

Passed by both Houses



New South Wales

# Statute Law (Miscellaneous Provisions) Bill 2010

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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, , 2010*



New South Wales

## **Statute Law (Miscellaneous Provisions) Bill 2010**

Act No , 2010

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An Act to repeal an Act 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.

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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:****1 Name of Act**

This Act is the *Statute Law (Miscellaneous Provisions) Act 2010*.

**2 Commencement**

- (1) This Act commences on 9 July 2010, except as provided by this section.
- (2) 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 on 9 July 2010.

**3 Repeal of this Act**

- (1) A subschedule of Schedule 1 or 2 is repealed on the day following the day on which all of the provisions of the subschedule have commenced (except as provided by subsection (2)).
- (2) If a subschedule of Schedule 1 or 2 commences before the date of assent to this Act, the subschedule is repealed on the day after the date of assent to this Act.
- (3) The repeal by this section of any such subschedule does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by those subschedules.

**4 Explanatory notes**

The matter appearing under the heading “Explanatory note” in any of the Schedules does not form part of this Act.

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## Schedule 1 Minor amendments

### 1.1 Aboriginal Land Rights Act 1983 No 42

#### [1] Section 4 Definitions

Omit the definition of *Director-General* from section 4 (1).

Insert in alphabetical order:

*Chief Executive* means the Chief Executive of Aboriginal Affairs NSW, Department of Human Services.

#### [2] Sections 216 (1), 222 (1) and 234 (2)

Omit “Director-General” wherever occurring.

Insert instead “Chief Executive”.

#### [3] Schedule 4 Savings, transitional and other provisions

Omit “on or after 1 July 2010” from clause 45 (2).

Insert instead “on or after 1 January 2013”.

#### Commencement

Item [3] of the amendments commences, or is taken to have commenced, on 1 July 2010.

#### Explanatory note

Items [1] and [2] of the proposed amendments to the *Aboriginal Land Rights Act 1983 (the Act)* update references, consequential on the *Public Sector Employment and Management (Departmental Amalgamations) Order 2009*.

Since 1 July 2007, a Local Aboriginal Land Council (**a LALC**) may provide a social housing scheme in accordance with the approval of the NSW Aboriginal Land Council (**NSW ALC**) given under Part 5 of the Act.

Transitional provisions in the Act currently prohibit a LALC from operating a social housing scheme already in existence on 1 July 2007 (**an existing social housing scheme**), on or after 1 July 2010, except in accordance with an approval of the NSW ALC given under those provisions. The effect of item [3] of the proposed amendments is to extend the period during which a LALC can continue to operate an existing social housing scheme without such approval of the NSW ALC until 31 December 2012.

### 1.2 Adoption Act 2000 No 75

#### [1] Section 186 Unauthorised disclosure of information

Omit “Chapter 8, except” from section 186 (1).

Insert instead “this Act or the regulations, except”.

**[2] Section 186 (1) (a)–(e)**

Omit section 186 (1) (a) and (b). Insert instead:

- (a) with the consent of the person from whom the information was obtained, or
- (b) in connection with the administration or execution of this Act or the regulations, or
- (c) for the purposes of any legal proceedings arising out of this Act or the regulations, or of any report of any such proceedings, or
- (d) in accordance with a requirement imposed under the *Ombudsman Act 1974*, or
- (e) with other lawful excuse.

**Explanatory note**

Section 186 (1) of the *Adoption Act 2000* (**the Act**) provides that a person must not disclose any information relating to an adopted person, birth parent or adoptive parent obtained in connection with the administration or execution of Chapter 8 of the Act, except in certain specified circumstances, namely in connection with the administration or execution of Chapter 8 or as authorised or required by law.

Item [1] of the proposed amendments expands the prohibition in section 186 of the Act to all such adoption information obtained in connection with the administration or execution of the Act or the regulations under the Act.

Item [2] of the proposed amendments expands the circumstances in which disclosure of that information is legally permitted. The circumstances in which disclosure of information is to be permitted are to be the same as the circumstances in which disclosure is currently permitted under the *Children and Young Persons (Care and Protection) Act 1998*.

**1.3 Animal Research Act 1985 No 123**

**[1] Section 3 Definitions**

Omit “Primary Industries” from the definition of *Department* in section 3 (1).

Insert instead “Industry and Investment”.

**[2] Section 6 The Panel**

Omit “Vice Chancellors Conference” from section 6 (2) (a).

Insert instead “Vice-Chancellors’ Committee”.

