



New South Wales

Statute Law (Miscellaneous Provisions) Act (No 2) 2013 No 111

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New South Wales

Statute Law (Miscellaneous Provisions) Act (No 2) 2013 No 111

Act No 111, 2013

An Act to repeal an Act 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 3 December 2013]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Statute Law (Miscellaneous Provisions) Act (No 2) 2013*.

2 Commencement

- (1) This Act commences on 3 January 2014.
- (2) However, 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.

Schedule 1 Minor amendments

1.1 Associations Incorporation Act 2009 No 7

[1] Section 74 Decision on application for voluntary cancellation

Insert after section 74 (3):

- (4) Any notice to be given to an association under subsection (3) must be sent by post addressed to the association:
 - (a) at the association's official address, or
 - (b) if the Director-General suspects that the association's official address is no longer in use, at such other address as appears to the Director-General to be an address that is used by the association.

[2] Section 76 Director-General may cancel registration

Omit "given to the association" from section 76 (3) (a).

Insert instead "sent to the association by registered post".

[3] Section 76 (4)

Insert "to be published in the Gazette and" after "fact".

[4] Section 76 (5)

Omit "registered".

[5] Section 80 Effect of transfer of registration declaration

Insert after section 80 (2):

- (3) On cancelling an association's registration, the Director-General is to cause notice of that fact to be published in the Gazette and to be given to the association.
- (4) Any notice to be given to an association under subsection (3) must be sent by post addressed to the association:
 - (a) at the association's official address, or
 - (b) if the Director-General suspects that the association's official address is no longer in use, at such other address as appears to the Director-General to be an address that is used by the association.

[6] Section 82 Notice of cancellation to be sent to association

Omit the section.

Explanatory note

The proposed amendments to the *Associations Incorporation Act 2009* simplify the requirement for the Director-General of the Department of Finance and Services to notify an association before and after the cancellation of the association's registration by removing the requirement that notice of cancellation be sent by registered post.

Item [1] provides that, if the association's registration is cancelled voluntarily, notice of that cancellation may be sent by ordinary post. (At present, section 82 requires the notice to be sent by registered post.)

Item [2] continues the requirement that a notice of the proposed involuntary cancellation of the registration of an association (which states the ground or grounds of that cancellation and gives the association and its members an opportunity to make submissions) must be sent by registered post.

Item [3] continues the requirement for notice of the involuntary cancellation of an association's registration to be published in the Gazette (an obligation presently found in section 82).

Item [4] provides that, if the association's registration is ultimately involuntarily cancelled, notice of that cancellation may be sent by ordinary post (rather than by registered post, as currently required).

Item [5] requires notice of the cancellation of an association's registration after the transfer of its registration to registration under a corresponding law to be published in the Gazette (an obligation presently found in section 82) and to be sent to the association by ordinary post (rather than by registered post, as currently required under section 82).

Item [6] omits a provision about the giving of notice of cancellations, which will be redundant as a result of the other proposed amendments.

1.2 Environmental Planning and Assessment Act 1979 No 203

[1] Section 122I Appointment of authorised officers

Insert after section 122I (3):

- (3A) If persons of a class are appointed as authorised officers, they need not be provided with identification cards if the Director-General is satisfied that they possess adequate identification as persons of that class.

[2] Section 122I (5)

Insert after subsection (4):

- (5) In subsection (4), *identification card* means an identification card provided under subsection (3) or identification of the kind referred to in subsection (3A).

Explanatory note

Item [1] of the proposed amendments to the *Environmental Planning and Assessment Act 1979* provides that persons of a class appointed as authorised officers for certain enforcement purposes need not be provided with identification cards if the Director-General of the Department of Planning and Infrastructure is satisfied that they possess adequate identification as persons of that class. Item [2] provides that such an authorised officer, in the course of exercising the functions of an authorised officer, must, if requested to do so, produce the identification that he or she possesses as a person of that class.

1.3 Food Act 2003 No 43

[1] Section 106 Definitions

Omit the definition of *relevant enforcement agency*.

[2] Sections 106E and 106F

Omit the sections.

[3] Section 106I Fees and charges payable under Division

Omit section 106I (2).

Explanatory note

Item [2] of the proposed amendments to the *Food Act 2003* removes requirements for the proprietors of certain food businesses to notify the relevant enforcement agency of the appointment of a food safety supervisor and to give notice of any change in the information provided by the proprietor in relation to the food safety supervisor. This information is verified during inspections of food businesses.

Items [1] and [3] make consequential amendments.

