



New South Wales

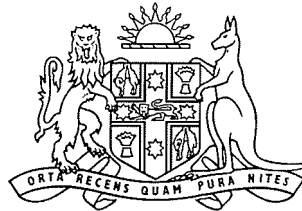
# Statute Law (Miscellaneous Provisions) Act 2014 No 33

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New South Wales

# **Statute Law (Miscellaneous Provisions) Act 2014 No 33**

Act No 33, 2014

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An Act to repeal certain Acts and to amend certain other Acts and instruments in various respects and for the purpose of effecting statute law revision; and to make certain savings. [Assented to 24 June 2014]

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

**1 Name of Act**

This Act is the *Statute Law (Miscellaneous Provisions) Act 2014*.

**2 Commencement**

- (1) This Act commences on 4 July 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 Aboriginal Land Rights Act 1983 No 42**

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

Omit “1 July 2014” from clause 45 (2) of Schedule 4. Insert instead “31 December 2015”.

#### **Explanatory note**

The proposed amendment to the *Aboriginal Land Rights Act 1983* extends (until 31 December 2015) a transitional period within which a Local Aboriginal Land Council can continue to operate social housing schemes (that were in existence on 1 July 2007) for Aboriginal persons in its area without an approval of the New South Wales Aboriginal Land Council. The proposed amendment is in line with a recommendation resulting from a Ministerial review of that Act.

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

#### **[1] Section 22 Control orders**

Insert “under this Part” after “to the person” in section 22 (2A).

#### **[2] Sections 24 (2A), 27B (2), 27M (3), 36 (2) (b), 55 (1) (b) (i) and (c) (i) and 2 (a), 56 (3) (b), 66 (1) and 67 (1) (a) and (2)**

Omit “Director-General” wherever occurring. Insert instead “Secretary”.

#### **[3] Section 27L Control orders**

Insert “under this Part” after “to the person” in section 27L (3).

#### **[4] Section 38 Contravention of quarantine order**

Insert at the end of the section:

- (2) A person does not commit an offence under this section of contravening a quarantine order if the act constituting the contravention is authorised by a permit granted to the person under this Part.

#### **[5] Section 47A**

Insert after section 47:

#### **47A Permits**

- (1) An inspector may grant a permit authorising:
  - (a) the movement of any animal, suspected emergency animal pest, animal product, fodder, fitting, soil, vehicle or other thing on to, within or out of premises, places or vehicles the subject of a quarantine order, or
  - (b) the carrying out of any activity that is the subject of a quarantine order.
- (2) The permit has effect for the period of time, and subject to any conditions, specified by the inspector in the permit. The inspector may specify such conditions as the inspector thinks fit, having regard to the nature and circumstances of the emergency animal disease or emergency animal pest that gave rise to the making of the quarantine order, and of the premises, place or vehicle to which the permit applies.
- (3) Without limiting the basis on which permits may be granted, a permit may be granted on a general basis so that it applies to a specified class of persons. Any such general permit may be granted by such means as may be approved by the Secretary.

- (4) Any inspector may revoke or vary a permit at any time by notice in writing to the holder of the permit. In the case of a permit that has been granted on a general basis to a specified class of persons, notice of the revocation or variation may be published on the Department's website.
- (5) The holder of a permit that has been revoked must, on request by the inspector, immediately deliver the revoked permit to the inspector who revoked it or to a person nominated by that inspector.  
Maximum penalty: 5 penalty units.

**[6] Dictionary**

Omit the definitions of *Department*, *Director-General* and *permit*.

Insert in alphabetical order:

*Department* means the Department of Trade and Investment, Regional Infrastructure and Services.

*Secretary* means the Secretary of the Department.

**Explanatory note**

Item [5] of the proposed amendments to the *Animal Diseases and Animal Pests (Emergency Outbreaks) Act 1991 (the Principal Act)* provides for the issue of permits authorising activities that would otherwise be in contravention of a quarantine order under that Act. Item [4] provides for a related defence to the offence of contravening a quarantine order if the relevant conduct is authorised by such a permit. Items [4] and [5] are in line with provisions of the Principal Act enabling permits to authorise activities that would otherwise be in contravention of controls relating to infected or infested places or vehicles, restricted areas and control areas.

Items [1] and [3] clarify that the references to permits in sections 22 (2A) and 27L (3) of the Principal Act are references to permits under the Parts of that Act in which those sections occur. Item [6] omits an incomplete definition of *permit* that is also made redundant by items [1] and [3].

Items [2] and [6] update references to a Department and its head, including as a consequence of changes made by the *Government Sector Employment Act 2013*.

### **1.3 Associations Incorporation Act 2009 No 7**

**[1] Section 4 Definitions**

Omit “*Co-operatives Act 1992*” from paragraph (a) of the definition of *corresponding law* in section 4 (1).

Insert instead “*Co-operatives National Law (NSW)*”.

**[2] Section 4 (1), definition of “registrable corporation”**

Omit paragraph (a). Insert instead:

- (a) a co-operative (within the meaning of the *Co-operatives National Law (NSW)*), or

**[3] Section 76 Registration may be cancelled**

Omit section 76 (1) (e). Insert instead:

- (e) the association's committee has not appointed a public officer or has appointed a public officer who is not aged 18 years or more or not ordinarily resident in New South Wales, or

**[4] Section 76 (4)**

Omit “given”. Insert instead “sent”.

**Explanatory note**

Items [1] and [2] of the proposed amendments to the *Associations Incorporation Act 2009* (**the Principal Act**) update references to the *Co-operatives Act 1992* (which was repealed on 3 March 2014) with references to the *Co-operatives National Law (NSW)*.

Item [3] allows the Commissioner for Fair Trading, Office of Finance and Services to cancel the registration of an association if satisfied that the association's committee has not appointed a public officer (or not appointed a public officer who meets the current requirements of the Principal Act relating to age and residency in New South Wales).

Item [4] ensures consistency of language in references to the sending of notice in relation to the cancellation or proposed cancellation of an association's registration.

## 1.4 Cemeteries and Crematoria Act 2013 No 105

### [1] Section 7 Status of Cemeteries Agency

Omit section 7 (2).

### [2] Part 4, heading

Omit “**and cemetery renewal**”.

### [3] Section 55 Re-use of interment sites and removal of memorials

Omit “person” from section 55 (2) (c). Insert instead “each person (if any)”.

### [4] Schedule 6 Amendment of Acts and subordinate instruments

Omit “before the commencement of section 22 of the *Cemeteries and Crematoria Act 2013*” from proposed section 6 (1) (f1) of the *Public Reserves Management Fund Act 1987* in Schedule 6.7 [2].

### [5] Schedule 6.7 [2], proposed section 6 (1) (f1)

Omit “that Act”. Insert instead “the *Cemeteries and Crematoria Act 2013*”.

### [6] Dictionary

Omit “for the purposes of a cemetery by a local government authority” from paragraph (c) of the definition of **cemetery**.

Insert instead “by a local government authority for the purposes of placing a body in a grave or vault”.

**Explanatory note**

Item [1] of the proposed amendments to the *Cemeteries and Crematoria Act 2013* repeals an uncommenced provision to ensure that Cemeteries and Crematoria NSW, which is a statutory authority and not part of the Department of Trade and Investment, Regional Infrastructure and Services, is required to submit a separate annual report.

Item [2] removes superfluous words from the heading to a Part.

Item [3] makes it clear that a cemetery operator is required to give notice of its intention to re-use an interment site or remove a memorial to each person (if any) who may be shown in the operator's register as a secondary contact.

Items [4] and [5] ensure that any proceeds paid into the Public Reserves Management Fund for the purposes of the Crown Cemeteries Advisory Committee (now dissolved) or Interim Cemeteries and Crematoria Board (to be dissolved on the constitution of Cemeteries and Crematoria NSW) can continue to be paid into the Cemeteries and Crematoria NSW Fund until those funds are fully disbursed.

Item [6] makes it clear that the definition of **cemetery** includes commercial cemeteries on privately-owned land but excludes burials on private land in a location approved by a local government authority.

## 1.5 Contracts Review Act 1980 No 16

### [1] Section 4 Definitions

Insert at the end of section 4 (2) (a):

or

- (a1) a community association, precinct association or neighbourhood association under the *Community Land Management Act 1989*, or

### [2] Section 20 Stamp duty

Omit “*Stamp Duties Act 1920*” wherever occurring. Insert instead “*Duties Act 1997*”.

### [3] Section 21 Application of Act to certain contracts of service and to existing contracts

Omit “award or industrial agreement made under the *Conciliation and Arbitration Act 1904* of the Commonwealth” from section 21 (2).

Insert instead “award, instrument or agreement (whatever called) that is in effect under a law of the Commonwealth and deals with matters relating to conditions of employment, industrial relations or workplace relations that are similar to matters dealt with in State industrial instruments”.

#### Explanatory note

Item [1] of the proposed amendments to the *Contracts Review Act 1980* (**the Principal Act**) ensures that a community association, precinct association or neighbourhood association under the *Community Land Management Act 1989* is not excluded from being granted relief under the Principal Act in respect of unjust contracts (by providing that such an association is not a corporation for the purposes of that Act). This amendment ensures that such associations are treated by the Principal Act in the same way as owners corporations constituted under the *Strata Schemes Management Act 1996* are treated.

Item [2] updates references to a repealed Act.

Item [3] updates a definition of **award** as a consequence of changes to Commonwealth industrial relations law (including by omitting a reference to the repealed *Conciliation and Arbitration Act 1904* of the Commonwealth).

## 1.6 Crimes (Forensic Procedures) Act 2000 No 59

### Section 50 Persons who may carry out forensic procedures

Omit “physical measurements (whether or not involving marking) for biomechanical analysis of an external part of the body” from the matter relating to item 17 in the table to section 50.

Insert instead “measurements of the body or a part of the body (whether or not involving marking of the body)”.

#### Commencement

The amendment to the *Crimes (Forensic Procedures) Act 2000* is taken to have commenced on the commencement of the *Crimes and Courts Legislation Amendment Act 2013*.

#### Explanatory note

The proposed amendment to the *Crimes (Forensic Procedures) Act 2000* (**the Principal Act**) corrects an oversight that occurred when the definition of **non-intimate forensic procedure** in that Act was extended in 2013 to include body measurements taken for any purpose. The proposed amendment makes a corresponding amendment, identifying who can carry out the measurements concerned.

## 1.7 Fisheries Management Act 1994 No 38

### Section 148 Variation of permits

Insert after section 148 (1):

- (1A) A request by the holder of an aquaculture permit for a variation referred to in subsection (1) must be accompanied by the fee prescribed by the regulations.

#### Explanatory note

The proposed amendment to the *Fisheries Management Act 1994* allows a fee to be prescribed by the regulations under that Act for requests by aquaculture permit holders to vary the area or type of aquaculture specified in the holder's permit.

## 1.8 Growth Centres (Development Corporations) Act 1974 No 49

### Section 3 Definitions

Insert “, and includes Landcom” after “this Act” in the definition of *public authority* in section 3 (1).

#### Explanatory note

The proposed amendment to the *Growth Centres (Development Corporations) Act 1974* confirms that Landcom is a public authority for the purposes of that Act. That Act allows a development corporation and public authority to enter into arrangements that enable one to act as the agent of the other or that enable the development corporation to make use of the services of staff or facilities of the public authority.

## 1.9 Pawnbrokers and Second-hand Dealers Act 1996 No 13

### [1] Section 32B Interest charges and other charges after redemption period

Insert “, or the payment of a special fee or charge,” after “interest” in section 32B (3).

### [2] Section 32M Directions by court for restoration of goods

Omit “Part 2 of Chapter 7 of the *Criminal Procedure Act 1986*” from section 32M (3).

Insert instead “Part 17 of the *Law Enforcement (Powers and Responsibilities) Act 2002*”.

### [3] Section 32M, note

Omit “Section 126”. Insert instead “Section 43”.

#### Explanatory note

Item [1] of the proposed amendments to the *Pawnbrokers and Second-hand Dealers Act 1996* ensures that a pawnbroker who enters into an agreement by which goods are pawned commits an offence if the agreement contains a provision that contravenes the requirement that no special fee or charge is payable for the redemption of pawned goods after the end of the redemption period. The proposed amendment is consistent with the current prohibition on a pawnbroker imposing or accepting such a fee or charge.

Items [2] and [3] update cross-references to provisions of other Acts.

## 1.10 Pesticides Act 1999 No 80

### Section 64 Prohibited residue notices

Omit “approved form” from section 64 (1).

Insert instead “form approved by that Authority”.

#### Explanatory note

The proposed amendment to the *Pesticides Act 1999* clarifies that a prohibited residue notice is to be in the form approved by the Environment Protection Authority.



## 1.11 Property, Stock and Business Agents Act 2002 No 66

### [1] Section 36 Review of commission and fees

Insert after section 36 (3):

(3A) A requirement by a person under subsection (3) must be in writing.

### [2] Section 60 Agency agreement can be rescinded during cooling-off period

Insert after section 60 (3) (b):

(b1) by email to an email address specified by the agent (in correspondence or otherwise) as an address to which emails to the agent may be sent,

#### Explanatory note

Item [1] of the proposed amendments to the *Property, Stock and Business Agents Act 2002* (**the Principal Act**) provides that a person who requires a licensee to furnish an itemised account of a transaction must issue the requirement in writing. The proposed amendment to the *Property, Stock and Business Agents Regulation 2003* in this Schedule consequently removes an equivalent requirement from that Regulation.

Item [2] enables an agency agreement under the Principal Act to be rescinded during the cooling-off period by way of email.

## 1.12 Property, Stock and Business Agents Regulation 2003

### Clause 9 Itemised account

Omit clause 9 (1).

