



New South Wales

# Trade and Investment Cluster Governance (Amendment and Repeal) Bill 2014

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*I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.*

*Clerk of the Legislative Assembly.  
Legislative Assembly,  
Sydney,*

*, 2014*



New South Wales

## **Trade and Investment Cluster Governance (Amendment and Repeal) Bill 2014**

Act No , 2014

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An Act to dissolve certain statutory bodies and provide for the transfer of their assets, rights, liabilities and functions; and for other purposes.

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*I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.*

*Assistant Speaker of the Legislative Assembly.*

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The Legislature of New South Wales enacts:

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Trade and Investment Cluster Governance (Amendment and Repeal) Act 2014*.

### 2 Commencement

This Act commences on a day or days to be appointed by proclamation.

### 3 Definitions

(1) In this Act:

**assets** means any legal or equitable estate or interest (whether present or future, whether vested or contingent and whether personal or assignable) in real or personal property of any description (including money), and includes securities, choses in action and documents.

**liabilities** means any liabilities, debts or obligations (whether present or future, whether vested or contingent and whether personal or assignable).

**rights** means any rights, powers, privileges or immunities (whether present or future, whether vested or contingent and whether personal or assignable).

(2) Notes included in this Act do not form part of this Act.

## **Part 2 Dissolution of Chipping Norton Lake Authority**

### **4 Definition**

In this Part:

*Chipping Norton Lake Authority* means the Chipping Norton Lake Authority constituted by the *Chipping Norton Lake Authority Act 1977* as in force immediately before its repeal by this Part.

### **5 Dissolution of Authority**

- (1) The Chipping Norton Lake Authority is dissolved.
- (2) The assets, rights and liabilities of the Authority immediately before its dissolution become, on that dissolution, the assets, rights and liabilities of the Crown.

### **6 References to Chipping Norton Lake Authority**

A reference in any other Act, in any instrument made under any Act or in any document of any kind to the Chipping Norton Lake Authority is to be construed as a reference to the Crown.

### **7 Chipping Norton Lake Authority Working Account**

- (1) The Chipping Norton Lake Authority Working Account established under section 20 of the *Chipping Norton Lake Authority Act 1977* is abolished.
- (2) Any balance standing to the credit of that account immediately before its abolition is transferred to the Public Reserves Management Fund established under the *Public Reserves Management Fund Act 1987*.

### **8 Repeal of Chipping Norton Lake Authority Act 1977 No 38**

The *Chipping Norton Lake Authority Act 1977* is repealed.

## **Part 3 Dissolution of New South Wales Dairy Industry Conference**

### **9 Definitions**

In this Part:

***Dairy Industry Conference*** means the New South Wales Dairy Industry Conference constituted under the *Dairy Industry Act 2000* as in force immediately before its repeal by this Part.

***Food Authority*** means the NSW Food Authority constituted under the *Food Act 2003*.

### **10 Dissolution of Dairy Industry Conference**

- (1) The Dairy Industry Conference is dissolved.
- (2) The persons who were members of the Dairy Industry Conference immediately before its dissolution cease to hold office as members and are not entitled to any remuneration or compensation because of the loss of that office.
- (3) The assets, rights and liabilities of the Dairy Industry Conference immediately before its dissolution become, on that dissolution, the assets, rights and liabilities of the Food Authority.
- (4) Any person employed by the Dairy Industry Conference under section 9 of the *Dairy Industry Act 2000* ceases to be so employed on the commencement of this section. This subsection does not affect any rights that person may have on termination of employment.

### **11 Fund**

- (1) The fund established under section 16 of the *Dairy Industry Act 2000* is abolished.
- (2) Any balance standing to the credit of that fund immediately before its abolition is transferred to the Food Authority Fund established under section 117A of the *Food Act 2003*.

### **12 References to Dairy Industry Conference**

A reference in any other Act, in any instrument made under any Act or in any document of any kind to the New South Wales Dairy Industry Conference is to be construed as a reference to the Food Authority.

### **13 Repeal of Dairy Industry Act 2000 No 54 and Dairy Industry Regulation 2010**

The *Dairy Industry Act 2000* and the *Dairy Industry Regulation 2010* are repealed.

## **Part 4 Dissolution of Lake Illawarra Authority**

### **14 Definition**

In this Part:

***Lake Illawarra Authority*** means the Lake Illawarra Authority constituted under the *Lake Illawarra Authority Act 1987* as in force immediately before its repeal by this Part.

