



New South Wales

Local Government (General) Amendment (Winding up of Cudgegong (Abattoir) County Council) Regulation 2004

under the

Local Government Act 1993

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Local Government Act 1993*.

ANTHONY BERNARD KELLY, M.L.C.,
Minister for Local Government

Explanatory note

Cudgegong (Abattoir) County Council was constituted under the *Local Government Act 1993*. Clause 1 (1) of Schedule 9 to that Act provides that the county council may be wound up voluntarily or by a liquidator appointed by the Minister. Clause 1 (2) applies the text of Parts 5.5–5.9 of the *Corporations Act 2001* of the Commonwealth (which deal with various aspects of external administration, including winding up) to the winding up of the county council. The provisions of Parts 5.5–5.9 apply as a State law with the modifications set out in clause 1 (2) of Schedule 9, the modifications specified in section 16 of the *Corporations (Ancillary Provisions) Act 2001* (NSW) and any further modifications prescribed by the regulations.

The object of this Regulation is to further modify the application of the provisions of Parts 5.5–5.9 of the *Corporations Act 2001* of the Commonwealth in relation to the winding up of Cudgegong (Abattoir) County Council. In particular, the Regulation disapplies Divisions 3–7 of Part 5.7B, which deal with a director's duty to prevent insolvent trading and liability to compensate a company if that duty is breached and other aspects of the recovery of property or compensation for the benefit of creditors of insolvent companies.

This Regulation is made under the *Local Government Act 1993*, including section 748 (the general regulation-making power) and clause 1 (2) (g) of Schedule 9 (Special provisions relating to Cudgegong (Abattoir) County Council).

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Local Government (General) Amendment (Winding up of Cudgegong
Clause 1 (Abattoir) County Council) Regulation 2004

**Local Government (General) Amendment (Winding up
of Cudgegong (Abattoir) County Council) Regulation
2004**

under the

Local Government Act 1993

1 Name of Regulation

This Regulation is the *Local Government (General) Amendment (Winding up of Cudgegong (Abattoir) County Council) Regulation 2004*.

2 Amendment of Local Government (General) Regulation 1999

The *Local Government (General) Regulation 1999* is amended as set out in Schedule 1.

Schedule 1 Amendment

(Clause 2)

Clause 41A

Insert after clause 41:

41A Modification of Parts 5.5–5.9 of Corporations Act of the Commonwealth concerning winding up of Cudgegong (Abattoir) County Council

For the purposes of clause 1 (2) (g) of Schedule 9 to the Act, the following modifications of Parts 5.5–5.9 of the *Corporations Act 2001* of the Commonwealth are prescribed:

- (a) the definition of **recovery proceeding** in section 588E (1) is to be read as if paragraphs (e) and (f) were omitted,
- (b) section 588E (8) is to be read as if paragraphs (d) and (e) were omitted,
- (c) section 588FF is to be read as if “(but not a director)” were inserted after “a person” wherever occurring in section 588FF (1) (a), (b), (c) and (d),
- (d) Part 5.7B is to be read as if sections 588FGA and 588FGB were omitted,
- (e) Part 5.7B is to be read as if Divisions 3–7 were omitted,
- (f) section 590 is to be read as if “within 10 years next before the relevant day or at a time on or after that day” wherever occurring in section 590 (1) (c), (g) and (h) and (2) were omitted and “at any time on or after the relevant day” were inserted instead,
- (g) section 596A is to be read as if “, to the extent that they relate to its winding up,” were inserted after “affairs”,
- (h) section 596B (1) is to be read as if “, to the extent that they relate to its winding up,” were inserted after “affairs” where firstly occurring,
- (i) section 596B (1) (b) (i) is to be read as if “, to the extent that they relate to its winding up,” were inserted after “affairs of the corporation”,
- (j) section 596B (1) (b) (ii) is to be read as if “, to the extent that they relate to its winding up” were inserted after “affairs of the corporation”,

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Schedule 1 Amendment

- (k) section 596D is to be read as if “, to the extent that they relate to its winding up” were inserted after “affairs” wherever occurring in section 596D (1) (b) and (2) (b),
- (l) section 597 (5B) is to be read as if “, to the extent that they relate to its winding up,” were inserted after “corporation”,
- (m) section 597A is to be read as if “**(winding up)**” were inserted after “**affairs**” in the heading,
- (n) section 598 (2) (a) is to be read as if “the winding up of” were inserted after “in relation to”.

BY AUTHORITY