#### Explanatory note

The proposed amendment is consequential on item [1] of the proposed amendments to the *Property, Stock and Business Agents Act 2002* in this Schedule.

## 1.13 Radiation Control Act 1990 No 13

### [1] Section 5A Certain persons and public bodies may exercise certain functions of Authority

Insert “certain persons and” after “provide for” in section 5A (1).

### [2] Section 5A (2)

Omit “Director-General of the Department of Industry and Investment”.

Insert instead “Secretary of the Department of Trade and Investment, Regional Infrastructure and Services”.

### [3] Section 5A (2A) and (2B)

Insert after section 5A (2):

- (2A) The Secretary of that Department may delegate the exercise of a function in respect of radioactive ore that has been prescribed by the regulations made under subsection (2) to any of the following persons:
- (a) a member of staff of the Department of Trade and Investment, Regional Infrastructure and Services,
  - (b) a member of staff of an agency of another State or a Territory that administers radiation control legislation,
  - (c) a person of a class prescribed by the regulations.

- (2B) A person to whom the exercise of a function is delegated under subsection (2) must exercise the function in accordance with any conditions or limitations specified in the regulations made under that subsection.

**Note.** The instrument of delegation may also limit the delegation. See section 49 of the *Interpretation Act 1987*.

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

Omit “The Authority cannot”.

Insert instead “Neither the Authority nor the Chairperson of the Authority can”.

**[5] Section 5A (7)**

Insert “, in respect of any persons or any public body exercising functions under this section” after “1997”.

**[6] Section 28 Recovery of costs**

Omit section 28 (2). Insert instead:

- (2) If a notice under section 18 is served on a person, or a direction under section 19 is given to a person, the Authority may, by giving notice in writing, require the person to pay all or any reasonable costs and expenses incurred by the Authority in connection with:

- (a) monitoring action under the notice or direction, and
- (b) ensuring that the notice or direction is complied with, and
- (c) any other associated matters.

- (2A) The Authority may give such a notice even if it did not issue the relevant notice under section 18 or the relevant direction under section 19.

**[7] Section 29 Radiation Advisory Council**

Omit “Director-General” from section 29 (2) (k). Insert instead “Secretary”.

**[8] Section 39A Personal liability**

Omit “on behalf of a public body” from section 39A (e).

**Explanatory note**

Items [2] and [7] of the proposed amendments to the *Radiation Control Act 1990* (**the Principal Act**) update references to Departments and their heads, including as a consequence of changes made by the *Government Sector Employment Act 2013*.

Item [3] enables the Secretary of the Department of Trade and Investment, Regional Infrastructure and Services to delegate functions of the Environment Protection Authority (**the EPA**), or the Chairperson of the EPA, in respect of radioactive ore that the regulations under the Principal Act provide that the Secretary may exercise. Items [1], [5] and [8] are consequential amendments.

Item [4] provides that the Chairperson of the EPA and the EPA (rather than just the EPA, as is currently the case) cannot exercise functions in respect of radioactive ore that the regulations provide the Secretary may exercise.

Item [6] enables the EPA to require a person given certain notices or directions to reimburse the EPA for certain related costs and expenses incurred by it (for example, in ensuring that the notice or action is complied with), regardless of who gave the notice or issued the direction. The proposed amendment replaces an existing provision that wrongly describes the persons who may give the notices concerned and only refers to the giving of the directions concerned by the EPA (whereas such directions can also be issued by an authorised officer, police officer or other person appointed for that purpose by the EPA).

## 1.14 Residential Tenancies Act 2010 No 42

### [1] Section 100 Early termination without compensation to landlord

Omit section 100 (1) (c). Insert instead:

- (c) that the landlord has notified the tenant of the landlord's intention to sell the residential premises, unless the landlord disclosed the proposed sale of the premises before entering into the residential tenancy agreement as required by section 26,

### [2] Section 157A

Insert after section 157:

#### 157A Online rental bond service

- (1) The Director-General may establish an online rental bond service.
- (2) An *online rental bond service* is an online facility or system that may be used for any of the following purposes:
  - (a) to deposit a rental bond with the Director-General,
  - (b) to make a claim for the payment of a rental bond,
  - (c) to make a payment of an amount of a rental bond,
  - (d) to give any notice authorised or required under this Part,
  - (e) to do or facilitate the doing of any other thing authorised or required under this Part.
- (3) Use of the online rental bond service is subject to any terms and conditions imposed by the Director-General.
- (4) A landlord, landlord's agent or any other person must not require a tenant or another person to use the online rental bond service.  
Maximum penalty: 20 penalty units.
- (5) A notice or other document that is authorised or required by this Part, or under a provision of a residential tenancy agreement that relates to the requirements of this Part, may be given or served by a user of the online rental bond service to or on any other user of the online rental bond service by delivering it electronically to an address nominated by the user as an address for service of the notice or other document.
- (6) In this section:  
*user* of the online rental bond service means:
  - (a) the Director-General, or
  - (b) any tenant, landlord or landlord's agent, or person acting on behalf of a tenant or landlord, who has agreed to use the online rental bond service.

### [3] Section 159 Payment of bonds

Insert after section 159 (2):

- (2A) Subsection (2) does not prevent a landlord, landlord's agent or other person from requiring a tenant or other person who has agreed to deposit a rental bond for a residential tenancy agreement with the Director-General to provide evidence that the rental bond has been so deposited before the residential tenancy agreement is entered into.

**[4] Sections 160 (2) (a), 164 (4), 165 (3), 171, 178 (1) (b)**

Omit “Director-General of the Department of Human Services” wherever occurring.  
Insert instead “Secretary of the Department of Family and Community Services”.

**[5] Sections 160 (2) (a) and 171**

Omit “that Director-General” wherever occurring. Insert instead “that Secretary”.

**[6] Section 222 Functions of Director-General**

Insert after section 222 (1) (f):

- (f1) to assist tenants and landlords and persons acting on their behalf to resolve complaints or disputes as the Director-General considers appropriate,

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

Insert after Part 4:

## **Part 5 Provision consequent on enactment of Statute Law (Miscellaneous Provisions) Act 2014**

### **18 Application of amendment**

The amendment made to section 100 by the *Statute Law (Miscellaneous Provisions) Act 2014* extends to residential tenancy agreements entered into before the commencement of the amendment but does not affect the validity of any termination notice given before the commencement of the amendment.

#### **Explanatory note**

Item [1] of the proposed amendments to the *Residential Tenancies Act 2010* (**the Principal Act**) clarifies a provision that allows a tenant to terminate a fixed term tenancy agreement, without paying compensation to the landlord, if the landlord notifies an intention to sell the premises and did not disclose the proposed sale before entering into the residential tenancy agreement. The proposed amendment makes it clear that the tenant’s right to terminate is linked to the requirement imposed on the landlord by section 26 of the Principal Act. That section requires a landlord, before entering into a residential tenancy agreement, to disclose any proposal to sell the premises for which a contract for sale has been prepared. A tenant will have a right to terminate the agreement early, unless the proposed sale was disclosed in accordance with that section. Item [7] applies the proposed amendment made by item [1] to existing residential tenancy agreements.

Item [2] allows an online rental bond service to be established. The online rental bond service is an online facility or system that may be used to deposit a rental bond, to make a claim for payment of a rental bond, and for other matters relating to rental bonds. The service will be an alternative to the current (paper-based) service and use of the service will be voluntary. Accordingly, it will be an offence for a landlord to require a tenant to use the online rental bond service. The proposed amendment will permit communications between users of the service to be made by electronic (instead of paper-based) communication.

Item [3] is consequent on item [2]. Item [3] makes it clear that a landlord is not prevented from requiring a tenant who has agreed to deposit a rental bond with the Commissioner for Fair Trading, Office of Finance and Services to provide evidence that the rental bond has been deposited with the Commissioner before the residential tenancy agreement is entered into. Generally, a landlord can only require payment of a rental bond at the time that a residential tenancy agreement is entered into. The online rental bond service will permit a tenant to deposit a rental bond directly with the Commissioner before a residential tenancy agreement is entered into.

Items [4] and [5] update references to the Department of Human Services and the Director-General of that Department (now the Department of Family and Community Services and the Secretary of that Department).

Item [6] expands the functions of the Commissioner for Fair Trading to include assisting tenants and landlords and persons acting on their behalf to resolve complaints or disputes as the Commissioner considers appropriate.

## 1.15 Stock Medicines Act 1989 No 182

### Section 3 Definitions

Omit “, or listed registration,” from the definition of *registered stock medicine* in section 3 (1).

#### Explanatory note

The proposed amendment to the *Stock Medicines Act 1989* amends the definition of *registered stock medicine* as a consequence of stock medicines no longer having listed registration under the Agvet Code.

## 1.16 Subordinate Legislation Act 1989 No 146

### Schedule 5 Further postponement of repeal of certain statutory rules

Insert after clause 1 of Schedule 5:

#### 2 Postponement of statutory rules due for repeal in 2014

The following statutory rules remain in force until 1 September 2015, unless sooner repealed:

- (a) *Adoption Regulation 2003*,
- (b) *Community Services (Complaints, Reviews and Monitoring) Regulation 2004*,
- (c) *Employment Protection Regulation 2001*,
- (d) *Environmental Planning and Assessment Regulation 2000*,
- (e) *Home Building Regulation 2004*,
- (f) *Industrial Relations (General) Regulation 2001*.

#### Explanatory note

The proposed amendment to the *Subordinate Legislation Act 1989* (**the Principal Act**) has 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 that 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 Principal Act on 1 September 2014.

Each of the regulations continue to be required and the repeal of each of the regulations is to be further postponed until 1 September 2015 for the following reasons:

- (a) The *Child Protection Legislation Amendment Act 2014* (recently enacted by Parliament) contains amendments to the *Adoption Act 2000* that are yet to commence. Consequential amendments to the *Adoption Regulation 2003* are anticipated. It is therefore proposed to postpone the repeal of that Regulation pending the commencement of the amendments.
- (b) The *Community Services (Complaints, Reviews and Monitoring) Amendment Bill 2014* is currently before Parliament and it is anticipated that the Bill will require consequential amendments to the *Community Services (Complaints, Reviews and Monitoring) Regulation 2004*. It is therefore proposed to postpone the repeal of that Regulation pending Parliament's consideration of the Bill.
- (c) As a result of the recent commencement of the *Government Sector Employment Act 2013* and changes to national industrial relations laws, the Office of Industrial Relations is to undertake a review of the *Industrial Relations Act 1996* and the *Employment Protection Act 1982*. It is considered that it would be premature to remake the *Employment Protection Regulation 2001* and the *Industrial Relations (General) Regulation 2001* before the conclusion of that review.
- (d) The *Home Building Amendment Bill 2014* is currently before Parliament and it is anticipated that the Bill will require consequential amendments to the *Home Building Regulation 2004*. It is therefore proposed to postpone the repeal of that Regulation pending Parliament's consideration of the Bill.
- (e) The *Planning Bill 2013* (currently before Parliament) contains provisions to repeal and replace the *Environmental Planning and Assessment Act 1979* (and consequently repeal the *Environmental Planning and Assessment Regulation 2000*). It is therefore proposed to

postpone the repeal of the *Environmental Planning and Assessment Regulation 2000* pending Parliament's consideration of the Bill.

## 1.17 Valuation of Land Act 1916 No 2

### Section 54 Authentication of lists

Omit "stamped with the official stamp of or signed by the Valuer-General".

Insert instead "authenticated in such manner as the Valuer-General considers appropriate".

#### Explanatory note

The proposed amendment to the *Valuation of Land Act 1916* enables the Valuer-General to authenticate valuation lists and supplementary lists in a manner the Valuer-General considers appropriate (such as electronic authentication), replacing the current requirement for those lists to be authenticated by means of a physical stamp or the Valuer-General's signature.

## 1.18 Water Management Act 2000 No 92

### [1] Section 76 Water allocations may be credited

Omit "an access licence" wherever occurring in section 76 (1) and (2).

Insert instead "a prescribed access licence".

### [2] Section 76 (4)

Insert after section 76 (3):

(4) In this section:

*prescribed access licence* means an access licence of a category or subcategory prescribed by the regulations for the purposes of this section.

#### Explanatory note

The proposed amendments to the *Water Management Act 2000 (the Principal Act)* limit an entitlement for any holder of an access licence to apply to the Minister to regain used water allocations, in accordance with the Principal Act, to the holder of an access licence that is of a category or subcategory prescribed by the regulations under that Act. (The exercise of both the current and the proposed entitlement is contingent on relevant water return flow rules being established under that Act.)

## 1.19 Western Lands Act 1901 No 70

### Section 8B Western Lands Advisory Council

Omit "catchment management boards" from section 8B (2) (e).

Insert instead "the Western Region Local Board under the *Local Land Services Act 2013*".

#### Explanatory note

The proposed amendment to the *Western Lands Act 1901* revises the membership of the Western Lands Advisory Council following the repeal of the *Catchment Management Authorities Act 2003* by the *Local Land Services Act 2013*.

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

### **2.1 Administrative Arrangements (Administrative Changes—Ministers and Public Service Agencies) Order 2014**

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

Insert “General” after “Attorney”.

**[2] Clause 8**

Omit “Urban Water Directorate”. Insert instead “Metropolitan Water Directorate”.

**[3] Clause 15**

Omit “he”. Insert instead “the”.

**Explanatory note**

Items [1] and [2] of the proposed amendments correct a reference to the name of part of a Public Service agency. Item [3] corrects a spelling error.

### **2.2 Agricultural Tenancies Act 1990 No 64**

**Schedule 1, item 8**

Omit “*Fertilizers Act 1985*”. Insert instead “*Fertilisers Act 1985*”.

