



New South Wales

# Statute Law (Miscellaneous Provisions) Act (No 2) 2018 No 68

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

**1 Name of Act**

This Act is the *Statute Law (Miscellaneous Provisions) Act (No 2) 2018*.

**2 Commencement**

- (1) This Act commences on 8 January 2019, except as provided by this section.
- (2) The amendments made by Schedules 1 and 2 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) Schedule 4 commences on the date of assent to this Act.

**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 Casino Control Act 1992 No 15

**[1] Section 115 Responsible gambling levy and fund**

Omit “of each trust deed” from section 115 (6).

**[2] Section 115 (6)**

Omit “concerned”.

**[3] Section 115 (7)**

Omit “of a trust deed”.

**Explanatory note**

The proposed amendments make it clear that only one trust deed is required to be created for the purposes of the Responsible Gambling Fund.

### 1.2 Cemeteries and Crematoria Act 2013 No 105

**Dictionary**

Omit the definition of *funeral director*. Insert instead:

*funeral director* means a person who, in the conduct of operating a business or a service:

- (a) engages, for the purpose of burial or cremation, in the collection, transport, storage, preparation or embalming of bodies, or
- (b) engages in the conduct of exhumations.

**Explanatory note**

The proposed amendment extends the definition of *funeral director* for the purposes of the *Cemeteries and Crematoria Act 2013* to persons operating burial and cremation businesses and services for profit. Currently, the definition is limited to not-for-profit services.

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

**[1] Section 3 Definitions**

Omit “landline” from paragraph (c) of the definition of *high level identification information* in section 3 (1).

**[2] Section 175 Special medical treatment**

Omit the note to section 175 (4A). Insert instead:

**Note.** A copy of the general exemption issued by the Secretary can be accessed at the Department’s website.

**[3] Section 245I Commonwealth and interstate agencies**

Insert after section 245I (e):

- (f) any other prescribed body that is a department of the public service, or an agency, of another State or Territory.

**Explanatory note**

Item [1] of the proposed amendments to the *Children and Young Persons (Care and Protection) Act 1998* (the **Care Act**) extends the restrictions on the disclosure of landline telephone numbers of authorised carers so that they apply to any telephone number of an authorised carer.

Item [2] removes a reference to a disused website.

Item [3] makes it clear that provisions of the Care Act that authorise certain bodies (including agencies of other States or Territories) to exchange with each other information relating to the provision of child

protection services do not operate to impose any requirement on an agency of any other State or Territory.

## 1.4 Coal Mine Subsidence Compensation Act 2017 No 37

### Section 23 Contravening development

Omit “that was altered or erected more than 15 years before the claim was made” from section 23 (2) (a).

#### Explanatory note

The proposed amendment gives the Chief Executive of Subsidence Advisory NSW discretion to determine a claim for compensation under the *Coal Mine Subsidence Compensation Act 2017* in relation to a residential building altered or erected without approval at any time before the claim for compensation was made. Currently, the discretion applies only in relation to a residential building altered or erected more than 15 years before the claim was made.

## 1.5 Community Housing Providers (Adoption of National Law) Act 2012 No 59

### Section 30

Insert after section 29:

#### 30 Delegations

- (1) A Housing Agency may delegate to a person the exercise of any of its functions under this Act (including any function under the *Community Housing Providers National Law (NSW)*), other than this power of delegation.
- (2) A delegate of a Housing Agency may sub-delegate to a person any function delegated by the Housing Agency if the delegate is authorised to do so by the Housing Agency.

#### Explanatory note

The proposed amendment enables a Housing Agency (including the New South Wales Land and Housing Corporation, the Secretary of the Department of Family and Community Services and the Aboriginal Housing Office) to delegate, and authorise the sub-delegation of, its functions under the *Community Housing Providers (Adoption of National Law) Act 2012* (including any function under the *Community Housing Providers National Law (NSW)*).

## 1.6 Criminal Appeal Act 1912 No 16

### Section 2 Definitions

Insert “or 4” after “Division 3” in paragraph (h) of the definition of *Sentence* in section 2 (1).

#### Explanatory note

The proposed amendment updates a reference to provisions of the *Criminal Procedure Act 1986* under which costs orders are made by the Supreme Court in its summary jurisdiction for the purposes of a provision enabling the making of appeals against costs orders. The amendment is consequent on the enactment of the *Courts Legislation Amendment Act 2006*.

## 1.7 Criminal Legislation Amendment (Child Sexual Abuse) Act 2018 No 33

### Schedule 1 Amendment of Crimes Act 1900 No 40

Omit “victim” wherever occurring in proposed section 61HE (3) and (4) in Schedule 1 [6].

Insert instead “alleged victim”.

#### Commencement

The amendment to the *Criminal Legislation Amendment (Child Sexual Abuse) Act 2018* commences on the date of assent to this Act.

**Explanatory note**

The proposed amendment makes terminology used in an amendment to the *Crimes Act 1900* in reference to the victim of an offence relating to sexual assault consistent with other provisions containing sexual offences to be inserted into that Act by the *Criminal Legislation Amendment (Child Sexual Abuse) Act 2018*.

