



New South Wales

# Statute Law (Miscellaneous Provisions) Act 2012 No 42

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New South Wales

## **Statute Law (Miscellaneous Provisions) Act 2012 No 42**

Act No 42, 2012

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An Act to repeal certain Acts and instruments 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 21 June 2012]

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

**1 Name of Act**

This Act is the *Statute Law (Miscellaneous Provisions) Act 2012*.

**2 Commencement**

- (1) This Act commences on 6 July 2012 except as provided by subsection (2).
- (2) The amendments made by the Schedules to this Act 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 in accordance with subsection (1).

**3 Explanatory notes**

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

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## Schedule 1 Minor amendments

### 1.1 Aboriginal Land Rights Act 1983 No 42

#### Schedule 4 Savings, transitional and other provisions

Omit “on or after 1 January 2013” from clause 45 (2).

Insert instead “on or after 1 July 2014”.

#### Explanatory note

The proposed amendment to a transitional provision under the *Aboriginal Land Rights Act 1983* extends until 30 June 2014 the period during which a Local Aboriginal Land Council can operate a social housing scheme (in existence on 1 July 2007) without an approval of the New South Wales Aboriginal Land Council.

### 1.2 Animal Diseases (Emergency Outbreaks) Act 1991 No 73

#### Section 67 Delegation

Omit the following:

The Minister may, either generally or as otherwise provided by the instrument of delegation in writing, delegate to the Director-General, the Chief Veterinary Officer, a Deputy Chief Veterinary Officer or a person prescribed by the regulations all or any of the functions of the Minister under this Act.

Insert instead:

The Minister may, either generally or as otherwise provided by the instrument of delegation in writing, delegate all or any of the functions of the Minister under this Act (other than this power of delegation) to any of the following persons:

- (a) the Director-General,
- (b) the Chief Veterinary Officer,
- (c) a Deputy Chief Veterinary Officer,
- (d) a member of staff of the Department,
- (e) a person prescribed by the regulations.

#### Explanatory note

The proposed amendment to the *Animal Diseases (Emergency Outbreaks) Act 1991* extends the class of persons to whom the Minister for Primary Industries may delegate any of the Minister’s functions under the Act so as to include members of staff of the Department of Trade and Investment, Regional Infrastructure and Services.

### **1.3 Barangaroo Delivery Authority Act 2009 No 2**

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

Omit section 9 (2) (b).

**[2] Section 9 (2) (d)**

Omit “4 persons”. Insert instead “5 persons”.

**[3] Schedule 1 Members and procedure of Board**

Omit clause 8 (1).

**Explanatory note**

Item [1] of the proposed amendments to the *Barangaroo Delivery Authority Act 2009* removes a requirement for the Secretary of the Treasury to be a member of the Board of the Barangaroo Delivery Authority. Item [3] makes a consequential amendment.

Item [2] increases the number of persons that the Premier may appoint to the Board from 4 to 5 persons.

### **1.4 Births, Deaths and Marriages Registration Act 1995 No 62**

**[1] Section 25F Definitions**

Omit the definition of *interstate Registrar*.

**[2] Section 31C Applications for change of name by or on behalf of restricted person**

Omit “an interstate Registrar” wherever occurring in section 31C (1) (b) and (2) (b).

Insert instead “a registering authority”.

**[3] Section 31D Approval by supervising authority**

Insert “or a registering authority” after “Registrar” wherever occurring in section 31D (1)–(3).

**[4] Section 31D (1)–(3) and (5)**

Omit “the authority” wherever occurring.

Insert instead “the supervising authority”.

**[5] Section 31D (5)**

Insert “or a registering authority” after “Registrar” where firstly occurring.

**[6] Section 31D (5) (b)**

Omit “or the interstate Registrar”. Insert instead “or the registering authority”.

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**[7] Section 31J Review by Administrative Decisions Tribunal of certain decisions under this Part**

Insert “or a registering authority” after “Registrar”.

**[8] Section 31K Appeals from decisions of Mental Health Review Tribunal under this Part**

Insert “or a registering authority” after “Registrar” in section 31K (1).

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

Insert after Part 7:

## **Part 8 Provisions consequent on enactment of Statute Law (Miscellaneous Provisions) Act 2012**

### **25 Reviews and appeals**

- (1) In this clause, *amending Act* means the *Statute Law (Miscellaneous Provisions) Act 2012*.
- (2) Sections 31J and 31K as amended by the amending Act extend to decisions in relation to the making of an application to a registering authority for a change of name that were made after the commencement of those sections and before the commencement of this clause.
- (3) For the purpose only of determining the period within which an application for a review may be made under section 31J, or an appeal may be made under section 31K, in relation to a decision referred to in subclause (2) that was made before the commencement of this clause, the decision is taken to have been made on the commencement of this clause.

#### **Commencement**

Items [1]–[6] of the amendments to the *Births, Deaths and Marriages Registration Act 1995* are taken to have commenced on the commencement of the *Births, Deaths and Marriages Registration Amendment (Change of Name) Act 2012*.

#### **Explanatory note**

Items [1], [2] and [6] of the proposed amendments to the *Births, Deaths and Marriages Registration Act 1995* (*the Act*) remove the definition of *interstate Registrar* from section 25F and change references to that term in sections 31C and 31D to references to a *registering authority*. The term *interstate Registrar* is not needed as it is defined in exactly the same way as the term *registering authority* in section 4 (1) of the Act.

Items [3], [5], [7] and [8] insert references to a registering authority in sections 31D, 31J and 31K of the Act where references to the Registrar (being the New South Wales Registrar of Births, Deaths and Marriages) already appear. Section 31C of the Act currently requires certain persons to obtain the consent of a supervising authority before making an application to the New South Wales Registrar or to an interstate

Registrar for a change of name. The references to the interstate Registrar were inadvertently omitted from certain provisions of sections 31D, 31J and 31K of the Act which deal with the criteria for granting consent and provide appeal rights in relation to decisions to refuse consent.

Item [4] makes a consequential amendment.

Item [9] makes it clear that the amendments to sections 31J and 31K of the Act in relation to review and appeal rights extend to decisions made before the commencement of those amendments and provides that, in such a case, the period for making an application for the review of such a decision or appealing against it is to be determined as if the decision had been made on the commencement of the item.

## 1.5 Crimes Act 1900 No 40

### Section 93FA Possession, supply or making of explosives

Omit section 93FA (3).

#### Explanatory note

The proposed amendment to the *Crimes Act 1900* corrects an oversight that occurred when the maximum penalty for an offence under section 93FA of the *Crimes Act 1900* was increased from imprisonment for 2 years to imprisonment for 3 years. Offences having a maximum penalty of imprisonment of more than 2 years are generally indictable offences. The proposed amendment omits a provision that states that the offence is a summary offence only. The *Criminal Procedure Act 1986* provides, on the basis that the offence concerned is an indictable offence, that the offence is to be dealt with summarily unless the prosecutor elects otherwise.

## 1.6 Environmental Planning and Assessment Act 1979 No 203

### [1] Section 23G Joint regional planning panels

Insert “or the Director-General” after “Minister” where firstly occurring in section 23G (2) (c).

### [2] Section 23G (2) (c)

Insert “or the Director-General (as the case may be)” after “by the Minister”.

### [3] Section 89C Development that is State significant development

Omit “that is not declared under subsection (2)” from section 89C (3).

### [4] Section 98A Appeal concerning security

Insert at the end of section 98A (1) (b):

or

- (c) the failure or refusal of a council to release a security held by it that has been provided in accordance with a condition of a complying development certificate,

**[5] Section 98A (3)**

Insert “or (c)” after “subsection (1) (b)”.

**[6] Section 115ZI Modification of Minister’s approval**

Insert “, and includes an approval granted on the determination of a staged infrastructure application” after “Part” in the definition of *Minister’s approval* in section 115ZI (1).

**Explanatory note**

Items [1] and [2] of the proposed amendments to the *Environmental Planning and Assessment Act 1979 (the Act)* will enable joint regional planning panels to provide advice about planning or development matters or environmental planning instruments to the Director-General of the Department of Planning and Infrastructure, and not just to the Minister for Planning and Infrastructure (the *Minister*) as is currently the case.

Item [3] of the proposed amendments will enable the Minister to make an order declaring that the whole of particular development is State significant development (*SSD*) even if part of the development is already SSD under a State environmental planning policy.

Item [4] of the proposed amendments will enable a person who has provided security to a council in accordance with a condition of a complying development certificate to appeal to the Land and Environment Court if dissatisfied with the failure or refusal of the council to release the security. Item [5] makes a consequential amendment.

Item [6] of the proposed amendments is intended to remove any doubt that a provision of the Act under which the Minister may modify his or her approval of State significant infrastructure also enables the Minister to modify his or her approval of a staged infrastructure application under the Act.

## **1.7 Evidence (Audio and Audio Visual Links) Act 1998 No 105**

### **Section 5 Application of Act**

Omit section 5 (6).

**Explanatory note**

The proposed amendment removes a redundant provision from the *Evidence (Audio and Audio Visual Links) Act 1998* dealing with the application to child detainees of provisions regulating the appearance of accused persons in court by audio visual link.

Those provisions formerly distinguished between child and adult detainees but were amended in 2007 to remove the distinction and provide the same rules for both adult and child detainees.

The redundant provision was previously required to make it clear that the adult detainee provisions did not apply to child detainees but is no longer required now that the provisions have been standardised for both children and adults.



## 1.8 Exhibited Animals Protection Act 1986 No 123

### Section 27 Applications

Insert after section 27 (3A) (g):

- (h) any other matter that the Director-General considers relevant.

#### Explanatory note

The proposed amendment to the *Exhibited Animals Protection Act 1986* makes it clear that the Director-General of the Department of Trade and Investment, Regional Infrastructure and Services may, when considering an application for an authority under the Act, consider such other matters as the Director-General considers relevant in addition to the matters specified in section 27 (3A) of that Act.

## 1.9 Explosives Act 2003 No 39

### [1] Section 36 Regulations

Insert after section 36 (2) (a) (i):

- (ia) the security clearances required to be held by persons who handle explosives or explosive precursors,

### [2] Section 36 (2A)

Insert after section 36 (2):

- (2A) Sections 13 and 24 apply in respect of any security clearances required to be held under the regulations in the same way as they apply in respect of licences.

#### Explanatory note

The proposed amendments to the *Explosives Act 2003 (the Act)* relate to a proposal to rename “unsupervised handling licences”, which are currently granted under the Act, as “security clearances”. An unsupervised handling licence is more accurately described as a security clearance because it does not, by itself, authorise a person to handle explosives or explosive precursors. It enables a person to handle explosives or explosive precursors (unsupervised) under the authority of another licence granted under the Act. Unsupervised handling licences are granted only after appropriate police checks have been carried out.

Item [1] makes it clear that the regulations under the Act can provide for the security clearances to be held by persons who handle explosives or explosive precursors. The amendment is for avoidance of doubt only, as the Act already provides that the regulations may make provision for or with respect to the control and regulation of explosives and explosive precursors, including the handling of explosives or explosive precursors.

Item [2] provides that the current provisions of the Act relating to police check arrangements for licences, and appeals against licence decisions, apply to security clearances in the same way as they apply to licences. This ensures that the proposed change in name of unsupervised handling licences has no effect on existing arrangements for police checks and appeals.

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## 1.10 Firearms Act 1996 No 46

### [1] Section 4D Special provisions relating to imitation firearms

Omit section 4D (1) (a). Insert instead:

- (a) the Commissioner may not issue a licence authorising the possession or use of an imitation firearm (except to a firearms dealer) but may issue a permit authorising the possession or use of an imitation firearm,

### [2] Section 25 Surrender and seizure of firearms when licence surrendered or revoked

Insert “A police officer is also authorised to seize the licence itself.” after “in force.” in section 25 (2).

### [3] Section 30 General provisions relating to permits

Insert “A police officer is also authorised to seize the permit itself.” after “in force.” in section 30 (7).

#### Explanatory note

Item [1] of the proposed amendments to the *Firearms Act 1996* removes regulatory duplication by enabling firearm dealers to possess or otherwise deal with imitation firearms under the authority of a firearms dealer licence rather than having to obtain a separate permit for imitation firearms. The amendment also resolves an anomaly with section 43 of the Act which prohibits a firearms dealer from possessing firearms (which includes imitation firearms) unless authorised to do so by a firearms dealer licence.

Items [2] and [3] of the proposed amendments authorise police officers to seize licences and permits that are suspended or revoked or have otherwise ceased to be in force. The Act currently requires a person, if his or her licence or permit is suspended, revoked or otherwise ceases to be in force, to surrender any firearms in the person's possession along with the licence or permit. However, police officers are currently only authorised to seize the person's firearms.

## 1.11 Fisheries Management Act 1994 No 38

### [1] Section 163 Grant of aquaculture lease

Omit “in the Gazette and in a newspaper circulating in the area in which the land is situated,” from section 163 (7A) (a).

Insert instead “in the Gazette and on the website of the Department”.

### [2] Section 170 Lessee may fence leased area in certain cases

Insert after section 170 (5):

- (5A) A reference in this section to a fence on a leased area includes (but is not limited to) a reference to a barrier or other structure located in or on the area to prevent, or dissipate the force of, waves entering the area.

**[3] Section 177 Power of Minister to cancel leases in certain cases**

Insert “or no aquaculture is being undertaken in the area” after “was granted” in section 177 (1) (a).

**[4] Section 191 Regulations**

Insert after section 191 (m):

- (m1) applications and eligibility for, and subdivisions, transfers or other dealings involving, aquaculture leases,

**Explanatory note**

Item [1] of the proposed amendments to the *Fisheries Management Act 1994* (**the Act**) provides for a notice of an application for an aquaculture lease to be published in the Gazette and on the website of the Department of Trade and Investment, Regional Infrastructure and Services instead of in the Gazette and a newspaper circulating locally (as is currently the case).

Item [2] of the proposed amendments makes it clear that the Minister may authorise the use of fencing in the leased area of an aquaculture lease for the purpose of creating a wave barrier.

Item [3] of the proposed amendments makes it clear that the Minister may cancel an aquaculture lease if no aquaculture is being undertaken in the leased area.

Item [4] of the proposed amendments makes it clear that the regulations may make provision for or with respect to applications and eligibility for, and subdivisions, transfers or other dealings involving, aquaculture leases.

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

**[1] Section 4 Definitions**

Omit “and nursing services” from paragraph (a) of the definition of **health service**.

Insert instead “, nursing and midwifery services”.

**[2] Section 4, definition of “health service”**

Omit paragraphs (i) and (j). Insert instead:

- (i) services provided in connection with Aboriginal and Torres Strait Islander health practices and medical radiation practices,
- (j) Chinese medicine, chiropractic, occupational therapy, optometry, osteopathy, physiotherapy, podiatry and psychology services,
- (j1) optical dispensing, dietitian, massage therapy, naturopathy, acupuncture, speech therapy, audiology and audiometry services,

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**Commencement**

Item [2] of the amendments to the *Health Care Complaints Act 1993 (the Act)* commences, or is taken to have commenced, on 1 July 2012.