1.4 Food Regulation 2010

[1] Part 2A, Division 4 Notices

Omit the Division.

[2] Schedule 2 Penalty notices

Omit the matter relating to sections 106E (1) and 106F (1) from Part 1.

Explanatory note

Item [1] of the proposed amendments to the *Food Regulation 2010 (the Regulation)* removes provisions of the Regulation prescribing the information to be contained in notices regarding food safety supervisors and exempting proprietors of certain food businesses from such requirements. The proposed amendment is consequent on the repeal of certain provisions of the *Food Act 2003* by Schedule 1.3.

Item [2] removes references to provisions of the *Food Act 2003* that are repealed by Schedule 1.3 from a Schedule prescribing offences as penalty notice offences.

1.5 Health Administration Act 1982 No 135

Schedule 2A Health professional councils

Insert in alphabetical order:

Aboriginal and Torres Strait Islander Health Practice Council of New South Wales established under the *Health Practitioner Regulation National Law (NSW)*

Explanatory note

The proposed amendment to the *Health Administration Act 1982* updates the list of health professional councils, for which the Health Administration Corporation is to manage accounts, to make it consistent with the *Health Practitioner Regulation National Law (NSW)*.

1.6 Local Government Act 1993 No 30

Dictionary

Omit “(other than a licence or permit under the *Forestry Act 2012*)” from paragraph (b) of the definition of *lease*.

Insert instead “(other than a licence under the *Forestry Act 2012* or a forest permit under that Act that authorises grazing for a period of less than 12 months, bee-farming or any other activity that does not involve the occupation of a State forest)”.

Explanatory note

The proposed amendment to the *Local Government Act 1993* ensures that local council rates will be payable in respect of land in a State forest that is the subject of a forest permit issued under the *Forestry Act 2012* for long-term grazing purposes or for purposes that involve the occupation of the land. The amendment reinstates the arrangement that existed prior to the commencement of the *Forestry Act 2012* under which areas of State forest occupied under permit were rateable.

1.7 Photo Card Act 2005 No 20

[1] Section 18 Purposes for which photographs may be kept and used

Omit “Division 2 or 3 of Part 5 (Forgery and false instrument offences)” from section 18 (1) (c).

Insert instead “Part 4AA (Fraud) or 4AB (Identity offences), Division 2 or 3 of Part 5 (Forgery) or Part 5A (False and misleading information)”.

[2] Section 19 Release of photographs prohibited

Omit “Division 2 or 3 of Part 5 (Forgery and false instrument offences)” from section 19 (1) (c).

Insert instead “Part 4AA (Fraud) or 4AB (Identity offences), Division 2 or 3 of Part 5 (Forgery) or Part 5A (False and misleading information)”.

Explanatory note

The proposed amendments to the *Photo Card Act 2005* (**the Act**) update references in the Act to provisions of the *Crimes Act 1900* (**the Crimes Act**) which have been amended to modernise the law relating to fraud and forgery offences and to create new offences relating to identity crime.

Item [1] amends a provision that allows for photographs to be kept and used for the purposes of criminal investigations under the Act and under certain provisions of the Crimes Act in connection with fraud, forgery and identity offences involving photo cards.

Item [2] amends a provision that allows for photographs and other photographic database matter to be released for the purposes of conducting criminal proceedings under the Act and under certain provisions of the Crimes Act in connection with fraud, forgery and identity offences involving photo cards.

1.8 Public Health Act 2010 No 127

Section 89, Definitions

Omit “woman” and “woman’s” from the definition of *identifying particulars*.

Insert instead “person” and “person’s”, respectively.

Explanatory note

The item replaces gender-specific language with gender-neutral language.

1.9 Retirement Villages Act 1999 No 81

Section 4 Definitions

Omit “Department of Commerce” from paragraph (a) of the definition of *Director-General* in section 4 (1).

Insert instead “Department of Finance and Services”.

Explanatory note

The item updates a reference to a Department.

1.10 Smoke-free Environment Act 2000 No 69

Section 14A

Insert after section 14:

14A Police have functions of inspectors in transport-related smoke-free areas

A police officer has the functions of an inspector in respect of a person smoking in a smoke-free area referred to in section 6A (1) (d)–(h).

Explanatory note

The proposed amendment to the *Smoke-free Environment Act 2000* gives police officers the functions of inspectors under that Act in order to deal with smokers on railway platforms and stations, ferry wharves, light rail stops, bus stops and taxi ranks. These functions include the power to issue a penalty notice and the power to require a person to stop smoking and to state his or her name and address.