## **1.8 Crown Land Management Act 2016 No 58**

### **[1] Section 3.27 Exercise of functions by category 2 non-council managers**

Omit section 3.27 (2) (a). Insert instead:

- (a) granting of short-term licences under section 2.20,

### **[2] Section 5.21 Licences generally**

Insert after section 5.21 (1):

- (1A) Without limiting subsection (1), a licence may authorise the use or occupation of Crown land for the purposes of accessing water on, or transporting water from or across, the land (including the use or undertaking of any ancillary works).

### **[3] Section 5.57 Removal of restrictions or covenants on Crown land**

Insert after section 5.57 (7):

- (8) In this section:  
*Crown land* includes former Crown land.

### **[4] Section 9.12 Removal by authorised persons**

Omit “*authorised employee*” from section 9.12 (1). Insert instead “*authorised person*”.

### **[5] Section 9.12 (1) (c)**

Insert after section 9.12 (1) (b):

- (c) if the Ministerial Corporation is the Crown land manager—a person authorised in writing by the Ministerial Corporation to exercise functions under this section.

### **[6] Section 9.12 (2)**

Omit “authorised employee” and “the employee”.

Insert instead “authorised person” and “the authorised person”, respectively.

**Explanatory note**

Item [1] of the proposed amendments limits a provision authorising a non-council manager of dedicated or reserved Crown land to grant licences under the *Crown Land Management Act 2016* for a term of one year or less without Ministerial consent so that it applies only to short-term licences granted over the land under a provision that enables the Minister to grant short-term licences for purposes prescribed by regulations under that Act. The amendment will make the provision authorising the granting of licences without Ministerial consent consistent with section 102 of the repealed *Crown Lands Act 1989*.

Item [2] makes it clear that a licence may be granted for the purposes of accessing water on Crown land or transporting water from or across Crown land.

Item [3] makes it clear that the power of the Minister to consent to the removal of a restriction or covenant on Crown land extends to restrictions and covenants on former Crown land.

Item [5] gives a person authorised by the Lands Administration Ministerial Corporation the power to remove a person from dedicated or reserved Crown land for which it is the Crown land manager. Items [4] and [6] make consequential amendments to terminology.

## 1.9 Education Act 1990 No 8

### [1] Section 83B Financial and other assistance in respect of non-government school children

Omit section 83B (8).

### [2] Section 83C (5)

Insert after section 83C (4):

(5) In this section:

*asset* means an economic resource that may depreciate in value over time.

*income* means money or other forms of consideration received periodically from the provision of property, goods or services, investments, gifts, donations, grants, financial assistance or any other gain obtained from the use of a school's assets or its proprietor's assets.

*payment* means a transaction involving consideration (including non-monetary consideration) and includes a commitment to spend or a liability incurred (whether or not the time for payment has arisen).

#### Explanatory note

Item [1] of the proposed amendments omits a spent provision.

Item [2] defines the meaning of certain financial accounting terminology for the purposes of the prohibition on giving financial assistance to schools that operate for profit, in line with recommendations of the Non-Government Schools Not-for-profit Advisory Committee.

## 1.10 Electoral Act 2017 No 66

### [1] Section 59 Application for registration

Omit section 59 (2) (k).

### [2] Section 119 Appointment of scrutineers

Insert "or a registered party" after "by a candidate" in section 119 (4).

### [3] Section 144 Issue of ballot papers to registered early voters

Omit section 144 (a). Insert instead:

(a) a postal vote certificate, in the approved form, printed on an envelope, and

(a1) if the envelope on which the postal vote certificate is printed is not addressed to the Electoral Commissioner—another envelope that is addressed to the Electoral Commissioner, and

### [4] Section 145 Issue of ballot papers to postal vote applicants

Omit section 145 (2) (a). Insert instead:

(a) a postal vote certificate, in the approved form, printed on an envelope, and

(a1) if the envelope on which the postal vote certificate is printed is not addressed to the Electoral Commissioner—another envelope that is addressed to the Electoral Commissioner, and

**[5] Section 148 Directions for postal voting**

Omit section 148 (1) (c) (iii). Insert instead:

- (iii) place the ballot paper in the envelope on which the postal vote certificate is printed, and

**[6] Section 149 Preliminary scrutiny of postal ballot papers**

Insert “on which a postal vote certificate is printed” after “envelopes” wherever occurring in section 149 (1) (a) and (b).

**[7] Section 259 Penalty notices for offence of failing to vote**

Omit “on” from section 259 (6). Insert instead “to”.

**Commencement**

The amendments to the *Electoral Act 2017* commence on the date of assent to this Act.

**Explanatory note**

Item [1] of the proposed amendments removes the requirement for an application for the registration of a party to state whether or not the party wishes to be registered for the purposes of the *Electoral Funding Act 2018* (which is redundant because parties are registered only under the *Electoral Act 2017*).

Item [2] makes it clear that the requirement for the appointment of a scrutineer to be in the form approved by the Electoral Commissioner applies to an appointment made by a registered party (in the same way as it applies to an appointment made by a candidate).

