
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