1.11 Snowy Hydro Corporatisation Act 1997 No 99

[1] Section 32 Local water extraction

Omit “Water Administration Ministerial Corporation under” from section 32 (1).

Insert instead “Minister administering”.

[2] Section 32 (1)

Omit “, that is authorised to be collected and stored by the Snowy water licence, in the Snowy water catchment”.

Insert instead “under that Act in relation to water that is authorised by the Snowy water licence to be collected and stored in the Snowy water catchment”.

Explanatory note

Item [1] of the proposed amendments to the *Snowy Hydro Corporatisation Act 1997* replaces a reference to the Water Administration Ministerial Corporation (**the Corporation**) in section 32 (1) of that Act with a reference to the Minister administering the *Water Management Act 2000* (**the Minister**). It is the Minister, and not the Corporation, who may grant the licence and approvals referred to in that section.

Item [2] clarifies that what is authorised by the Snowy water licence to be collected and stored in the Snowy water catchment is water and changes the word order of the section to make it more readable.

1.12 Telecommunications (Interception and Access) (New South Wales) Act 1987 No 290

[1] Section 3 (1), definition of “permitted purpose”

Insert after paragraph (f) (i):

- (ia) an investigation under the *Police Integrity Commission Act 1996* of corrupt conduct (within the meaning of section 5A of that Act) of an administrative officer (within the meaning of that Act), or
- (ib) an investigation under the *Police Integrity Commission Act 1996* of misconduct (within the meaning of section 5B of that Act) of a Crime Commission officer (within the meaning of that Act), or

[2] Section 3 (1), definition of “permitted purpose”

Omit “such an investigation” from paragraph (f) (ii).

Insert instead “an investigation covered by subparagraph (i), (ia) or (ib)”.

Explanatory note

The proposed amendments to the *Telecommunications (Interception and Access) (New South Wales) Act 1987* (**the Principal Act**) bring certain definitions in the Principal Act into line with those in the *Telecommunications (Interception and Access) Act 1979* of the Commonwealth (**the Commonwealth Act**).

Item [1] expands the definition of **permitted purpose** to include purposes connected with the investigation of Police Force administrative officers and Crime Commission officers (to enable the Police Integrity Commission to retain intercepted information for those purposes). Item [2] allows for intercepted information to be retained for the purposes of a report on any such investigation.

1.13 Transport Administration Act 1988 No 109

[1] Section 3 Definitions

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

[2] Section 56 Application of Division

Omit section 56 (d).

[3] Section 65 Definitions

Omit paragraph (j) of the definition of *transport authority*.

[4] Section 89 Definitions

Omit “, Sydney Metro” from the definition of *rail authority*.

[5] Section 107 Definition of “transport authority”

Omit section 107 (1) (e).

[6] Schedule 5 Extended leave for certain staff

Omit paragraph (h) of the definition of *Authority* in clause 2.

[7] Schedule 8A Sydney Metro

Omit the Schedule.

Explanatory note

The proposed amendments to the *Transport Administration Act 1988* repeal redundant provisions relating to Sydney Metro, which was dissolved on 1 July 2013.

1.14 Victims Rights and Support Act 2013 No 37

[1] Section 113 Inadmissibility and use of certain evidence in subsequent legal proceedings

Omit section 113 (1). Insert instead:

(1) Despite any rule of law to the contrary:

- (a) an application for victims support and any documents supporting the application (whether or not furnished when the application is lodged) or any documents furnished to, or prepared by or on behalf of, the Commissioner at any time in connection with the application, and
- (b) an application for statutory compensation or for payment for approved counselling services under the *Victims Support and Rehabilitation Act 1996* and any documents supporting the application (whether or not furnished when the application is lodged) or any documents or transcript of evidence in a hearing of the application furnished to, or prepared by or on behalf of, the Tribunal at any time in connection with the application under that Act,

are not admissible as evidence in any legal proceedings (whether criminal or civil) other than criminal proceedings in which the applicant is the accused arising from substantially the same facts as those on which the application is based.

[2] Section 113 (2) (b)

Omit “for victims support”. Insert instead “of a kind referred to in subsection (1)”.

Explanatory note

Item [1] of the proposed amendments to the *Victims Rights and Support Act 2013* preserves the protections that applied pursuant to section 84 of the *Victims Support and Rehabilitation Act 1996* before that Act was repealed (in respect of the inadmissibility of evidence relating to applications for statutory compensation or for payment for approved counselling services). Item [2] makes a consequential amendment.