Items [3], [4], [5] and [6] make it clear that the Electoral Commissioner may provide a postal voter with a second envelope addressed to the Electoral Commissioner when issuing ballot papers to the voter. The amendments will make postal voting provisions consistent with State and Commonwealth practices.

Item [7] corrects a typographical error.

## **1.11 Electoral Funding Act 2018 No 20**

**[1] Section 3 Objects of Act**

Insert “associated entities,” after “agents,” in section 3 (e).

**[2] Section 14 Person responsible for making disclosures**

Insert after section 14 (7):

- (8) In this section, in relation to elected members of Parliament and candidates and groups of candidates in State elections, a reference to membership of a registered party does not include a reference to membership of a party registered under section 320 (2) of the *Local Government Act 1993*.
- (9) Despite section 63 (2) (a) of the *Electoral Act 2017*, a party that becomes registered under Part 6 of that Act is, for the purposes of this section, taken to be registered on the date of its registration.

**[3] Section 26 Exemption from donation caps**

Insert “is” after “it” in section 26 (4).

**[4] Section 69 Amount of public funding for eligible independent candidates (or eligible candidates of parties not eligible for public campaign funding)**

Insert “or by-election for the Assembly” after “Assembly general election” in section 69 (2) (a).

**[5] Section 100 Duties of senior office holders of registered parties to report alleged contraventions of this Act**

Omit “, the senior office holder” from section 100 (1).



**[6] Section 132 Public access to registers**

Omit “on its website”. Insert instead “in accordance with this section”.

**[7] Section 132 (2)**

Insert at the end of section 132:

- (2) The Electoral Commission is to:
  - (a) prepare a copy of each register that excludes the residential address of any person who is a silent elector within the meaning of the *Electoral Act 2017* (if the Electoral Commission is aware that the person is a silent elector) and make it available for public inspection at the office of the Electoral Commission during ordinary office hours, and
  - (b) prepare a copy of each register that excludes the addresses of all individuals and publish it on its website.

**[8] Schedule 1, heading**

Omit “caps”. Insert instead “amounts”.

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

Omit the subclause. Insert instead:

- (1) Each of the adjustable amounts specified in sections 67 and 69 is to be adjusted for inflation as provided by this clause.

**Commencement**

The amendments to the *Electoral Funding Act 2018* commence on the date of assent to this Act.

**Explanatory note**

Item [1] of the proposed amendments extends the objects of the *Electoral Funding Act 2018* relating to compliance of parties, elected members, candidates, groups, agents, third-party campaigners and donors with the electoral funding, expenditure and disclosure scheme so that the objects apply in the same way to associated entities.

Item [2] makes it clear that the party agent for a political party registered under the *Local Government Act 1993* is not responsible for making disclosures of political donations and electoral expenditure in relation to State elections for candidates, groups and elected members of Parliament. The item also provides that for the purpose of such disclosures a party’s registration under the *Electoral Act 2017* takes effect on the date of registration (and not 12 months after registration).

Items [6] and [7] remove the requirement to publish on the website of the Electoral Commission addresses of individuals contained in a register of electoral participants under the *Electoral Funding Act 2018* (which will instead be accessible by inspection of the register at the premises of the Electoral Commission, unless the individual is a silent elector).

Item [4] provides that a candidate is entitled to an amount of public funding for each first preference vote received by the candidate in a Legislative Assembly by-election that is equivalent to the amount to which the candidate is entitled for each first preference vote received in the Assembly general election. Item [9] makes it clear that the amounts of public funding for eligible parties and candidates that are adjusted for inflation for the 2019 State general election and each subsequent State general election are to be adjusted in the same way for each Legislative Assembly by-election between that general election and subsequent general elections.

Items [3], [5] and [8] correct typographical errors.

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

**[1] Section 6.5 Functions of certifiers (including principal certifiers)**

Omit “a construction certificate” from section 6.5 (1) (d).

Insert instead “an occupation certificate”.

**[2] Section 7.28 Establishment of Fund**

Omit “the Planning Secretary of the Treasury” from section 7.28 (2).

Insert instead “the Secretary of the Treasury”.

**Explanatory note**

Item [1] of the proposed amendments corrects a provision setting out the functions of a certifier for building or subdivision work by removing a reference to the issue of compliance certificates by a principal certifier when the certificate is an authorised alternative to a construction certificate. The reference is incorrect because the Act does not provide that a compliance certificate is an authorised alternative to a construction certificate.

Item [2] corrects terminology used in reference to the Secretary of the Treasury.

**1.13 Food Act 2003 No 43**

**[1] Section 115A Food Regulation Forum**

Omit “the Local Government and Shires Association of New South Wales” and “that Association” wherever occurring in section 115A (1) (c) and (d).

Insert instead “Local Government NSW” and “that body”, respectively.

**[2] Section 115A (1) (e)**

Omit “the Local Government Managers Australia, NSW”.

Insert instead “Local Government Professionals Australia, NSW”.

**[3] Section 115A (1) (f)**

Omit “the Australian Institute of Environmental Health, NSW Division” and “that Institute”.