**Explanatory note**

Item [1] of the proposed amendments to the Act amends the definition of **health service** to reflect that nursing services are recognised as distinct from midwifery services under the *Health Practitioner Regulation National Law (NSW)*, which commenced on 1 July 2010.

Item [2] updates the terminology in the definition of **health service** in the Act to make its language consistent with the terminology in the *Health Practitioner Regulation National Law (NSW)*.

### 1.13 Health Records and Information Privacy Act 2002 No 71

**[1] Section 4 Definitions**

Omit “and nursing services” from paragraph (a) of the definition of **health service** in section 4 (1).

Insert instead “, nursing and midwifery services”.

**[2] Section 4 (1), definition of “health service”**

Omit paragraphs (i) and (j). Insert instead:

- (i) services provided in connection with Aboriginal and Torres Strait Islander health practices and medical radiation practices,
- (j) Chinese medicine, chiropractic, occupational therapy, optometry, osteopathy, physiotherapy, podiatry and psychology services,
- (j1) optical dispensing, dietitian, massage therapy, naturopathy, acupuncture, speech therapy, audiology and audiometry services,

**Commencement**

Item [2] of the amendments to the *Health Records and Information Privacy Act 2002 (the Act)* commences, or is taken to have commenced, on 1 July 2012.

**Explanatory note**

Item [1] of the proposed amendments to the Act amends the definition of **health service** to reflect that nursing services are recognised as distinct from midwifery services under the *Health Practitioner Regulation National Law (NSW)*, which commenced on 1 July 2010.

Item [2] updates the terminology in the definition of **health service** in the Act to make its language consistent with the terminology in the *Health Practitioner Regulation National Law (NSW)*.

## **1.14 Health Services Act 1997 No 154**

### **Section 116 Employment of staff generally**

Omit “health support services” from section 116 (1) (d).

Insert instead “services”.

#### **Explanatory note**

The proposed amendment to the *Health Services Act 1997* is consequential on the amendment of sections 126B and 126G of the *Health Services Act 1997* by the *Health Services Amendment (Local Health Networks) Act 2010*.

## **1.15 Heritage Act 1977 No 136**

### **Section 37 Action by Heritage Council on Minister’s decision**

Insert after section 37 (3):

- (4) Publication in the Gazette before 24 March 2012 of the Minister’s decision to direct a listing on the State Heritage Register is (for the purposes of this section) deemed to be (and always to have been) publication in the Gazette of notice of the listing.

#### **Explanatory note**

The proposed amendment to the *Heritage Act 1977* removes any doubt that items listed on the State Heritage Register before 24 March 2012 are validly listed, despite a technical error that may have occurred in the form of words used to give notice of the listing.

## **1.16 Home Building Act 1989 No 147**

- [1] **Sections 20 (1), (3) and (6), 25 (1) and (3), 31 and 40 (1), (2), (2A), (2B), (2E), (3) and (4)**

Omit “reject” wherever occurring. Insert instead “refuse”.

- [2] **Sections 20 (6) (a), 40 (2B) and 51 (2) (d)**

Omit “rejected” wherever occurring. Insert instead “refused”.

- [3] **Section 40 Renewal or restoration of authorities**

Omit section 40 (2) (a).

- [4] **Section 48K Jurisdiction of Tribunal in relation to building claims**

Omit section 48K (7). Insert instead:

- (7) The Tribunal does not have jurisdiction in respect of a building claim arising from a breach of a statutory warranty implied under Part 2C if the date on which the claim is lodged is after the end of

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the period within which proceedings for a breach of the statutory warranty must be commenced (as provided by section 18E).

**[5] Sections 56 (k) and 57 (g)**

Omit “rejecting” wherever occurring. Insert instead “refusing”.

**[6] Schedule 4 Savings and transitional provisions**

Insert at the end of clause 116:

- (2) A provision included in an insurance contract for the purpose of giving effect to clause 53 (3) of the *Home Building Regulation 1997* is taken to be modified to the extent necessary to give effect to clause 63 (3) of the *Home Building Regulation 2004* as amended by the amending Act.
- (3) The modification of a provision of an insurance contract effected by this clause is taken to have had effect from the commencement of the contract concerned.
- (4) The amendment by the amending Act of clause 63 of the *Home Building Regulation 2004* (the **clause 63 amendment**) is taken to have had effect from the commencement of that Regulation. Clause 53 of the *Home Building Regulation 1997* is taken to have been amended (from its commencement) to the same effect as the clause 63 amendment.
- (5) Nothing in this clause affects the liability of an insurer for a claim that was made under a policy of insurance before the date of assent to the amending Act, whether or not the claim was finalised before that date.
- (6) For the purposes of this clause, a claim for a loss was not made under a policy of insurance merely because the insurer is taken to have been notified of that loss by operation of clause 63 (3) of the *Home Building Regulation 2004*, clause 53 (3) of the *Home Building Regulation 1997* or a provision included in an insurance contract for the purpose of giving effect to either of those clauses.

**Commencement**

Item [6] of the amendments to the *Home Building Act 1989* commences on the date of assent to this Act.

**Explanatory note**

Items [1], [2] and [5] of the proposed amendments to the *Home Building Act 1989* make the language of the licensing and certification provisions of that Act consistent with the language of the relevant provisions of the *Licensing and Registration (Uniform Procedures) Act 2002*. The *Licensing and Registration (Uniform Procedures) Act 2002* is the Act that applies uniform procedures to various licensing and registration schemes under the *Home Building Act 1989*.

Item [3] of the proposed amendments deletes a ground for rejecting an application under that Act because the ground concerns one of the aspects of the application process that has been transferred from that Act to the *Licensing and Registration (Uniform Procedures) Act 2002*. The deleted ground is a vestige of the application scheme under the *Home Building Act 1989* prior to the introduction of the licensing and registration (uniform procedures) scheme and is now redundant.

Item [4] of the proposed amendments aligns the period for the making of a claim in the Consumer, Trader and Tenancy Tribunal in respect of a breach of a statutory warranty under the *Home Building Act 1989* with the period within which proceedings for the breaching of a statutory claim must be brought. The amendment is consequential on amendments made in 2011 that caused the periods to become misaligned.

Item [6] of the proposed amendments makes it clear that an existing transitional provision that operates to extend an amendment made in 2011 to policies of insurance written before the amendment commenced is not limited to policies written under the *Home Building Regulation 2004* (the **2004 Regulation**) and applies also to earlier policies written under the *Home Building Regulation 1997* (the **1997 Regulation**). The 2004 Regulation replaced the 1997 Regulation under the staged repeal program.

## 1.17 Interpretation Act 1987 No 15

### [1] Section 30B Effect of amendment of instrument by an Act

Omit “a statutory rule”. Insert instead “an instrument”.

### [2] Section 30B

Omit “another statutory rule”. Insert instead “another instrument”.

### [3] Section 30C Automatic repeal of amending Acts that have commenced

Omit “an item” from paragraph (b) of the definition of *amending Act* in section 30C (1).

Insert instead “a provision”.

### [4] Section 30C (1), paragraph (b) of the definition of “amending Act”

Insert “apart from ancillary provisions” after “other provisions”.

### [5] Section 49 Delegation of functions

Insert “by or” after “is delegated” in section 49 (8).

### [6] Section 49 (8) (b)

Omit the paragraph. Insert instead:

- (b) the person for the time being occupying or acting in the office concerned is taken to be the delegator or delegate (as the case requires).

#### Explanatory note

Items [5] and [6] of the proposed amendments to the *Interpretation Act 1987* confirm existing case law to the effect that a delegation by an office holder generally continues

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to have effect even though the person who made the delegation has ceased to hold the relevant office. Like other provisions in the *Interpretation Act 1987*, this provision will apply to a particular Act or instrument, except in so far as the contrary intention appears in that Act or instrument.

Items [1] and [2] of the proposed amendments ensure that the amendment by an Act of any statutory instrument (not just a regulation or other statutory rule) does not prevent its later amendment or repeal by a later statutory instrument.

Items [3] and [4] of the proposed amendments are technical amendments clarifying the automatic repeal of amending Acts after their commencement.

## **1.18 Liquor Act 2007 No 90**

### **[1] Section 144C Committing a prescribed offence**

Insert at the end of section 144C (1) (b):

, or

- (c) a penalty notice enforcement order under the *Fines Act 1996* is made against the person in respect of the offence.

### **[2] Section 144C (2)**

Omit the subsection. Insert instead:

- (2) However, if:
  - (a) the conviction is overturned on appeal, or
  - (b) the person elects, after an amount is paid under the penalty notice, to have the offence dealt with by a court, or
  - (c) the penalty notice, or the penalty notice enforcement order to the extent that it applies to the penalty notice, is withdrawn or annulled,any strike based on the conviction, penalty notice or enforcement order is revoked and any remedial action taken as the result of the strike ceases to have effect.

### **[3] Schedule 1 Savings and transitional provisions**

Insert after Part 7:

## **Part 8 Provisions consequent on enactment of Statute Law (Miscellaneous Provisions) Act 2012**

### **34 Operation of amendments to Part 9A**

- (1) The amendment made by the amending Act to section 144C (1) applies to a penalty notice enforcement order that is made after the commencement of the amending Act whether or not the



prescribed offence in respect of which the order is made was committed before or after that commencement.

- (2) Section 144C (2), as substituted by the amending Act, extends to strikes that have been incurred before the commencement of the amending Act.
- (3) In this clause, **amending Act** means the *Statute Law (Miscellaneous Provisions) Act 2012*.

**Explanatory note**

Under Part 9A of the *Liquor Act 2007*, a strike is or may be incurred in relation to a liquor licence under the 3 strikes disciplinary system if the licensee or manager of the premises to which the licence relates commits an offence specified in that Part. For the purposes of that Part, an offence is committed if a court convicts the person for the offence or an amount is paid under a penalty notice in respect of the offence. Part 9A also provides that, if the conviction is overturned on appeal, any strike based on the conviction is revoked and any remedial action taken as a result of the strike (for example, imposition of licence conditions) ceases to have effect.

Item [1] of the proposed amendments provides that an offence for the purposes of Part 9A of the *Liquor Act 2007* is also committed if a penalty notice enforcement order under the *Fines Act 1996* is made in respect of the offence. Such enforcement orders may be made by the State Debt Recovery Office generally if the amount under a penalty notice is not paid or the person alleged to have committed the offence has not elected to have the matter dealt with by a court. Item [3] provides that the amendment made by item [1] will only apply to penalty notice enforcement orders made after the commencement of the amendment.

Item [2] of the proposed amendments provides that, if a person elects, after paying an amount under a penalty notice for an offence, to have the matter dealt with by a court or if a penalty notice or enforcement order issued or made in respect of the offence is withdrawn or annulled, then any strike based on the penalty notice or enforcement order will be revoked and any remedial action taken as a result of the strike will cease to have effect. Item [3] provides that the amendment made by item [2] extends to strikes that have already been incurred.

## 1.19 Motor Vehicle Repairs Act 1980 No 71

**[1] Long title**

Omit “and loss assessors”.

**[2] Section 66 Education and Research Fund**

Omit “or loss assessors’ work” from section 66 (2) (b).

**Explanatory note**

The proposed amendments to the *Motor Vehicle Repairs Act 1980* remove references to the scheme relating to licensing of loss assessors, which, as a consequence of amendments by the *Regulatory Reduction Act 1996*, no longer exists.

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## 1.20 Motor Vehicles Taxation Act 1988 No 111

### Schedule 1 Motor vehicle tax for 2010

Omit “\$594” from clause 5. Insert instead “\$564”.

#### Commencement

The amendment to the *Motor Vehicles Taxation Act 1988* is taken to have commenced on 1 July 2010.

#### Explanatory note

The proposed amendment to the *Motor Vehicles Taxation Act 1988* reduces the amount of motor vehicle tax payable in relation to certain motor lorries exceeding 2,500 kg by \$30. The amount of the tax was increased by \$30 in error on 1 July 2010. However, this increase has never been charged. Accordingly, the proposed amendment is taken to have commenced on 1 July 2010.

## 1.21 National Parks and Wildlife Act 1974 No 80

### [1] Section 21 Delegation

Insert after section 21 (1) (c1):

- (c2) the Chairperson of the Environment Protection Authority,  
or
- (c3) a member of staff of the Office of the Environment Protection Authority, or

### [2] Section 21 (2) (b1) and (b2):

Insert after section 21 (2) (b):

- (b1) the Chairperson of the Environment Protection Authority,  
or
- (b2) a member of staff of the Office of the Environment Protection Authority, or

### [3] Section 192 Penalty notice for certain offences

Insert after paragraph (b) of the definition of *prescribed person* in section 192 (1):

- (b1) the Chairperson of the Environment Protection Authority,  
or
- (b2) a member of staff of the Office of the Environment Protection Authority, or

#### Explanatory note

The proposed amendments to the *National Parks and Wildlife Act 1974* (the **NPW Act**) are necessary to enable the head and staff of the newly established Office of the Environment Protection Authority to continue to exercise functions formerly exercised by those staff as members of staff of the Department of Premier and Cabinet.

Items [1] and [2] of the proposed amendments enable the Minister and the Director-General of the Department of Premier and Cabinet to delegate their functions under the NPW Act to the head and members of staff of the Office of the Environment Protection Authority.

Item [3] of the proposed amendments enables the head and members of staff of the Office of the Environment Protection Authority to issue penalty notices for certain offences under the NPW Act or the *Threatened Species Conservation Act 1995*.

## 1.22 Petroleum (Onshore) Act 1991 No 84

### [1] Section 11 Making of applications for petroleum titles

Insert “, facsimile or electronically” after “post”.

### [2] Section 11

Insert “, or may be made electronically as approved by the Director-General” after “Director-General”.

### [3] Section 69D Matters for which access arrangement to provide

Omit “the NSW Minerals Council” wherever occurring in section 69D (1A) and (2A).

Insert instead “Australian Petroleum Production and Exploration Association Limited”.

#### Explanatory note

Items [1] and [2] of the proposed amendments to the *Petroleum (Onshore) Act 1991* allow applications for petroleum titles to be delivered or forwarded to the Director-General of the Department of Trade and Investment, Infrastructure and Services by facsimile or electronically, or made electronically as approved by the Director-General. Currently, applications for petroleum titles can only be sent to the Director-General by post.

Item [3] of the proposed amendments corrects references to the relevant peak body for the petroleum industry.

## 1.23 Plantations and Reafforestation Act 1999 No 97

### [1] Section 17A Notification of change in ownership or management of plantation

Omit section 17A (1). Insert instead:

- (1) If there is a change in the ownership of the whole or part of a plantation that was authorised before that change in ownership, the former owner must give notice to the Minister in accordance with this section within 28 days after the change in ownership.