Schedule 2 Amendments consequent on amalgamation of Local Government Association of New South Wales and Shires Association of New South Wales

Explanatory note

The proposed amendments are consequent on the amalgamation of the Local Government Association of New South Wales and the Shires Association of New South Wales (*the former Associations*) and the repeal by the proposed Act of the *Local Government Associations Incorporation Act 1974 (the repealed Act)*. The former Associations were constituted and incorporated pursuant to the repealed Act and subsequently registered as industrial organisations of employers, and incorporated, under the *Industrial Relations Act 1996*. On 1 March 2013, the former Associations were amalgamated under the *Industrial Relations Act 1996* to form the Local Government and Shires Association of New South Wales (*the amalgamated Association*). The amalgamated Association is registered as an industrial organisation of employers, and incorporated, under the *Industrial Relations Act 1996*. As the amalgamated Association now functions under the *Industrial Relations Act 1996*, the repealed Act no longer has any operation. The proposed amendments ensure that certain functions exercised under various Acts by the former Associations (in particular, in relation to the nomination of members of statutory bodies) continue to be exercised by the amalgamated Association.

2.1 Coastal Protection Act 1979 No 13

[1] Section 12 Constitution of NSW Coastal Panel

Omit “Associations” wherever occurring in section 12 (2) (c) and (e).

Insert instead “Association”.

[2] Schedule 2 Constitution and procedure of Coastal Panel

Omit “Associations” where firstly occurring and “Local Government and Shires Associations” where secondly occurring from clause 5 (3).

Insert instead “Association of New South Wales” and “Association”, respectively.

2.2 Energy and Utilities Administration Act 1987 No 103

Section 34L Special provisions relating to contributions orders applying to State water agencies

Omit “Associations” from section 34L (2) (b). Insert instead “Association”.

2.3 Environmental Planning and Assessment Act 1979 No 203

[1] Section 117 Directions by the Minister

Omit “Associations” from section 117 (4A). Insert instead “Association”.

[2] Section 118 Appointment of planning administrator, planning assessment panel or regional panel

Omit “Associations” from section 118 (6). Insert instead “Association”.

[3] Schedule 4 Joint Regional Planning Panels

Omit “Associations” where firstly occurring in clause 2 (2). Insert instead “Association”.

[4] Schedule 4, clause 2 (2) (a)

Omit “Associations fail to notify their”. Insert instead “Association fails to notify its”.

[5] Schedule 4, clause 2 (2) (b)

Omit “Associations have”. Insert instead “Association has”.

2.4 Environmental Trust Act 1998 No 82

Section 6 Membership and procedure of Trust

Omit “Associations” from section 6 (2) (e).

Insert instead “Association of New South Wales”.

2.5 Fire Brigades Act 1989 No 192

Section 75 Constitution of Council

Omit “jointly by the Local Government Association of New South Wales and the” from section 75 (2) (d).

Insert instead “by the Local Government and”.

2.6 Fluoridation of Public Water Supplies Act 1957 No 58

Section 4 Fluoridation of Public Water Supplies Advisory Committee

Insert “and Shires” after “Government” in section 4 (2) (iv).

2.7 Food Act 2003 No 43

[1] Section 115A Food Regulation Forum

Omit “Presidents of the Local Government and Shires Associations” from section 115A (1) (c).

Insert instead “President of the Local Government and Shires Association of New South Wales”.

[2] Section 115A (1) (d)

Omit “Associations, to represent those Associations”.

Insert instead “Association of New South Wales, to represent that Association”.

2.8 Geographical Names Act 1966 No 13

Section 3 Geographical Names Board

Omit “jointly by the governing bodies of the Local Government Association of New South Wales and the” from section 3 (4) (a).

Insert instead “by the governing body of the Local Government and”.

2.9 Industrial Relations Advisory Council Act 2010 No 76

Section 6 Membership of Council

Omit “Associations” from section 6 (1) (d) (v). Insert instead “Association”.

2.10 Local Government Act 1993 No 30

Section 262 How is a panel to be constituted for the purposes of making an appointment as a commissioner?

Omit “, 4 of whom are councillors nominated by the executive of the Local Government Association of New South Wales and 4 of whom are councillors nominated by the executive of the” from section 262 (1).

Insert instead “who are councillors nominated by the executive of the Local Government and”.

2.11 Local Government (General) Regulation 2005

[1] Clause 285 Notification of vacancy

Omit “Associations” from clause 285 (a). Insert instead “Association”.