**[3] Section 6 (2) (b)**

Omit “the Australian Pharmaceutical Manufacturers’ Association”.

Insert instead “Medicines Australia”.

**[4] Section 6 (2) (f)**

Insert “and Training” after “Education”.

**[5] Section 6 (2) (g)**

Omit “Agriculture and Fisheries”. Insert instead “Primary Industries”.

**[6] Section 41 Duration of licences**

Omit “12 months” from section 41 (1). Insert instead “36 months”.

**[7] Section 62 Regulations**

Insert “, including the waiver or refund of the whole or part of a fee or charge” after “Act” in section 62 (1) (e).

**Explanatory note**

Item [1] of the proposed amendments to the *Animal Research Act 1985* (**the Act**) updates a reference in the Act to a Government Department.

Items [2] and [3] update references in the Act to entities that are members of the Animal Research Review Panel constituted by the Act.

Items [4] and [5] update references in the Act to Ministers’ portfolios.

Item [6] extends the duration of an animal supplier’s licence under the Act from 12 months to 36 months (unless sooner cancelled).

Item [7] makes it clear that the existing power in the Act to make regulations for or with respect to the fees or charges that may be imposed for the purposes of the Act includes a power to make regulations for or with respect to the waiver or refund of those fees or charges.

## **1.4 Annual Reports (Departments) Act 1985 No 156**

**[1] Section 9 Annual reports**

Omit “a financial report” from section 9 (1) (a).

Insert instead “the Department’s financial report”.

**[2] Section 9 (1) (a1)**

Insert after section 9 (1) (a):

- (a1) the financial report so prepared of each entity referred to in section 45A (1A) of the *Public Finance and Audit Act 1983* that is controlled by the Department,

**[3] Section 9 (1) (b)**

Omit “the financial report”.

Insert instead “any financial report referred to in paragraph (a) or (a1)”.

**Commencement**

The amendments commence, or are taken to have commenced, on 30 June 2010.

**Explanatory note**

The proposed amendments to the *Annual Reports (Departments) Act 1985* make it clear that the annual report of a Department must include the financial report of any controlled entity of the Department as prepared under Division 4A of Part 3 of the *Public Finance and Audit Act 1983*.

## 1.5 Annual Reports (Statutory Bodies) Act 1984 No 87

### Section 3 Definitions

Insert at the end of the definition of *statutory body* in section 3 (1):

**Note.** See also section 24A of the *State Owned Corporations Act 1989* which provides that statutory SOCs are also statutory bodies for the purposes of this Act.

**Explanatory note**

The proposed amendment to the *Annual Reports (Statutory Bodies) Act 1984* inserts a note to draw attention to the fact that the annual report of a statutory State owned corporation is also subject to the Act.

## 1.6 Associations Incorporation Act 2009 No 7

### [1] Section 18 Unacceptable names

Omit “or (f)” from section 18 (2). Insert instead “, (f) or (g)”.

### [2] Section 76 Director-General may cancel registration

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

- (h) during the last 3 financial years, none of the documents required to have been lodged for the association under section 45 (if the association is a Tier 1 association) or section 49 (if the association is a Tier 2 association) has been lodged, or

**Explanatory note**

Item [1] of the proposed amendments to the *Associations Incorporation Act 2009* (**the Act**) allows the Minister for Fair Trading to direct that a name that has been declared by regulations under the Act to be an unacceptable name for an incorporated association is acceptable in a particular case. (This power is consistent with that of the Federal Minister administering the *Corporations Act 2001* of the Commonwealth, in relation to names that have been declared by regulations under that Act to be unacceptable for registration in relation to a company.)

Item [2] allows the Director-General to cancel an association’s registration if satisfied that, during the last 3 financial years, none of the documents relating to the finances of the association that are required to be lodged with the Director-General under the Act, has been lodged (rather than if satisfied that no “financial statements” for the association have been lodged, as is currently the case in the Act). The amendment brings this ground for cancellation into line with that provided for in the *Associations Incorporation Act 1984*.

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## **1.7 Australian Museum Trust Act 1975 No 95**

### **[1] Section 8 Powers of Trust**

Omit “from within or outside the State, and preserve,” from section 8 (1) (a).  
Insert instead “and preserve”.

### **[2] Section 8 (1) (c)**

Omit “whether within or outside the State,”.

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

Omit “, including research outside the State,”.