**Explanatory note**

The proposed amendment updates a reference to a renamed Act.

### **2.3 Animal Diseases and Animal Pests (Emergency Outbreaks) Regulation 2012**

**Clause 5 and Schedule 1**

Omit “Director-General” wherever occurring. Insert instead “Secretary”.

**Explanatory note**

The proposed amendment updates references to the head of a Department.

### **2.4 Ashfield Local Environmental Plan 2013**

**[1] Schedule 5, Part 1**

Insert “Local” in the column headed “Significance” in the matters relating to Item nos 77, 226, 350 and 451.

**[2] Schedule 5, Part 2**

Omit “**heritage map**”. Insert instead “**Heritage Map**”.

**[3] Schedule 5, Part 2**

Omit “C16” from the matter relating to the Ilford Avenue Conservation Area.

Insert instead “C9”.

**Explanatory note**

The proposed amendments correct typographical errors and insert material omitted from the Plan as originally published.

## **2.5 Australian Oil Refining Agreements Act 1954 No 34**

### **Section 7 (2) and (2A)**

Omit “substitution” wherever occurring. Insert instead “amendment”.

#### **Explanatory note**

The proposed amendment corrects references to the kind of amendments made by the *Civil and Administrative Legislation (Repeal and Amendment) Act 2013* to the section concerned.

## **2.6 Bankstown Local Environmental Plan 2001**

### **Schedule 2, item 4**

Omit “confectionary”. Insert instead “confectionery”.

#### **Explanatory note**

The proposed amendment corrects a spelling error.

## **2.7 Biofuels Act 2007 No 23**

### **Section 23 (3)**

Omit “section 23 (1) (f)”. Insert instead “subsection (2) (f)”.

#### **Explanatory note**

The proposed amendment corrects a cross-reference.

## **2.8 Cemeteries and Crematoria Act 2013 No 105**

### **[1] Section 54 (8) (d)**

Omit “with out”. Insert instead “without”.

### **[2] Section 124 (8), paragraph (g) of the definition of “civil penalty provision”**

Omit “(4)”. Insert instead “(2)”.

### **[3] Schedule 1, clause 3**

Omit “Commissioner may”. Insert instead “Commissioner, may”.

### **[4] Schedule 5, clause 13**

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

### **[5] Schedule 5, clause 21, definition of “old RNT”**

Insert “of the *Crown Lands Act 1989*” after “section 92 (1)”.

#### **Explanatory note**

Items [1] and [3] of the proposed amendments correct spelling and grammatical errors. Items [2] and [4] correct cross-references. Item [5] clarifies a cross-reference.

## **2.9 Coal Mine Health and Safety Regulation 2006**

### **Clause 49, Table**

Omit “55 metres”. Insert instead “5.5 metres”.

#### **Explanatory note**

The proposed amendment corrects a typographical error.



## 2.10 Community Land Management Act 1989 No 202

### Section 70B (1)

Omit “Registrar’s”. Insert instead “principal registrar’s”.

#### Explanatory note

The proposed amendment corrects the title of an office holder.

## 2.11 Criminal Procedure Regulation 2010

### Clause 96 (2) (a)

Omit “Director-General’s”. Insert instead “Secretary’s”.

#### Explanatory note

The proposed amendment updates terminology.

## 2.12 Dangerous Goods (Road and Rail Transport) Act 2008 No 95

### Section 63 (1)

Omit “Australian Transport Council”.

Insert instead “Standing Council on Transport and Infrastructure”.

#### Explanatory note

The proposed amendment updates a reference to a body.

## 2.13 Defamation Act 2005 No 77

### [1] Schedule 2, clause 10

Omit “Tribunal’s”. Insert instead “tribunal’s”.

### [2] Schedule 3, clause 19

Omit “Tribunal’s”. Insert instead “tribunal’s”.

#### Explanatory note

The proposed amendments correct typographical errors.

## 2.14 Fines Act 1996 No 99

### [1] Section 133, definition of “confirmed”

Omit “Administrative Decisions Tribunal” from paragraph (a).

Insert instead “Civil and Administrative Tribunal”.

### [2] Section 135 (8), definition of “appeal”

Omit the definition. Insert instead:

*appeal* includes an application to the Civil and Administrative Tribunal for an administrative review under the *Administrative Decisions Review Act 1997* of the decision to confirm a restitution order.

#### Explanatory note

The proposed amendments update references to the abolished Administrative Decisions Tribunal.

## 2.15 Funeral Funds Act 1979 No 106

### Section 71 (1) (c)

Omit the paragraph. Insert instead:

(c) becomes a mentally incapacitated person,

#### Explanatory note

The proposed amendment updates terminology.

## 2.16 Game and Feral Animal Control Act 2002 No 64

### Section 17 (1) (d)

Insert “the” before “*Local Land Services Act 2013*”.

#### Explanatory note

The proposed amendment corrects grammar.

## 2.17 Government Sector Employment Regulation 2014

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

Omit “Division 1”. Insert instead “Division 8”.

#### Explanatory note

The proposed amendment corrects a cross-reference.

## 2.18 Great Lakes Local Environmental Plan 2014

### Clause 4.1B (3) (b)

Re-number clause 4.1B (3) (b) (b) as clause 4.1B (3) (b) (ii).

#### Explanatory note

The proposed amendment corrects subparagraph numbering.

## 2.19 Health Practitioner Regulation (New South Wales) Regulation 2010

### Schedule 1A, clause 3 (2) (g) (iii)

Omit “Ophthalmologists”. Insert instead “Ophthalmologists”.

#### Explanatory note

The proposed amendment corrects a spelling error.

## 2.20 Heavy Vehicle (Adoption of National Law) Act 2013 No 42

### Section 26 (3)

Omit “section 174”. Insert instead “section 175”.

#### Explanatory note

The proposed amendment corrects a cross-reference.

## 2.21 Liquor Act 2007 No 90

### [1] Section 116AF (1)

Omit “apply to the Administrative Decisions Tribunal for a review”.

Insert instead “apply to the Civil and Administrative Tribunal for an administrative review under the *Administrative Decisions Review Act 1997*”.

**[2] Section 116AF (2)**

Omit “*Tribunal*”. Insert instead “*Review*”.

**Explanatory note**

The proposed amendments update references to the abolished Administrative Decisions Tribunal and the renamed *Administrative Decisions Tribunal Act 1997*.

## **2.22 Liquor Regulation 2008**

**Clause 53N (a)**

Omit “responsibility”. Insert instead “responsibility”.

**Explanatory note**

The proposed amendment corrects a spelling error.

## **2.23 Local Government (General) Regulation 2005**

**Schedule 3**

Omit “Local Government Pecuniary Interest Tribunal”.

Insert instead “Civil and Administrative Tribunal”.

**Explanatory note**

The proposed amendment updates references to the abolished Local Government Pecuniary Interest Tribunal.

## **2.24 Marine Safety (General) Regulation 2009**

**Clause 3 (1), definition of “enclosed waters”**

Omit “Schedules 1 and 2 to the *Marine Safety (Commercial Vessels) Regulation 2010*”.

Insert instead “Schedules 1B and 1C”.

**Explanatory note.**

The proposed amendment corrects a cross-reference.

## **2.25 Marine Safety Legislation (Lakes Hume and Mulwala) Act 2001 No 78**

**[1] Section 3, definition of “marine safety legislation of Victoria”**

Omit “*Marine Act 1988*”. Insert instead “*Marine Safety Act 2010*”.

**[2] Section 4 (2) (a)**

Insert “or hearing” after “trial”.

**[3] Section 11 (1)**

Omit “*Public Sector Management and Employment Act 1998*”.

Insert instead “*Public Administration Act 2004*”.

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

Omit “the Maritime Authority of NSW”. Insert instead “Roads and Maritime Services”.

**Explanatory note**

The proposed amendments update cross-references, insert missing words and update the name of a NSW government agency.

## 2.26 Motor Vehicles Taxation Act 1988 No 111

**[1] Section 3 (1), definition of “civil defence work”**

Omit “as defined in section 3 of the *State Emergency Services and Civil Defence Act 1972*”.  
Insert instead “(within the meaning of the *State Emergency and Rescue Management Act 1989*)”.

**[2] Section 3 (1), definition of “station waggon”**

Omit the definition. Insert instead:

*station wagon* has the same meaning as in the *Road Transport (Vehicle Registration) Regulation 2007*.

**[3] Section 3 (1), paragraph (b) of definition of “primary producer’s vehicle”**

Omit “registered under the *Co-operatives Act 1992*”.

Insert instead “that is a co-operative or a participating co-operative within the meaning of the *Co-operatives National Law (NSW)*”.

**[4] Section 3 (2) (b) and (d) (ii)**

Omit “waggon” wherever occurring. Insert instead “wagon”.

**[5] Section 16 (1) (a)**

Omit “*Mines Rescue Act 1994*”. Insert instead “*Coal Industry Act 2001*”.

**[6] Section 17 (1) (b) (ii)**

Omit “registered under the *Co-operatives Act 1992*”.

Insert instead “that is a co-operative, or a participating co-operative, within the meaning of the *Co-operatives National Law (NSW)*”.

**[7] Section 17 (1) (m)**

Omit “*Education Reform Act 1990*”. Insert instead “*Education Act 1990*”.

**Explanatory note.**

The proposed amendments update cross-references and make consequential amendments.

## 2.27 North Coast Regional Environmental Plan

**Clause 79 (1) (a)**

Omit “identified”. Insert instead “identified”.

**Explanatory note**

The proposed amendment corrects a spelling error.

## 2.28 Orange Local Environmental Plan 2011

**[1] Schedule 5, Part 1**

Omit “Barett” from the matter relating to I193. Insert instead “Barrett”.

**[2] Schedule 5, Part 1**

Omit “Dive” from the matter relating to I306. Insert instead “Drive”.

**Explanatory note**

The proposed amendments correct spelling errors.

## **2.29 Port Kembla Inner Harbour Construction and Agreement Ratification Act 1955 No 43**

### **Section 12 (2) and (2A)**

Omit “substitution” wherever occurring. Insert instead “amendment”.

#### **Explanatory note**

The proposed amendment corrects references to the kind of amendments made by the *Civil and Administrative Legislation (Repeal and Amendment) Act 2013* to the section concerned.

## **2.30 Public Finance and Audit Act 1983 No 152**

### **Schedule 3**

Transfer the matter relating to Fire and Rescue NSW to after the matter relating to the Department of Finance and Services.

#### **Explanatory note**

The proposed amendment corrects the ordering of items in a Schedule.

## **2.31 Public Health Act 2010 No 127**

### **Section 64 (6)**

Omit “Administrative Decisions Tribunal’s”.

Insert instead “Civil and Administrative Tribunal’s”.

#### **Explanatory note**

The proposed amendment updates a reference to the abolished Administrative Decisions Tribunal.

## **2.32 Queanbeyan Local Environmental Plan 2012**

### **Schedule 2**

Omit “(When this Plan was made this Schedule was blank)”.

#### **Explanatory note**

The proposed amendment removes redundant words.

## **2.33 Regional Relocation (Home Buyers Grant) Regulation 2012**

### **Clauses 1 and 3**

Omit “(*Home Buyers Grant*)” wherever occurring. Insert instead “*Grants*”.

#### **Explanatory note**

The proposed amendment updates a reference to a renamed Act and consequently renames a regulation under that Act.

## **2.34 Residential (Land Lease) Communities Act 2013 No 97**

### **Section 8 (2), definition of “co-operative”**

Omit the definition. Insert instead:

*co-operative* has the same meaning as in the *Co-operatives National Law (NSW)* and includes a participating co-operative within the meaning of that Law.

#### **Explanatory note**

The proposed amendment updates a definition consequent on the adoption of a national law.

## 2.35 Road Transport (Driver Licensing) Regulation 2008

### Clause 9 (5), table

Omit “100 mls” from the matter relating to condition code Z.

Insert instead “100 millilitres”.

### Explanatory note

The proposed amendment corrects a unit of measurement.

## 2.36 Standard Instrument (Local Environmental Plans) Order 2006

### [1] Standard Instrument, clause 1.7, note

Omit “Infrastructure”. Insert instead “Environment”.

### [2] Standard Instrument, clause 1.9 (2)

Omit the following:

*State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development* (clause 6 and Parts 3 and 4)

*State Environmental Planning Policy No 60—Exempt and Complying Development*

Insert instead “*State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (Schedule 6)”.

### [3] Standard Instrument, clause 2.4 (2)

Omit “Before granting development consent”.

Insert instead “In deciding whether to grant development consent”.

### [4] Standard Instrument, clause 3.2, note

Omit the note.

### [5] Standard Instrument, clause 5.9 (9)

Insert “Zone” before “E2”, “E3” and “E4”.

### [6] Standard Instrument, Schedule 3, Part 2

Omit “Division 3 of Part 3 of” from the matter relating to General conditions.

Insert instead “Schedule 6 to”.

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

Omit “(or any of the following facilities associated with a wharf or boating that are not port facilities)”.

Insert instead “or any of the following facilities associated with a wharf or boating that are not port facilities”.

### Commencement

The amendments to the *Standard Instrument (Local Environmental Plans) Order 2006* commence on 14 July 2014.

### Explanatory note

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

Item [2] removes references to repealed instruments.

Item [3] clarifies an expression.

Item [4] omits a redundant note.

Item [5] inserts a missing word.

Item [6] updates a cross-reference as a consequence of amendments made by the *State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Commercial and Industrial Development and Other Matters) 2013*.

Item [7] removes unnecessary punctuation.