Insert instead “Environmental Health Australia” and “that body”, respectively.

**[4] Section 137**

Omit the section. Insert instead:

**137 Service of documents**

- (1) A document that is authorised or required by this Act or the regulations to be served on any person may be served by any of the following methods:
  - (a) in the case of an individual—by personal delivery to the person,
  - (b) by post to the address specified by the person for the service of documents of that kind,
  - (c) in the case of an individual who has not specified such an address—by post to the residential or business address of the person last known to the person serving the document,
  - (d) in the case of a corporation—by post to the registered office or any other office of the corporation or by leaving it at any such office with a person apparently over the age of 16 years,
  - (e) by email to an email address specified by the person for the service of documents of that kind,
  - (f) by any other method authorised by the regulations for the service of documents of that kind.
- (2) Nothing in this section affects the operation of any provision of a law or of the rules of a court authorising a document to be served on a person by any other method.

(3) In this section, *serve* includes give or send.

**Explanatory note**

Items [1]–[3] of the proposed amendments update the names of certain local government and environmental health organisations that may nominate members of the Food Regulation Forum.

Item [4] provides for the service of documents by email (or any other method prescribed by regulations under the *Food Act 2003*) as an alternative to personal or postal service.

## 1.14 Land Tax Management Act 1956 No 26

### [1] Section 10 Land exempted from tax

Omit section 10 (1) (p), (p1) and (p2). Insert instead:

- (p) land that is the subject of a biodiversity stewardship agreement under the *Biodiversity Conservation Act 2016*,
- (p1) land that is the subject of a conservation agreement under the *Biodiversity Conservation Act 2016* or the *National Parks and Wildlife Act 1974*, being an agreement that remains in force in perpetuity (that is, an agreement that remains in force for an indefinite period and that cannot be unilaterally terminated by the owner of the land),
- (p1A) land that is the subject of a registered Trust agreement that was referred to in section 36 of the *Nature Conservation Trust Act 2001* (being an agreement that is continued in force by clause 50 of the *Biodiversity Conservation (Savings and Transitional) Regulation 2017* and that remains in force in perpetuity, as referred to in paragraph (p1)),
- (p2) land in which the Biodiversity Conservation Trust holds an interest,

### [2] Section 10 (2C)

Omit the subsection. Insert instead:

- (2C) If part of any land is the subject of any of the following agreements, the land value of that land is, for the purposes of the assessment of land tax, to be reduced by an amount that bears the same proportion to that land value as the area of the part that is the subject of the agreement bears to the area of the whole of the land:
  - (a) a biodiversity stewardship agreement under the *Biodiversity Conservation Act 2016*,
  - (b) a conservation agreement under the *Biodiversity Conservation Act 2016* or the *National Parks and Wildlife Act 1974*, being an agreement that remains in force in perpetuity (that is, an agreement that remains in force for an indefinite period and that cannot be unilaterally terminated by the owner of the land),
  - (c) land that is the subject of a registered Trust agreement that was referred to in section 36 of the *Nature Conservation Trust Act 2001* (being an agreement that is continued in force by clause 50 of the *Biodiversity Conservation (Savings and Transitional) Regulation 2017* and that remains in force in perpetuity, as referred to in paragraph (b)).

### [3] Schedule 1A Principal place of residence exemption

Omit “sale of former” from clause 12 (10). Insert instead “change to”.

**Explanatory note**

Items [1] and [2] of the proposed amendments update a provision exempting certain land from land tax to reflect the continuation under the *Biodiversity Conservation Act 2016* of certain matters formerly dealt with by the repealed *Threatened Species Conservation Act 1995* and *Nature Conservation Trust Act 2001*. The provision is amended to reflect that:

- (a) biobanking agreements under Part 7A of the *Threatened Species Conservation Act 1995* have been replaced by biodiversity stewardship agreements under the *Biodiversity Conservation Act 2016*, and
- (b) conservation agreements continue to be entered into under the *National Parks and Wildlife Act 1974* for some purposes but can also be entered into under the *Biodiversity Conservation Act 2016* for certain other purposes relating to biodiversity conservation, and
- (c) the operation of existing Trust agreements entered into under the *Nature Conservation Trust Act 2001* is continued by the *Biodiversity Conservation (Savings and Transitional) Regulation 2017*, and
- (d) the Biodiversity Conservation Trust established under the *Biodiversity Conservation Act 2016* is a continuation of, and the same legal entity as, the Nature Conservation Trust of New South Wales established under the *Nature Conservation Trust Act 2001*.

Item [3] corrects a reference to the heading of a clause.

## 1.15 Liquor Act 2007 No 90

### [1] Section 114A

Omit the section. Insert instead:

#### 114A Definitions

In this Division:

**approved training course** means a training course provided:

- (a) by an approved training provider approved by the Secretary in accordance with the regulations in relation to the course, or
- (b) by or on behalf of the Secretary.

**approved training provider** means a training provider approved by the Secretary in accordance with the regulations to provide training courses.

