



New South Wales

# Co-operatives (New South Wales) Amendment (Transitional) Regulation 2014

under the

Co-operatives (Adoption of National Law) Act 2012

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Co-operatives (Adoption of National Law) Act 2012*.

MATTHEW MASON-COX, MLC  
Minister for Fair Trading

## Explanatory note

The object of this Regulation is to make transitional provisions consequent of the *Co-operatives (Adoption of National Law) Act 2012* (the *new Act*) so as to provide expressly:

- (a) that inspectors holding office under the *Co-operatives Act 1992*, and investigators holding office under the *Fair Trading Act 1987*, immediately before the commencement of the new Act are taken to be appointed as inspectors under the new Act, and
- (b) that delegations under the *Co-operatives Act 1992* continue to be operative after the commencement of the new Act, and
- (c) how references to the *Co-operatives Act 1992* and *Co-operatives Regulation 2005* are to be construed after the commencement of the new Act.

This Regulation supplements the operation of section 30 of the *Interpretation Act 1987*, which applies in relation to the repeal of the *Co-operatives Act 1992*. The *Interpretation Act 1987* does not apply to the Co-operatives National Law and associated instruments (see section 6 of the new Act) but does apply to the remaining provisions of the new Act (including the repeal of the *Co-operatives Act 1992*).

This Regulation is made under the new Act, including section 18 (the local regulation-making power) and clause 1 of Schedule 1 (which provides for the making of local regulations containing provisions of a savings or transitional nature consequent on the enactment of the new Act).

## **Co-operatives (New South Wales) Amendment (Transitional) Regulation 2014**

under the

Co-operatives (Adoption of National Law) Act 2012

### **1 Name of Regulation**

This Regulation is the *Co-operatives (New South Wales) Amendment (Transitional) Regulation 2014*.

### **2 Commencement**

This Regulation commences on the day on which it is published on the NSW legislation website.

## **Schedule 1      Amendment of Co-operatives (New South Wales) Regulation 2014**

### **[1]    Clause 3 Definitions**

Omit the definition of *the Act*. Insert instead:

*the Act* or *the new Act* means the *Co-operatives (Adoption of National Law) Act 2012*.

*the old Act* means the *Co-operatives Act 1992*.

### **[2]    Clauses 16–18**

Insert after clause 15:

#### **16    Inspectors**

- (1) A person who was, immediately before the commencement of the new Act, an inspector for the purposes of the old Act (see section 372 of that Act) is taken, on and after that commencement, to have been duly appointed as an inspector under section 492 of the Law.
- (2) A person who was, immediately before the commencement of the new Act, an investigator for the purposes of the *Fair Trading Act 1987* (see section 18 of that Act) is, on and after that commencement, taken to have been duly appointed as an inspector under section 492 of the Law.
- (3) Subclauses (1) and (2) do not apply if the appointment of the person as an inspector for the purposes of the Law was terminated under the Law, or purported to have been so terminated, before the date of commencement of this clause.
- (4) Subclause (2) does not apply if the appointment of the person as an investigator for the purposes of the *Fair Trading Act 1987* was terminated under that Act, or was purported to have been so terminated, before the date of commencement of this clause.

#### **17    Delegations**

- (1) A delegation that was, immediately before the commencement of the new Act, in force under the old Act (other than section 418 of the old Act) is, on and after that commencement, taken to have been duly made under the Law.
- (2) Without limiting subclause (1), a delegation that was, immediately before the commencement of the new Act, in force under the old Act (including section 418 of the old Act) continues, on and after that commencement, to be operative in relation to the following:
  - (a) the previous operation of the old Act or anything suffered, done or begun under the old Act,
  - (b) a right, privilege, obligation or liability acquired, accrued or incurred under the old Act,
  - (c) a penalty incurred in relation to an offence arising under the old Act,
  - (d) any investigation, proceedings or remedy in relation to such a right, privilege, obligation, liability or penalty,
  - (e) the imposition or enforcement of any such penalty, or the beginning, continuation or enforcement of any such investigation, proceedings or remedy.

- (3) To avoid doubt, a delegation referred to in this clause (other than a delegation under section 418 of the old Act) may be revoked, wholly or partly, by the delegator at any time (see clause 29 of Schedule 4 to the Law).
- (4) In this clause, *delegation* includes a sub-delegation.