[2] Clause 285 (b)

Omit “those Associations”. Insert instead “that Association”.

[3] Clause 296 Declaration of uncontested election

Omit “Associations” from clause 296 (3) (b). Insert instead “Association”.

[4] Clause 356 Declaring the election

Omit “Associations” from clause 356 (3) (b). Insert instead “Association”.

[5] Schedule 7 Election of mayor by councillors

Omit “Associations” from clause 13 (b). Insert instead “Association”.

[6] Schedule 8 Election of chairpersons of county councils

Omit “Associations” from clause 15 (b). Insert instead “Association”.

2.12 Protection of the Environment Administration Act 1991 No 60

Section 28 Membership and procedure of Council

Omit “Associations” from section 28 (5) (g). Insert instead “Association”.

2.13 Rural Fires Act 1997 No 65

Section 123 Membership and procedure of Advisory Council

Omit section 123 (1) (c) and (d). Insert instead:

- (c) 2 persons appointed by the Minister on the recommendation of the Local Government and Shires Association of New South Wales,

2.14 Western Lands Act 1901 No 70

[1] Section 8B Western Lands Advisory Council

Omit “is” from section 8B (2) (b).

[2] Section 8B (2) (b)

Omit “Western Division Group of the Shires Association of NSW”.

Insert instead “Local Government and Shires Association of New South Wales”.

Schedule 3 Amendments by way of statute law revision

3.1 Associations Incorporation Act 2009 No 7

Section 4 (1), definitions of “Department” and “Director-General”

Omit “Department of Commerce” wherever occurring.

Insert instead “Department of Finance and Services”.

Explanatory note

The proposed amendment updates references to a Department.

3.2 Bega Valley Local Environmental Plan 2013

[1] Clause 1.9 (2)

Omit “*Lower South Coast Regional Environmental Plan No 1*”.

[2] Clause 1.9 (2)

Omit “*Lower South Coast Regional Environmental Plan No 2*”.

Insert instead “*Lower South Coast Regional Environmental Plan (No 2)*”.

Explanatory note

Item [1] of the proposed amendments removes a reference to a repealed planning instrument. Item [2] corrects a citation.

3.3 Camden Local Environmental Plan 2010 (Amendment No 1)

Clause 4, table

Omit the following from Column 2:

1450_COM_LSZ_001_020_20110916

1450_COM_LSZ_002_020_20110916

1450_COM_LSZ_004_010_20110916

1450_COM_LSZ_008_010_20110916

1450_COM_LSZ_010_005_20110916

1450_COM_LSZ_012_010_20110916

1450_COM_LSZ_013_010_20110916

1450_COM_LSZ_014_010_20110916

1450_COM_LSZ_016_020_20110916

Insert instead, respectively:

1450_COM_LSZ_001_020_20111222

1450_COM_LSZ_002_020_20111222

1450_COM_LSZ_004_010_20111222

1450_COM_LSZ_008_010_20111222

1450_COM_LSZ_010_005_20111222

1450_COM_LSZ_012_010_20111222

1450_COM_LSZ_013_010_20111222

1450_COM_LSZ_014_010_20111222

1450_COM_LSZ_016_020_20111222

Commencement

The amendment to *Camden Local Environmental Plan 2010 (Amendment No 1)* is taken to have commenced on 5 April 2012.

Explanatory note

The proposed amendment corrects clerical errors in references to maps, in line with corrections made to the map cover sheet relating to those maps.

3.4 Camden Local Environmental Plan 2010 (Amendment No 5)

Clause 4, table

Omit the following from Column 1:

1450_COM_LSZ_008_010_20110916

1450_COM_LSZ_012_010_20110916

1450_COM_LSZ_014_010_20110916

1450_COM_LSZ_016_020_20110916

Insert instead, respectively:

1450_COM_LSZ_008_010_20111222

1450_COM_LSZ_012_010_20111222

1450_COM_LSZ_014_010_20111222

1450_COM_LSZ_016_020_20111222

Commencement

The amendment to *Camden Local Environmental Plan 2010 (Amendment No 5)* is taken to have commenced on 18 January 2013.

Explanatory note

The proposed amendment corrects clerical errors in references to maps, in line with corrections made to the map cover sheet relating to those maps as inserted by *Camden Local Environmental Plan 2010 (Amendment No 1)*.