## **2.37 State Environmental Planning Policy (Infrastructure) 2007**

### **[1] Part 2, Division 5, note**

Omit the note.

### **[2] Clause 130, note**

Omit the note.

#### **Explanatory note**

The proposed amendments remove redundant notes.

## **2.38 State Environmental Planning Policy No 55—Remediation of Land**

### **Clause 14 (b) (ii)**

Omit “clause 19 (4) and (5)”. Insert instead “clause 19 (4)”.

#### **Explanatory note**

The proposed amendment omits a reference to a repealed provision.

## **2.39 State Environmental Planning Policy (State and Regional Development) 2011**

### **Schedule 3 and note to the Schedule**

Omit “13” wherever occurring. Insert instead “14”.

#### **Explanatory note**

The proposed amendment corrects cross-references.

## **2.40 State Environmental Planning Policy (Three Ports) 2013**

### **Clause 11 (2) (a) and (b) and (3)**

Omit “the that commencement” wherever occurring. Insert instead “that commencement”.

#### **Explanatory note**

The proposed amendment corrects a grammatical error.

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

### **Section 135 (1)**

Omit “Registrar’s”. Insert instead “principal registrar’s”.

#### **Explanatory note**

The proposed amendment corrects the title of an office holder.

## **2.42 Strata Schemes Management Regulation 2010**

### **Clause 19 (2), note**

Omit “*Strata Schemes (Freehold Development) Regulation 2007*”.

Insert instead “*Strata Schemes (Freehold Development) Regulation 2012*”.

**Explanatory note**

The proposed amendment updates a cross-reference.

## **2.43 Swimming Pools Regulation 2008**

### **Schedule 1**

Omit “section 28”. Insert instead “section 27B or 28”.

**Explanatory note.**

The proposed amendment updates a cross-reference.

## **2.44 Taxation Administration Act 1996 No 97**

### **Section 82 (b) (vi)**

Omit “(*Home Buyers Grant*)”. Insert instead “*Grants*”.

**Explanatory note**

The proposed amendment updates a reference to a renamed Act.

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

### **Section 262 (2)**

Omit “the Hunter-Central Rivers Catchment Management Authority’s”.

Insert instead “Local Land Services”

**Explanatory note**

The proposed amendment updates a reference to a statutory corporation.

## **2.46 Wingecarribee Local Environmental Plan 2010**

### **[1] Land Use Table, Zone RE1 Public Recreation, item 3**

Omit “Recreational” wherever occurring. Insert instead “Recreation”.

### **[2] Clause 7.11 (3)**

Omit “clause”. Insert instead “clause,”.

### **[3] Clause 7.11 (3)**

Omit “means,”. Insert instead “means”.

**Explanatory note**

The proposed amendments correct typographical errors.



## **Schedule 3 Consequential and other amendments relating to enactment of Government Sector Employment Act 2013**

### **Explanatory note**

This Schedule includes the amendments contained in the Government Sector Employment Legislation Amendment Bill 2013 (the **GSELA Bill**) that:

- (a) update terminology with respect to Public Service agencies, head of agencies and employees as a consequence of the *Government Sector Employment Act 2013* (the **GSE Act**), and
- (b) align employment arrangements for certain statutory officers who were previously subject to Part 3.1 of the *Public Sector Employment and Management Act 2002* with the new employment arrangements under the GSE Act for senior executives in the Public Service, and
- (c) make miscellaneous amendments to the GSE Act and other Acts.

This Schedule does not include the principal amendments contained in the GSELA Bill that align employment arrangements for senior executives in the NSW Police Force, the Health Service and the Transport Service with the new employment arrangements for senior executives in the Public Service under the GSE Act.

This Schedule includes the following variations to the amendments in the GSELA Bill that are included in this Schedule:

- (a) the Registrar for the purposes of the *Community Housing Providers National Law (NSW)* will continue to be appointed as a statutory officer instead of becoming a Public Service employee (see Schedule 3.2 [4] and [7]),
- (b) the GSE Act is amended to make it clear that a person appointed by the Public Service Commissioner or the Secretary of the Department of Premier and Cabinet for the purposes of conducting an inquiry relating to administration or management of a government sector agency does so on behalf of, and under the direction of, the Commissioner or the Secretary (see Schedule 3.9 [39]–[44]),
- (c) the Chief Executive of the Sydney Catchment Authority will continue to be appointed as a statutory officer instead of becoming a Public Service employee (see Schedule 3.30 [1] and [5]).

Certain amendments to the *Internal Audit Bureau Act 1992* and the *Treasury Corporation Act 1983* will commence on a day to be appointed by proclamation (see Schedule 3.15 [1] and 3.33 [1]).

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

#### **[1] Section 178 Children's Guardian**

Omit section 178 (2), (3) and (4).

#### **[2] Sections 178A–178F**

Insert after section 178:

##### **178A Term of office**

- (1) The Children's Guardian holds office for such term, not exceeding 5 years, as may be specified in the instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.
- (2) A person is not eligible to be appointed for more than 2 terms of office as Children's Guardian (whether or not consecutive terms).

##### **178B Full-time office**

The office of Children's Guardian is a full-time office and the holder of the office is required to hold it on that basis, except to the extent permitted by the Minister.

**178C Employment and remuneration**

- (1) The employment of the Children's Guardian is (subject to this Part) to be governed by a contract of employment between the Children's Guardian and the Minister.
- (2) The following provisions of or made under the *Government Sector Employment Act 2013* relating to the employment of Public Service senior executives apply to the Children's Guardian (but in the application of those provisions a reference to the employer of any such executive is to be read as a reference to the Minister):
  - (a) provisions relating to the band in which an executive is to be employed,
  - (b) provisions relating to the contract of employment of an executive,
  - (c) provisions relating to the remuneration, employment benefits and allowances of an executive.

**178D Vacancy in office**

- (1) The office of Children's Guardian becomes vacant if the holder:
  - (a) dies, or
  - (b) completes a term of office and is not re-appointed, or
  - (c) resigns the office by instrument in writing addressed to the Minister, or
  - (d) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
  - (e) becomes a mentally incapacitated person, or
  - (f) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or
  - (g) is removed from office under section 178E.
- (2) If the office of Children's Guardian becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

**178E Removal from office**

- (1) The Governor may remove the Children's Guardian from office, but only for incompetence, incapacity or misbehaviour.
- (2) The Children's Guardian cannot be removed from office under Part 6 of the *Government Sector Employment Act 2013*.

**178F Children's Guardian not Public Service employee**

The office of Children's Guardian is a statutory office and the provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to that office (except as provided by section 178C).

**3.2 Community Housing Providers (Adoption of National Law) Act 2012  
No 59**

**[1] Section 4 Definitions**

Omit the definition of *Director-General*.

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

Insert in alphabetical order:

*Housing Secretary* means the Secretary of the Department of Family and Community Services.

**[3] Sections 4 (2) (definition of “Housing Agency”), 8, 15 (4), 16 (2) (a) and 23**

Omit “Director-General” wherever occurring. Insert instead “Housing Secretary”.

**[4] Section 10 Registrar**

Omit section 10 (3). Insert instead:

(3) Schedule 1A contains provisions relating to the Registrar.

**[5] Section 11 Delegation of Registrar’s functions**

Omit section 11 (1) (a). Insert instead:

(a) a Public Service employee, or

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

Omit “who holds a position in the Department of Family and Community Services the duties of which”.

Insert instead “who is employed in the Department of Family and Community Services and whose duties”.

**[7] Schedule 1A**

Insert after Schedule 1:

## **Schedule 1A Provisions relating to Registrar**

(Section 10 (3))

### **1 Term of office**

- (1) The Registrar holds office for such term, not exceeding 5 years, as may be specified in the instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.
- (2) A person is not eligible to be appointed for more than 2 terms of office as Registrar (whether or not consecutive terms).

### **2 Full-time office**

The office of Registrar is a full-time office and the holder of the office is required to hold it on that basis, except to the extent permitted by the Minister.

### **3 Employment and remuneration**

- (1) The employment of the Registrar is (subject to this Schedule) to be governed by a contract of employment between the Registrar and the Minister.
- (2) The following provisions of or made under the *Government Sector Employment Act 2013* relating to the employment of Public Service senior executives apply to the Registrar (but in the application of those provisions a reference to the employer of any such executive is to be read as a reference to the Minister):
  - (a) provisions relating to the band in which an executive is to be employed,

- (b) provisions relating to the contract of employment of an executive,
- (c) provisions relating to the remuneration, employment benefits and allowances of an executive.

#### **4 Vacancy in office**

- (1) The office of Registrar becomes vacant if the holder:
  - (a) dies, or
  - (b) completes a term of office and is not re-appointed, or
  - (c) resigns the office by instrument in writing addressed to the Minister, or
  - (d) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
  - (e) becomes a mentally incapacitated person, or
  - (f) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or
  - (g) is removed from office under clause 5.
- (2) If the office of Registrar becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

#### **5 Removal from office**

- (1) The Minister may remove the Registrar from office, but only for incompetence, incapacity or misbehaviour.
- (2) The Registrar cannot be removed from office under Part 6 of the *Government Sector Employment Act 2013*.

#### **6 Registrar not Public Service employee**

The office of Registrar is a statutory office and the provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to that office (except as provided by clause 3).

### **3.3 Constitution Act 1902 No 32**

#### **Section 50G Publication, commencement and operation of orders**

Insert after section 50G (4):

- (5) If any question arises as to the employees included in any part of a Public Service agency who are transferred by an administrative arrangements order to another Public Service agency, the question may be referred to and determined by the Public Service Commissioner.

### **3.4 Crime Commission Act 2012 No 66**

#### **Section 66 Staff of Inspector**

Omit section 66 (1). Insert instead:

- (1) Persons employed in the Public Service under the *Government Sector Employment Act 2013* to enable the Inspector to exercise his or her functions are subject to the control and direction of the Inspector.

- (1A) Subsection (1) does not affect the exercise of the functions under the *Government Sector Employment Act 2013* of the head of the Public Service agency in which those persons are employed. The head of that agency may delegate those functions under that Act to the Inspector.
- (1B) The staff of the Inspector comprises the persons so employed and the persons referred to in subsection (2).

### 3.5 Destination NSW Act 2011 No 21

#### [1] Section 9 Chief Executive Officer

Omit section 9 (1) and (2). Insert instead:

- (1) The Chief Executive Officer of Destination NSW is the person employed in the Public Service as the Chief Executive Officer.

#### [2] Section 11

Omit the section. Insert instead:

##### 11 Staff of Destination NSW

Persons may be employed in the Public Service under the *Government Sector Employment Act 2013* to enable Destination NSW to exercise its functions.

**Note.** Section 59 of the *Government Sector Employment Act 2013* provides that the persons so employed (or whose services Destination NSW makes use of) may be referred to as officers or employees, or members of staff, of Destination NSW. Section 47A of the *Constitution Act 1902* precludes Destination NSW from employing staff.

#### [3] Schedule 1, clause 6 (1)

Omit the subclause. Insert instead:

- (1) The provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to an appointed member.

### 3.6 Fire Brigades Act 1989 No 192

#### [1] Section 3 Definitions

Omit the definition of *Commissioner*. Insert instead:

*Commissioner* means the person employed in the Public Service as the Commissioner of Fire and Rescue NSW.

#### [2] Section 3, definition of “Department”

Omit the definition.

#### [3] Sections 35, 44 (definition of “fire brigades expenditure”), 46, 64A, 64B, 78, 79A and 83 (3) (definition of “authorised person”)

Omit “the Department” and “the Department’s” wherever occurring.

Insert instead “Fire and Rescue NSW” and “Fire and Rescue NSW’s” respectively.

#### [4] Part 6, Division 1, heading

Omit “The Department”. Insert instead “Fire and Rescue NSW”.

**[5] Section 66**

Omit the section. Insert instead:

**66 Staff of Fire and Rescue NSW**

- (1) Persons may be employed in the Public Service under the *Government Sector Employment Act 2013* to enable the Commissioner to exercise his or her functions.

**Note.** Section 59 of the *Government Sector Employment Act 2013* provides that the persons so employed (or whose services the Commissioner makes use of) may be referred to as officers or employees, or members of staff, of the Commissioner. Section 47A of the *Constitution Act 1902* precludes the Commissioner from employing staff unless authorised by legislation to do so (Section 69 of this Act authorises the Commissioner to employ members of permanent fire brigades).

- (2) This section does not apply to the members of permanent fire brigades.

**[6] Section 68 Definition**

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

*Industrial Relations Secretary* means the Industrial Relations Secretary under the *Government Sector Employment Act 2013*.

**[7] Sections 70, 71, 72 and 74**

Omit “Director-General” wherever occurring.

Insert instead “Industrial Relations Secretary”.

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

Omit the paragraph. Insert instead:

- (d) is removed from office under this clause, or

**[9] Schedule 2, clause 7 (1)**

Omit the subclause. Insert instead:

- (1) The provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to an appointed member.

### **3.7 Government Information (Information Commissioner) Act 2009 No 53**

**[1] Section 10**

Omit the section. Insert instead:

**10 Commissioner not Public Service employee**

The office of Commissioner is a statutory office and the provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to that office.

**[2] Section 12**

Omit the section. Insert instead:

**12 Staff of Commissioner**

Persons may be employed in the Public Service under the *Government Sector Employment Act 2013* to enable the Commissioner to exercise his or her functions.

**Note.** Section 59 of the *Government Sector Employment Act 2013* provides that the persons so employed (or whose services the Commissioner makes use of) may be referred to as officers or employees, or members of staff, of the Commissioner. Section 47A of the *Constitution Act 1902* precludes the Commissioner from employing staff.