**interim certificate** means a certificate (in hard copy or electronic form) granted to a person by the Secretary, or by an approved training provider on behalf of the Secretary, following the person's successful completion of an approved training course, for use by the person in obtaining a recognised competency card.

**recognised certification** means an interim certificate or a recognised competency card.

**recognised competency card** means a card issued to a person in accordance with the regulations that certifies as to the matters prescribed by the regulations and provides for the expiry of the card in accordance with the regulations.

**training course** means a training course prescribed by the regulations for the purposes of section 99 (2) (c).

### [2] Section 114B Conditions of approval to conduct training courses

Omit "with respect to the responsible service of alcohol".

### [3] Sections 114C (Prohibition on granting interim certificates to unqualified persons) and 114D

Omit "RSA" wherever occurring.

### [4] Section 134 Terms of local liquor accords

Omit "*Trade Practices Act 1974*" wherever occurring in section 134 (2) and (3).

Insert instead "*Competition and Consumer Act 2010*".

**[5] Schedule 1 Savings and transitional provisions**

Omit “the the” from the definition of *former Court* in clause 2. Insert instead “the”.

**Commencement**

Items [1]–[3] of the amendments to the *Liquor Act 2007* commence on a day to be appointed by proclamation.

**Explanatory note**

Items [1]–[3] of the proposed amendments extend the provisions under the *Liquor Act 2007* relating to the regulation of RSA training courses to other training courses that promote responsible practices by persons engaged in activities on licensed premises that are not related to the service of liquor.

Item [4] updates a reference to a Commonwealth Act.

Item [5] omits a duplicated word.

## **1.16 Macquarie University Act 1989 No 126**

### **Section 17 Delegation by Council**

Insert at the end of the section:

- (2) If a function of the Council is delegated to the Vice-Chancellor in accordance with subsection (1) and the instrument of delegation authorises the sub-delegation of the function, the Vice-Chancellor may (subject to any condition to which the delegation is subject) sub-delegate the function to any person or body referred to in subsection (1).

**Commencement**

The amendment to the *Macquarie University Act 1989* commences on the date of assent to this Act.

**Explanatory note**

The proposed amendment enables the Vice-Chancellor of the University to sub-delegate to certain persons and bodies functions delegated to the Vice-Chancellor by the Council of the University.

## **1.17 Macquarie University By-law 2005**

### **[1] Clause 14 Nominations Committee**

Omit clause 14 (1). Insert instead:

- (1) The Council is to establish a Nominations Committee consisting of at least 5 persons as determined by the Council.

### **[2] Clause 18 Term of office of Chancellor**

Omit “3 years”. Insert instead “4 years”.

**Commencement**

The amendments to the *Macquarie University By-law 2005* commence on the date of assent to this Act.

**Explanatory note**

Item [1] of the proposed amendments allows the Council of the University to determine the membership of the Nominations Committee.

Item [2] increases the term of office of Chancellor of the University from 3 years to 4 years.

## **1.18 Modern Slavery Act 2018 No 30**

### **[1] Section 5 Definitions**

Omit “of” from the definition of *non-government agency* in section 5 (1).

Insert instead “in”.



**Explanatory note**

The proposed amendment changes the period within which the SAS Trustee Corporation's corporate plan must be prepared and delivered to the Treasurer (from at least 3 months before the beginning of each financial year to not later than one month after the commencement of each financial year), in line with the reporting arrangements for State owned corporations.

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

### **Schedule 2 Recognised revenue laws**

Omit the matter relating to the Northern Territory and Queensland.

**Explanatory note**

The proposed amendment removes certain repealed Acts of the Northern Territory and Queensland from the list of revenue laws of other jurisdictions that are recognised for the purpose of reciprocal enforcement arrangements under the *Taxation Administration Act 1996*.

## **1.22 Treasury Corporation Act 1983 No 75**

### **[1] Section 4 New South Wales Treasury Corporation**

Insert after section 4 (10):

- (11) The Corporation is not a government agency for the purposes of Part 11 of the *Public Works and Procurement Act 1912*.

### **[2] Section 6B Limitations on powers**

Omit section 6B (4).

**Explanatory note**

Item [1] of the proposed amendments exempts the New South Wales Treasury Corporation from the application of provisions of the *Public Works and Procurement Act 1912* that regulate government agency procurement (to reflect an existing exemption granted by the NSW Procurement Board).

Item [2] removes a provision requiring the Corporation to obtain the approval of the Treasurer before appointing or employing an agent for the purpose of exercising the powers of the Corporation under that Act (which is made redundant by provisions of the *Public Authorities (Financial Arrangements) Act 1987* and a regulation made under that Act).

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

### **2.1 Assisted Reproductive Technology Act 2007 No 69**

**[1] Section 4 (1), definition of “ART treatment”**

Omit “being”. Insert instead “, being”.

**[2] Section 4 (1), definition of “gamete provider”**

Omit “and in relation”. Insert instead “and, in relation”.

**Explanatory note**

The proposed amendments insert missing punctuation.

### **2.2 Australian Jockey and Sydney Turf Clubs Merger Act 2010 No 93**

**Sections 7 (2) and (3) and 34 (1) and (2)**

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

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

**Explanatory note**

The proposed amendment updates references to a Commonwealth Act.