3.5 Camden Local Environmental Plan 2010 (Amendment No 6)

Clause 4, table

Omit the following from Column 1:

1450_COM_LSZ_002_020_20110916

1450_COM_LSZ_013_010_20110916

Insert instead, respectively:

1450_COM_LSZ_002_020_20111222

1450_COM_LSZ_013_010_20111222

Commencement

The amendment to *Camden Local Environmental Plan 2010 (Amendment No 6)* is taken to have commenced on 16 November 2012.

Explanatory note

The proposed amendment corrects clerical errors in references to maps, in line with corrections made to the map cover sheet relating to those maps as inserted by *Camden Local Environmental Plan 2010 (Amendment No 1)*.

3.6 Children (Criminal Proceedings) Act 1987 No 55

[1] Section 36 (1)

Omit “section 71 or 77B of the *Victims Compensation Act 1996*”.

Insert instead “section 94 or 97 of the *Victims Rights and Support Act 2013*”.

[2] Section 48B, definition of “victim”

Omit “*Victims Rights Act 1996*”. Insert instead “*Victims Rights and Support Act 2013*”.

Explanatory note

The proposed amendments update references to repealed Acts.

3.7 Community Land Development Regulation 2007

[1] Clause 4 (1) (a)

Omit “*Conveyancing (General) Regulation 2003*”.

Insert instead “*Conveyancing (General) Regulation 2013*”.

[2] Clause 4 (1) (b) and (c)

Omit the paragraphs. Insert instead:

(b) Schedules 1 and 4–8 to the *Conveyancing (General) Regulation 2013*,
and

(c) the *Real Property Regulation 2008*.

Explanatory note

The proposed amendments update cross-references.

3.8 Conveyancers Licensing Act 2003 No 3

Section 15 (2)

Omit “in the Gazette”. Insert instead “on the NSW legislation website”.

Explanatory note

The proposed amendment clarifies the way in which orders are published under a provision.

3.9 Credit (Commonwealth Powers) Act 2010 No 6

Schedule 3, clause 10 (1)

Omit “Department of Services, Technology and Administration”.

Insert instead “Department of Finance and Services”.

Explanatory note

The proposed amendment updates a reference to a Department.

3.10 Fair Trading Act 1987 No 68

Section 4 (1), definitions of “Department” and “Director-General”

Omit “Department of Commerce” wherever occurring.

Insert instead “Department of Finance and Services”.

Explanatory note

The proposed amendment updates references to a Department.

3.11 Fisheries Management (General) Regulation 2010

Clauses 27 (1) (c) (iv), 36 (2) (a) (iv) and 37 (1) (a) (iv)

Omit “50 gm” wherever occurring. Insert instead “50 g”.

Explanatory note

The proposed amendment corrects incorrect references to units of measurement.

3.12 Fisheries Management (Ocean Trap and Line Share Management Plan) Regulation 2006

Appendix, clause 7A (1) (a) (iii)

Omit “500 gm”. Insert instead “500 g”.

Explanatory note

The proposed amendment corrects an incorrect reference to a unit of measurement.

3.13 Mental Health (Forensic Provisions) Act 1990 No 10

Section 41 (1), definition of “victim” of a patient

Omit “*Support 2013*”. Insert instead “*Support Act 2013*”.

Explanatory note

The proposed amendment corrects the citation of an Act.

3.14 Mental Health Regulation 2013

Clause 17 (c)

Omit “a registered occupational therapist eligible for accreditation by the Australian Association of Occupational Therapists”.

Insert instead “registered under the Health Practitioner Regulation National Law to practise in the occupational therapy profession (other than as a student)”.

Explanatory note

The proposed amendment updates a reference to persons registered as occupational therapists to make it consistent with the Health Practitioner Regulation National Law.

3.15 Mining Act 1992 No 29

Sections 263 (4) and 264 (4)

Omit “section 140 (a)” wherever occurring. Insert instead “section 140 (1) (a)”.

Explanatory note

The proposed amendment corrects a cross-reference.

3.16 National Energy Retail Law (Adoption) Act 2012 No 37

Schedule 1 [17], section 37E (1) (d)

Omit “arial”. Insert instead “Arial”.

Explanatory note

The proposed amendment corrects a grammatical error.

3.17 Newcastle Local Environmental Plan 2012 (Amendment No 2)

Clause 4, table

Omit the following from Column 1:

5900_COM_LSZ_002C_010_20120402

Insert instead:

5900_COM_LSZ_002C_010_20120320

Commencement

The amendment to *Newcastle Local Environmental Plan 2012 (Amendment No 2)* is taken to have commenced on 30 August 2013.

Explanatory note

The proposed amendment corrects a clerical error in a reference to a map, in line with a correction made to the map cover sheet relating to that map.