**[3] Section 24 Report on compliance with Information Act**

Omit section 24 (1) (c). Insert instead:

- (c) where the conduct concerns the conduct of a Public Service employee, to the Secretary of the Department of Premier and Cabinet.

**3.8 Government Information (Public Access) Act 2009 No 52**

**[1] Section 4 Interpretation**

Omit “Government Department” wherever occurring in the definition of *agency* in section 4 (1), including in the note to that definition.

Insert instead “Public Service agency”.

**[2] Schedule 4 Interpretative provisions**

Omit the definition of *Government Department* from clause 1.

Insert in alphabetical order:

*Public Service agency* means a Public Service agency under the *Government Sector Employment Act 2013*.

**3.9 Government Sector Employment Act 2013 No 40**

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

Insert at the end of the Schedule:

**Part 3 Provisions consequent on enactment of Schedule 3 to Statute Law (Miscellaneous Provisions) Act 2014**

**14 Continuation in office of statutory and other officers**

The appointment and term of office of a person holding office as a statutory or other officer under an Act amended by Schedule 3 to the *Statute Law (Miscellaneous Provisions) Act 2014* on the commencement of the amendments made to that Act by Schedule 3 are not affected by that Schedule.

**15 Savings and transitional regulations**

A regulation that may be made under clause 2 of this Schedule consequent on an amendment to an Act made by Schedule 3 to the *Statute Law (Miscellaneous Provisions) Act 2014* may be made instead under the Act as so amended.

### 3.10 Government Telecommunications Act 1991 No 77

[1] **Section 34**

Omit the section. Insert instead:

**34 Managing Director**

The Managing Director of the Authority is the person employed in the Public Service as the Managing Director.

[2] **Section 37 General functions of the Authority**

Omit section 37 (3) including the note. Insert instead:

- (3) Persons may be employed in the Public Service under the *Government Sector Employment Act 2013* to enable the Authority to exercise its functions.

**Note.** Section 59 of the *Government Sector Employment Act 2013* provides that the persons so employed (or whose services the Authority makes use of) may be referred to as officers or employees, or members of staff, of the Authority. Section 47A of the *Constitution Act 1902* precludes the Authority from employing staff.

[3] **Section 38 (2)**

Omit the subsection.

[4] **Schedule 1, clause 8 (1)**

Omit the subclause. Insert instead:

- (1) The provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to an appointed member.

### 3.11 Growth Centres (Development Corporations) Act 1974 No 49

[1] **Section 3 Definitions**

Omit the definition of *Director-General*.

[2] **Section 6A Development corporation boards**

Omit section 6A (3) (c). Insert instead:

- (c) the Secretary of the Department of Planning and Environment or a person nominated by the Secretary.

[3] **Section 6B Chief executives of development corporations**

Omit section 6B (1), (2) and (5). Insert instead:

- (1) The chief executive of a development corporation is the person employed in the Public Service as the chief executive of that development corporation.

[4] **Section 32A**

Omit the section. Insert instead:

**32A Staff of development corporations**

Persons may be employed in the Public Service under the *Government Sector Employment Act 2013* to enable a corporation to exercise its functions.

**Note.** Section 59 of the *Government Sector Employment Act 2013* provides that the persons so employed (or whose services a corporation makes use of) may be referred



to as officers or employees, or members of staff, of the corporation. Section 47A of the  
*Constitution Act 1902* precludes a corporation from employing staff.

**[5] Schedule 2, clause 1A**

Omit the clause.

**[6] Schedule 2, clauses 4 (2) and 6 (2)**

Omit “member (other than a chief executive)” wherever occurring.

Insert instead “appointed member”.

**[7] Schedule 2, clause 5**

Omit the clause. Insert instead:

**5 Application of Government Sector Employment Act 2013**

The provisions of the *Government Sector Employment Act 2013* relating to the  
employment of Public Service employees do not apply to an appointed  
member.

**[8] Schedule 2, clause 6 (1)**

Omit “A member (other than a chief executive)”. Insert instead “An appointed member”.

**[9] Schedule 2, clause 7**

Omit “a member (other than a chief executive)”. Insert instead “an appointed member”.

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

**[1] Section 4 Definitions**

Omit the definitions of *Director-General* and *officer of the Commission*.

**[2] Section 4**

Insert in alphabetical order:

*Health Secretary* means the Secretary of the Ministry of Health.

**[3] The whole Act (except Schedule 4 and where otherwise amended by this  
Subschedule)**

Omit “Director-General” and “Director-General’s” wherever occurring.

Insert instead “Health Secretary” and “Health Secretary’s” respectively.

**[4] Section 76 Appointment of Commissioner**

Insert after section 76 (2):

(3) Schedule 1A contains provisions relating to the Commissioner.

**[5] Section 77 The Commissioner**

Omit the section.

**[6] Section 80 Functions of Commission**

Omit section 80 (5) including the note. Insert instead:

- (5) Persons may be employed in the Public Service under the *Government Sector Employment Act 2013* to enable the Commission to exercise its functions.

**Note.** Section 59 of the *Government Sector Employment Act 2013* provides that the persons so employed (or whose services the Commission makes use of) may be referred to as officers or employees, or members of staff, of the Commission. Section 47A of the *Constitution Act 1902* precludes the Commission from employing staff.

**[7] Schedule 1A**

Insert after Schedule 1:

**Schedule 1A Provisions relating to Commissioner**

(Section 76 (3))

**1 Term of office**

- (1) The Commissioner holds office for such term, not exceeding 5 years, as may be specified in the instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.
- (2) A person is not eligible to be appointed for more than 2 terms of office as Commissioner (whether or not consecutive terms).

**2 Full-time office**

The office of Commissioner is a full-time office and the holder of the office is required to hold it on that basis, except to the extent permitted by the Minister.

**3 Employment and remuneration**

- (1) The employment of the Commissioner is (subject to this Schedule) to be governed by a contract of employment between the Commissioner and the Minister.
- (2) The following provisions of or made under the *Government Sector Employment Act 2013* relating to the employment of Public Service senior executives apply to the Commissioner (but in the application of those provisions a reference to the employer of any such executive is to be read as a reference to the Minister):
- (a) provisions relating to the band in which an executive is to be employed,
- (b) provisions relating to the contract of employment of an executive,
- (c) provisions relating to the remuneration, employment benefits and allowances of an executive.

**4 Vacancy in office**

- (1) The office of Commissioner becomes vacant if the holder:
- (a) dies, or
- (b) completes a term of office and is not re-appointed, or
- (c) resigns the office by instrument in writing addressed to the Minister, or
- (d) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or

- (e) becomes a mentally incapacitated person, or
  - (f) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or
  - (g) is removed from office under clause 5.
- (2) If the office of Commissioner becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

#### **5 Removal from office**

- (1) The Governor may remove the Commissioner from office, but only for incompetence, incapacity or misbehaviour.
- (2) The Commissioner cannot be removed from office under Part 6 of the *Government Sector Employment Act 2013*.

#### **6 Commissioner not Public Service employee**

The office of Commissioner is a statutory office and the provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to that office (except as provided by clause 3).

#### **[8] Schedule 2, clause 4 (1)**

Omit the subclause. Insert instead:

- (1) The office of a conciliator is a statutory office and the provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to that office.

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

#### **[1] The whole Act (except Schedules 6A and 7)**

Omit “Director-General” and “Director-General’s” wherever occurring.  
Insert instead “Health Secretary” and “Health Secretary’s” respectively.

#### **[2] Schedule 4, clause 4 (5)**

Omit “or Part 3.1 of the *Public Sector Employment and Management Act 2002*”.  
Insert instead “or Part 4 of the *Government Sector Employment Act 2013*”.

#### **[3] Schedule 6A**

Omit “Director-General of the Ministry of Health” wherever occurring.  
Insert instead “Health Secretary”.

#### **[4] Dictionary**

Omit the definition of *Director-General*. Insert in alphabetical order:

***Health Secretary*** means the Secretary of the Ministry of Health.

### 3.14 Independent Commission Against Corruption Act 1988 No 35

**[1] Section 3 Definitions**

Omit paragraphs (a) and (c) of the definition of *public authority*. Insert instead:

- (a) a Public Service agency or any other government sector agency within the meaning of the *Government Sector Employment Act 2013*,

**[2] Section 3, definition of “public official”**

Omit paragraph (g). Insert instead:

- (g) a person employed in a Public Service agency or any other government sector agency within the meaning of the *Government Sector Employment Act 2013*,

**[3] Section 57E Staff of Inspector**

Omit section 57E (1) and (2). Insert instead:

- (1) Persons employed in the Public Service under the *Government Sector Employment Act 2013* to enable the Inspector to exercise his or her functions are subject to the control and direction of the Inspector.
- (2) Subsection (1) does not affect the exercise of the functions under the *Government Sector Employment Act 2013* of the head of the Public Service agency in which those persons are employed. The head of that agency may delegate those functions under that Act to the Inspector.

**[4] Section 57E (4A) and (6)**

Omit the subsections.

**[5] Section 104 Appointment of staff**

Omit section 104 (4). Insert as a note to the section:

**Note.** Section 5 of the *Government Sector Employment Act 2013* excludes the application of that Act to the staff of the Commission.

**[6] Section 104A Arrangements for use of services of other staff**

Omit section 104A (3). Insert at the end of the section:

**Note.** Section 5 of the *Government Sector Employment Act 2013* excludes the application of that Act to the staff of the Commission.

**[7] Schedule 1, clause 8**

Omit the clause. Insert instead:

**8 Public Service employment provisions excluded**

The offices of Commissioner and Assistant Commissioner are statutory offices and the provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to those offices.

**[8] Schedule 1A, clause 9 (1)**

Omit the subclause. Insert instead:

- (1) The office of Inspector is a statutory office and the provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to that office.

### **3.15 Internal Audit Bureau Act 1992 No 20**

**[1] Section 5 Functions of the Bureau**

Omit section 5 (3) including the note. Insert instead:

- (3) The Bureau may employ staff. The provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to staff employed by the Bureau.

**[2] Section 6 Establishment of the Board**

Omit section 6 (2) (b1). Insert instead:

- (b1) the Chief Executive of the Office of Finance and Services or an employee of that Office nominated by the Chief Executive of that Office, and

**[3] Section 8 Chief Executive**

Omit section 8 (2)–(5). Insert instead:

- (2) Schedule 1A contains provisions relating to the Chief Executive.

**[4] Schedule 1, clause 8 (1)**

Omit the subclause. Insert instead:

- (1) The provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to an appointed member.

**[5] Schedule 1A**

Insert after Schedule 1:

### **Schedule 1A Provisions relating to Chief Executive**

(Section 8 (2))

**1 Acting Chief Executive**

- (1) The Minister may, from time to time, appoint a person to act in the office of Chief Executive during the illness or absence of the Chief Executive or during a vacancy in the office of Chief Executive. The person, while so acting, has all the functions of the Chief Executive and is taken to be the Chief Executive.
- (2) The Minister may, at any time, remove a person from office as acting Chief Executive.
- (3) An acting Chief Executive is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine.

**2 Term of office**

Subject to this Schedule, a person appointed as Chief Executive holds office for such period (not exceeding 5 years) as may be specified in the person's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

### **3 Approval required to undertake other paid work**

The Chief Executive is not to undertake any paid work outside the duties of Chief Executive without the consent of the Minister or the Chairperson of the Board of the Bureau.

### **4 Remuneration**

The Chief Executive is entitled to be paid such remuneration as the Board of the Bureau may, with the concurrence of the Minister, determine.

### **5 Vacancy in office**

- (1) The office of a person appointed as Chief Executive becomes vacant if the person:
  - (a) dies, or
  - (b) completes a term of office and is not re-appointed, or
  - (c) resigns the office by instrument in writing addressed to the Minister, or
  - (d) is removed from office by the Governor under this clause, or
  - (e) is absent from duty for 14 days (whether or not wholly or partly consecutive) in any period of 12 months, except on leave granted by the Chairperson of the Board of the Bureau or unless the absence is occasioned by illness or other unavoidable cause, or
  - (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
  - (g) becomes a mentally incapacitated person, or
  - (h) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or
  - (i) engages in any paid employment outside the duties of the office of Chief Executive, except with the consent of the Minister or the Chairperson of the Board of the Bureau.
- (2) The Governor may remove the Chief Executive from office for incompetence, incapacity or misbehaviour.

### **6 Filling of vacancy in office**

If the office of Chief Executive becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

### **7 Chief Executive a statutory officer and not Public Service employee**

The office of Chief Executive is a statutory office and the provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to that office.

#### **Commencement**

Schedule 3.15 [1] commences on a day to be appointed by proclamation.

### 3.16 Legal Aid Commission Act 1979 No 78

#### [1] Section 10 Functions of the Commission

Omit section 10 (5) including the note. Insert instead:

- (5) Persons may be employed in the Public Service under the *Government Sector Employment Act 2013* to enable the Commission to exercise its functions.

**Note.** Section 59 of the *Government Sector Employment Act 2013* provides that the persons so employed (or whose services the Commission makes use of) may be referred to as officers or employees, or members of staff, of the Commission. Section 47A of the *Constitution Act 1902* precludes the Commission from employing staff.

#### [2] Section 16 Chief Executive Officer

Omit section 16 (3). Insert instead:

- (3) Schedule 3A contains provisions relating to the Chief Executive Officer.

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

Omit the subclause. Insert instead:

- (1) The provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to a member of the Board.