---

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

Insert at the end of the Schedule (with appropriate Part and clause numbers):

**Part Provision consequent on enactment of  
Statute Law (Miscellaneous Provisions)  
Act 2012**

**Application of amendment**

Section 17A (as in force before its amendment by the *Statute Law (Miscellaneous Provisions) Act 2012*) continues to apply in relation to changes of ownership that occurred before the commencement of the amendment to that section.

**Explanatory note**

Item [1] of the proposed amendments to the *Plantations and Reafforestation Act 1999* requires the former owner of an authorised plantation, rather than the new owner, to notify the Minister for Primary Industries of the change in the ownership.

Item [2] of the proposed amendments makes provision for a transitional matter consequent on the enactment of the proposed amendment made by item [1].

**1.24 Public Health (Tobacco) Act 2008 No 94**

**Section 5 Meaning of “health warning”**

Omit “Part 4 of the *Trade Practices (Consumer Product Information Standards) (Tobacco) Regulations 2004* made under the *Trade Practices Act 1974*”.

Insert instead “Parts 2 and 9 of the *Competition and Consumer (Tobacco) Information Standard 2011* made under the *Competition and Consumer Act 2010*”.

**Explanatory note**

The proposed amendment to the *Public Health (Tobacco) Act 2008* updates a reference to Commonwealth legislation to require the display of health warnings on tobacco packaging to comply with the relevant requirements of the applicable Standard made under the *Competition and Consumer Act 2010* of the Commonwealth instead of requirements under a repealed Regulation.

**1.25 Residential Tenancies Act 2010 No 42**

**[1] Section 62 Definitions**

Omit “not owned by” from the definition of *urgent repairs*.

Insert instead “that are owned by a person other than”.

**[2] Section 88 Termination notices for non-payment of rent**

Insert “, unless the Tribunal makes a termination order on the basis that the tenant has frequently failed to pay rent on time” after “landlord” in section 88 (3).

**[3] Section 107 Landlord’s remedies on abandonment**

Insert “This subsection does not apply in the case of a fixed term agreement that provides for the payment of a break fee.” after “steps.” in section 107 (2).

**[4] Section 107 (3)**

Omit “limited to”.

**[5] Section 107 (3)**

Omit “such a limitation”. Insert instead “the payment of a break fee”.

**[6] Section 139 Social housing tenants to pay charges for water**

Omit section 139 (7).

**[7] Section 159 Payment of bonds**

Omit “or receive” from section 159 (2).

**[8] Section 217 Disputes about listings**

Insert “, or is proposed to be,” after “has been” in section 217 (1).

**[9] Section 217 (2) (a)**

Insert “or that has been listed on the database for longer than the applicable period specified in section 218 (1)” after “out-of-date”.

**[10] Section 223 Service of notices or other documents**

Omit “at the person’s residential or business address” from section 223 (1) (a) (i).

**Explanatory note**

Item [1] of the proposed amendments to the *Residential Tenancies Act 2010* (**the Act**) makes it clear that **urgent repairs** do not include work needed to repair premises that are owned by someone other than the landlord or head landlord.

Item [2] further provides for the information that must be included in a non-payment termination notice issued to a tenant by a landlord. Such a notice must currently inform the tenant that he or she is not required to vacate the premises if all the rent is paid. The amendment provides that the notice will now also have to inform the tenant that he or she may be required to vacate the residential premises, despite having paid all the rent owing, if the Consumer, Trader and Tenancy Tribunal (the **Tribunal**) makes a termination order on the basis that the tenant has frequently failed to pay rent owing on the premises.

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Items [3]–[5] clarify the operation of a provision relating to compensation that a tenant is required to pay to the landlord where the tenant ends the residential tenancy agreement before the end of the fixed term so that, if the agreement provides for the payment of a specified break fee, the tenant must pay the full amount of the break fee and the landlord is not required to mitigate the landlord's loss.

Item [6] provides that all social housing tenants will now be required to pay water usage charges in accordance with Ministerial guidelines. Currently, some social housing tenants are required to pay for water usage in accordance with the general water usage provision in section 39 of the Act if the tenancy agreement concerned so provides.

Item [7] enables a landlord or landlord's agent to receive a rental bond from a tenant before the tenant signs the residential tenancy agreement. It remains an offence for a landlord or landlord's agent to require a rental bond from a tenant before a residential tenancy agreement is signed by the tenant.

Item [8] provides that a person may apply to the Tribunal for an order that personal information about the person not be listed in a residential tenancy database before the information has been listed. Item [9] enables the Tribunal to order that personal information about a person be removed from a residential tenancy database if that information has been listed in the database for longer than the period allowed under the Act (usually 3 years).

Item [10] provides that a notice or other document under the Act can be served on a natural person by delivering it to the person personally, whether or not at the person's residential or business address.

## 1.26 Subordinate Legislation Act 1989 No 146

### [1] Section 10A Certain statutory rules to remain in force

Omit section 10A (1), (1A) (b)–(d) and (h) and (2).

### [2] Section 10A (3)

Omit the subsection. Insert instead:

- (3) Despite the other provisions of this Part, the following statutory rules remain in force until 1 September 2013, unless sooner repealed:
  - (a) *Electricity Supply (General) Regulation 2001*,
  - (b) *Employment Protection Regulation 2001*,
  - (c) *Environmental Planning and Assessment Regulation 2000*,
  - (d) *Fisheries Management (Aquatic Reserves) Regulation 2002*,
  - (e) *Gas Supply (Natural Gas Retail Competition) Regulation 2001*,
  - (f) *Industrial Relations (General) Regulation 2001*,
  - (g) *Road Transport (Safety and Traffic Management) Regulation 1999*.

**Explanatory note**

The proposed amendments to the *Subordinate Legislation Act 1989 (the Act)* have the effect of keeping a number of 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 repealed sooner by other legislation.

This is necessary as the regulations have each been postponed on at least 5 occasions, and are now due to be repealed by the Act on 1 September 2012.

Each of the regulations continues to be required and the repeal of each of the regulations is to be further postponed until 1 September 2013 for the following reasons:

- (a) The Ministerial Council on Energy is currently undertaking a national energy market reform program which is expected to result in significant regulatory changes to areas that are dealt with by the *Electricity Supply (General) Regulation 2001* and the *Gas Supply (Natural Gas Retail Competition) Regulation 2001*. It is therefore proposed to await these changes before remaking these regulations.
- (b) The Department of Finance and Services is proposing to undertake a full review of the *Industrial Relations Act 1996* and the *Employment Protection Act 1982* as a consequence of the operation of the *Fair Work Act 2009* of the Commonwealth and the referral of certain matters relating to industrial relations to the Commonwealth. In light of this, it is considered to be premature to remake the *Employment Protection Regulation 2001* and the *Industrial Relations (General) Regulation 2001*.
- (c) The Department of Trade and Investment, Regional Infrastructure and Services is participating in a scientific audit of marine parks and aquatic reserves. It is therefore proposed to postpone the repeal of the *Fisheries Management (Aquatic Reserves) Regulation 2002* until that audit, and any legislative changes flowing from it, are completed.
- (d) Transport for NSW is currently preparing to consolidate road transport legislation. As part of that consolidation the matters dealt with by the *Road Transport (Safety and Traffic Management) Regulation 1999* will be included in a general road transport regulation. It is therefore proposed to await that consolidation rather than remaking the regulation before 1 September 2012.

It is noted that the *Environmental Planning and Assessment Amendment (Part 3A Repeal) Act 2011* postponed the repeal of the *Environmental Planning and Assessment Regulation 2000* until 1 September 2013.

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

**[1] Section 54 Harvestable rights orders**

Omit “in the head office of the Department” from section 54 (6).

Insert instead “by the Department”.

**[2] Section 54 (7)**

Omit “head office of the Department and at the regional office”.

Insert instead “appropriate regional office of the Department”.





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

### **2.1 Aboriginal Land Rights Regulation 2002**

#### **Clause 83A (2)**

Insert “New South Wales” before “Electoral Commission’s”.

#### **Explanatory note**

The proposed amendment clarifies a reference.

### **2.2 Anti-Discrimination Act 1977 No 48**

#### **Section 122B (1) (b)**

Omit “section 4H”. Insert instead “section 124”.

#### **Explanatory note**

The proposed amendment updates a cross-reference.

### **2.3 Betting Tax Act 2001 No 43**

#### **Schedule 4**

Renumber Divisions 1–4 as Parts 1–4, respectively.

#### **Explanatory note**

The proposed amendment corrects numbering.

### **2.4 Bland Local Environmental Plan 2011**

#### **Clause 6.6**

Renumber subclause (3) where secondly occurring as subclause (4).

#### **Explanatory note**

The proposed amendment corrects duplicate numbering.

### **2.5 Catchment Management Authorities Act 2003 No 104**

#### **Section 30A (1) (a)**

Omit “adaptive environmental water under”.

Insert instead “licensed environmental water within the meaning of section 8 of”.

#### **Explanatory note**

The proposed amendment updates a reference as a consequence of changes made to the *Water Management Act 2000* by the *Water Management Amendment Act 2010*.

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

### **Section 14 (4)**

Omit “the *Adoption Information Act 1990*”.

Insert instead “Chapter 8 of the *Adoption Act 2000*”.

#### **Explanatory note**

The proposed amendment updates a cross-reference.

## **2.7 Civil Liability Act 2002 No 22**

### **Sections 5E and 5G (1)**

Omit “determining” wherever occurring.

Insert instead “proceedings relating to”.

#### **Explanatory note**

The proposed amendment makes language used in the *Civil Liability Act 2002* consistent with phrasing used elsewhere in that Act.

## **2.8 Coastal Protection Act 1979 No 13**

### **Section 4B (1) and (2)**

Omit “the Department,” wherever occurring.

Insert instead “that Department,”.

#### **Explanatory note**

The proposed amendment clarifies references to a Department.

## **2.9 Coffs Harbour City Centre Local Environmental Plan 2011**

### **Clause 4.4 (2B)**

Omit “sqaure” from the formula. Insert instead “square”.

#### **Explanatory note**

The proposed amendment corrects a typographical error.

## **2.10 Conveyancing (General) Regulation 2008**

### **Clauses 53 (1) (u), 54 (k) and 55 (k)**

Omit “Country Energy Gas Pty Limited” wherever occurring.

Insert instead “Envestra (NSW) Pty Limited”.

#### **Explanatory note**

The proposed amendment updates the name of a company.

## 2.11 Co-operatives (Adoption of National Law) Act 2012 No 29

### [1] Appendix Co-operatives National Law

Re-number paragraphs (a)–(f) where secondly occurring in section 444 (3) as paragraphs (m)–(r), respectively.

### [2] Appendix, Schedule 4

Re-number paragraphs (c) and (d) of the definition of *calendar month* in clause 12 (1) as paragraphs (a) and (b), respectively.

#### Explanatory note

The proposed amendments correct numbering.

## 2.12 Crimes (Administration of Sentences) Act 1999 No 93

### Section 106ZA (e) (v)

Omit “and” where lastly occurring.

#### Explanatory note

The proposed amendment omits a redundant word.

## 2.13 Electricity (Consumer Safety) Act 2004 No 4

### [1] Section 43 (1)

Omit “Section 73A (Enforcement of undertakings) of the *Fair Trading Act 1987*”.

Insert instead “Section 218 (Regulator may accept undertakings) of the *Australian Consumer Law (NSW)*”.

### [2] Section 43 (1)

Omit “under the *Fair Trading Act 1987*”. Insert instead “under that Law”.

### [3] Section 43 (1), note

Omit “Section 73A of the *Fair Trading Act 1987*”.

Insert instead “Section 218 of the *Australian Consumer Law (NSW)*”.

### [4] Section 43 (1), note

Omit “under that Act”. Insert instead “under that Law”.

### [5] Section 43 (2)

Omit “section 73A of the *Fair Trading Act 1987*”.

Insert instead “section 218 of the *Australian Consumer Law (NSW)*”.

**Explanatory note**

The proposed amendments update cross-references.

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

**Section 74D, note**

Omit the first sentence of the note.

**Explanatory note**

The proposed amendment omits references to repealed provisions.

**2.15 Environmental Planning and Assessment Regulation 2000**

**Schedule 3, clause 4 (2) (a)**

Omit “*Sydney Regional Environmental Plan No 11—Penrith Lakes Scheme*”.

Insert instead “*State Environmental Planning Policy (Penrith Lakes Scheme) 1989*”.

**Explanatory note**

The proposed amendment updates a reference to an environmental planning instrument.

**2.16 Health Care Complaints Act 1993 No 105**

**Section 41A (5), paragraph (b) of the definition of “relevant offence”**

Omit “*Trade Practices Act 1974*”.

Insert instead “*Competition and Consumer Act 2010*”.

**Explanatory note**

The proposed amendment updates a reference to a Commonwealth Act.

**2.17 Health Services Act 1997 No 154**

**[1] Section 126G (2) and (3)**

Omit “*Trade Practices Act 1974*” wherever occurring.

Insert instead “*Competition and Consumer Act 2010*”.

**[2] Schedule 4, clause 3 (2) (c)**

Omit “service”. Insert instead “local health district”.

**Explanatory note**

Item [1] of the proposed amendments updates references to a Commonwealth Act. Item [2] updates a reference as a consequence of changes made by the *Health Services Amendment (Local Health Districts and Boards) Act 2011*.

## 2.18 Home Building Regulation 2004

### **Clauses 46 (2) (g) and 58 (1) (g)**

Omit “airconditioning” wherever occurring. Insert instead “air-conditioning”.

#### **Explanatory note**

The proposed amendment makes the spelling of a word consistent.

## 2.19 Kogarah Local Environmental Plan 1998

### **Clause 24, Land use exceptions table**

Omit “32 Jubilee Avenue, Carlton” from the column headed “**Address**”.

Insert instead “32 Jubilee Avenue, Carlton”.

#### **Explanatory note**

The proposed amendment corrects a typographical error.

## 2.20 Lake Macquarie Local Environmental Plan 2004

### **Clause 61 (4)**

Omit “that Schedule”. Insert instead “that Part”.

#### **Explanatory note**

The proposed amendment updates a cross-reference.

## 2.21 Local Government Act 1993 No 30

### **Schedule 8, Part 35 Provisions consequent on enactment of Local Government Amendment Act 2012**

Omit the Part.

#### **Explanatory note**

The Bill for the *Local Government Amendment Act 2012* was amended during passage through Parliament. The amendment made some savings and transitional provisions in the Bill redundant. The proposed amendment repeals those redundant provisions.

## 2.22 Maitland Local Environmental Plan 2011

### **Schedule 5, Part 2**

Omit “**heritage map**” from the heading to the second column.

Insert instead “**Heritage Map**”.

#### **Explanatory note**

The proposed amendment corrects a typographical error.