3.18 Passenger Transport Regulation 2007

Clause 163A (8)

Omit “subsection”. Insert instead “subclause”.

Explanatory note

The proposed amendment corrects a cross-reference.

3.19 Personal Property Securities (Commonwealth Powers) Act 2009 No 35

Schedule 1, clause 23A (2) (j)

Omit the paragraph.

Explanatory note

The proposed amendment omits a reference to provisions of a repealed Act about goods left on residential premises.

3.20 Poisons and Therapeutic Goods Regulation 2008

Clause 92 (2)

Omit “is or are supplied”. Insert instead “is supplied”.

Explanatory note

The amendment corrects a grammatical error.

3.21 Property, Stock and Business Agents Act 2002 No 66

Section 16 (1) (b)

Omit “or section 41 (Licensee not to lend licence) of the *Property, Stock and Business Agents Act 1941*”.

Explanatory note

The proposed amendment omits a reference to convictions recorded in the last 5 years for an offence under an Act that has been repealed for more than 10 years.

3.22 Public Interest Disclosures Act 1994 No 92

[1] Section 12A (5)

Omit “, in accordance with the *Ombudsman Act 1974*”.

Insert instead “, in accordance with the *Ombudsman Act 1974*”.

[2] Sections 12C (4), 12E (4) and 13 (4)

Omit “investigate, and report, in accordance with the *Ombudsman Act 1974* on” wherever occurring.

Insert instead “investigate, and report on, in accordance with the *Ombudsman Act 1974*,”.

[3] Section 13 (2)

Omit “investigate, and report, in accordance with the *Independent Commission Against Corruption Act 1988* on”.

Insert instead “investigate, and report on, in accordance with the *Independent Commission Against Corruption Act 1988*,”.

Explanatory note

The proposed amendments correct grammatical errors.

3.23 Radiation Control Act 1990 No 13

Schedule 2, clause 16

Omit “is taken have been appointed”. Insert instead “is taken to have been appointed”.

Explanatory note

The proposed amendment corrects a grammatical error.

3.24 Residential Tenancies Act 2010 No 42

[1] Section 3 (1), definitions of “Department” and “Director-General” and section 178 (1) (a) and (2)

Omit “Department of Services, Technology and Administration” wherever occurring.

Insert instead “Department of Finance and Services”.

[2] Section 178 (1) (b)

Omit “Department of Human Services”.

Insert instead “Department of Family and Community Services”.

Explanatory note

The proposed amendments update references to Departments.

3.25 Road Rules 2008

Rule 297 (4)

Insert “than” after “more”.

Explanatory note

The proposed amendment inserts a missing word.

3.26 Singleton Local Environmental Plan 1996

Clause 9 (1), definition of “service station”

Omit “accessaries” from paragraph (a). Insert instead “accessories”.

Explanatory note

The proposed amendment corrects a spelling error.

3.27 Standard Instrument (Local Environmental Plans) Order 2006

[1] Standard Instrument, Land Use Table, Direction 5

Insert “Small bars;” in alphabetical order.

[2] Standard Instrument, clause 5.3 (3), Direction

Omit “(a1)”. Insert instead “(aa)”.

[3] Standard Instrument, clause 5.13 (3) (d) and (g)

Omit “indigenous” wherever occurring. Insert instead “native”.

[4] Standard Instrument, clause 5.13 (3) (g)

Omit “colours”. Insert instead “colours,”.

[5] Standard Instrument, Dictionary, definition of “hospital”

Omit “take-away” from paragraph (d). Insert instead “take away”.

[6] Standard Instrument, Dictionary, definition of “restaurant or cafe”

Omit “takeaway”. Insert instead “take away”.

[7] Standard Instrument, Dictionary, definition of “sewerage system”

Omit “or place” where secondly occurring in paragraph (e).

[8] Standard Instrument, Dictionary, definition of “wharf or boating facilities”

Omit “boating) that are not port facilities”.

Insert instead “boating that are not port facilities”.

Commencement

The amendments to the *Standard Instrument (Local Environmental Plans) Order 2006* commence on 10 January 2014.

Explanatory note

Item [1] of the proposed amendments updates a list of development types following amendments made by the *Liquor Amendment (Small Bars) Act 2013*.

Item [2] updates a direction.

Item [3] makes use of defined terminology consistent.

Item [4] inserts missing punctuation.

Items [5], [6], [7] and [8] correct typographical errors.