#### [4] Schedule 3A

Insert after Schedule 3:

### Schedule 3A Provisions relating to Chief Executive Officer

(Section 16 (3))

#### 1 Term of office

The Chief Executive Officer holds office for such term, not exceeding 5 years, as may be specified in the instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

#### 2 Full-time office

The office of Chief Executive Officer is a full-time office and the holder of the office is required to hold it on that basis, except to the extent permitted by the Minister.

#### 3 Employment and remuneration

- (1) The employment of the Chief Executive Officer is (subject to this Schedule) to be governed by a contract of employment between the Chief Executive Officer and the Minister.
- (2) The following provisions of or made under the *Government Sector Employment Act 2013* relating to the employment of Public Service senior executives apply to the Chief Executive Officer (but in the application of those provisions a reference to the employer of any such executive is to be read as a reference to the Minister):
- (a) provisions relating to the band in which an executive is to be employed,
  - (b) provisions relating to the contract of employment of an executive,

- (c) provisions relating to the remuneration, employment benefits and allowances of an executive,
- (d) provisions relating to the termination of employment of an executive.

#### **4 Vacancy in office**

- (1) The office of Chief Executive Officer becomes vacant if the holder:
  - (a) dies, or
  - (b) completes a term of office and is not re-appointed, or
  - (c) resigns the office by instrument in writing addressed to the Minister, or
  - (d) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
  - (e) becomes a mentally incapacitated person, or
  - (f) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or
  - (g) is removed from office under clause 3.
- (2) If the office of Chief Executive Officer becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

#### **5 Chief Executive Officer not Public Service employee**

The office of Chief Executive Officer is a statutory office and the provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to that office (except as provided by clause 3).

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

#### **[1] Section 686 Appointment of Commissioner**

Omit section 686 (3)–(5). Insert instead:

- (3) Schedule 2A contains provisions relating to the Legal Services Commissioner.

#### **[2] Section 692 Staff of Commissioner**

Omit section 692 (1) and (2). Insert instead:

- (1) Persons may be employed in the Public Service under the *Government Sector Employment Act 2013* to enable the Commissioner to exercise his or her functions.

**Note.** Section 59 of the *Government Sector Employment Act 2013* provides that the persons so employed (or whose services the Commissioner makes use of) may be referred to as officers or employees, or members of staff, of the Commissioner. Section 47A of the *Constitution Act 1902* precludes the Commissioner from employing staff.



**[3] Schedule 2A**

Insert after Schedule 2:

**Schedule 2A Provisions relating to Legal Services  
Commissioner**

(Section 686 (3))

**1 Term of office**

The Commissioner holds office for such term, not exceeding 7 years, as may be specified in the instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

**2 Full-time office**

The office of Commissioner is a full-time office and the holder of the office is required to hold it on that basis, except to the extent permitted by the Minister.

**3 Employment and remuneration**

- (1) The employment of the Commissioner is (subject to this Schedule) to be governed by a contract of employment between the Commissioner and the Minister.
- (2) The following provisions of or made under the *Government Sector Employment Act 2013* relating to the employment of Public Service senior executives apply to the Commissioner (but in the application of those provisions a reference to the employer of any such executive is to be read as a reference to the Minister):
  - (a) provisions relating to the band in which an executive is to be employed,
  - (b) provisions relating to the contract of employment of an executive,
  - (c) provisions relating to the remuneration, employment benefits and allowances of an executive.

**4 Vacancy in office**

- (1) The office of Commissioner becomes vacant if the holder:
  - (a) dies, or
  - (b) completes a term of office and is not re-appointed, or
  - (c) resigns the office by instrument in writing addressed to the Minister, or
  - (d) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
  - (e) becomes a mentally incapacitated person, or
  - (f) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or
  - (g) is removed from office under clause 5.
- (2) If the office of Commissioner becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

**5 Removal from office**

The Governor may remove the Commissioner from office, but only for incompetence, incapacity or misbehaviour.

**6 Commissioner not Public Service employee**

The office of Commissioner is a statutory office and the provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to that office (except as provided by clause 3).

**[4] Schedule 4, clause 9 (1)**

Omit the subclause. Insert instead:

- (1) The provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to a Trustee.

**[5] Schedule 5, clause 5 (1)**

Omit the subclause. Insert instead:

- (1) The provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to a costs assessor.

**3.18 Local Government Act 1993 No 30**

**[1] Section 247 Assistance for the Remuneration Tribunal**

Omit “such persons employed under Part 2 of the *Public Sector Management Act 1988*”.

Insert instead “such Public Service employees”.

**[2] Section 347 References**

Insert at the end of the section:

- (3) A reference in this section to a provision of Part 9A of the *Anti-Discrimination Act 1977* is a reference to that provision as in force immediately before the repeal of that Part of that Act by the *Government Sector Employment Act 2013*.

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

Omit the subclause. Insert instead:

- (1) The provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to a person appointed as the Remuneration Tribunal.

**[4] Schedule 1 (clause 6 (1) (g)), Schedule 2 (clause 5 (1) (h)) and Schedule 5 (clause 5 (1) (g))**

Omit “or under Part 8 of the *Public Sector Management Act 1988*” wherever occurring.

**[5] Schedule 2, clause 4 (1)**

Omit the subclause. Insert instead:

- (1) The provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to a commissioner or acting commissioner.

**[6] Schedule 3, clause 7 (1)**

Omit the subclause. Insert instead:

- (1) The provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to an appointed member.

**[7] Schedule 5, clause 4 (1)**

Omit the subclause. Insert instead:

- (1) The provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to a commissioner or acting commissioner.

### **3.19 Major Events Act 2009 No 73**

**[1] Section 4 Definitions**

Omit paragraph (c) of the definition of *government agency*. Insert instead:

- (c) a Public Service agency, or

**[2] Section 11 Chief executives of major event authorities**

Omit section 11 (1) and (5). Insert instead:

- (1) The chief executive of a major event authority is the person employed in the Public Service as the chief executive of that authority.

**[3] Schedule 1, clause 9 (1)**

Omit the subclause. Insert instead:

- (1) The provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to a member.

**[4] Schedule 2, clause 3 (5)**

Omit “under Part 3.1 of the *Public Sector Employment and Management Act 2002*”.

Insert instead “under the *Government Sector Employment Act 2013*”.

### **3.20 NSW Trustee and Guardian Act 2009 No 49**

**[1] Section 7 Chief Executive Officer**

Omit section 7 (2), (3) and (4). Insert instead:

- (2) Schedule 3 contains provisions relating to the Chief Executive Officer.

**[2] Section 9 Delegation**

Omit section 9 (4) (a). Insert instead:

- (a) a member of staff of the NSW Trustee, or

**[3] Section 10 Functions generally**

Omit section 10 (3) including the note. Insert instead:

- (3) Persons may be employed in the Public Service under the *Government Sector Employment Act 2013* to enable the NSW Trustee to exercise its functions.

**Note.** Section 59 of the *Government Sector Employment Act 2013* provides that the persons so employed (or whose services the NSW Trustee makes use of) may be

referred to as officers or employees, or members of staff, of the NSW Trustee.  
Section 47A of the *Constitution Act 1902* precludes the NSW Trustee from employing staff.

**[4] Schedule 3**

Insert as Schedule 3:

## **Schedule 3 Provisions relating to Chief Executive Officer**

(Section 7 (2))

### **1 Term of office**

The Chief Executive Officer holds office for such term, not exceeding 5 years, as may be specified in the instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

### **2 Full-time office**

The office of Chief Executive Officer is a full-time office and the holder of the office is required to hold it on that basis, except to the extent permitted by the Minister.

### **3 Employment and remuneration**

- (1) The employment of the Chief Executive Officer is (subject to this Schedule) to be governed by a contract of employment between the Chief Executive Officer and the Minister.
- (2) The following provisions of or made under the *Government Sector Employment Act 2013* relating to the employment of Public Service senior executives apply to the Chief Executive Officer (but in the application of those provisions a reference to the employer of any such executive is to be read as a reference to the Minister):
  - (a) provisions relating to the band in which an executive is to be employed,
  - (b) provisions relating to the contract of employment of an executive,
  - (c) provisions relating to the remuneration, employment benefits and allowances of an executive.

### **4 Vacancy in office**

- (1) The office of Chief Executive Officer becomes vacant if the holder:
  - (a) dies, or
  - (b) completes a term of office and is not re-appointed, or
  - (c) resigns the office by instrument in writing addressed to the Minister, or
  - (d) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
  - (e) becomes a mentally incapacitated person, or
  - (f) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or
  - (g) is removed from office under clause 5.

- (2) If the office of Chief Executive Officer becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

**5 Removal from office**

- (1) The Governor may remove the Chief Executive Officer from office, but only for incompetence, incapacity or misbehaviour.
- (2) The Chief Executive Officer cannot be removed from office under Part 6 of the *Government Sector Employment Act 2013*.

**6 Chief Executive Officer not Public Service employee**

The office of Chief Executive Officer is a statutory office and the provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to that office (except as provided by clause 3).

**3.21 Ombudsman Act 1974 No 68**

**[1] Section 5 Definitions**

Omit the definitions of *Department* and *Department Head*.

**[2] Section 5 (1), definition of “head”**

Omit paragraph (a). Insert instead:

- (a) in relation to a public authority that is a Public Service agency or a person employed in a Public Service agency—the head of the agency, and

**[3] Section 5 (1), definition of “public authority”**

Omit paragraph (c). Insert instead:

- (c) any Public Service agency or any person employed in a Public Service agency,

**[4] Section 5 (1), definition of “responsible Minister”**

Omit paragraph (a). Insert instead:

- (a) in relation to a public authority that is a Public Service agency or a person employed in a Public Service agency—the Minister responsible for that agency or, in the case where more than one Minister is responsible for that agency, the Minister who, in the opinion of the Ombudsman, is most nearly connected with the conduct of that agency, and

**[5] Section 6 Office of Ombudsman**

Omit section 6 (6). Insert instead:

- (6) The office of Ombudsman is a statutory office and the provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to that office.

**[6] Section 8 Deputy Ombudsman and Assistant Ombudsman**

Omit section 8 (3) and (4). Insert instead:

- (3) The offices of Deputy Ombudsman and Assistant Ombudsman are statutory offices and the provisions of the *Government Sector Employment Act 2013*

relating to the employment of Public Service employees do not apply to those offices (except as provided by subsection (4B)).

- (4) A Deputy Ombudsman and an Assistant Ombudsman hold office for such term, not exceeding 5 years, as may be specified in the instrument of appointment, but are eligible (if otherwise qualified) for re-appointment.
- (4A) The employment of a Deputy Ombudsman and an Assistant Ombudsman is (subject to this section) to be governed by a contract of employment between the Deputy Ombudsman or Assistant Ombudsman and the Ombudsman.
- (4B) The following provisions of or made under the *Government Sector Employment Act 2013* relating to the employment of Public Service senior executives apply to a Deputy Ombudsman and an Assistant Ombudsman (but in the application of those provisions a reference to the employer of any such executive is to be read as a reference to the Ombudsman):
  - (a) provisions relating to the band in which an executive is to be employed,
  - (b) provisions relating to the contract of employment of an executive,
  - (c) provisions relating to the remuneration, employment benefits and allowances of an executive,
  - (d) provisions relating to the termination of employment of an executive.
- (4C) The office of a Deputy Ombudsman or an Assistant Ombudsman becomes vacant if the holder:
  - (a) dies, or
  - (b) completes a term of office and is not re-appointed, or
  - (c) resigns the office by instrument in writing addressed to the Minister, or
  - (d) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
  - (e) becomes a mentally incapacitated person, or
  - (f) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or
  - (g) is removed from office under subsection (4B).

**[7] Section 25A Definitions**

Omit paragraph (a1) of the definition of *designated government agency*. Insert instead:

- (a1) a Public Service agency (or a part of such an agency) prescribed by the regulations for the purposes of this definition,

**[8] Sections 26 (3) (c) and 28 (c)**

Omit “employed under the *Public Sector Management Act 1988*, to the Premier’s Department” wherever occurring.

Insert instead “a Public Service employee, to the Department of Premier and Cabinet”.

**[9] Section 32 Staff**

Omit section 32 (1). Insert instead:

- (1) Persons may be employed in the Public Service under the *Government Sector Employment Act 2013* to enable the Ombudsman to exercise his or her functions.

**3.22 Police Act 1990 No 47**

**[1] Section 78 Promotion, transfer and re-appointment following resignation**

Omit “re-appointed under section 103 (Re-appointment of employees resigning to contest Commonwealth elections) of the *Public Sector Employment and Management Act 2002*” from section 78 (3).

Insert instead “re-appointed under section 72 (Re-employment of employees resigning to contest Commonwealth elections) of the *Government Sector Employment Act 2013*”.

**[2] Part 8, note**

Omit the note. Insert instead:

**Note.** Other provisions relating to members of the NSW Police Force are to be found in Part 5 of the *Government Sector Employment Act 2013*.

**[3] Section 218 Industrial Relations Act 1996 not affected**

Omit “or 89” from section 218 (2). Insert instead “or 88”.

**3.23 Police Integrity Commission Act 1996 No 28**

**Section 92 Staff of Inspector**

Omit section 92 (1) and (2). Insert instead:

- (1) Persons employed in the Public Service under the *Government Sector Employment Act 2013* to enable the Inspector to exercise his or her functions are subject to the control and direction of the Inspector.
- (2) Subsection (1) does not affect the exercise of the functions under the *Government Sector Employment Act 2013* of the head of the Public Service agency in which those persons are employed. The head of that agency may delegate those functions under that Act to the Inspector.

**3.24 Privacy and Personal Information Protection Act 1998 No 133**

**[1] Section 3 Definitions**

Omit “government department” from paragraph (a) of the definition of *public sector agency*.