## **2.23 Mental Health (Forensic Provisions) Act 1990 No 10**

### **Section 51 (1) (a)**

Omit “or under section 29”.

#### **Explanatory note**

The proposed amendment removes a redundant cross-reference.

## **2.24 Murray Local Environmental Plan 2011**

### **Clause 4.1A (3)**

Omit “*Strata Schemes (Leasehold Development) Act 1973*”.

Insert instead “*Strata Schemes (Leasehold Development) Act 1986*”.

#### **Explanatory note**

The proposed amendment corrects the citation of an Act.

## **2.25 Non-Indigenous Animals Act 1987 No 166**

### **Section 18 (1) (b)**

Omit “licensed premises do”. Insert instead “licensed accommodation does”.

#### **Explanatory note**

The proposed amendment corrects terminology.

## **2.26 Penrith Local Environmental Plan No 201 (Rural Lands)**

### **Clause 41 (2), definition of “fruit and vegetable store”**

Omit “confectionary”. Insert instead “confectionery”.

#### **Explanatory note**

The proposed amendment corrects a typographical error.

## **2.27 Poisons and Therapeutic Goods Act 1966 No 31**

### **Section 16 (1) (a2)**

Omit “or” where lastly occurring.

#### **Explanatory note**

The proposed amendment omits a redundant word.

## **2.28 Probate and Administration Act 1898 No 13**

### **[1] Section 42 (3)**

Omit “as in section 32”.

Insert instead “as referred to in section 51 of the *Succession Act 2006*”.

**[2] Section 153 (1) (a)**

Omit the paragraph.

**Explanatory note**

Item [1] of the proposed amendments updates a cross-reference as a consequence of the enactment of the *Succession Act 2006*.

Item [2] of the proposed amendments removes a redundant provision as a consequence of amendments made by the *Succession Amendment (Intestacy) Act 2009*.

**2.29 Property, Stock and Business Agents (Qualifications) Order 2009**

**Clauses 9 (a) (ii), 17 (a) (ii), 23 (a) (ii) and 27 (a) (ii)**

Omit “property” wherever occurring.

**Explanatory note**

The proposed amendment corrects the names of units of competency.

**2.30 Protection of the Environment Operations (Clean Air) Regulation 2010**

**Schedule 4**

Omit “0.1 ng/m<sup>3</sup>”. Insert instead “0.1 ng/m<sup>3</sup>”.

**Explanatory note**

The proposed amendment corrects a typographical error.

**2.31 Racing Administration Act 1998 No 114**

**[1] Section 22 (2) (c)**

Insert “a” before “declared”.

**[2] Section 23 (1)**

Omit “event”. Insert instead “events”.

**Explanatory note**

The proposed amendments correct grammatical errors.

**2.32 Radiation Control Regulation 2003**

**Schedule 1, Group 2**

Omit “C136” and “T1204”. Insert instead “CI36” and “TI204”, respectively.

**Explanatory note**

The proposed amendment corrects typographical errors.

### **2.33 Richmond Valley Local Environmental Plan 2012**

#### **Clause 6.9 (4) (a)**

Omit “advserse”. Insert instead “adverse”.

#### **Explanatory note**

The proposed amendment corrects a typographical error.

### **2.34 Road Transport (General) Regulation 2005**

#### **Clauses 28 (4) and 29A (4)**

Omit “under subclause (4)” wherever occurring.

Insert instead “under subclause (3)”.

#### **Explanatory note**

The proposed amendment corrects references.

### **2.35 Road Transport (Vehicle Registration) Act 1997 No 119**

#### **[1] Section 17B (2) (b)**

Omit “clause 3 (c) of Schedule 1”. Insert instead “clause 3 (d) of Schedule 1”.

#### **[2] Section 17B (2) (c)**

Omit “clause 9 of Schedule 1”. Insert instead “clause 5 of Schedule 1”.

#### **Explanatory note**

The proposed amendments update cross-references to the *Motor Vehicles Taxation Act 1988*.

### **2.36 Security Industry Act 1997 No 157**

#### **[1] Schedule 2, Part 6, heading**

Omit “**Miscellaneous Provisions**”.

Insert instead “**(Miscellaneous Provisions)**”.

#### **[2] Schedule 2, Part 6, clause 20**

Omit “*Miscellaneous Provisions*”.

Insert instead “*(Miscellaneous Provisions)*”.

#### **Explanatory note**

The proposed amendments correct typographical errors.



## **2.37 State Environmental Planning Policy (Sydney Region Growth Centres) 2006**

### **[1] Clause 7**

Insert at the end of the table to the clause:

Schofields Precinct, North West Growth Centre	Appendix 7
--	------------

### **[2] Clause 21 (4) (f)**

Insert after clause 21 (4) (e):

(f) the Schofields Precinct.

#### **Explanatory note**

The proposed amendments make amendments consequential on amendments made by the *State Environmental Planning Policy (Sydney Region Growth Centres) Amendment (Schofields Precinct) 2012*.

## **2.38 Superannuation Act 1916 No 28**

### **Sections 61RF (1) and 61RG (1)**

Omit “37A” wherever occurring. Insert instead “37B”.

#### **Explanatory note**

The proposed amendment corrects cross-references.

## **2.39 Threatened Species Conservation Act 1995 No 101**

### **Schedule 1, Part 4**

Omit “Lord House Is.” from the matter relating to *Rhipidura fuliginosa* under the headings **Animals, Vertebrates, Birds** and **Rhipiduridae**.

Insert instead “Lord Howe Is.”.

#### **Explanatory note**

The proposed amendment corrects a spelling error.

## **2.40 University of Wollongong By-law 2005**

### **Clause 16 (1) (d)**

Omit “external persons”.

Insert instead “not academic or non-academic staff members, or undergraduate or postgraduate students, of the University”.

**Explanatory note**

The proposed amendment updates terminology as a consequence of amendments made by the *Universities Governing Bodies (University of Wollongong) Order 2012*.

**2.41 Walsh Bay Development (Special Provisions) Act 1999 No 3**

**Section 11**

Omit “sections 96 (6)”. Insert instead “sections 97AA”.

**Commencement**

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

**Explanatory note**

The proposed amendment updates a cross-reference.

**2.42 Water Sharing Plan for the Adelong Creek Water Source 2003**

**Clause 21**

Omit “Environmental health water” wherever occurring.

Insert instead “Planned environmental water”.

**Explanatory note**

The proposed amendment updates and makes consistent terminology relating to environmental water.

**2.43 Water Sharing Plan for the Apsley River Water Source 2003**

**Clause 21**

Omit “Environmental health water” wherever occurring.

Insert instead “Planned environmental water”.

**Explanatory note**

The proposed amendment updates and makes consistent terminology relating to environmental water.

**2.44 Water Sharing Plan for the Castlereagh River above Binnaway Water Source 2003**

**Clause 21**

Omit “Environmental health water” wherever occurring.

Insert instead “Planned environmental water”.

**Explanatory note**

The proposed amendment updates and makes consistent terminology relating to environmental water.

## **2.45 Water Sharing Plan for the Commissioners Waters Water Source 2003**

### **Clause 21**

Omit “Environmental health water” wherever occurring.

Insert instead “Planned environmental water”.

#### **Explanatory note**

The proposed amendment updates and makes consistent terminology relating to environmental water.

## **2.46 Water Sharing Plan for the Dorrigo Plateau Surface Water Source and Dorrigo Basalt Groundwater Source 2003**

### **Clause 22 (1)–(3) and (5)**

Omit “Environmental health water” wherever occurring.

Insert instead “Planned environmental water”.

#### **Explanatory note**

The proposed amendment updates and makes consistent terminology relating to environmental water.

## **2.47 Water Sharing Plan for the Intersecting Streams Unregulated and Alluvial Water Sources 2011**

### **[1] Clause 66 (2)**

Renumber paragraphs (e) and (f) as paragraphs (c) and (d), respectively.

### **[2] Clause 73 (e)**

Omit “(e) and/or (f)”. Insert instead “(c) and/or (d)”.

### **[3] Clause 77**

Renumber subclause (4) where secondly occurring and subclause (5) as subclauses (5) and (6), respectively.

#### **Explanatory note**

Items [1] and [3] of the proposed amendments correct provision numbering. Item [2] corrects cross-references.

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## **2.48 Water Sharing Plan for the Jilliby Jilliby Creek Water Source 2003**

### **Clause 21**

Omit “Environmental health water” wherever occurring.

Insert instead “Planned environmental water”.

#### **Explanatory note**

The proposed amendment updates and makes consistent terminology relating to environmental water.

## **2.49 Water Sharing Plan for the Kangaroo River Water Source 2003**

### **Clause 21**

Omit “Environmental health water” wherever occurring.

Insert instead “Planned environmental water”.

#### **Explanatory note**

The proposed amendment updates and makes consistent terminology relating to environmental water.

## **2.50 Water Sharing Plan for the Karuah River Water Source 2003**

### **Clause 21**

Omit “Environmental health water” wherever occurring.

Insert instead “Planned environmental water”.

#### **Explanatory note**

The proposed amendment updates and makes consistent terminology relating to environmental water.

## **2.51 Water Sharing Plan for the Lower Murray Shallow Groundwater Source 2012**

### **Clauses 38 (1) (b) and 51 (1) (c) (i) and (d)**

Omit “Minster” wherever occurring. Insert instead “Minister”.

#### **Explanatory note**

The proposed amendment corrects spelling errors.

## **2.52 Water Sharing Plan for the Lower Murray-Darling Unregulated and Alluvial Water Sources 2011**

**[1] Clause 61 (2) (c)**

Omit “amended”. Insert instead “amended”.

**[2] Part 11, Division 1, heading**

Omit “Access licences”. Insert instead “General”.

**Explanatory note**

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

Item [2] of the proposed amendments corrects a heading.

## **2.53 Water Sharing Plan for the Mandagery Creek Water Source 2003**

**Clause 21**

Omit “Environmental health water” wherever occurring.

Insert instead “Planned environmental water”.

**Explanatory note**

The proposed amendment updates and makes consistent terminology relating to environmental water.

## **2.54 Water Sharing Plan for the Murray Unregulated and Alluvial Water Sources 2011**

**Clause 51 (2) (d)**

Omit “sources, or”. Insert instead “sources.”.

**Explanatory note**

The proposed amendment omits a redundant word.

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

**Clause 15 (7) (a)**

Omit “Additional”. Insert instead “Additional”.

**Explanatory note**

The proposed amendment corrects a spelling error.

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## **2.56 Water Sharing Plan for the NSW Great Artesian Basin Groundwater Sources 2008**

**[1] Clause 4 (1)**

Insert “as shown on” before “the registered map”.

**[2] Clause 15 (2) (a)**

Omit “equivalent”. Insert instead “equivalent”.

**Explanatory note**

Item [1] of the proposed amendments inserts missing words.

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

## **2.57 Water Sharing Plan for the NSW Great Artesian Basin Shallow Groundwater Sources 2011**

**[1] Clause 4 (4) (d)**

Omit “*below Binnaway*”. Insert instead “(*below Binnaway*)”.

**[2] Clause 57 (5)**

Renumber paragraph (d) as paragraph (c).

**[3] Clause 57**

Renumber subclause (7) as subclause (6).

**Explanatory note**

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

Items [2] and [3] correct provision numbering.

## **2.58 Water Sharing Plan for the NSW Murray Darling Basin Fractured Rock Groundwater Sources 2011**

**[1] Clause 4 (13) (i)**

Omit “*below Binnaway*”. Insert instead “(*below Binnaway*)”.

**[2] Clause 16 (2) (a) (vii)**

Omit “Plan Orange”. Insert instead “Orange”.

**[3] Clause 16 (2) (a) (vii)**

Insert “Plan” after “at the commencement of this”.

**[4] Clause 16 (2) (a) (ix)**

Omit “Plan in the”. Insert instead “in the”.

- [5] **Clause 16 (2) (a) (ix)**  
Insert “Plan” after “at the commencement of this”.
- [6] **Clause 51 (2) (c)**  
Renumber subparagraph (iv) where secondly occurring as subparagraph (v).
- [7] **Schedule 3, clause 2, Table B**  
Omit “north-wast”. Insert instead “north-west”.
- [8] **Schedule 3, clause 2, Table B**  
Omit “esast”. Insert instead “east”.
- [9] **Schedule 3, clause 2, Table B**  
Omit “27 north-east”. Insert instead “27 km north-east”.
- Explanatory note**  
The proposed amendments correct typographical errors.

## **2.59 Water Sharing Plan for the NSW Murray Darling Basin Porous Rock Groundwater Sources 2011**

- [1] **Clause 4 (8) (i)**  
Omit “*below Binnaway*”. Insert instead “(*below Binnaway*)”.
- [2] **Clause 4 (8) (j)**  
Omit “*Murray-Darling*”. Insert instead “*NSW Murray Darling*”.
- [3] **Clause 5 (1) (a) and (b), notes**  
Omit “seperated” wherever occurring. Insert instead “separated”.
- [4] **Clause 16 (2) (a) (iii), note**  
Omit “rainfalll”. Insert instead “rainfall”.
- [5] **Clause 51 (2) (b) (vi) and (c) (iv)**  
Omit “comparision” wherever occurring. Insert instead “comparison”.
- [6] **Clause 51 (2) (c)**  
Renumber subparagraph (iv) where secondly occurring as subparagraph (v).

**[7] Clause 52 (1)**

Renumber paragraphs (c)–(l) as paragraphs (b)–(k), respectively.

**Explanatory note**

The proposed amendments correct typographical errors.

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

**Clause 21**

Omit “Environmental health water” wherever occurring.

Insert instead “Planned environmental water”.

**Explanatory note**

The proposed amendment updates and makes consistent terminology relating to environmental water.

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

**Clause 21**

Omit “Environmental health water” wherever occurring.

Insert instead “Planned environmental water”.

**Explanatory note**

The proposed amendment updates and makes consistent terminology relating to environmental water.

**2.62 Water Sharing Plan for the Tarcutta Creek Water Source 2003**

**Clause 21 (1) and (2)**

Omit “Environmental health water” wherever occurring.

Insert instead “Planned environmental water”.

**Explanatory note**

The proposed amendment updates and makes consistent terminology relating to environmental water.

**2.63 Water Sharing Plan for the Tenterfield Creek Water Source 2003**

**Clause 21**

Omit “Environmental health water” wherever occurring.

Insert instead “Planned environmental water”.



**Explanatory note**

The proposed amendment updates and makes consistent terminology relating to environmental water.

**2.64 Water Sharing Plan for the Toorumbree Creek Water Source 2003**

**Clause 18**

Omit “Environmental health water” wherever occurring.

Insert instead “Planned environmental water”.

**Explanatory note**

The proposed amendment updates and makes consistent terminology relating to environmental water.

**2.65 Water Sharing Plan for the Upper Billabong Water Source 2003**

**Clause 21**

Omit “Environmental health water” wherever occurring.