### **2.3 Bega Valley Local Environmental Plan 2013**

**Clause 4.2A (6), definition of “holding”**

Relocate the definition to alphabetical order in the subclause.

**Explanatory note**

The proposed amendment corrects provision ordering.

### **2.4 Betting and Racing Act 1998 No 114**

**Section 33C (1) and (2)**

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

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

**Explanatory note**

The proposed amendment updates references to a Commonwealth Act.

### **2.5 Casino Control Regulation 2009**

**Schedule 6, section 134 (2) and (3)**

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

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

**Explanatory note**

The proposed amendment updates references to a Commonwealth Act.

### **2.6 Coal Industry Act 2001 No 107**

**Section 31 (3)**

Omit “*Trade Practices Act 1974*”. Insert instead “*Competition and Consumer Act 2010*”.

**Explanatory note**

The proposed amendment updates a reference to a Commonwealth Act.



## **2.7 Contaminated Land Management Act 1997 No 140**

### **[1] Section 59 (2)**

Omit “section 149”. Insert instead “section 10.7”.

### **[2] Section 59 (3)**

Omit “section 149 (5)”. Insert instead “section 10.7 (5)”.

#### **Explanatory note**

The proposed amendments update references to provisions consequent on the enactment of the *Environmental Planning and Assessment Amendment Act 2017*.

## **2.8 Conveyancers Licensing Order 2006**

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

Omit “*Conveyancers Licensing Order 2006*”.

Insert instead “*Conveyancers Licensing (General) Order 2006*”.

### **[2] Clause 6**

Omit the clause.

#### **Explanatory note**

Item [1] of the proposed amendments changes the name of an order consequent on the making of the *Conveyancers Licensing (Approved Professional Indemnity Insurance Policy) Order 2017*.

Item [2] omits a spent clause.

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

### **[1] Section 195 (1), definition of “subdivision certificate”**

Omit “Part 4A”. Insert instead “Part 6”.

### **[2] Section 196G (1) (c)**

Omit “section 103”. Insert instead “section 4.61”.

#### **Explanatory note**

The proposed amendments update references to provisions consequent on the enactment of the *Environmental Planning and Assessment Amendment Act 2017*.

## **2.10 Conveyancing (Sale of Land) Regulation 2017**

### **[1] Clause 3 (1), definition of “building certificate”**

Omit “sections 149A–149E”. Insert instead “Division 6.7”.

### **[2] Clause 3 (1), definition of “section 149 certificate”**

Omit “*section 149*”.

Insert instead “*planning*” and relocate the definition to alphabetical order in the subclause.

### **[3] Clause 3 (1), definition of “planning certificate” (as amended by item [2])**

Omit “section 149 (2)”. Insert instead “section 10.7 (2)”.

### **[4] Clause 4 (2) and Schedules 1, item 1 (including the note) and 3, items 1 (c) and 3 (c)**

Omit “section 149 certificate” wherever occurring. Insert instead “planning certificate”.

**[5] Clauses 7 (c) and 8 (c)**

Omit “section 109M” wherever occurring. Insert instead “section 6.9”.

**[6] Schedule 3, item 12**

Omit “section 121B of”. Insert instead “Part 1 of Schedule 5 to”.

**Explanatory note**

The proposed amendments update references to provisions consequent on the enactment of the *Environmental Planning and Assessment Amendment Act 2017*.

## **2.11 Electoral Regulation 2018**

**Clause 5**

Omit “Commission” wherever occurring. Insert instead “Commissioner”.

**Commencement**

The amendment to the *Electoral Regulation 2018* commences on the date of assent to this Act.

**Explanatory note**

The proposed amendment updates a reference consequent on the enactment of the *Electoral Funding Act 2018*.

## **2.12 Environmental Planning and Assessment Regulation 2000**

**[1] Clauses 59 (1) (c), 61 (1), 62 (1) (b), 66 (1) (c), 69 (1) and 70 (1) (b)**

Omit “Schedule 1 of” wherever occurring. Insert instead “Schedule 1 to”.

**[2] Clauses 113 (7), 269 and 288 (2) (including the note) and Schedules 2, clause 4 (3) and 4, clause 19 (a), note**

Omit “Secretary’s” wherever occurring. Insert instead “Planning Secretary’s”.

**[3] Clause 130A (1) (b)**

Omit “referred to in a”. Insert instead “referred to in”.

**[4] Clause 263A (2)**

Omit “Planning Planning”. Insert instead “Planning”.

**Explanatory note**

Item [1] of the proposed amendments corrects cross-references. Items [2] and [4] correct terminology. Item [3] corrects a typographical error.

## **2.13 Gaming Machines Act 2001 No 127**

**[1] Section 47 (3)**

Omit the subsection (including the note).

**[2] Section 169 (1) and (2)**

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

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

**Explanatory note**

Item [1] of the proposed amendments omits a provision that is redundant as a result of the enactment of the *Liquor and Gaming Legislation Amendment Act 2018*, which decreased the maximum penalty that may be imposed for offences created by the regulations under the *Gaming Machines Act 2001* from 100 penalty units to 50 penalty units. Item [2] updates references to a Commonwealth Act.