3.28 State Environmental Planning Policy (Infrastructure) 2007

[1] Clause 19 (2) and (3)

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

[2] Clause 71 (1) (h)

Insert “that” after “containers”.

[3] Clause 88A (3) and (4)

Omit “affect” wherever occurring. Insert instead “effect”.

Explanatory note

The proposed amendments correct cross-references, insert a missing word and correct a spelling error.

3.29 Strata Schemes (Freehold Development) Regulation 2012

[1] Clause 4 (1) (a)

Omit the paragraph. Insert instead:

- (a) Division 4 of Part 3 of, and Schedules 5 and 8 to, the *Conveyancing (General) Regulation 2013* (to the extent that those provisions deal with instruments under section 88B of the *Conveyancing Act 1919*), and

[2] Clause 21

Omit “*Conveyancing (General) Regulation 2008*”.

Insert instead “*Conveyancing (General) Regulation 2013*”.

[3] Clauses 23 (3) and 24 (2)

Omit “Schedule 9 to, the *Conveyancing (General) Regulation 2008*” wherever occurring.

Insert instead “Schedule 8 to, the *Conveyancing (General) Regulation 2013*”.

[4] Clauses 23 (3) and 24 (2)

Omit “Schedule 10” wherever occurring. Insert instead “Schedule 5”.

Explanatory note

The proposed amendments update cross-references.

3.30 Strata Schemes (Leasehold Development) Regulation 2012

[1] Clause 4 (1) (a)

Omit the paragraph. Insert instead:

- (a) Division 4 of Part 3 of, and Schedules 5 and 8 to, the *Conveyancing (General) Regulation 2013* (to the extent that those provisions deal with instruments under section 88B of the *Conveyancing Act 1919*), and

[2] Clause 21

Omit “*Conveyancing (General) Regulation 2008*”.

Insert instead “*Conveyancing (General) Regulation 2013*”.

[3] Clauses 23 (3) and 24 (2)

Omit “Schedule 9 to, the *Conveyancing (General) Regulation 2008*” wherever occurring.

Insert instead “Schedule 8 to, the *Conveyancing (General) Regulation 2013*”.

[4] Clauses 23 (3) and 24 (2)

Omit “Schedule 10” wherever occurring. Insert instead “Schedule 5”.

Explanatory note

The proposed amendments update cross-references.

3.31 Tattoo Parlours Act 2012 No 32

Section 16 (1)

Omit “section 14”. Insert instead “section 19”.

Explanatory note

The proposed amendment corrects a cross-reference.

3.32 Valuers Act 2003 No 4

Section 3, definition of “Director-General” and sections 30, 31 (1) and (2) and 39

Omit “Department of Commerce” wherever occurring.

Insert instead “Department of Finance and Services”.

Explanatory note

The proposed amendment updates references to a Department.

3.33 Veterinary Practice Act 2003 No 87

Schedule 1, clause 1 (g)

Omit “*Stock (Artificial Breeding) Act 1985*”. Insert instead “*Stock Diseases Act 1923*”.

Explanatory note

The proposed amendment updates a reference to an Act.

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

Clause 19 (1) (a) (ix)

Omit “the” where secondly occurring.

Explanatory note

The proposed amendment corrects a grammatical error.

Schedule 4 Repeals

1 Repeal of redundant Act

The *Local Government Associations Incorporation Act 1974* No 20 is repealed.

2 Amendment of Marine Safety Act 1998 No 121

(1) Schedule 2, Part 1

Omit the following:

Commercial Vessels Act 1979 No 41

Marine (Boating Safety—Alcohol and Drugs) Act 1991 No 80

Marine Pilotage Licensing Act 1971 No 56

(2) Schedule 2, Part 2

Omit the matter relating to the *Commercial Vessels Act 1979*, *Marine Pilotage Licensing Act 1971* and *Navigation Act 1901*.

(3) Schedule 2, Part 2

Omit the following from the matter relating to the *Maritime Services Act 1935*:

Boating (Safety Equipment) Regulation—N.S.W.

Water Traffic Regulations—N.S.W.

Schedule 5 General savings, transitional and other provisions

1 Effect of amendment of amending provisions

- (1) An amendment made by Schedule 1, 2 or 3 to an amending provision contained in an Act or instrument is, if the amending provision has commenced before the Schedule 1, 2 or 3 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 by the proposed Act of any Act or instrument or any provision of an Act or instrument. The Act, instrument or provision 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.

[Second reading speech made in—
Legislative Assembly on 30 October 2013
Legislative Council on 13 November 2013]