Insert instead “Public Service agency”.

**[2] Section 3 (1), definition of “public sector agency”**

Omit paragraph (e1).

**[3] Section 3 (1), definition of “public sector official”**

Omit “the Government Service” from paragraph (c).

Insert instead “the Public Service, the Transport Service of New South Wales”.

**[4] Section 35E**

Omit the section. Insert instead:

**35E Privacy Commissioner a statutory officer and not Public Service employee**

The office of Privacy Commissioner is a statutory office and the provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to that office.

**[5] Section 35G**

Omit the section. Insert instead:

**35G Staff of Privacy Commissioner**

Persons may be employed in the Public Service under the *Government Sector Employment Act 2013* to enable the Privacy Commissioner to exercise his or her functions.

**Note.** Section 59 of the *Government Sector Employment Act 2013* provides that the persons so employed (or whose services the Privacy Commissioner makes use of) may be referred to as officers or employees, or members of staff, of the Privacy Commissioner. Section 47A of the *Constitution Act 1902* precludes the Privacy Commissioner from employing staff.

**[6] Schedule 2, clause 7 (1)**

Omit the subclause. Insert instead:

- (1) The provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to a member.

### **3.25 Protection of the Environment Administration Act 1991 No 60**

**[1] Section 7 General functions of Authority**

Omit section 7 (3) including the note. Insert instead:

- (3) Persons may be employed in the Public Service under the *Government Sector Employment Act 2013* to enable the Authority to exercise its functions.

**Note.** Section 59 of the *Government Sector Employment Act 2013* provides that the persons so employed (or whose services the Authority makes use of) may be referred to as officers or employees, or members of staff, of the Authority. Section 47A of the *Constitution Act 1902* precludes the Authority from employing staff.

**[2] Section 18 Chairperson of the Authority**

Omit section 18 (4) and (5). Insert instead:

- (4) Schedule 2A contains provisions relating to the Chairperson.

**[3] Schedule 1, clause 6 (1) (d)**

Omit the paragraph. Insert instead:

- (d) is removed from office by the Governor under this clause or under Part 6 of the *Government Sector Employment Act 2013*, or

**[4] Schedule 1, clause 9 (1)**

Omit the subclause. Insert instead:

- (1) The provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to an appointed member.



**[5] Schedule 2, clause 8 (1)**

Omit the subclause. Insert instead:

- (1) The provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to a member.

**[6] Schedule 2A**

Insert after Schedule 2:

## **Schedule 2A Provisions relating to Chairperson of Authority**

(Section 18 (4))

### **1 Term of office**

The Chairperson holds office for such term, not exceeding 5 years, as may be specified in the instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

### **2 Employment and remuneration**

- (1) The employment of the Chairperson is (subject to this Schedule) to be governed by a contract of employment between the Chairperson and the Minister.
- (2) The following provisions of or made under the *Government Sector Employment Act 2013* relating to the employment of Public Service senior executives apply to the Chairperson (but in the application of those provisions a reference to the employer of any such executive is to be read as a reference to the Minister):
  - (a) provisions relating to the band in which an executive is to be employed,
  - (b) provisions relating to the contract of employment of an executive,
  - (c) provisions relating to the remuneration, employment benefits and allowances of an executive.

### **3 Vacancy in office**

- (1) The office of Chairperson becomes vacant if the holder:
  - (a) dies, or
  - (b) completes a term of office and is not re-appointed, or
  - (c) resigns the office by instrument in writing addressed to the Minister, or
  - (d) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
  - (e) becomes a mentally incapacitated person, or
  - (f) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or
  - (g) is removed from office under clause 4.
- (2) If the office of Chairperson becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

#### **4 Removal from office**

- (1) The Governor may remove the Chairperson from office, but only for incompetence, incapacity or misbehaviour.
- (2) The Chairperson cannot be removed from office under Part 6 of the *Government Sector Employment Act 2013*.

#### **5 Chairperson not Public Service employee**

The office of Chairperson is a statutory office and the provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to that office (except as provided by clause 2).

### **3.26 Public Finance and Audit Act 1983 No 152**

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

Omit paragraph (a) of the definition of *authority*. Insert instead:

- (a) a Public Service agency under the *Government Sector Employment Act 2013*,

#### **[2] Section 4 (1), definition of “Head of an authority”**

Omit paragraph (a). Insert instead:

- (a) in relation to a Public Service agency under the *Government Sector Employment Act 2013*—the head of the agency under that Act,

#### **[3] Section 4 (1), definition of “Head of an authority”**

Omit “the Director-General of the Department of Education and Training” from paragraph (b).

Insert instead “the Secretary of the Department of Education and Communities”.

#### **[4] Section 4 (1), definition of “officer of an authority”**

Omit paragraph (a). Insert instead:

- (a) in relation to a Public Service agency under the *Government Sector Employment Act 2013*—a Public Service employee under that Act,

#### **[5] Section 33B Staff of Audit Office**

Omit section 33B (4). Insert instead:

- (4) The provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to a member of staff of the Audit Office.

#### **[6] Schedule 1, clause 4**

Omit the clause. Insert instead:

#### **4 Auditor-General a statutory officer and not Public Service employee**

The office of Auditor-General is a statutory office and the provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to that office.

### 3.27 Public Interest Disclosures Act 1994 No 92

**[1] Section 4 Definitions**

Omit paragraph (a) of the definition of *public authority*. Insert instead:

- (a) a Public Service agency,

**[2] Section 4A Public officials**

Omit section 4A (1) (a) (i). Insert instead:

- (i) a Public Service employee,

**[3] Section 6E Responsibility of head of public authority**

Omit section 6E (2) (e). Insert instead:

- (e) for a Public Service agency—the head of the agency under the *Government Sector Employment Act 2013*, or

### 3.28 Rural Assistance Act 1989 No 97

**[1] Section 8 Other functions**

Omit section 8 (3) including the note. Insert instead:

- (3) Persons may be employed in the Public Service under the *Government Sector Employment Act 2013* to enable the Authority to exercise its functions.

**Note.** Section 59 of the *Government Sector Employment Act 2013* provides that the persons so employed (or whose services the Authority makes use of) may be referred to as officers or employees, or members of staff, of the Authority. Section 47A of the *Constitution Act 1902* precludes the Authority from employing staff.

**[2] Section 11**

Omit the section. Insert instead:

**11 Chief Executive of the Authority**

The Chief Executive of the Authority is the person employed in the Public Service as the Chief Executive of the Authority.

**[3] Schedule 1, clause 6 (1) (d)**

Omit the paragraph. Insert instead:

- (d) is removed from office by the Minister under this clause, or

**[4] Schedule 1, clause 9 (1)**

Omit the subclause. Insert instead:

- (1) The provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to an appointed member.

**[5] Schedule 2 Provisions relating to Chief Executive**

Omit the Schedule.

### 3.29 Soil Conservation Act 1938 No 10

[1] **Section 3 Definitions**

Omit the definition of *Commissioner*. Insert instead:

*Commissioner* means the person employed in the Public Service as the Soil Conservation Commissioner.

[2] **Section 3 (1), definition of “Deputy Commissioner”**

Omit the definition. Insert instead:

*Deputy Commissioner* means the person employed in the Public Service as the Deputy Soil Conservation Commissioner.

[3] **Section 4 Soil Conservation Commissioner**

Omit “The Governor may from time to time appoint a Commissioner of the Soil Conservation Service of New South Wales who” from section 4 (1).

Insert instead “The Commissioner”.

[4] **Section 4 (1A)**

Omit the subsection.

[5] **Section 5**

Omit the section. Insert instead:

**5 Staff of Commissioner**

Persons may be employed in the Public Service under the *Government Sector Employment Act 2013* to enable the Commissioner to exercise his or her functions.

[6] **Fifth Schedule, clause 5 (1)**

Omit the subclause. Insert instead:

- (1) The provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to a member of a committee.

### 3.30 Sydney Water Catchment Management Act 1998 No 171

[1] **Section 9 Chief Executive**

Omit section 9 (2). Insert instead:

- (2) Schedule 2 contains provisions relating to the Chief Executive.

[2] **Section 15 General functions**

Omit section 15 (3) including the note. Insert instead:

- (3) Persons may be employed in the Public Service under the *Government Sector Employment Act 2013* to enable the SCA to exercise its functions.

**Note.** Section 59 of the *Government Sector Employment Act 2013* provides that the persons so employed (or whose services the SCA makes use of) may be referred to as officers or employees, or members of staff, of the SCA. Section 47A of the *Constitution Act 1902* precludes the SCA from employing staff.

**[3] Schedule 1, clause 6 (1) (d)**

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

Insert instead “Part 6 of the *Government Sector Employment Act 2013*”.

**[4] Schedule 1, clause 9 (1)**

Omit the subclause. Insert instead:

- (1) The provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to an appointed member.

**[5] Schedule 2**

Omit the Schedule. Insert instead:

## **Schedule 2 Provisions relating to Chief Executive**

(Section 9 (2))

### **1 Term of office**

The Chief Executive holds office for such term, not exceeding 5 years, as may be specified in the instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

### **2 Full-time office**

The office of Chief Executive is a full-time office and the holder of the office is required to hold it on that basis, except to the extent permitted by the Minister.

### **3 Acting Chief Executive**

- (1) The Minister may, from time to time, appoint a person to act in the office of Chief Executive during the illness or absence of the Chief Executive or during a vacancy in the office of Chief Executive. The person, while so acting, has all the functions of the Chief Executive and is taken to be the Chief Executive.
- (2) The Minister may, at any time, remove a person from office as acting Chief Executive.
- (3) An acting Chief Executive is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine.

### **4 Employment and remuneration**

- (1) The employment of the Chief Executive is (subject to this Schedule) to be governed by a contract of employment between the Chief Executive and the Minister.
- (2) The following provisions of or made under the *Government Sector Employment Act 2013* relating to the employment of Public Service senior executives apply to the Chief Executive (but in the application of those provisions a reference to the employer of any such executive is to be read as a reference to the Minister):
  - (a) provisions relating to the band in which an executive is to be employed,
  - (b) provisions relating to the contract of employment of an executive,

- (c) provisions relating to the remuneration, employment benefits and allowances of an executive,
  - (d) provisions relating to the termination of employment of an executive.
- (3) The performance criteria dealt with in the Chief Executive's contract of employment are to include criteria that require improvement of the quality of the water in catchment areas.

#### **5 Vacancy in office**

- (1) The office of Chief Executive becomes vacant if the holder:
- (a) dies, or
  - (b) completes a term of office and is not re-appointed, or
  - (c) resigns the office by instrument in writing addressed to the Minister, or
  - (d) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
  - (e) becomes a mentally incapacitated person, or
  - (f) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or
  - (g) is removed from office under clause 4.
- (2) If the office of Chief Executive becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

#### **6 Chief Executive not Public Service employee**

The office of Chief Executive is a statutory office and the provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to that office (except as provided by clause 4).

### **3.31 Technical and Further Education Commission Act 1990 No 118**

#### **[1] Section 13 Managing Director**

Omit section 13 (2). Insert instead:

- (2) Schedule 1A contains provisions relating to the Managing Director.

#### **[2] Section 22 Extended or long service leave**

Omit section 22 (2) and (3). Insert instead:

- (2) The staff to whom this section applies are entitled to extended leave at the same rate as Public Service employees under the *Government Sector Employment Act 2013*.

**[3] Schedule 1, clause 6 (1) (d)**

Omit the paragraph. Insert instead:

(d) is removed from office by the Minister under this clause, or

**[4] Schedule 1, clause 9 (1)**

Omit the subclause. Insert instead:

(1) The provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to an appointed member.

**[5] Schedule 1A**

Insert after Schedule 1:

## **Schedule 1A Provisions relating to Managing Director**

(Section 13 (2))

### **1 Term of office**

The Managing Director holds office for such term, not exceeding 5 years, as may be specified in the instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

### **2 Full-time office**

The office of Managing Director is a full-time office and the holder of the office is required to hold it on that basis, except to the extent permitted by the Minister.

### **3 Employment and remuneration**

(1) The employment of the Managing Director is (subject to this Schedule) to be governed by a contract of employment between the Managing Director and the Minister.

(2) The following provisions of or made under the *Government Sector Employment Act 2013* relating to the employment of Public Service senior executives apply to the Managing Director (but in the application of those provisions a reference to the employer of any such executive is to be read as a reference to the Minister):

- (a) provisions relating to the band in which an executive is to be employed,
- (b) provisions relating to the contract of employment of an executive,
- (c) provisions relating to the remuneration, employment benefits and allowances of an executive,
- (d) provisions relating to the termination of employment of an executive.

### **4 Vacancy in office**

(1) The office of Managing Director becomes vacant if the holder:

- (a) dies, or
- (b) completes a term of office and is not re-appointed, or
- (c) resigns the office by instrument in writing addressed to the Minister, or

- (d) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
  - (e) becomes a mentally incapacitated person, or
  - (f) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or
  - (g) is removed from office under clause 3.
- (2) If the office of Managing Director becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

#### **5 Managing Director not Public Service employee**

The office of Managing Director is a statutory office and the provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to that office (except as provided by clause 3).

### **3.32 Transport Administration Act 1988 No 109**

- [1] **Sections 2B (2), 3B, 3C, 3E, 15, 27, 35J, 43, 47, 50, 68C (2), 68D, 68E (2), 68G (3) and (7), 68H, 94 (6), 101 (3A) and 112 (2), clause 3 of Schedule 2 and clause 13A (4) of Schedule 6A**

Omit “Director-General” and “Director-General’s” wherever occurring.

Insert instead “Transport Secretary” and “Transport Secretary’s” respectively.