## **2.14 Government Sector Finance Act 2018**

### **Section 2.5 (4)**

Omit “a a separate”. Insert instead “a separate”.

#### **Explanatory note**

The proposed amendment omits a duplicated word.

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

### **Section 67 (1), definition of “the Commonwealth Act”**

Omit “*Trade Practices Act 1974*”. Insert instead “*Competition and Consumer Act 2010*”.

#### **Explanatory note**

The proposed amendment updates a reference to a Commonwealth Act.

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

### **Section 310A (1) and (2)**

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

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

#### **Explanatory note**

The proposed amendment updates references to a Commonwealth Act.

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

### **Section 17 (2) and (3)**

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

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

#### **Explanatory note**

The proposed amendment updates references to a Commonwealth Act.

## **2.18 James Hardie Former Subsidiaries (Winding up and Administration) Act 2005 No 105**

### **Section 25 (4) and (5)**

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

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

#### **Explanatory note**

The proposed amendment updates references to a Commonwealth Act.

## **2.19 Lithgow Local Environmental Plan 2014**

### **Land Use Table, Zone B6, item 3**

Omit “Sewerage”. Insert instead “Sewage”.

#### **Explanatory note**

The proposed amendment corrects a typographical error.

## **2.20 Local Court Rules 2009**

### **Rule 4.3 (2) (a)**

Omit “a a”. Insert instead “a”.

**Explanatory note**

The proposed amendment corrects a typographical error.

## **2.21 Local Government Act 1993 No 30**

**[1] Section 325 (2)**

Omit “sections 110, 110A and 110B”. Insert instead “sections 137, 138 and 155”.

**[2] Section 413 (1), note**

Omit “section 428 (2) (a)”. Insert instead “section 428 (4) (a)”.

**[3] Section 560 (4)**

Omit “*Housing Act 1912*”. Insert instead “*Housing Act 2001*”.

**Explanatory note**

Item [1] of the proposed amendments corrects a cross-reference to provisions of a repealed Act. Item [2] updates a cross-reference. Item [3] updates a reference to a repealed Act.

## **2.22 Maitland Local Environmental Plan 2011**

**Land Use Table, Zones R1, R5, B1, B2, B3, B4, B5 and B6, item 4**

Omit “Sewerage” wherever occurring. Insert instead “Sewage”.

**Explanatory note**

The proposed amendment corrects typographical errors.

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

**Section 60 (1)**

Omit “*Trade Practices Act 1974*”. Insert instead “*Competition and Consumer Act 2010*”.

**Explanatory note**

The proposed amendment updates a reference to a Commonwealth Act.

## **2.24 Marine Safety Act 1998 No 121**

**Section 8 (2)**

Omit “63B,”.

**Explanatory note**

The proposed amendment omits a redundant cross-reference.

## **2.25 Murray Regional Environmental Plan No 2—Riverine Land**

**Clause 13, Planning Control and Consultation Table, item 28**

Omit “sewerage”. Insert instead “sewage”.

**Explanatory note**

The proposed amendment corrects a typographical error.

## **2.26 National Disability Insurance Scheme (NSW Enabling) Act 2013 No 104**

**Section 28 (1) (b)**

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

**Explanatory note**

The proposed amendment updates a reference as a consequence of past administrative changes orders.

## 2.27 Property NSW Act 2006 No 40

### Schedule 1, matter under the heading “Leases”

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

#### Explanatory note

The proposed amendment corrects typographical errors.

## 2.28 Protection of the Environment Operations (Clean Air) Regulation 2010

### [1] Clause 3 (1), definition of “Central Coast Metropolitan Area”

Omit the definition. Insert instead:

*Central Coast Metropolitan Area* means the Central Coast local government area.

### [2] Clause 3 (1), definition of “Sydney Metropolitan Area”

Omit “Ashfield,” “Bankstown City,” “Canterbury City,” “Hurstville City,” “Kogarah,” “Leichhardt,” “Manly,” “Marrickville,” “Pittwater,” and “Warringah.”

Insert in alphabetical order “Canterbury-Bankstown,” “Georges River,” “Inner West,” and “Northern Beaches.”

### [3] Clause 3 (1), definition of “Sydney Metropolitan Area—B”

Omit “Ashfield,” “Bankstown City,” “Canterbury City,” “Hurstville City,” “Kogarah,” “Leichhardt,” “Manly,” “Marrickville,” “Pittwater,” and “Warringah.”

Insert in alphabetical order “Canterbury-Bankstown,” “Georges River,” “Inner West,” and “Northern Beaches.”

#### Explanatory note

The proposed amendments update references to amalgamated local government areas consequent on the *Local Government (Council Amalgamations) Proclamation 2016*.

## 2.29 Rice Marketing Act 1983 No 176

### Section 164 (1), definition of “the Commonwealth Act”

Omit “*Trade Practices Act 1974*”. Insert instead “*Competition and Consumer Act 2010*”.