### **[4] Section 8 (1A) and (1B)**

Insert after section 8 (1):

(1A) The Trust may engage in commercial activities (including revenue generating activities) in furtherance of the objects of the Trust or for or in connection with or incidental to the exercise or performance of any power, authority, duty or function of the Trust.

(1B) The powers, authorities, duties and functions of the Trust may be exercised and performed within or outside the State.

#### **Explanatory note**

The proposed amendments to the *Australian Museum Trust Act 1975* make it clear that the Australian Museum Trust has the power to engage in commercial activities (including revenue generating activities) and that its powers, authorities, duties and functions may be exercised within or outside of the State.

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

### **[1] Section 64 Notification of care applications**

Insert “reports,” before “supporting affidavits” in section 64 (4).

### **[2] Section 139 Who is a “designated agency”?**

Omit section 139 (1) (a). Insert instead:

(a) a Division of the Government Service (or branch or other part of a Division), or

### **[3] Section 139 (1) (b)**

Insert “(or branch or other part of an organisation)” after “an organisation”.

**[4] Section 139 (1)**

Omit “department or organisation”.

Insert instead “Division or organisation (or branch or other part of the Division or organisation)”.

**[5] Section 150 Review of placements effected by order of Children’s Court**

Omit section 150 (5).

**[6] Section 156 Preliminary**

Omit “any other organisation” from paragraph (b) of the definition of *relevant agency* in section 156 (1).

Insert instead “any Division of the Government Service or other organisation (or branch or other part of a Division or organisation)”.

**[7] Section 156 (2) (b)**

Omit “organisations”.

Insert instead “Divisions of the Government Service or organisations (or branches or other parts of Divisions or organisations)”.

**[8] Section 156A Voluntary arrangements for out-of-home care**

Omit the note to section 156A (1). Insert instead:

- (1A) Despite subsection (1), an arrangement is not a *voluntary arrangement* for the purposes of this section if the out-of-home care concerned is provided outside New South Wales.

**[9] Section 181 Functions relating to out-of-home care**

Omit section 181 (2).

**[10] Section 209 Conditions of licences**

Omit section 209 (2) and (3). Insert instead:

- (2) It is a condition of a licence for a family day care children’s service or a home based children’s service that the licensee must notify the Director-General if any person (other than the relevant children’s service provider) who is of or above the age of 18 years is residing at the children’s service provider’s home on a regular basis and has been doing so for a period of at least 3 months.

**Note.** See section 45 of the *Commission for Children and Young People Act 1998* which provides for background checks (under Division 3 of Part 7 of that Act) to be carried out in relation to adult household members of children’s service providers.

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- (3) Without limiting subsection (2), any such requirement to notify the Director-General applies even though the adult person who is residing at the children's service provider's home was at any time residing at that home as a minor.
- (4) In this section, *children's service provider* means:
- (a) in the case of a family day care children's service—the person who is the family day care carer for the service, or
  - (b) in the case of a home based children's service—the person who is the licensee for the service.

**[11] Section 245 Decisions that are reviewable by Administrative Decisions Tribunal**

Omit "department or organisation" from section 245 (1) (b).

Insert instead "Division of the Government Service or organisation (or branch or other part of a Division or organisation)".

**Explanatory note**

Section 64 of the *Children and Young Persons (Care and Protection) Act 1998 (the Act)* requires, when a care application is made in the Children's Court in relation to a child or young person, that the child or young person's parents must be notified and served with a copy of the care application and all other supporting affidavits and other documentary evidence that accompanied the application. Item [1] of the proposed amendments to the Act provides that the parent must also be served with a copy of any report that accompanied the care application. The amendment makes the provisions of the Act relating to notification of parents consistent with the provisions relating to care applications (which recently were amended to require care applications to be accompanied by specified reports).

Items [2], [6], [7] and [11] make amendments consequential on the reorganisation of the Government Service and the amalgamation of a number of Government Departments. The amendments enable a Division of the Government Service or a branch or other part of a Division (such as a branch of a Department), rather than a whole Department, to be accredited as a designated agency or registered as a relevant agency under the Act.

Items [3], [4], [7] and [11] also make it clear that a branch or part of an organisation may be accredited as a designated agency or registered as a relevant agency under the Act.

Section 150 of the Act provides that where a child or young person has been placed in out-of-home care by an order of the Children's Court, the designated agency having responsibility for the placement of the child or young person must, after a specified time, conduct a review of the placement. Item [5] repeals the requirement that a report of the review must be given to the Children's Guardian.

Item [8] makes an amendment to clarify that voluntary arrangements for out-of-home care provided to children or young persons outside New South Wales are not arrangements regulated by the Act.