Insert instead “Planned environmental water”.

**Explanatory note**

The proposed amendment updates and makes consistent terminology relating to environmental water.

**2.66 Water Sharing Plan for the Upper Brunswick River Water Source 2003**

**Clause 21**

Omit “Environmental health water” wherever occurring.

Insert instead “Planned environmental water”.

**Explanatory note**

The proposed amendment updates and makes consistent terminology relating to environmental water.

**2.67 Water Sharing Plan for the Wandella Creek Water Source 2003**

**Clause 21**

Omit “Environmental health water” wherever occurring.

Insert instead “Planned environmental water”.

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**Explanatory note**

The proposed amendment updates and makes consistent terminology relating to environmental water.

## **2.68 Water Sharing Plan for the Wybong Creek Water Source 2003**

### **Clause 22 (1) and (3)**

Omit “Environmental health water” wherever occurring.

Insert instead “Planned environmental water”.

**Explanatory note**

The proposed amendment updates and makes consistent terminology relating to environmental water.

## **2.69 Waverley Local Environmental Plan 1996**

### **Schedule 2**

Omit the following:

*relic* means:

- (a) any deposit, object or material evidence (which may consist of human remains) relating to the use or settlement of the area of Waverley, not being Aboriginal habitation, which is more than 50 years old, or
- (b) any deposit, object or material evidence (which may consist of human remains) relating to Aboriginal habitation of the area of Waverley; whether before or after its occupation by persons of European extraction.

**Explanatory note**

The proposed amendment removes a superseded definition.

## **2.70 Work Health and Safety Regulation 2011**

### **[1] Schedule 18A**

Omit “74 (7)” from the matter relating to offences under the Act.

Insert instead “72 (7)”.

### **[2] Schedule 18A**

Omit “169” from the matter relating to offences under the Regulation.

Insert instead “160”.

**Explanatory note**

The proposed amendments correct typographical errors.

## **Schedule 3 Amendments to forms consequential on amendment of Oaths Act 1900**

### **Explanatory note**

The proposed amendments are consequential on an amendment to the *Oaths Act 1900* requiring a person witnessing a statutory declaration or affidavit to certify, in accordance with the regulations made under that Act, that he or she has complied with requirements relating to the identification of the person who has made the declaration or affidavit. The proposed amendments update forms for statutory declarations and affidavits that are set out in regulations by inserting (with appropriate modifications) the certificate that is set out in Schedule 1 to the *Oaths Regulation 2011*.

### **3.1 Amendments to forms for statutory declarations witnessed by Justices of the Peace only**

#### **[1] Parliamentary Electorates and Elections Regulation 2008**

Insert before “(For Office use only)” in Form 20 of Schedule 1:

#### **Certificate under section 34 (1) (c) of Oaths Act 1900**

*\*Please cross out any text that does not apply*

I [*insert name of witness*], a Justice of the Peace, certify the following matters concerning the making of this statutory declaration by the person who made it:

- 1 \*I saw the face of the person *or* \*I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering.
- 2 \*I have known the person for at least 12 months *or* \*I have confirmed the person’s identity using an identification document and the document I relied on was [*describe identification document relied on*].

[*insert signature of witness*]

Date:

#### **[2] Other Regulations**

Each Regulation specified in Column 1 of the table to this item is amended by inserting the following at the end of the provision specified opposite in Column 2 of that table:

#### **Certificate under section 34 (1) (c) of Oaths Act 1900**

*\*Please cross out any text that does not apply*

I [*insert name of witness*], a Justice of the Peace, certify the following matters concerning the making of this statutory declaration by the person who made it:

- 1 \*I saw the face of the person *or* \*I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering.

- 
- 2 \*I have known the person for at least 12 months *or* \*I have confirmed the person's identity using an identification document and the document I relied on was [*describe identification document relied on*].

[*insert signature of witness*]

Date:

<b>Column 1</b>	<b>Column 2</b>
<i>Agricultural Industry Services Regulation 2009</i>	Schedule 1, Form 6
<i>Architects Regulation 2004</i>	Schedule 3, Form 2
<i>Confiscation of Proceeds of Crime Regulation 2010</i>	Schedule 1, Form 3
<i>Election Funding, Expenditure and Disclosures Regulation 2009</i>	Schedule 1
<i>Local Government (General) Regulation 2005</i>	Schedule 11, Form 1
<i>Ports and Maritime Administration Regulation 2007</i>	Schedule 2, Form 2
<i>Rural Lands Protection Regulation 2010</i>	Schedule 2, Form 1

### **3.2 Amendments to forms for other statutory declarations or for affidavits**

#### **[1] Dust Diseases Tribunal Regulation 2007**

Insert at the end of Part 8 of Form 1 of Schedule 2:

#### **Certificate under section 34 (1) (c) of Oaths Act 1900**

*\*Please cross out any text that does not apply*

I [*insert name of authorised witness*], a [*insert qualification to be authorised witness*], certify the following matters concerning the making of this statutory declaration by the person who made it:

- 1 \*I saw the face of the person *or* \*I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering.
- 2 \*I have known the person for at least 12 months *or* \*I have confirmed the person's identity using an identification document and the document I relied on was [*describe identification document relied on*].

[*insert signature of authorised witness*]

Date:

**[2] Evidence Regulation 2010**

Insert at the end of Forms 2 and 3 of Schedule 1:

**Certificate under section 34 (1) (c) of Oaths Act 1900**

*\*Please cross out any text that does not apply*

I [*insert name of witness*], a *\*Justice of the Peace/\*notary public/\*Australian lawyer/\*person authorised to take affidavits in New South Wales*, certify the following matters concerning the making of this affidavit by the person who made it:

- 1 *\*I saw the face of the person or \*I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering.*
- 2 *\*I have known the person for at least 12 months or \*I have confirmed the person's identity using an identification document and the document I relied on was [*describe identification document relied on*].*

[*insert signature of witness*]

Date:

**[3] Legal Profession Regulation 2005**

Insert at the end of Form 1 of Schedule 5:

**Certificate under section 34 (1) (c) of Oaths Act 1900**

*\*Please cross out any text that does not apply*

I [*insert name of authorised witness*], a [*insert qualification to be authorised witness*], certify the following matters concerning the making of this statutory declaration by the person who made it:

- 1 *\*I saw the face of the person or \*I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering.*
- 2 *\*I have known the person for at least 12 months or \*I have confirmed the person's identity using an identification document and the document I relied on was [*describe identification document relied on*].*

[*insert signature of authorised witness*]

Date:

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**[4] Lord Howe Island Regulation 2004**

Insert at the end of Forms 2 and 3 and Declarations “A” and “B” of Form 5 of Schedule 1:

**Certificate under section 34 (1) (c) of Oaths Act 1900**

*\*Please cross out any text that does not apply*

I [*insert name of witness*], a \*Justice of the Peace/\*Commissioner for Affidavits/\*Notary Public, certify the following matters concerning the making of this statutory declaration by the person who made it:

- 1 \*I saw the face of the person *or* \*I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering.
- 2 \*I have known the person for at least 12 months *or* \*I have confirmed the person’s identity using an identification document and the document I relied on was [*describe identification document relied on*].

[*insert signature of witness*]

Date:

**[5] Status of Children Regulation 2008**

Insert at the end of Form 1 of Schedule 1:

**Certificate under section 34 (1) (c) of Oaths Act 1900**

*\*Please cross out any text that does not apply*

I [*insert name of witness*], a [*insert qualification to be witness*], certify the following matters concerning the making of this affidavit by the person who made it:

- 1 \*I saw the face of the person *or* \*I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering.
- 2 \*I have known the person for at least 12 months *or* \*I have confirmed the person’s identity using an identification document and the document I relied on was [*describe identification document relied on*].

[*insert signature of witness*]

Date:

## Schedule 4 Amendments transferring provisions and other amendments consequential on repeals

### Explanatory note

Schedule 4.1 [3], 4.2 [6]–[9] and [12], 4.4–4.7, 4.9 and 4.10 insert the substance of provisions (of possible ongoing effect) of Acts repealed by clause 4 of Schedule 5 into various Acts. In accordance with section 30A of the *Interpretation Act 1987*, the transfer of those provisions does not affect the operation (if any) or meaning of the provisions. In particular:

- (a) sections 2, 3, 5 and 6 of, and the Schedule to, the *Australian Lubricating Oil Refinery Limited Agreement Ratification Act 1962* are transferred to the *Australian Oil Refining Limited Agreement Ratification Act 1954* (which is renamed by Schedule 4.2 [2] as the *Australian Oil Refining Agreements Act 1954*), and
- (b) sections 5 (3) and (4), 6, 10 and 13 of the *Burns Philp Trustee Company Limited Act 1990* are transferred to the *Trustee Companies Act 1964*, and
- (c) sections 5 (1) and (3), 5A, 6 (4) and (5), 7 (3) and 13 of the *Camperdown Cemetery Act 1948* are transferred to the *Anglican Church of Australia Trust Property Act 1917*, and
- (d) the following provisions are transferred to the *Conversion of Cemeteries Act 1974*:
  - (i) sections 4 (1) and (3), 4A and 4B of the *Camperdown Cemetery Act 1948*,
  - (ii) sections 2, 4 (3)–(5), 4A (1), (2) (c) and (d) and (4), 8, 10 (1)–(3), 11 and 13 of the *Old Roman Catholic Cemetery, Crown Street, Wollongong, Act 1969*, and
- (e) sections 2, 5–7 and 12 of the *Sir Henry Parkes National (War) Memorial Museum and Library Act 1957* are transferred to the *National Trust of Australia (New South Wales) Act 1990*, and
- (f) section 5 of the *Sydney Hospital (Trust Property) Act 1984* is transferred to the *Health Services Act 1997*, and
- (g) the definition of **Walsh Bay** in section 3, and sections 4 (4), 10 and 13, of the *Walsh Bay Development (Special Provisions) Act 1999* are transferred to the *Heritage Act 1977*, and
- (h) the following provisions are transferred to the *Environmental Planning and Assessment Act 1979*:
  - (i) the definition of **Walsh Bay** in section 3, and sections 11, 12 and 14, of the *Walsh Bay Development (Special Provisions) Act 1999*,
  - (ii) sections 4 and 6 (2) and (3) of the *Western Sydney Regional Park (Revocation for Western Sydney Orbital) Act 2001*.

Schedule 4.1 [1] and [2] make amendments to the *Anglican Church of Australia Trust Property Act 1917* that are consequential on the transfer of provisions referred to in paragraph (c) above.

Schedule 4.2 [1]–[5], [10] and [11] make amendments that are consequential on the transfer of provisions referred to in paragraph (a) above, including the renaming of the *Australian Oil Refining Limited Agreement Ratification Act 1954* as the *Australian Oil Refining Agreements Act 1954*.

Schedule 4.3 make amendments to the *Christ Church Cathedral, Newcastle, Cemetery Act 1966* that are consequential on the repeal of section 3 of that Act by Schedule 5.

Schedule 4.8 re-enacts sections 3 and 5 of the *Notice of Action and Other Privileges Abolition Act 1977*, with minor modifications, as the new Schedule 1 to the *Limitation Act 1969*.

#### **4.1 Anglican Church of Australia Trust Property Act 1917 No 21**

**[1] Section 2 Repeal**

Omit “the Schedule” from section 2 (1).

Insert instead “Schedule 1”.

**[2] Schedule**

Omit “**Schedule**”. Insert instead “**Schedule 1**”.

**[3] Schedule 2**

Insert after Schedule 1 (as renumbered by item [2]):

### **Schedule 2 Transferred provisions from Camperdown Cemetery Act 1948**

**1 Definitions**

In this Schedule:

*cemetery land* means the land described in the Second Schedule to the repealed Act (as in force immediately before its repeal).

*repealed Act* means the *Camperdown Cemetery Act 1948*.

**2 Vesting of land in Church of England Property Trust Diocese of Sydney**

- (1) Subject to this Schedule the cemetery land is hereby vested in the Church of England Property Trust Diocese of Sydney for an estate in fee simple to hold the same subject to the same trusts and for the same purposes as those upon and for which the trustees appointed under the *Camperdown Cemetery Trust Act of 1871* held the cemetery land immediately before the commencement of the repealed Act:

Provided that nothing contained in this subclause or in clause 4 (1)–(4) shall revive any exclusive right of interment in the cemetery land divested by section 5 (2) of the repealed Act (as in force immediately before its repeal).

- (2) The provisions of sections 26 and 32 shall apply to so much of the cemetery land as is not described in the notification in the Gazette



referred to in section 6 (2) of the repealed Act (as in force immediately before its repeal).

### **3 Power to fill in vaults**

Notwithstanding anything contained in this Schedule, the Minister administering the *Conversion of Cemeteries Act 1974* shall have power, on the recommendation of the Director-General of the Ministry of Health, to cause any vault in the cemetery land to be filled in for the purpose of preventing such vault from giving off drainage which in the opinion of the Director-General of the Ministry of Health is detrimental to public health.

### **4 Trustees of land**

- (1) As soon as practicable after completion of the redesigning and reconstruction of the cemetery area pursuant to section 6 of the repealed Act the Standing Committee of the Synod of the Diocese of Sydney shall appoint trustees of such area. The trustees so appointed shall not exceed 7 in number.
- (2) Such trustees shall have the care, control and management of such area and shall, subject to this Schedule, administer the same in accordance with the same trusts and for the same purposes as those upon and for which the cemetery land comprised in such area was held immediately before the commencement of the repealed Act.
- (3) While such area is under the care, control and management of trustees appointed under this clause the Church of England Property Trust Diocese of Sydney shall be discharged from any duty, obligation or liability arising out of or connected with the trusts and purposes upon and for which such area is held.
- (4) The Standing Committee of the Synod of the Diocese of Sydney may appoint a new trustee to fill any vacancy occurring for any reason among the trustees appointed pursuant to this clause.
- (5) The amount paid to the Church of England Property Trust Diocese of Sydney pursuant to section 6 (5) (a) of the repealed Act shall be invested by the said Church of England Property Trust in any of the securities authorised by the *Trustee Act 1925*.
- (6) The said Church of England Property Trust shall as soon as practicable after the first day of July in each year pay the interest arising from such investment during the period of 12 months immediately preceding (after deducting therefrom any expenses reasonably incurred by the said Church of England Property

Trust in connection with such investment during that period) to the trustees of the said cemetery area who shall apply such interest to the permanent upkeep of such area.

**5 Property vested in trustees under Camperdown Cemetery Trust Act of 1871**

Upon the appointment of trustees pursuant to clause 4:

- (a) the property referred to in section 7 (1) of the repealed Act (as in force immediately before its repeal) or the residue thereof shall vest in the trustees so appointed and shall be applied by them in furtherance of the trusts and purposes referred to in clause 4 (2), and
- (b) without prejudice to anything done, prior to such appointment, by the said Church of England Property Trust under the powers conferred by section 7 (2) of the repealed Act (as in force immediately before its repeal), such powers shall, as from such appointment, cease and determine in respect of the said Church of England Property Trust and shall be exercisable thereafter by the trustees so appointed.