### **15 Dissolution of Lake Illawarra Authority**

- (1) The Lake Illawarra Authority is dissolved.
- (2) The assets, rights and liabilities of the Lake Illawarra Authority immediately before its dissolution become, on that dissolution, the assets, rights and liabilities of the Crown.
- (3) Any advisory committees of the Lake Illawarra Authority are dissolved.
- (4) The persons who were members of the Lake Illawarra Authority or any of its advisory committees immediately before its dissolution cease to hold office as members and are not entitled to any remuneration or compensation because of the loss of that office.

### **16 References to Lake Illawarra Authority**

A reference in any other Act, in any instrument made under any Act or in any document of any kind to the Lake Illawarra Authority is to be construed as a reference to the Crown.

### **17 Repeal of Lake Illawarra Authority Act 1987 No 285 and Lake Illawarra Authority Regulation 2012**

- (1) The *Lake Illawarra Authority Act 1987* and the *Lake Illawarra Authority Regulation 2012* are repealed.
- (2) The repeal of the *Lake Illawarra Authority Act 1987* does not affect the continuing operation of section 16 of that Act in relation to applications for consent made under section 14 of that Act before the repeal of that Act.

## **Part 5 Dissolution of Ministerial Corporation for Industry**

### **18 Definition**

In this Part:

**Ministerial Corporation** means the Ministerial Corporation for Industry constituted under the *State Development and Industries Assistance Act 1966* as in force immediately before its repeal by this Part.

### **19 Dissolution of Ministerial Corporation**

- (1) The Ministerial Corporation is dissolved.
- (2) Except as provided by subsection (3), the assets, rights and liabilities of the Ministerial Corporation immediately before its dissolution become, on that dissolution, the assets, rights and liabilities of the Crown.
- (3) Any land, or interest in land, vested in the Ministerial Corporation immediately before its dissolution is transferred to Government Property NSW. Part 4 of the *Government Property NSW Act 2006* applies to the transfer of any land or interest in the same way as if the land or interest was transferred to Government Property NSW under that Act and the date of commencement of this section were the transfer date.

### **20 References to Ministerial Corporation**

A reference in any other Act, in any instrument made under any Act or in any document of any kind to the Ministerial Corporation for Industry is to be construed as a reference to the Crown.

### **21 Industries Assistance Fund**

- (1) The Industries Assistance Fund established under section 34IA of the *State Development and Industries Assistance Act 1966* is abolished.
- (2) Any balance standing to the credit of that fund immediately before its abolition is transferred to the Consolidated Fund.

### **22 Repeal of State Development and Industries Assistance Act 1966 No 10**

The *State Development and Industries Assistance Act 1966* is repealed.



## **Part 6 Dissolution of Poultry Meat Industry Committee and Poultry Meat Industry Advisory Group**

### **23 Definitions**

In this Part:

*Advisory Group* means the Poultry Meat Industry Advisory Group established under the *Poultry Meat Industry Act 1986* as in force immediately before its repeal by this Part.

*Committee* means the Poultry Meat Industry Committee constituted under the *Poultry Meat Industry Act 1986* as in force immediately before its repeal by this Part.

### **24 Dissolution of Committee and Advisory Group**

- (1) The Committee and the Advisory Group are dissolved.
- (2) The assets, rights and liabilities of the Committee immediately before its dissolution become, on that dissolution, the assets, rights and liabilities of the Crown.
- (3) The persons who were members of the Committee or the Advisory Group immediately before its dissolution cease to hold office as members and are not entitled to any remuneration or compensation because of the loss of that office.

### **25 References to Poultry Meat Industry Committee**

A reference in any other Act, in any instrument made under any Act or in any document of any kind to the Committee is to be construed as a reference to the Crown.

### **26 Repeal of Poultry Meat Industry Act 1986 No 101 and Poultry Meat Industry Regulation 2008**

The *Poultry Meat Industry Act 1986* and the *Poultry Meat Industry Regulation 2008* are repealed.