Item [9] repeals a provision made redundant by amendments in the *Children Legislation Amendment (Wood Inquiry Recommendations) Act 2009* that removed the Children's Guardian's functions relating to parental responsibility.

Section 209 of the Act provides that it is a condition of a licence for a family day care children's service that the licensee must notify the Director-General of the Department of Human Services if any adult (other than the licensee) is residing at the licensee's

home on a regular basis and has been doing so for more than 3 months. However, a family day care children's service is predominantly provided at the home of a family day care carer (who is a contractor), rather than at the licensee's home. Item [10] amends section 209 of the Act so that the notification requirement relates to other adults residing at the home where the children's care is provided.

## **1.9 Commission for Children and Young People Act 1998 No 146**

### **[1] Section 53 Review of Act**

Omit "the period of 5 years from the date of assent to the *Commission for Children and Young People Amendment Act 2005*" from section 53 (2).

Insert instead "8 March 2010".

### **[2] Section 53 (3)**

Omit "within 12 months after the end of the period of 5 years".

Insert instead "by 8 March 2011".

#### **Explanatory note**

Currently, a ministerial review of the *Commission for Children and Young People Act 1998 (the Act)* is required to be undertaken as soon as possible after 7 December 2010. As a ministerial review of the Act was commenced earlier this year (as announced by the Minister for Youth and notified on the Commission's website on 15 April 2010), item [1] proposes to amend the Act to avoid the need for a further review to be undertaken at that later stage.

Item [2] makes a consequential amendment, requiring a report on the outcome of the review of the Act to be tabled in each House of Parliament by 8 March 2011 (rather than 7 December 2011, as is currently the case).

## **1.10 Dairy Industry Act 2000 No 54**

### **Section 7 Members of Conference**

Omit "General Manager of the Dairy Division of the Food Authority" wherever occurring in section 7 (1) (d) and (2).

Insert instead "Chief Executive Officer of the Food Authority (or delegate)".

#### **Explanatory note**

The proposed amendment to the *Dairy Industry Act 2000 (the Act)* replaces an obsolete reference to the General Manager of the Dairy Division of the NSW Food Authority with a reference to the Chief Executive Officer of the Authority (or delegate), as being a member of the New South Wales Dairy Industry Conference constituted under the Act.

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## 1.11 Environmental Planning and Assessment Act 1979 No 203

### [1] Section 89 Determination of Crown development applications

Insert after section 89 (2):

- (2A) A Crown development application for which the consent authority is a council must not be referred to the Minister unless it is first referred to the applicable regional panel.

### [2] Section 89 (8)

Insert after section 89 (7):

- (8) An application may be referred by a consent authority or applicable regional panel before the end of a relevant period referred to in subsection (2) or (5).

### [3] Section 89A Directions by Minister

Insert “, or an applicant,” after “panel” in section 89A (1).

### [4] Section 109R Building, demolition and incidental work

Insert “except that a reference in section 88 (2) to a thing prescribed by the regulations for the purposes of that Division is to be read as a thing prescribed by the regulations for the purposes of this section” after “Division 4 of Part 4” in the definition of **Crown** in section 109R (1).

#### **Explanatory note**

Currently, an applicant for development consent for Crown development, a consent authority or an applicable regional panel may refer an application for Crown development to the Minister in various circumstances. Item [3] of the proposed amendments to the *Environmental Planning and Assessment Act 1979 (the Act)* corrects an oversight in this referral process by allowing the Minister to give directions concerning the determination of the application, when a referral is made to the Minister by an applicant (and not only when a referral is made to the Minister by a consent authority or applicable regional panel, as is currently the case).

Item [1] makes it clear that an application for development consent for Crown development must be referred to an applicable regional panel for determination before it may be referred to the Minister to make appropriate directions under the Act.

Item [2] allows a consent authority or an applicable regional panel to refer an application for Crown development under the Act during the period prescribed by the regulations for determining such an application (rather than only if it fails to determine an application within that period, as is currently the case).

A section of the Act dealing with Crown building and demolition work currently defines **Crown** by cross-reference to an interpretation provision that appears elsewhere in the Act. Item [4] amends the definition to allow regulations that may be made under the interpretation provision for the purposes of the part of the Act in which the provision occurs, to be made for the purposes of the section.

## **1.12 Fines Act 1996 No 99**

### **[1] Section 3 Definitions**

Insert in alphabetical order in section 3 (1):

*approved form* means a form approved by the State Debt Recovery Office for the purposes of the provision in which the term is used.