**6 Protection from claims for compensation**

Except where otherwise in the repealed Act (as in force immediately before its repeal) expressly provided, no compensation shall be made or be payable to any person in respect of the divesting of any estate or interest by the repealed Act or in respect of the performance of any act authorised by the repealed Act.

**7 Provisions transferred to this Schedule**

Clauses 2–6 re-enact (with minor modifications) sections 5 (1) and (3), 5A, 6 (4) and (5), 7 (3) and 13 of the repealed Act and are transferred provisions to which section 30A of the *Interpretation Act 1987* applies.

## **4.2 Australian Oil Refining Limited Agreement Ratification Act 1954 No 34**

### **[1] Part 1, heading**

Insert before section 1:

### **Part 1 Preliminary**

### **[2] Section 1 Name of Act**

Omit “*Australian Oil Refining Limited Agreement Ratification Act 1954*”.

Insert instead “*Australian Oil Refining Agreements Act 1954*”.

### **[3] Part 2, heading**

Insert after section 1:

### **Part 2 Australian Oil Refining Limited Agreement Ratification**

### **[4] Section 2 Definitions**

Omit “In this Act”. Insert instead “In this Part”.

### **[5] Part 3, heading**

Insert after section 9:

### **Part 3 Australian Lubricating Oil Refinery Limited Agreement Ratification**

### **[6] Part 3 (as inserted by item [5])**

Transfer sections 2, 3, 5 and 6 of the *Australian Lubricating Oil Refinery Limited Agreement Ratification Act 1962* (which is repealed by clause 4 of Schedule 5 to this Act) to Part 3, as sections 10–13.

### **[7] Section 10 Definitions (as inserted by item [6])**

Omit “In this Act”. Insert instead “In this Part”.

### **[8] Section 10, definition of “The Agreement” (as inserted by item [6])**

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

**[9] Section 14**

Insert after section 13 (as inserted by item [6]):

**14 Transferred provisions to which Interpretation Act 1987 applies**

Sections 10–13 and the Third Schedule re-enact (with minor modifications) sections 2, 3, 5 and 6 and the Schedule to the *Australian Lubricating Oil Refinery Limited Agreement Ratification Act 1962* and are transferred provisions to which section 30A of the *Interpretation Act 1987* applies.

**[10] First Schedule, heading**

Omit the heading to the Schedule. Insert instead:

**First Schedule Australian Oil Refining Limited Agreement**

**[11] Second Schedule, heading**

Omit the heading to the Schedule. Insert instead:

**Second Schedule Amendment of Australian Oil Refining Limited Agreement**

**[12] Third Schedule**

Transfer the Schedule to the *Australian Lubricating Oil Refinery Limited Agreement Ratification Act 1962* (which is repealed by clause 4 of Schedule 5 to this Act) after the Second Schedule as the Third Schedule, with the following heading:

**Third Schedule Australian Lubricating Oil Refinery Limited Agreement**

**4.3 Christ Church Cathedral, Newcastle, Cemetery Act 1966 No 20**

**[1] First Schedule**

Omit “(Section 3)”. Insert instead “(Section 4)”.

**[2] Second Schedule**

Omit “(Section 3)”. Insert instead “(Section 5)”.

## 4.4 Conversion of Cemeteries Act 1974 No 17

### Schedule 3 Transferred provisions relating to cemetery land

Insert after clause 19:

## Part 3 Acts repealed by Statute Law (Miscellaneous Provisions) Act 2012

### Division 1 Preliminary

#### 20 Provisions transferred to this Part

Clauses 22–29 re-enact (with minor modifications) the following provisions and are transferred provisions to which section 30A of the *Interpretation Act 1987* applies:

- (a) sections 4 (1) and (3), 4A and 4B of the *Camperdown Cemetery Act 1948*,
- (b) sections 2, 4 (3)–(5), 4A (1), (2) (c) and (d) and (4), 8, 10 (1)–(3), 11 and 13 of the *Old Roman Catholic Cemetery, Crown Street, Wollongong, Act 1969*.

#### 21 Saving of trusts, reservations, dedications and other obligations under repealed Acts

The repeal by the *Statute Law (Miscellaneous Provisions) Act 2012* of an Act, provisions of which are transferred by this Part, does not:

- (a) affect any trust, reservation or dedication that existed immediately before the repeal of that Act, or
- (b) remove any obligation of a Minister or a council with respect to a plan or register required to be compiled under the repealed Act.

### Division 2 Camperdown Cemetery Act 1948

#### 22 Dedication of land as a public park

- (1) The land described in the First Schedule to the *Camperdown Cemetery Act 1948* (as in force immediately before its repeal) is hereby dedicated as a public park under the name of “Camperdown Memorial Rest Park” (*the park*).
- (2) The park shall be maintained by Marrickville Council (*the Council*) as a rest park and garden area and, notwithstanding

anything in any other Act, the Council shall not use the park or permit the same to be used for any other purpose.

- (3) The Camperdown Memorial Rest Park Trust is dissolved and the Council shall be the sole trustee of the park.
- (4) The Council shall, for all purposes of this clause, be deemed to hold an estate in fee simple in the land described in the First Schedule to the *Camperdown Cemetery Act 1948* (as in force immediately before its repeal), but shall not be capable of alienating, charging or in any way disposing of such land, or any part thereof.

### **Division 3      Old Roman Catholic Cemetery, Crown Street, Wollongong, Act 1969**

#### **23    Definitions**

In this Division, except in so far as the context or subject-matter otherwise indicates or requires:

**Council** means Wollongong City Council.

**repealed Act** means the *Old Roman Catholic Cemetery, Crown Street, Wollongong, Act 1969*.

**showground** means the area in the Parish and Town of Wollongong, County of Camden, City of Greater Wollongong, Land District of Kiama, dedicated under the provisions of the *Crown Lands Consolidation Act 1913* for public recreation and showground by notification published in Gazette number 106 of 29 June 1951.

**showground trustees** means the trustees for the time being of the showground.

**the redefinition plan** means the plan identified as Drawing No 3117, Sheet No RES 1, Issue E, approved by the Senior Registered Surveyor for the Council of the City of Wollongong on 27 August 2001, deposited in the office of the Council.

#### **24    Dedication of land as a public park**

- (1) The land dedicated as a public park in accordance with section 4 (1) of the repealed Act (as in force immediately before its repeal) shall be maintained by the Council as a rest park and, notwithstanding anything in any other Act, but subject to the provisions of this Division, the Council shall not use that land or permit it to be used for any other purpose.

- (2) In exercising or performing its powers, authority, duties and functions under this clause, the Council must ensure that any use of the land:
  - (a) is limited to passive recreational activities that in the Council's opinion provide community benefit, and
  - (b) does not unduly intrude on the recognition of and respect for the land as an old cemetery, and
  - (c) does not involve any commercial activities, and
  - (d) subject to the preceding paragraphs, is consistent with any applicable plan of management adopted under the *Crown Lands Act 1989*.
- (3) Nothing in subclause (1) or (2) prevents the granting of, or affects the power to grant, easements through, on, in or above the land to permit the overhang of any structure or the roof of any building erected on the trust lands of Venues NSW.

**25 Closing of part of road and dedication as a public park**

- (1) This clause applies to the land shown edged black and marked "Lot 3" on the redefinition plan.
- (2) The land to which this clause applies:
  - (a) is taken to be dedicated under the *Crown Lands Act 1989* for public recreation, and
  - (b) is taken to form part of the public park referred to in clause 24 (1).
- (3) Despite subclause (2) (a), the provisions of clause 24 apply to the land to which this clause applies in the same way as they apply to the land dedicated as a public park in accordance with section 4 (1) of the repealed Act (as in force immediately before its repeal).

**26 Access to land**

The showground trustees shall grant to the Council or any persons access to the land described in the Second Schedule to the repealed Act (as in force immediately before its repeal) for the purpose of enabling the Council or those persons to carry out any work or to do any act or thing authorised by this Division to be carried out or done on that land by the Council or those persons, as the case may be.

**27 Remains not to be disturbed**

- (1) The Council or the showground trustees or any person or body of persons shall take due care not to unearth or disturb the remains of any person who is buried in the lands described in the First, Second and Third Schedules to the repealed Act (as in force immediately before its repeal).
- (2) If any such remains:
  - (a) are unearthed or disturbed in the lands described in the First and Third Schedules to the repealed Act (as in force immediately before its repeal)—the Council, or
  - (b) are unearthed or disturbed in the land described in the Second Schedule to the repealed Act (as in force immediately before its repeal):
    - (i) by the Council or any persons (other than the showground trustees) in the course of carrying out any work or doing any act or thing authorised by this Division to be carried out or done on that land by the Council or those persons—the Council, or
    - (ii) in any other circumstances—the showground trustees,shall cause the remains to be reverently interred in a position considered by the Council to be suitable in the land described in the First Schedule to the repealed Act (as in force immediately before its repeal).
- (3) The Council shall grant the showground trustees access to the land described in the First Schedule to the repealed Act (as in force immediately before its repeal) for the purpose of interring any remains required under subclause (2) to be interred by the showground trustees in that land.

**28 No compensation payable**

No compensation shall be payable to any person in respect of the carrying out of any work or the doing of any act or thing authorised by this Division.

**29 Savings and transitional provisions**

- (1) The Governor may make regulations containing provisions of a savings or transitional nature consequent on the enactment of the *Wollongong Sportsground and Old Roman Catholic Cemetery Legislation Amendment (Transfer of Land) Act 2001* (but only to the extent that it amended the repealed Act).



Schedule 4 Amendments transferring provisions and other amendments consequential on repeals

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- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to that 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 on the NSW legislation website, 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.

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

##### **[1] Schedule 7 Transferred provisions**

Insert after Part 1:

### **Part 2 Walsh Bay Development (Special Provisions) Act 1999**

#### **2 Meaning of “Walsh Bay”**

In this Part, *Walsh Bay* means the land to which *Sydney Regional Environmental Plan No 16—Walsh Bay* applied immediately before 31 May 1999, or any part of the land, and includes any thing in, on, under or over that land or any part of that land.

##### **[2] Schedule 7, Part 2 (as inserted by item [1])**

Transfer sections 11, 12 and 14 of the *Walsh Bay Development (Special Provisions) Act 1999* (which is repealed by clause 4 of Schedule 5 to this Act) to Part 2 of Schedule 7, as clauses 3–5.

##### **[3] Schedule 7, clauses 3 and 4 (as inserted by item [2]), headings**

Omit “—EPA Act” wherever occurring.

##### **[4] Schedule 7, clause 3 (as inserted by item [2])**

Omit “sections 97AA, to the extent applicable, and 97 of the *Environmental Planning and Assessment Act 1979*”.

Insert instead “section 97 and, to the extent applicable, section 97AA”.

**[5] Schedule 7, clauses 4 and 5 (as inserted by item [2])**

Omit “of the *Environmental Planning and Assessment Act 1979*” wherever occurring.

**[6] Schedule 7, clause 5 (as inserted by item [2]), heading**

Omit “of EPA Act”.

**[7] Schedule 7, clause 6**

Insert after clause 5 of Schedule 7 (as inserted by item [2]):

**6 Transferred provisions to which Interpretation Act 1987 applies**

Clauses 2–5 re-enact (with minor modifications) the definition of *Walsh Bay* in section 3, and sections 11, 12 and 14, of the *Walsh Bay Development (Special Provisions) Act 1999* and are transferred provisions to which section 30A of the *Interpretation Act 1987* applies.

**[8] Schedule 7, Part 3**

Insert after clause 6 of Schedule 7 (as inserted by item [7]):

**Part 3 Western Sydney Regional Park  
(Revocation for Western Sydney Orbital)  
Act 2001**

**7 Dealings with certain land at Fairfield**

- (1) This clause applies to all those pieces or parcels of land situated in the County of Cumberland, Parish of Melville, local government area of Fairfield and being so much of the following land as is, at the commencement of this clause, vested in the corporation:
  - (a) lots 12, 13 and 15–20, DP 1021938,
  - (b) lots 33–37 and 40–42, DP 1021940,
  - (c) lots 22–29 and 31, DP 1022008.
- (2) The corporation may sell, grant leases of, dispose of or otherwise deal with the land to which this clause applies.
- (3) Proceeds of any dealing by the corporation with that land are to be paid into the Development Fund created under section 129 for the Sydney Region.
- (4) Subclauses (1)–(3) re-enact (with minor modifications) sections 4 and 6 (2) and (3) of the *Western Sydney Regional Park*

*(Revocation for Western Sydney Orbital) Act 2001* and are transferred provisions to which section 30A of the *Interpretation Act 1987* applies.

## 4.6 Health Services Act 1997 No 154

### Schedule 8

Insert after Schedule 7:

## Schedule 8 Transferred provisions—Sydney Hospital (Trust Property) Act 1984

### 1 Future property

(1) To the extent to which, by a deed, will or other instrument, whether taking effect before, on or after 14 December 1984 (the *appointed day*):

- (a) any property would, but for this clause, be devised, bequeathed, given, granted, released, conveyed or appointed on or after the appointed day to The Sydney Hospital, or another person, for, or for the benefit of, or in trust for, a unit or the purposes of a unit, or
- (b) any property would, but for this clause, be declared or directed on or after the appointed day to be held by any person for, or for the benefit of, or in trust for, a unit or the purposes of a unit,

the deed, will or other instrument shall be construed and have effect as if the reference therein to The Sydney Hospital or the person, as the case may be, were a reference to the relevant hospital.

(2) In this clause:

*relevant hospital*, in relation to a unit, means:

- (a) where the unit is the Cardio-renal Unit, the Endocrine Unit or the Renal Unit—The Royal North Shore Hospital of Sydney, and
- (b) where the unit is the Kanematsu Memorial Institute, the Melanoma Unit or the Solid Tissue Tumour Unit—The Royal Prince Alfred Hospital, and
- (c) where the unit is the Immunology Unit or the Radiation Oncology Unit—the Newcastle Mater Misericordiae Hospital (Waratah), and

- (d) where the unit is the Biorheology Unit—The Rachel Forster Hospital.

**unit** means a unit of The Sydney Hospital existing immediately before 1 October 1982, being one of the following:

- (a) Biorheology Unit,
  - (b) Cardio-renal Unit,
  - (c) Endocrine Unit,
  - (d) Immunology Unit,
  - (e) Kanematsu Memorial Institute,
  - (f) Melanoma Unit,
  - (g) Radiation Oncology Unit,
  - (h) Renal Unit,
  - (i) Solid Tissue Tumour Unit.
- (3) Subclauses (1) and (2) re-enact (with minor modifications) the definition of **unit** in section 3 (1), and section 5, of the *Sydney Hospital (Trust Property) Act 1984* and are transferred provisions to which section 30A of the *Interpretation Act 1987* applies.