- [2] **Section 3 Definitions**

Omit the definition of *Director-General*. Insert in alphabetical order:

*Transport Secretary* means the Secretary of the Department of Transport.

- [3] **Section 20 Constitution of STA**

Omit section 20 (3) including the note.

- [4] **Section 42B Constitution of Independent Transport Safety Regulator**

Omit section 42B (3) including the note. Insert instead:

- (3) Persons may be employed in the Public Service under the *Government Sector Employment Act 2013* to enable the ITSR to exercise its functions.

**Note.** Section 59 of the *Government Sector Employment Act 2013* provides that the persons so employed (or whose services the ITSR makes use of) may be referred to as officers or employees, or members of staff, of the ITSR. Section 47A of the *Constitution Act 1902* precludes the ITSR from employing staff.

- [5] **Section 42M Chief Executive of ITSR**

Omit section 42M (3), (4) and (5). Insert instead:

- (3) Schedule 2A contains provisions relating to the Chief Executive.

- [6] **Section 45 Chief Investigator**

Omit section 45 (2) and (3). Insert instead:

- (2) Schedule 2A contains provisions relating to the Chief Investigator.



- [7] **Section 49A General functions of RMS**  
Omit section 49A (2) including the note.
- [8] **Part 7, Division 1 Regulations relating to staff employed in connection with certain authorities**  
Omit the Division.
- [9] **Section 58C Regulations relating to RailCorp staff**  
Omit “and” at the end of section 58C (2) (b) and omit section 58C (2) (c) and (d).
- [10] **Section 58C (3)**  
Omit the subsection. Insert instead:  
(3) The provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to the employment of staff under this Division.
- [11] **Section 59 Employment of staff**  
Insert after section 59 (2):  
(2A) The provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to the employment of those members of staff.
- [12] **Section 61 Regulations relating to staff of Chief Investigator**  
Omit “and” at the end of section 61 (2) (b) and omit section 61 (2) (c).
- [13] **Section 64 Regulations relating to Sydney Ferries staff**  
Omit section 64 (2) (c) and (d). Insert instead:  
(c) may provide for appeals by members of staff in connection with their employment.
- [14] **Section 64 (3)**  
Omit the subsection. Insert instead:  
(3) The provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to the employment of staff under this Division.
- [15] **Section 68C Employment in the Transport Service**  
Omit section 68C (1). Insert instead:  
(1) The Government of New South Wales may employ persons in the Transport Service to enable the following bodies (and their public subsidiary corporations) to exercise their functions:  
(a) TfNSW,  
(b) State Transit Authority,  
(c) RMS.

**[16] Sections 68F and 68I–68M**

Omit the sections. Insert after section 68H:

**68HA Miscellaneous provisions relating to Transport Service**

**(1) Extended leave entitlements**

Persons employed in the Transport Service have the same entitlements to extended leave as Public Service employees under the *Government Sector Employment Act 2013*.

**(2) Retirement on medical grounds**

The Transport Secretary may retire a person employed in the Transport Service if:

- (a) the employee is found to be unfit to perform or incapable of performing the duties of the person's employment, and
- (b) the employee's unfitness or incapacity:
  - (i) appears likely to be of a permanent nature, and
  - (ii) has not arisen from actual misconduct on the part of the employee, or from causes within the employee's control.

**(3) Civil liability with respect to staff**

If:

- (a) a person is employed in the Transport Service, and
- (b) the Government of New South Wales is, as the person's employer, proceeded against for any negligence or other tort of the person (whether the damages are recoverable in an action for tort or breach of contract or in any other action), and
- (c) TfNSW, the State Transit Authority or RMS is entitled under a policy of insurance or indemnity to be indemnified in respect of liability that it may incur in respect of that negligence or other tort,

the Government is subrogated to the rights of TfNSW, the State Transit Authority or RMS under that policy in respect of the liability incurred by the Government arising from that negligence or other tort.

**Note.** See also section 279A (*Workers compensation liability with respect to staff of statutory bodies*) of the *Workers Compensation Act 1987*.

**(4) Operation of privacy legislation**

The persons employed in the Transport Service to enable TfNSW, the State Transit Authority or RMS to exercise its functions are, for the purposes of the *Privacy and Personal Information Protection Act 1998* and the *Health Records and Information Privacy Act 2002*, taken to be part of TfNSW, the State Transit Authority or RMS, as the case requires.

**(5) Construction of references relating to staff**

In this or any other Act, or in any instrument made under this or any other Act or in any other instrument of any kind, a reference to an officer or employee, or a member of staff, of:

- (a) TfNSW (or a public subsidiary corporation of TfNSW) is to be read as a reference to a person employed in the Transport Service to enable TfNSW (or the corporation) to exercise its functions, or
- (b) the State Transit Authority (or a public subsidiary corporation of the Authority) is to be read as a reference to a person employed in the

Transport Service to enable the Authority (or the corporation) to exercise its functions, or

- (c) RMS (or a public subsidiary corporation of RMS) is to be read as a reference to a person employed in the Transport Service to enable RMS (or the corporation) to exercise its functions.

(6) **Delegation of Transport Secretary's functions under this Part**

The Transport Secretary may delegate any of the Transport Secretary's functions under this Part (other than this power of delegation) to a person employed in the Transport Service or to a person employed in the Department of Transport.

(7) **Delegation of Transport Secretary's functions under GSE Act**

The power of the Transport Secretary under section 27 of the *Government Sector Employment Act 2013* to delegate a function referred to in that section extends to a delegation of the function to a person employed in the Transport Service.

(8) **Acting Transport Secretary**

A person employed in the Transport Service may also be appointed to act as the Transport Secretary under section 24 of the *Government Sector Employment Act 2013*.

[17] **Schedule 2A**

Insert after Schedule 2:

**Schedule 2A Chief Executive of the ITSR and Chief Investigator of Office of Transport Safety Investigations**

(Sections 42M (3) and 45 (2))

**1 Definition**

In this Schedule:

**Chief Executive** means the Chief Executive of the ITSR or the Chief Investigator of the Office of Transport Safety Investigations.

**2 Term of office**

- (1) A Chief Executive holds office for such term, not exceeding 5 years, as may be specified in the instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.
- (2) A person is not eligible to be appointed for more than 2 terms of office as Chief Executive of the ITSR (whether or not consecutive terms).

**3 Full-time office**

The office of Chief Executive is a full-time office and the holder of the office is required to hold it on that basis, except to the extent permitted by the Minister.

#### **4 Employment and remuneration**

- (1) The employment of a Chief Executive is (subject to this Schedule) to be governed by a contract of employment between the Chief Executive and the Minister.
- (2) The following provisions of or made under the *Government Sector Employment Act 2013* relating to the employment of Public Service senior executives apply to a Chief Executive (but in the application of those provisions a reference to the employer of any such executive is to be read as a reference to the Minister):
  - (a) provisions relating to the band in which an executive is to be employed,
  - (b) provisions relating to the contract of employment of an executive,
  - (c) provisions relating to the remuneration, employment benefits and allowances of an executive.

#### **5 Vacancy in office**

- (1) The office of Chief Executive becomes vacant if the holder:
  - (a) dies, or
  - (b) completes a term of office and is not re-appointed, or
  - (c) resigns the office by instrument in writing addressed to the Minister, or
  - (d) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
  - (e) becomes a mentally incapacitated person, or
  - (f) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or
  - (g) is removed from office under clause 6.
- (2) If the office of the Chief Executive becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

#### **6 Removal from office**

The Governor may remove the Chief Executive from office, but only for incompetence, incapacity or misbehaviour.

#### **7 Chief Executive not Public Service employee**

The office of Chief Executive is a statutory office and the provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to that office (except as provided by clause 4).

#### **[18] Schedule 3, clause 7 (1) (d)**

Omit the paragraph. Insert instead:

- (d) is removed from office by the Minister under this clause, or

**[19] Schedule 3, clause 9 (1)**

Omit the subclause. Insert instead:

- (1) The provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to an appointed member.

**[20] Schedule 5 Extended leave for certain staff**

Omit paragraphs (b), (c) and (g) of the definition of *Authority* in clause 2.

**[21] Schedule 5, clause 3 (2) (c) and (3)**

Omit “Schedule 3A to the *Public Sector Employment and Management Act 2002*” wherever occurring.

Insert instead “Schedule 2 to the *Government Sector Employment Regulation 2014*”.

### **3.33 Treasury Corporation Act 1983 No 75**

**[1] Section 4 Treasury Corporation**

Omit section 4 (10) including the note. Insert instead:

- (10) The Corporation may employ staff. The provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to the staff employed by the Corporation.

**[2] Schedule 1, clause 8**

Omit the clause. Insert instead:

**8 Chief Executive a statutory officer and not Public Service employee**

The office of Chief Executive is a statutory office and the provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to that office.

**[3] Schedule 3, clause 9 (1)**

Omit the subclause. Insert instead:

- (1) The provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to an appointed member.

**Commencement**

Schedule 3.33 [1] commences on a day to be appointed by proclamation.

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

**Section 279A Workers compensation liability with respect to staff of statutory bodies**

Insert in alphabetical order in section 279A (4):

*Public Service* includes the Transport Service of New South Wales.

### 3.35 Workplace Injury Management and Workers Compensation Act 1998 No 86

#### [1] Section 4 Definitions

Omit the definition of *Chief Executive Officer*. Insert instead:

*Chief Executive Officer* means the person employed in the Public Service as the Chief Executive Officer of Safety, Return to Work and Support.

#### [2] Section 22 General functions of Authority

Omit section 22 (4) including the note. Insert instead:

- (4) Persons may be employed in the Public Service under the *Government Sector Employment Act 2013* to enable the Authority to exercise its functions.

**Note.** Section 59 of the *Government Sector Employment Act 2013* provides that the persons so employed (or whose services the Authority makes use of) may be referred to as officers or employees, or members of staff, of the Authority. Section 47A of the *Constitution Act 1902* precludes the Authority from employing staff.

#### [3] Section 24 Appointment of Independent Review Officer

Omit section 24 (5) and (6). Insert instead:

- (5) The office of Independent Review Officer is a statutory office and the provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to that office.

- (6) Persons may be employed in the Public Service under the *Government Sector Employment Act 2013* to enable the Independent Review Officer to exercise his or her functions.

**Note.** Section 59 of the *Government Sector Employment Act 2013* provides that the persons so employed (or whose services the Independent Review Officer makes use of) may be referred to as officers or employees, or members of staff, of that Officer. Section 47A of the *Constitution Act 1902* precludes that Officer from employing staff.

#### [4] Section 25 Vacancy in office of Independent Review Officer

Insert after section 25 (2):

- (2A) The Independent Review Officer cannot be removed from office under Part 6 of the *Government Sector Employment Act 2013*.

#### [5] Section 374 Staff and facilities of Commission

Omit section 374 (1)–(3). Insert instead:

- (1) Persons may be employed in the Public Service under the *Government Sector Employment Act 2013* to enable the Commission to exercise its functions.

**Note.** Section 59 of the *Government Sector Employment Act 2013* provides that the persons so employed (or whose services the Commission makes use of) may be referred to as officers or employees, or members of staff, of the Commission. Section 47A of the *Constitution Act 1902* precludes the Commission from employing staff.

- (2) The persons so employed are, in the exercise of their functions, subject to the general control and direction of the Registrar.

- (3) This section does not affect the exercise of the functions under the *Government Sector Employment Act 2013* of the head of the Public Service agency in which those persons are employed.

**[6] Section 374 (5)**

Omit the subsection.

**[7] Section 374 (6)**

Omit "Department". Insert instead "Public Service agency".

**[8] Schedule 5, clause 11 (1)**

Omit the subclause. Insert instead:

- (1) The office of a member of the Commission is a statutory office and the provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to that office.

### **3.36 Zoological Parks Board Act 1973 No 34**

**[1] Section 5 Constitution of Board**

Omit section 5 (3) including the note. Insert instead:

- (3) Persons may be employed in the Public Service under the *Government Sector Employment Act 2013* to enable the Board to exercise its functions.

**Note.** Section 59 of the *Government Sector Employment Act 2013* provides that the persons so employed (or whose services the Board makes use of) may be referred to as officers or employees, or members of staff, of the Board. Section 47A of the *Constitution Act 1902* precludes the Board from employing staff.

**[2] Section 9 General provisions relating to members**

Omit section 9 (4). Insert instead:

- (4) The provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to a member.

**[3] Section 12**

Omit the section. Insert instead:

**12 Director of Zoological Parks Board**

- (1) The Director of the Zoological Parks Board is the person employed in the Public Service as the Director.
- (2) The Board is to be consulted on any proposed appointment of a Director of the Zoological Parks Board.

## **Schedule 4 Repeals**

### **1 Repeal of redundant Acts**

The following Acts are repealed:

- (a) *Appropriation Act 2012* No 44,
- (b) *Appropriation (Budget Variations) Act 2012* No 50,
- (c) *Appropriation (Parliament) Act 2012* No 45,
- (d) *Statute Law (Miscellaneous Provisions) Act 2013* No 47,
- (e) *Statute Law (Miscellaneous Provisions) Act (No 2) 2013* No 111.

### **2 Repeal of amending provisions that have commenced**

Schedule 5 to the *Board of Studies, Teaching and Educational Standards Act 2013* No 89 is repealed.

### **3 Repeal of provisions that amend provisions of an Act that have been repealed**

Schedule 2.9 to the *Mining Amendment Act 2008* No 19 is repealed.



## **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 provisions of Acts, 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 any provision of an Act. The Act 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 27 May 2014  
Legislative Council on 28 May 2014]