## Part 7 Miscellaneous

### 27 Provisions relating to transfers of assets, rights and liabilities

- (1) In this section, the statutory body from which any assets, rights or liabilities are transferred is called the *transferor* and the body to which they are transferred is the *transferee*.
- (2) When any assets, rights or liabilities are transferred pursuant to Parts 2–6 of this Act, the following provisions have effect:
  - (a) the assets of the transferor vest in the transferee by virtue of this section and without the need for any further conveyance, transfer, assignment or assurance,
  - (b) the rights or liabilities of the transferor become, by virtue of this section, the rights or liabilities of the transferee,
  - (c) all proceedings relating to the assets, rights or liabilities commenced before the transfer by or against the transferor or a predecessor of the transferor and pending immediately before the transfer are taken to be proceedings pending by or against the transferee,
  - (d) any act, matter or thing done or omitted to be done in relation to the assets, rights or liabilities before the transfer by, to or in respect of the transferor or a predecessor of the transferor is (to the extent to which that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the transferee,
  - (e) the transferee has all the entitlements and obligations of the transferor in relation to those assets, rights and liabilities that the transferor would have had but for the transfer, whether or not those entitlements and obligations were actual or potential at the time of the transfer.
- (3) The operation of this Act is not to be regarded:
  - (a) as a breach of contract or confidence or otherwise as a civil wrong, or
  - (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities, or
  - (c) as giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability, or
  - (d) as an event of default under any contract or other instrument.
- (4) The Minister may, by notice in writing, confirm a transfer of particular assets, rights or liabilities. Such a notice is conclusive evidence of that transfer.
- (5) No attornment to the transferee by a lessee from the transferor is required.
- (6) In this section, *instrument* means an instrument (other than this Act) that creates, modifies or extinguishes rights or liabilities (or would do so if lodged, filed or registered in accordance with any law), and includes any judgment, order or process of a court.

### 28 No compensation payable by State

- (1) Compensation, including damages or any other form of monetary compensation, is not payable by or on behalf of the State because of the enactment or operation of this Act, or for any consequence of that enactment or operation.
- (2) In this section, *the State* means the Crown within the meaning of the *Crown Proceedings Act 1988*, and includes a public sector agency of the State and an officer, employee or agent of the Crown or a public sector agency of the State.

**29 Savings and transitional 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.

## **Schedule 1      Amendment of Film and Television Office Act 1988 No 18**

**[1] Long title**

Omit the long title. Insert instead:

An Act relating to the New South Wales film and television industry.

**[2] Section 1 Name of Act**

Omit “*Office*”. Insert instead “*Industry*”.

**[3] Section 3 Definitions**

Omit the definitions of *Board*, *chief executive officer* and *Office* from section 3 (1).

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

Insert in alphabetical order:

*Advisory Committee* means the Film and Television Industry Advisory Committee established under section 5.

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

*Secretary* means the Secretary of the Department.

**[5] Section 3A**

Insert after section 3:

**3A Objects**

The objects of this Act are to assist, promote and strengthen the film and television industry in New South Wales so as to promote Australia’s cultural identity, encourage the employment of Australians in all aspects of film and television production, encourage investment in the industry, enhance the industry’s export potential, encourage innovation and enhance quality in the industry.

**[6] Part 2**

Omit the Part. Insert instead:

### **Part 2 Assistance to film and television industry**

#### **4 Functions of Secretary**

(1) The Secretary has the following functions under this Act:

- (a) to provide financial and other assistance to the film and television industry in carrying out the industry’s activities in New South Wales and to disseminate information about those activities,
- (b) to provide financial and other assistance for persons (including directors, producers, actors, writers and technicians) whose work in the film and television industry merits encouragement,
- (c) to provide financial and other assistance for script and project development for film and television,
- (d) to contribute, financially and otherwise, to the work of film festivals and markets,

- (e) to assist in the promotion of public interest in film as a medium of communication and as an art form and in the development of an informed and critical film audience,
  - (f) to provide policy and support services and advice to Government agencies on the production of films and sound recordings,
  - (g) to undertake the production of films or sound recordings on behalf of the State or for any other person, body or organisation (including any Government agency),
  - (h) to carry out such obligations and responsibilities determined by the Minister as may be necessary for the maintenance and administration of the film catalogue vested in the State.
- (2) The Secretary has the power to do all things that may be necessary or convenient to be done for or in connection with the exercise of the Secretary's functions, including, but not limited to, the power to impose such charges or fees in respect of access to, or use of, any of the resources, facilities or services of the Department as the Secretary thinks fit.
- (3) The Secretary may delegate to an employee of the Department any of the Secretary's functions under this Act other than this power of delegation.

#### **5 Advisory Committee**

- (1) There is to be a Film and Television Industry Advisory Committee comprising members appointed by the Minister.
- (2) The composition of the Advisory Committee is to be determined by the regulations.
- (3) The Advisory Committee has the following functions:
- (a) to advise the Minister on the operation of the film and television industry in New South Wales,
  - (b) any other functions prescribed by the regulations or agreed between the Minister and the Advisory Committee.
- (4) The regulations may make provision for or with respect to the members and procedure of the Advisory Committee.