## 4.7 Heritage Act 1977 No 136

### [1] Schedule 1 Savings and transitional provisions

Insert after clause 5 (2):

- (3) This clause applies to the permanent conservation order validated by section 4 of the repealed Act, and to any item or land the subject of that permanent conservation order, as if it were a permanent conservation order in force under Part 3 of this Act immediately before the commencement of this clause.
- (4) In this clause, **repealed Act** means the *Walsh Bay Development (Special Provisions) Act 1999*, as in force immediately before its repeal.
- (5) Subclauses (3) and (4) re-enact (with minor modifications) section 4 (4) of the repealed Act and are transferred provisions to which section 30A of the *Interpretation Act 1987* applies.

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**[2] Schedule 3**

Insert after Schedule 2:

**Schedule 3 Transferred provisions—Walsh Bay Development (Special Provisions) Act 1999**

**1 Meaning of “Walsh Bay”**

In this Schedule, *Walsh Bay* means the land to which *Sydney Regional Environmental Plan No 16—Walsh Bay* applied immediately before 31 May 1999, or any part of the land, and includes any thing in, on, under or over that land or any part of that land.

**[3] Schedule 3 (as inserted by item [2])**

Transfer sections 10 and 13 of the *Walsh Bay Development (Special Provisions) Act 1999* (which is repealed by clause 4 of Schedule 5 to this Act) to Schedule 3, as clauses 2 and 3.

**[4] Schedule 3, clauses 2 and 3 (as inserted by item [3])**

Omit “of the *Heritage Act 1977*” wherever occurring.

**[5] Schedule 3, clauses 2 (1) and 3 (a) (as inserted by item [3])**

Omit “(within the meaning of that Act)” wherever occurring.

**[6] Schedule 3, clause 2 (as inserted by item [3]), heading**

Omit “—**Heritage Act**”.

**[7] Schedule 3, clause 2 (2) (as inserted by item [3])**

Omit “subsection”. Insert instead “subclause”.

**[8] Schedule 3, clause 3 (as inserted by item [3]), heading**

Omit “of **Heritage Act**”.

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

Insert after clause 3 of Schedule 3 (as inserted by item [3]):

**4 Transferred provisions to which Interpretation Act 1987 applies**

Clauses 1–3 re-enact (with minor modifications) the definition of *Walsh Bay* in section 3, and sections 10 and 13, of the *Walsh Bay Development (Special Provisions) Act 1999* and are transferred

provisions to which section 30A of the *Interpretation Act 1987* applies.

#### **4.8 Limitation Act 1969 No 31**

**[1] Schedule 1, heading**

Insert after section 78:

**Schedule 1      Transferred provisions—Notice of  
Action and Other Privileges  
Abolition Act 1977**

**[2] Schedule 1 (as inserted by item [1])**

Transfer sections 3 and 5 of the *Notice of Action and Other Privileges Abolition Act 1977* (which is repealed by clause 4 of Schedule 5 to this Act) to Schedule 1, as clauses 1 and 2. Renumber clause 2 (4) (c) and (d) (as inserted by this item) as clause 2 (4) (b) and (c), respectively.

**[3] Schedule 1, clause 1 (as inserted by item [2])**

Omit “this Act” where firstly occurring.

Insert instead “the *Notice of Action and Other Privileges Abolition Act 1977*”.

**[4] Schedule 1, clause 1 (as inserted by item [2])**

Omit “this Act” where secondly occurring. Insert instead “that Act”.

**[5] Schedule 1, clause 2 (1)–(3) (as inserted by item [2])**

Omit “section” wherever occurring. Insert instead “clause”.

**[6] Schedule 1, clause 2 (1) and (2) (a) (as inserted by item [2])**

Omit “the *Limitation Act 1969*” wherever occurring. Insert instead “this Act”.

**[7] Schedule 1, clause 2 (1) (as inserted by item [2])**

Omit “that Act”. Insert instead “this Act”.

**[8] Schedule 1, clause 2 (2) (b) (as inserted by item [2])**

Insert “to the *Notice of Action and Other Privileges Abolition Act 1977* (as in force on its commencement)” after “Schedule 1”.

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**[9] Schedule 1, clause 2 (3) and (4) (as inserted by item [2])**

Omit “subsection” and “Subsection”.

Insert instead “subclause” and “Subclause”, respectively.

**4.9 National Trust of Australia (New South Wales) Act 1990 No 92**

**Schedule 3**

Insert after Schedule 2:

**Schedule 3 Transferred provisions—Sir Henry Parkes National (War) Memorial Museum and Library Act 1957**

**1 Definitions**

In this Schedule unless the context or subject matter otherwise indicates or requires:

**repealed Act** means the *Sir Henry Parkes National (War) Memorial Museum and Library Act 1957*.

**the trust property** means the property and assets set out in the Schedule to the repealed Act (as in force immediately before its repeal) and includes any property, money or assets acquired or to be acquired by the Trust in pursuance of that Act in addition to or in substitution therefor.

**2 Use of trust property**

The Trust shall operate, control, manage, maintain, develop and expand the trust property for the purposes of a community centre, museum and library as a national memorial to the late Sir Henry Parkes:

- (a) in accordance with the objects of the Trust, and
- (b) to the extent of the income and assets of the trust property and of any property, money or assets acquired or to be acquired after the commencement of the repealed Act by the Trust for purposes connected with the said memorial, and
- (c) so far as is practicable, consistent with the purposes for which the trust property was used immediately before the commencement of the repealed Act.

### **3 Sale of trust property**

- (1) The Trust shall not, without the consent of the Governor, sell, mortgage or otherwise dispose of the trust property, or any part of the trust property, referred to in paragraph (a) of the Schedule to the repealed Act (as in force immediately before its repeal).
- (2) The Trust may sell, mortgage or otherwise dispose of:
  - (a) any of the assets referred to in paragraph (b) of the Schedule to the repealed Act (as in force immediately before its repeal), and
  - (b) any property or assets acquired or to be acquired after the commencement of the repealed Act by the Trust for purposes connected with the national memorial to the late Sir Henry Parkes,

and if the Trust think fit purchase or otherwise acquire other property or assets in substitution therefor.

No sale, mortgage or disposal shall be made under this subclause:

- (i) unless the property or assets so sold, mortgaged or disposed of are not required for or in connection with the operation, control, management, maintenance, development and expansion of the national memorial to the late Sir Henry Parkes, and
- (ii) in the case of real property without the consent of the Governor.

### **4 Appointment of Management Committee**

The Trust may appoint a Management Committee which, subject to the direction and control of the Trust and any by-laws made by the Trust, shall for and on behalf of the Trust have the operation, control, management, maintenance, development and expansion of the national memorial to the late Sir Henry Parkes.

### **5 By-laws**

- (1) The Trust may make by-laws, not inconsistent with this Schedule, for and with respect to any of the following:
  - (a) the care, control and management of the trust property,
  - (b) the constitution of a Management Committee,
  - (c) the meetings of the Management Committee and the proceedings thereat,
  - (d) the appointment of an executive and other officers of the Management Committee,



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- (e) the co-opting of persons as members of the Management Committee and the appointment of sub-committees of the Management Committee,
  - (f) the powers, authorities, duties and functions of the Management Committee, officers thereof, persons co-opted as members thereof and sub-committees thereof.
- (2) A printed copy of any such by-laws signed by the Trust and certified by it as being correct shall be received in all courts of law or equity as conclusive evidence of such by-laws and of the same having been duly made under the authority of this Schedule.

**6 Transferred provisions to which Interpretation Act 1987 applies**

Clauses 1–5 re-enact (with minor modifications) sections 2, 5–7 and 12 of the *Sir Henry Parkes National (War) Memorial Museum and Library Act 1957* and are transferred provisions to which section 30A of the *Interpretation Act 1987* applies.

**4.10 Trustee Companies Act 1964 No 6**

**Schedule 2**

Insert after Schedule 1:

**Schedule 2 Transferred provisions—Burns Philp Trustee Company Limited Act 1990**

**1 Definitions**

- (1) In this Schedule, *repealed Act* means the *Burns Philp Trustee Company Limited Act 1990*.
- (2) Terms defined in the repealed Act have the same meanings in this Schedule as they had in that Act immediately before the repeal of that Act.

**2 Rights, duties and liabilities related to transfer of property**

- (1) Permanent Trustee Company Limited is, in respect of the property vested in it by section 5 of the repealed Act:
  - (a) taken to be appointed to act in the capacity of trustee instead of Burns Philp, and
  - (b) entitled and obliged to exercise and discharge all rights, powers, capacities, authorities, duties, liabilities and

obligations of Burns Philp in the capacity of trustee to the exclusion of Burns Philp, and

(c) to discharge the liabilities and obligations of Burns Philp in the capacity of trustee to the exclusion of Burns Philp, except as provided by sections 7, 8 and 9 of the repealed Act (as in force immediately before its repeal).

(2) In this clause, *liabilities* includes the following:

- (a) present and future liabilities,
- (b) certain and contingent liabilities,
- (c) ascertained liabilities and liabilities for which only damages may be awarded,
- (d) all claims against Burns Philp and any officer of Burns Philp (in that capacity).

### **3 Appointment of Burns Philp taken to be appointment of Permanent Trustee Company Limited**

(1) Any appointment or nomination of Burns Philp as trustee, executor or otherwise in the capacity of trustee is taken to be an appointment or nomination of Permanent Trustee Company Limited, except as provided by section 7 of the repealed Act (as in force immediately before its repeal).

(2) This clause applies to such an appointment or nomination:

- (a) whether made (or purporting to be made) before, on or after 7 December 1990, and
- (b) whether the appointment or nomination:
  - (i) is in effect on that date, or
  - (ii) takes effect after that date, or
  - (iii) has taken effect previously but some further act or thing is necessary to perfect the appointment to or undertaking of the office.

### **4 Evidence of transfer of property**

(1) The production of a copy of the repealed Act (as in force immediately before its repeal) is, in any legal proceedings, conclusive evidence of the vesting of property pursuant to that Act.

(2) A certificate under the seal of Permanent Trustee Company Limited to the effect that property specified in the certificate has been vested in it pursuant to the repealed Act is conclusive evidence of the matters certified for the following purposes:

- (a) any application by Permanent Trustee Company Limited to be registered under the *Real Property Act 1900*,
- (b) any application by Permanent Trustee Company Limited or a successor in title of Permanent Trustee Company Limited to bring land under the *Real Property Act 1900*,
- (c) any transfer, conveyance, reconveyance, mortgage or other instrument or dealing whatever in respect of any interest in any land (whether or not under the *Real Property Act 1900*),
- (d) any creation of an easement or other interest in respect of any land (whether or not under the *Real Property Act 1900*).

**5 Joinder of Permanent Trustee Company Limited in legal proceedings**

Permanent Trustee Company Limited may be joined as a party to any legal proceedings in addition to, or instead of, Burns Philp if:

- (a) Permanent Trustee Company Limited or Burns Philp makes such an application, and
- (b) it appears to the court to be necessary or proper having regard to the provisions of this Schedule.

**6 Transferred provisions to which Interpretation Act 1987 applies**

Clauses 2–5 re-enact (with minor modifications) sections 5 (3) and (4), 6, 10 and 13 of the *Burns Philp Trustee Company Limited Act 1990* and are transferred provisions to which section 30A of the *Interpretation Act 1987* applies.

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## Schedule 5 Repeals

### 1 Repeal of redundant Acts, instruments and provisions

The following Acts and instruments, or provisions of Acts and instruments, are repealed:

<b>Act or instrument</b>	<b>Provisions repealed</b>
<i>Balmain-Rozelle Anzac Memorial Hall Act 1961 No 14</i>	Whole Act
<i>Broken Hill Abattoirs, Markets, and Cattle Sale-yards Act (1900)</i>	Whole Act
<i>Children (Education and Care Services) Supplementary Provisions Regulation 2004</i>	Part 8
<i>Christ Church Cathedral, Newcastle, Cemetery Act 1966 No 20</i>	Sections 3, 6 (1) (d)–(h) and (2)–(4) and 9
<i>Fish Marketing Act 1994 No 37</i>	Whole Act
<i>Forestry (State Forest Revocation) Act 1978 No 98</i>	Whole Act
<i>General Post Office (Approaches Improvement) Act 1889 53 Vic No 13</i>	Whole Act
<i>Leeton War Memorial Act 1961 No 40</i>	Whole Act
<i>Lord Howe Island Aerodrome Act 1974 No 25</i>	Whole Act
<i>Lower South Coast Regional Environmental Plan No 1</i>	Whole Plan
<i>Manly and Warringah District Park Act 1972 No 76</i>	Whole Act
<i>Newcastle Pasturage Reserve Act 1900 No 18</i>	Whole Act
<i>Parramatta Friendly Societies' Hall Site Vesting Act (1904 No 29)</i>	Whole Act
<i>State Environmental Planning Policy (Major Development) 2005</i>	Clause 2 of Part 4, and clause 4 of Part 31, of Schedule 3
<i>Statute Law (Miscellaneous Provisions) Act (No 2) 2010 No 119</i>	Whole Act
<i>Statute Law (Miscellaneous Provisions) Act (No 2) 2011 No 62</i>	Whole Act
<i>Sydney Mechanics School of Arts (Enabling) Act 1929 No 1</i>	Whole Act

<b>Act or instrument</b>	<b>Provisions repealed</b>
<i>Teachers' College Act 1912</i> No 47	Whole Act
<i>The Standard Insurance Company Limited and Certain Other Insurance Companies Act 1963</i> No 18	Whole Act
<i>University of New South Wales (St George Campus) Act 1999</i> No 45	Whole Act
<i>University of Sydney (J. J. W. Power Bequest) Act 1962</i> No 18	Whole Act
<i>West Scholarships Act 1930</i> No 19	Sections 7, 9, 10 and 14

## 2 Repeal of amending Acts and provisions that have commenced

The following Acts or provisions of Acts are repealed:

<b>Act</b>	<b>Provisions repealed</b>
<i>Australian Mutual Provident Society's (Amendment) Act 1941</i>	Whole Act
<i>Children and Young Persons Legislation (Repeal and Amendment) Act 1998</i> No 158	Whole Act
<i>Public Holidays Act 2010</i> No 115	Schedule 2

## 3 Repeal of provisions of Acts that amend instruments or provisions that have since been repealed

The following provisions of Acts are repealed:

<b>Act</b>	<b>Provisions repealed</b>
<i>Jury Amendment Act 2010</i> No 55	Schedule 2
<i>Licensing and Registration (Uniform Procedures) Act 2002</i> No 28	Schedule 4.2 and 4.10, Part 2 of Schedule 4 and Schedule 4.30 [1] and 4.32 [1]

## 4 Repeal of Acts whose provisions are transferred by Schedule 4

The following Acts are repealed:

- (a) *Australian Lubricating Oil Refinery Limited Agreement Ratification Act 1962* No 16,
- (b) *Burns Philp Trustee Company Limited Act 1990* No 82,
- (c) *Camperdown Cemetery Act 1948* No 14,

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- (d) *Notice of Action and Other Privileges Abolition Act 1977* No 19,
  - (e) *Old Roman Catholic Cemetery, Crown Street, Wollongong, Act 1969* No 56,
  - (f) *Sir Henry Parkes National (War) Memorial Museum and Library Act 1957* No 47,
  - (g) *Sydney Hospital (Trust Property) Act 1984* No 133,
  - (h) *Walsh Bay Development (Special Provisions) Act 1999* No 3,
  - (i) *Western Sydney Regional Park (Revocation for Western Sydney Orbital) Act 2001* No 60.