#### Explanatory note

The proposed amendment updates a reference to a Commonwealth Act.

## 2.30 Road Transport (Driver Licensing) Regulation 2017

### Schedule 2, matter relating to Road Transport (Vehicle Registration) Regulation 2017

Omit “Clause 129 (1) (a)”. Insert instead “Clause 129 (1)”.

#### Explanatory note

The proposed amendment updates a cross-reference.

## 2.31 Road Transport (General) Regulation 2013

### [1] Schedule 5, matter relating to Road Transport (Vehicle Registration) Regulation 2017

Omit “Clause 129 (1) (a)”. Insert instead “Clause 129 (1)”.

### [2] Schedule 5, matter relating to Road Transport (Vehicle Registration) Regulation 2017

Omit “Clause 129 (1) (b), Clause 129 (1) (c)”. Insert instead “Clause 129 (1)”.

**Explanatory note**

The proposed amendments update cross-references.

**2.32 Saint John's College Act 2018 No 6**

**Section 6 (6)**

Omit "subsection (1) (e)". Insert instead "subsection (2) (e)".

**Explanatory note**

The proposed amendment corrects a cross-reference.

**2.33 State Environmental Planning Policy (Exempt and Complying Development Codes) 2008**

**Schedule 5, heading**

Omit "and Greenfield Housing Code".

**Explanatory note**

The proposed amendment corrects a Schedule heading.

**2.34 Thoroughbred Racing Act 1996 No 37**

**Section 29E (6)**

Omit "*Trade Practices Act 1974*". Insert instead "*Competition and Consumer Act 2010*".

**Explanatory note**

The proposed amendment updates a reference to a Commonwealth Act.

**2.35 Workplace Injury Management and Workers Compensation Act 1998 No 86**

**[1] Schedule 1, clause 13 (1) (a) (ii)**

Omit "Director-General". Insert instead "Commissioner".

**[2] Schedule 1, clause 13 (1) (a) (ii)**

Omit "New South Wales Fire Brigades". Insert instead "Fire and Rescue NSW".

**[3] Schedule 1, clause 13 (1)**

Omit "by the Director-General of New South Wales Fire Brigades".

Insert instead "in Fire and Rescue NSW".

**Explanatory note**

The proposed amendments update references to the holder of an office and a renamed organisation.

## Schedule 3 Repeals

### 1 Repeal of redundant Acts and provision of instrument

The following Acts and provision of an instrument are repealed:

Act or instrument	Provisions repealed
<i>Appropriation Act 2017</i> No 30	Whole Act
<i>Appropriation (Parliament) Act 2017</i> No 31	Whole Act
<i>Natural Resources Access Regulator Regulation 2018</i>	Clause 6
<i>Statute Law (Miscellaneous Provisions) Act 2018</i> No 25	Whole Act

### 2 Repeal and consequential amendment

#### (1) Repeal of Land Tax Management (Transitional) Regulation 2018

The *Land Tax Management (Transitional) Regulation 2018* is repealed.

#### (2) Amendment of Land Tax Management Act 1956 No 26

Transfer clause 3 of the *Land Tax Management (Transitional) Regulation 2018* after clause 62 of Schedule 2 to the *Land Tax Management Act 1956* as clause 62A. Insert at the end of that clause:

- (5) Subclauses (1)–(4) re-enact clause 3 of the *Land Tax Management (Transitional) Regulation 2018* and are transferred provisions to which section 30A of the *Interpretation Act 1987* applies.

#### Explanatory note

Clause 2 repeals the *Land Tax Management (Transitional) Regulation 2018* and transfers the substance of a provision having ongoing effect into the *Land Tax Management Act 1956*.

## Schedule 4 General savings, transitional and other provisions

### 1 Effect of amendment of amending provisions

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

#### Explanatory note

This clause ensures that an amendment made by the proposed Act to a repealing or amending provision of an Act or instrument will (if the repealing or amending provision commences before the amendment made by the proposed Act) be taken to have commenced on the date the repealing or amending provision commences.

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

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

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

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

#### Explanatory note

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

### 3 Effect of amendment on instruments

Except where expressly provided to the contrary, any instrument made under an Act amended by this Act, that is in force immediately before the commencement of the amendment, is taken to have been made under the Act as amended.

#### Explanatory note

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

### 4 Revocation of repeal

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

#### Explanatory note

The effect of this clause is to enable the Governor, by proclamation, to revoke the repeal of any Act or instrument, or any provision of any Act or instrument, by the proposed Act. The Act or instrument,



or provision, the subject of the revocation of repeal is taken not to be, and never to have been, repealed.

## **5 Regulations**

- (1) The Governor may make regulations containing provisions of a savings or transitional nature consequent on the enactment of this Act.
- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to this Act or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication on the NSW legislation website, the provision does not operate so as:
  - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

### **Explanatory note**

This clause enables the making of regulations of a savings or transitional nature relating to incidental matters arising out of the proposed Act.

[Second reading speech made in—  
Legislative Assembly on 17 October 2018  
Legislative Council on 23 October 2018]