#### **[7] Part 3 Financial provisions**

Omit the Part.

#### **[8] Sections 9, 10 and 11**

Omit the sections.

#### **[9] Section 9A**

Omit the section. Insert instead:

##### **9A Personal liability**

A matter or thing done or omitted to be done by the Secretary, a member of the Advisory Committee or any person acting under the direction of the Secretary or a member of the Advisory Committee does not, if the matter or thing was done or omitted in good faith for the purpose of executing this Act, subject the Secretary, member or person so acting personally to any action, liability, claim or demand.

**[10] Schedule 1 Savings, transitional and other provisions**

Omit clause 1 (1). Insert instead:

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of any Act that amends this Act.

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

Insert after Part 4:

**Part 5 Provisions consequent on enactment of Trade and Investment Cluster Governance (Amendment and Repeal) Act 2014**

**9 Dissolution of bodies and transfer of assets etc**

- (1) The following bodies established under this Act are dissolved:
  - (a) the New South Wales Film and Television Office (the *Office*),
  - (b) the Board of the New South Wales Film and Television Office (the *Board*).
- (2) The assets, rights and liabilities of the Office immediately before its dissolution become, on that dissolution, the assets, rights and liabilities of the Crown.
- (3) Section 27 of the *Trade and Investment Cluster Governance (Amendment and Repeal) Act 2014* applies to the transfer of the assets, rights and liabilities of the Office by the operation of this clause and so applies as if it were a transfer pursuant to Parts 2–6 of that Act when this clause takes effect.
- (4) The persons who were members of the Board immediately before its dissolution cease to hold office as members and are not entitled to any remuneration or compensation because of the loss of that office.
- (5) In this clause:

*assets* means any legal or equitable estate or interest (whether present or future, whether vested or contingent and whether personal or assignable) in real or personal property of any description (including money), and includes securities, choses in action and documents.

*liabilities* means any liabilities, debts or obligations (whether present or future, whether vested or contingent and whether personal or assignable).

*rights* means any rights, powers, privileges or immunities (whether present or future, whether vested or contingent and whether personal or assignable).

**10 References to New South Wales Film and Television Office**

A reference in any other Act, in any instrument made under any Act or in any document of any kind to the New South Wales Film and Television Office is to be construed as a reference to the Crown.

**11 New South Wales Film and Television Office Account**

- (1) The New South Wales Film and Television Office Account established under section 7 is abolished.
- (2) Any balance standing to the credit of that account immediately before its abolition is transferred to the Consolidated Fund.

**[12] Schedule 2 Provisions relating to constitution and procedure of Board**

Omit the Schedule.

## **Schedule 2      Amendment of Homebush Motor Racing (Sydney 400) Act 2008 No 106**

**[1] Long title**

Omit “to constitute the Homebush Motor Racing Authority and to confer functions on the Authority;”.

**[2] Section 3 Definitions**

Omit the definitions of *Advisory Board*, *Authority* and *Chief Executive Officer* from section 3 (1).

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

Insert in alphabetical order:

*Destination NSW* means Destination NSW as constituted under Part 2 of the *Destination NSW Act 2011*.

**[4] Sections 3 (1) (definition of “race promoter”), 13, 14 (4), 15–19, 21–25, 32 (1) (b) and (d) and (3), 34 (1) (b), 35 (3), 37 (3) and (4), 38 (2)–(7) and 43 (2) (h) and (i)**

Omit “the Authority” and “The Authority” wherever occurring.

Insert instead “Destination NSW”.

**[5] Part 2**

Omit the Part. Insert instead:

### **Part 2      Functions of Destination NSW**

#### **4      Functions of Destination NSW**

The functions of Destination NSW under this Act include the following:

- (a) such functions relating to the preparation for, the management and conduct of, and the works associated with, a Homebush motor race as are conferred on it by or under this or any other Act,
- (b) to liaise with the New South Wales Government, the race promoter and any other persons Destination NSW considers relevant to the preparation for, the management and conduct of, and the works associated with, a Homebush motor race,
- (c) to consult with relevant government agencies on matters relating to a Homebush motor race,
- (d) to advise the Minister in relation to the Minister’s functions under this Act and in relation to any other matter relating to a Homebush motor race.

**[6] Section 23 Reinstatement of land**

Insert “of Destination NSW” after “Officer” in section 23 (3).

**[7] Section 39 Authority taken to be part of Department of State and Regional Development for certain purposes**

Omit the section.