## **Schedule 6 General savings, transitional and other provisions**

### **1 Effect of amendment of amending provisions**

- (1) An amendment made by Schedule 1 or 2 to an amending provision contained in an Act or instrument is, if the amending provision has commenced before the Schedule 1 or 2 amendment concerned, taken to have effect as from the commencement of the amending provision (whether or not the amending provision has been repealed).
- (2) In this clause:  
***amending provision*** means a provision of an Act or instrument that makes a direct amendment to an Act or instrument by:
  - (a) the repeal or omission of matter contained in the amended Act or instrument without the insertion of any matter instead of the repealed or omitted matter, or
  - (b) the omission of matter contained in the amended Act or instrument and the insertion of matter instead of the omitted matter, or
  - (c) the insertion into the amended Act or instrument of matter, not being matter inserted instead of matter omitted from the Act or instrument.

#### **Explanatory note**

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

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

Except where it is expressly provided to the contrary, if this Act:

- (a) amends a provision of an Act or an instrument, or
- (b) repeals and re-enacts (with or without modification) a provision of an Act or an instrument,

any act done or decision made under the provision amended or repealed has effect after the amendment or repeal as if it had been done or made under the provision as so amended or repealed.

#### **Explanatory note**

This clause ensures that the amendment or repeal of a provision will not, unless expressly provided, vitiate any act done or decision made under the provision as in force before the amendment or repeal.

### **3 Effect of amendment on instruments**

Except where expressly provided to the contrary, any instrument 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 instrument that is in force and made under a provision of an Act that is amended or substituted by the proposed Act will be taken to have been made under the Act as amended.

### **4 Revocation of repeal**

Section 29A of the *Interpretation Act 1987* applies to the repeal of Acts or instruments, or provisions of Acts or instruments, by this Act.

#### **Explanatory note**

The effect of this clause is to enable the Governor, by proclamation, to revoke the repeal of any Act or instrument or the provision of any Act or instrument repealed by the proposed Act. The Act or instrument or provision of an Act or instrument the subject of the revocation of repeal is taken not to be, and never to have been, repealed.

### **5 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 on the NSW legislation website, 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 proposed Act.



## Notes

### Index of Acts and instruments amended by Schedules 1–4

- Aboriginal Land Rights Act 1983* No 42—Schedule 1  
*Aboriginal Land Rights Regulation 2002*—Schedule 2  
*Agricultural Industry Services Regulation 2009*—Schedule 3  
*Anglican Church of Australia Trust Property Act 1917* No 21—Schedule 4  
*Animal Diseases (Emergency Outbreaks) Act 1991* No 73—Schedule 1  
*Anti-Discrimination Act 1977* No 48—Schedule 2  
*Architects Regulation 2004*—Schedule 3  
*Australian Oil Refining Limited Agreement Ratification Act 1954* No 34—Schedule 4  
*Barangaroo Delivery Authority Act 2009* No 2—Schedule 1  
*Betting Tax Act 2001* No 43—Schedule 2  
*Births, Deaths and Marriages Registration Act 1995* No 62—Schedule 1  
*Bland Local Environmental Plan 2011*—Schedule 2  
*Catchment Management Authorities Act 2003* No 104—Schedule 2  
*Children and Young Persons (Care and Protection) Act 1998* No 157—Schedule 2  
*Christ Church Cathedral, Newcastle, Cemetery Act 1966* No 20—Schedule 4  
*Civil Liability Act 2002* No 22—Schedule 2  
*Coastal Protection Act 1979* No 13—Schedule 2  
*Coffs Harbour City Centre Local Environmental Plan 2011*—Schedule 2  
*Confiscation of Proceeds of Crime Regulation 2010*—Schedule 3  
*Conversion of Cemeteries Act 1974* No 17—Schedule 4  
*Conveyancing (General) Regulation 2008*—Schedule 2  
*Co-operatives (Adoption of National Law) Act 2012* No 29—Schedule 2  
*Crimes Act 1900* No 40—Schedule 1  
*Crimes (Administration of Sentences) Act 1999* No 93—Schedule 2  
*Dust Diseases Tribunal Regulation 2007*—Schedule 3  
*Election Funding, Expenditure and Disclosures Regulation 2009*—Schedule 3  
*Electricity (Consumer Safety) Act 2004* No 4—Schedule 2  
*Environmental Planning and Assessment Act 1979* No 203—Schedules 1, 2 and 4  
*Environmental Planning and Assessment Regulation 2000*—Schedule 2  
*Evidence (Audio and Audio Visual Links) Act 1998* No 105—Schedule 1  
*Evidence Regulation 2010*—Schedule 3  
*Exhibited Animals Protection Act 1986* No 123—Schedule 1  
*Explosives Act 2003* No 39—Schedule 1

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*Firearms Act 1996* No 46—Schedule 1  
*Fisheries Management Act 1994* No 38—Schedule 1  
*Health Care Complaints Act 1993* No 105—Schedules 1 and 2  
*Health Records and Information Privacy Act 2002* No 71—Schedule 1  
*Health Services Act 1997* No 154—Schedules 1, 2 and 4  
*Heritage Act 1977* No 136—Schedules 1 and 4  
*Home Building Act 1989* No 147—Schedule 1  
*Home Building Regulation 2004*—Schedule 2  
*Interpretation Act 1987* No 15—Schedule 1  
*Kogarah Local Environmental Plan 1998*—Schedule 2  
*Lake Macquarie Local Environmental Plan 2004*—Schedule 2  
*Legal Profession Regulation 2005*—Schedule 3  
*Limitation Act 1969* No 31—Schedule 4  
*Liquor Act 2007* No 90—Schedule 1  
*Local Government Act 1993* No 30—Schedule 2  
*Local Government (General) Regulation 2005*—Schedule 3  
*Lord Howe Island Regulation 2004*—Schedule 3  
*Maitland Local Environmental Plan 2011*—Schedule 2  
*Mental Health (Forensic Provisions) Act 1990* No 10—Schedule 2  
*Motor Vehicle Repairs Act 1980* No 71—Schedule 1  
*Motor Vehicles Taxation Act 1988* No 111—Schedule 1  
*Murray Local Environmental Plan 2011*—Schedule 2  
*National Parks and Wildlife Act 1974* No 80—Schedule 1  
*National Trust of Australia (New South Wales) Act 1990* No 92—Schedule 4  
*Non-Indigenous Animals Act 1987* No 166—Schedule 2  
*Parliamentary Electorates and Elections Regulation 2008*—Schedule 3  
*Penrith Local Environmental Plan No 201 (Rural Lands)*—Schedule 2  
*Petroleum (Onshore) Act 1991* No 84—Schedule 1  
*Plantations and Reafforestation Act 1999* No 97—Schedule 1  
*Poisons and Therapeutic Goods Act 1966* No 31—Schedule 2  
*Ports and Maritime Administration Regulation 2007*—Schedule 3  
*Probate and Administration Act 1898* No 13—Schedule 2  
*Property, Stock and Business Agents (Qualifications) Order 2009*—Schedule 2  
*Protection of the Environment Operations (Clean Air) Regulation 2010*—Schedule 2  
*Public Health (Tobacco) Act 2008* No 94—Schedule 1  
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*Radiation Control Regulation 2003*—Schedule 2  
*Residential Tenancies Act 2010* No 42—Schedule 1  
*Richmond Valley Local Environmental Plan 2012*—Schedule 2  
*Road Transport (General) Regulation 2005*—Schedule 2  
*Road Transport (Vehicle Registration) Act 1997* No 119—Schedule 2  
*Rural Lands Protection Regulation 2010*—Schedule 3  
*Security Industry Act 1997* No 157—Schedule 2  
*State Environmental Planning Policy (Sydney Region Growth Centres) 2006*—Schedule 2  
*Status of Children Regulation 2008*—Schedule 3  
*Subordinate Legislation Act 1989* No 146—Schedule 1  
*Superannuation Act 1916* No 28—Schedule 2  
*Threatened Species Conservation Act 1995* No 101—Schedule 2  
*Trustee Companies Act 1964* No 6—Schedule 4  
*University of Wollongong By-law 2005*—Schedule 2  
*Walsh Bay Development (Special Provisions) Act 1999* No 3—Schedule 2  
*Water Management Act 2000* No 92—Schedule 1  
*Water Management Amendment Act 2008* No 73—Schedule 1  
*Water Sharing Plan for the Adelong Creek Water Source 2003*—Schedule 2  
*Water Sharing Plan for the Apsley River Water Source 2003*—Schedule 2  
*Water Sharing Plan for the Castlereagh River above Binnaway Water Source 2003*—Schedule 2  
*Water Sharing Plan for the Commissioners Waters Water Source 2003*—Schedule 2  
*Water Sharing Plan for the Dorrigo Plateau Surface Water Source and Dorrigo Basalt Groundwater Source 2003*—Schedule 2  
*Water Sharing Plan for the Intersecting Streams Unregulated and Alluvial Water Sources 2011*—Schedule 2  
*Water Sharing Plan for the Jilliby Jilliby Creek Water Source 2003*—Schedule 2  
*Water Sharing Plan for the Kangaroo River Water Source 2003*—Schedule 2  
*Water Sharing Plan for the Karuah River Water Source 2003*—Schedule 2  
*Water Sharing Plan for the Lower Murray Shallow Groundwater Source 2012*—Schedule 2  
*Water Sharing Plan for the Lower Murray-Darling Unregulated and Alluvial Water Sources 2011*—Schedule 2  
*Water Sharing Plan for the Mandagery Creek Water Source 2003*—Schedule 2  
*Water Sharing Plan for the Murray Unregulated and Alluvial Water Sources 2011*—Schedule 2

*Water Sharing Plan for the New South Wales Murray and Lower Darling Regulated Rivers Water Sources 2003—Schedule 2*

*Water Sharing Plan for the NSW Great Artesian Basin Groundwater Sources 2008—Schedule 2*

*Water Sharing Plan for the NSW Great Artesian Basin Shallow Groundwater Sources 2011—Schedule 2*

*Water Sharing Plan for the NSW Murray Darling Basin Fractured Rock Groundwater Sources 2011—Schedule 2*

*Water Sharing Plan for the NSW Murray Darling Basin Porous Rock Groundwater Sources 2011—Schedule 2*

*Water Sharing Plan for the Ourimbah Creek Water Source 2003—Schedule 2*

*Water Sharing Plan for the Phillips Creek, Mooki River, Quirindi Creek and Warrah Creek Water Sources 2003—Schedule 2*

*Water Sharing Plan for the Tarcutta Creek Water Source 2003—Schedule 2*

*Water Sharing Plan for the Tenterfield Creek Water Source 2003—Schedule 2*

*Water Sharing Plan for the Toorumbie Creek Water Source 2003—Schedule 2*

*Water Sharing Plan for the Upper Billabong Water Source 2003—Schedule 2*

*Water Sharing Plan for the Upper Brunswick River Water Source 2003—Schedule 2*

*Water Sharing Plan for the Wandella Creek Water Source 2003—Schedule 2*

*Water Sharing Plan for the Wybong Creek Water Source 2003—Schedule 2*

*Waverley Local Environmental Plan 1996—Schedule 2*

*Work Health and Safety Act 2011 No 10—Schedule 1*

*Work Health and Safety Regulation 2011—Schedule 2*

#### **Index of Acts and instruments wholly repealed by Schedule 5**

*Australian Lubricating Oil Refinery Limited Agreement Ratification Act 1962 No 16*

*Australian Mutual Provident Society's (Amendment) Act 1941*

*Balmain-Rozelle Anzac Memorial Hall Act 1961 No 14*

*Broken Hill Abattoirs, Markets, and Cattle Sale-yards Act (1900)*

*Burns Philp Trustee Company Limited Act 1990 No 82*

*Camperdown Cemetery Act 1948 No 14*

*Children and Young Persons Legislation (Repeal and Amendment) Act 1998 No 158*

*Fish Marketing Act 1994 No 37*

*Forestry (State Forest Revocation) Act 1978 No 98*

*General Post Office (Approaches Improvement) Act 1889 53 Vic No 13*

*Leeton War Memorial Act 1961 No 40*

*Lord Howe Island Aerodrome Act 1974 No 25*

*Lower South Coast Regional Environmental Plan No 1*

Statute Law (Miscellaneous Provisions) Act 2012 No 42

Notes

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*Manly and Warringah District Park Act 1972* No 76  
*Newcastle Pasturage Reserve Act 1900* No 18  
*Notice of Action and Other Privileges Abolition Act 1977* No 19  
*Old Roman Catholic Cemetery, Crown Street, Wollongong, Act 1969* No 56  
*Parramatta Friendly Societies' Hall Site Vesting Act (1904* No 29)  
*Sir Henry Parkes National (War) Memorial Museum and Library Act 1957* No 47  
*Statute Law (Miscellaneous Provisions) Act (No 2) 2010* No 119  
*Statute Law (Miscellaneous Provisions) Act (No 2) 2011* No 62  
*Sydney Hospital (Trust Property) Act 1984* No 133  
*Sydney Mechanics School of Arts (Enabling) Act 1929* No 1  
*Teachers' College Act 1912* No 47  
*The Standard Insurance Company Limited and Certain Other Insurance Companies Act 1963* No 18  
*University of New South Wales (St George Campus) Act 1999* No 45  
*University of Sydney (J. J. W. Power Bequest) Act 1962* No 18  
*Walsh Bay Development (Special Provisions) Act 1999* No 3  
*Western Sydney Regional Park (Revocation for Western Sydney Orbital) Act 2001* No 60

**Index of Acts and instruments partly repealed by Schedule 5**

*Children (Education and Care Services) Supplementary Provisions Regulation 2004*  
*Christ Church Cathedral, Newcastle, Cemetery Act 1966* No 20  
*Jury Amendment Act 2010* No 55  
*Licensing and Registration (Uniform Procedures) Act 2002* No 28  
*Public Holidays Act 2010* No 115  
*State Environmental Planning Policy (Major Development) 2005*  
*West Scholarships Act 1930* No 19

[Second reading speech made in—

Legislative Assembly on 30 May 2012

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