## 18 References to old Act and regulations

- (1) In a provision in an instrument respectively referred to in Column 1 of the Table to this subclause, a reference specified opposite in Column 2 is taken to be the reference specified opposite in Column 3.

**Table**

<b>Column 1</b>		<b>Column 2</b>	<b>Column 3</b>
<b>Instrument</b>		<b>Reference</b>	<b>New reference</b>
<i>Anti-Discrimination Act 1977</i>	section 54 (3) (c1)	the old Act	the new Act and the Law
	section 57 (1) (a)	the old Act	the Law
<i>Community Housing Providers (Adoption of National Law) Act 2012</i>	section 25 (2)	the old Act	the new Act and the Law
<i>Co-operative Housing and Starr-Bowkett Societies Regulation 2005</i>	clause 25 (5)	an annual report as set out in Form 1 of Schedule 7 to the <i>Co-operatives Regulation 2005</i>	an annual report containing the returns (relevant to the association) that are required of a society under clause 25 (1) and (2)
<i>Frustrated Contracts Act 1978</i>	section 6 (2) (c)	a society registered under the old Act	a co-operative registered under the Law
<i>Home Building Regulation 2004</i>	clause 3 (1) (paragraph (b) (ii) of the definition of <i>exempt corporation</i> )	the old Act	the new Act or the Law
<i>Hunter Water Act 1991</i>	section 3 (2) (paragraph (b) of the definition of <i>statutory body</i> )	a society within the meaning of the old Act	a co-operative within the meaning of the Law
<i>Land Tax Management Act 1956</i>	section 10 (1) (t)	the old Act	the Law
<i>Law Enforcement (Powers and Responsibilities) Act 2002</i>	Schedule 2	section 381 of the old Act	section 504 of the Law (and see section 11 of the new Act)
<i>Loan Fund Companies Act 1976</i>	section 7 (2)	section 372 of the old Act	section 492 of the Law
<i>Passenger Transport Act 1990</i>	section 5A (1) (c)	the old Act	the Law

Column 1		Column 2	Column 3
Instrument		Reference	New reference
<i>Passenger Transport Regulation 2007</i>	clause 168 (2) (c) (ii)	section 252 of the old Act	section 252 of the old Act or Division 9 of Part 3.3 of the Law  <b>Note.</b> The reference to section 252 of the old Act is retained because clause 168 (2) (c) refers to all or some of the immediately preceding 5 years.
<i>Registered Clubs Act 1976</i>	sections 10 (1) (b) (ii), 38 (2) (b) and (4) and 41 (1)	the old Act	the Law
<i>Restraints of Trade Act 1976</i>	section 3 (3) (c)	section 78 of the old Act	section 125 of the Law
<i>Rice Marketing Act 1983</i>	section 133	societies registered under the old Act	co-operatives registered under the Law
<i>Sydney Water Act 1994</i>	section 3 (2) (paragraph (b) of the definition of <b>statutory body</b> )	a society within the meaning of the old Act	a co-operative within the meaning of the Law
<i>Sydney Water Catchment Management Act 1998</i>	section 3 (1) (paragraph (b) of the definition of <b>public authority</b> )	a society within the meaning of the <i>Co-operation Act 1923</i> or a co-operative within the meaning of the old Act	a co-operative within the meaning of the Law
<i>Uniform Civil Procedure Rules 2005</i>	Schedule 8, Part 1 and Schedule 10, Part 1	the old Act	the Law
<i>Veterinary Practice Regulation 2013</i>	clause 6 (a)	a society registered under the old Act	a co-operative registered under the Law
<i>Water Management Act 2000</i>	Dictionary (paragraph (b) of the definition of <b>statutory body</b> )	the old Act	the Law
<i>Wool, Hide and Skin Dealers Act 2004</i>	section 5 (b)	co-operative society registered under the old Act	co-operative registered under the Law

- (2) The item relating to the *Co-operative Housing and Starr-Bowkett Societies Regulation 2005* in the Table to subclause (1) does not apply to the extent an association complied with the requirements of clause 25 (5) of that Regulation before the date of publication of this clause on the NSW legislation website.
- (3) This clause takes effect from the date of commencement of the new Act.