**[8] Section 43 Regulations**

Omit section 43 (2) (c).



**[9] Schedule 1 Membership and procedure of Advisory Board**

Omit the Schedule.

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

Insert before clause 1:

**Part 1 Preliminary**

**[11] Schedule 2, clause 1 (1)**

Omit the subclause. Insert instead:

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act or any Act that amends this Act.

**[12] Schedule 2, Part 2**

Insert at the end of the Schedule:

**Part 2 Provisions consequent on enactment of Trade and Investment Cluster Governance (Amendment and Repeal) Act 2014**

**2 Dissolution of bodies and transfer of assets, rights and liabilities**

- (1) The following bodies established under this Act are dissolved:
  - (a) the Homebush Motor Racing Authority (the *Authority*),
  - (b) the Advisory Board of the Authority (the *Board*),
  - (c) the Event Implementation Committee (the *Committee*).
- (2) The assets, rights and liabilities of the Authority immediately before its dissolution become, on that dissolution, the assets, rights and liabilities of Destination NSW.
- (3) Section 27 of the *Trade and Investment Cluster Governance (Amendment and Repeal) Act 2014* applies to the transfer of the assets, rights and liabilities of the Authority by the operation of this clause and so applies as if it were a transfer pursuant to Parts 2–6 of that Act when this clause takes effect.
- (4) The persons who were members of the Board immediately before its dissolution cease to hold office as members and are not entitled to any remuneration or compensation because of the loss of that office.
- (5) The persons who were members of the Committee immediately before its dissolution cease to hold office as members and are not entitled to any remuneration or compensation because of the loss of that office.
- (6) In this clause:

*assets* means any legal or equitable estate or interest (whether present or future, whether vested or contingent and whether personal or assignable) in real or personal property of any description (including money), and includes securities, choses in action and documents.

*liabilities* means any liabilities, debts or obligations (whether present or future, whether vested or contingent and whether personal or assignable).

*rights* means any rights, powers, privileges or immunities (whether present or future, whether vested or contingent and whether personal or assignable).

**3 References to Homebush Motor Racing Authority**

A reference in any other Act, or in any instrument made under any Act or in any document of any kind to the Homebush Motor Racing Authority is to be construed as a reference to Destination NSW.

## **Schedule 3 Consequential amendment and repeal of other legislation**

### **3.1 Fair Trading Act 1987 No 68**

#### **Schedule 1 Paramount legislation**

Omit “*Dairy Industry Act 2000*”.

### **3.2 Food Act 2003 No 43**

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

Omit the definition of *New South Wales Dairy Industry Conference* from section 4 (1).

#### **[2] Section 4 (1), definition of “private subsidiary corporation”**

Omit “either the Food Authority or the New South Wales Dairy Industry Conference”.  
Insert instead “the Food Authority”.

#### **[3] Section 109C Private corporations**

Omit section 109C (3).

### **3.3 Food Regulation 2010**

#### **Clause 56 Industry consultation**

Omit the clause.

### **3.4 Government Guarantees Act 1934 No 57**

#### **Section 3A Guarantees for industrial purposes**

Insert “immediately before its repeal by the *Trade and Investment Cluster Governance (Amendment and Repeal) Act 2014*” after “*State Development and Industries Assistance Act 1966*” in section 3A (1).

### **3.5 Government Information (Public Access) Regulation 2009**

#### **Schedule 3 Agencies declared to be part of other agencies**

Omit the matter relating to the following:

Chipping Norton Lake Authority

Lake Illawarra Authority

Ministerial Corporation for Industry

New South Wales Film and Television Office (also known as Screen NSW)

### **3.6 Homebush Motor Racing (Sydney 400) Regulation 2012**

The Regulation is repealed.

### **3.7 Law Enforcement (Powers and Responsibilities) Act 2002 No 103**

#### **Schedule 2 Search warrants under other Acts**

Omit “*Poultry Meat Industry Act 1986*, section 161”.

### **3.8 Public Authorities (Financial Arrangements) Regulation 2013**

#### **Schedule 1 Definitions of “authority” and “controlled entity”**

Omit “Ministerial Corporation for Industry” from Part 1.

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

#### **Schedule 2 Statutory bodies**

Omit the following:

Chipping Norton Lake Authority

Lake Illawarra Authority

New South Wales Film and Television Office

### **3.10 Real Property Act 1900 No 25**

#### **Schedule 2**

Omit “*Chipping Norton Lake Authority Act 1977*”.