### **[2] Section 22 Persons who may issue and deal with penalty notices (appropriate officers)**

Omit section 22 (2) (b). Insert instead:

- (b) a person who is:
  - (i) employed in the Office of State Revenue in the Treasury, or whose services are made use of by that Office (whether by way of temporary hire arrangement, secondment or otherwise), and
  - (ii) authorised by, and subject to the control and direction of, the Chief Commissioner of State Revenue for the purposes of this Part,

### **[3] Sections 27 (2) and 60 (2)**

Omit “If the regulations prescribe the form of” wherever occurring.

Insert instead “If there is an approved form for”.

### **[4] Sections 79 (8), 80 (2) and 89A (2)**

Omit “the form prescribed by the regulations” wherever occurring.

Insert instead “the approved form”.

### **[5] Section 87 Imprisonment following breach of community service order**

Omit “the prescribed form” from section 87 (2A) (a).

Insert instead “the approved form”.

### **[6] Section 89 Periodic detention**

Insert after section 89 (10):

- (11) A periodic detention order under this section must be in the approved form.

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**[7] Schedule 1 Statutory provisions under which penalty notices issued**

Insert in alphabetical order:

*Firearms Act 1996*, section 85A

*Marine Parks Act 1997*, section 38

*Sydney Water Catchment Management Act 1998*, section 65

**[8] Schedule 1**

Insert “(including as applied to and for the purposes of Part 2 of the *Industrial Relations (Child Employment) Act 2006* by section 16 of that Act)” after “section 396” in the matter relating to the *Industrial Relations Act 1996*.

**Explanatory note**

Item [2] of the proposed amendments to the *Fines Act 1996* (**the Act**) incorporates into the definition of **appropriate officer** in the Act a class of persons currently prescribed as appropriate officers in the *Fines Regulation 2005* (**the Regulation**). (Appropriate officers may issue and deal with penalty notices (on-the-spot fines) under the Act.)

Items [3]–[5] provide for certain matters currently allowed or required under the Act to be in the form prescribed by the regulations to be in the form approved by the State Debt Recovery Office instead. Item [1] defines the term **approved form** for the purposes of the Act.

Item [6] requires a matter currently required under the Regulation to be in the form prescribed in the Regulation instead to be in the approved form.

Items [7] and [8] transfer references to the provisions of certain Acts under which penalty notices may be issued, from the Regulation into the relevant Schedule to the Act.

### **1.13 Fines Regulation 2005**

**Clauses 3 (2), 4A, 4B, 7 and 8–10 and Schedule 1**

Omit the provisions.

**Explanatory note**

The proposed amendment omits redundant provisions as a consequence of proposed amendments to the *Fines Act 1996* elsewhere in this Schedule.

### **1.14 Fisheries Management Act 1994 No 38**

**[1] Section 25 Possession of illegal fishing gear**

Insert “(including any purpose prescribed as lawful by the regulations)” after “lawful purpose” in section 25 (4).

**[2] Section 183 Minister may declare quarantine area**

Insert “(including any boat)” after “premises” in section 183 (4A) (b).

**Explanatory note**

Item [1] of the proposed amendments to the *Fisheries Management Act 1994 (the Act)* allows regulations made under the Act to prescribe a purpose as a lawful purpose for the purposes of an existing defence to the offence of possession of illegal fishing gear. The defence is established if the person charged satisfies the court that the fishing gear was in his or her possession for a lawful purpose.

Item [2] makes it clear that “premises” includes boats for the purposes of a provision of the Act that allows the Minister, by an order declaring a quarantine area, to require the owner or occupier of premises within the quarantine area to take such action as is specified in the order or directed by a fisheries officer (including the destruction or treatment of fish or marine vegetation cultivated or located in the area).

**1.15 Guardianship Act 1987 No 257**

**[1] Section 10 Service of applications**

Omit section 10 (1A). Insert instead:

- (1A) Before conducting a hearing into the application, the Tribunal must cause a notice specifying the date on which, and the time and place at which, the Tribunal will conduct the hearing to be served on each party to the proceedings.

**[2] Sections 10 (2), 27 (2), 31C (2) and 43 (2)**

Insert “, or a notice,” after “an application” wherever occurring.

**[3] Section 25I Application to Tribunal for a financial management order**

Omit section 25I (4). Insert instead:

- (4) Before conducting a hearing into the application, the Tribunal must cause a notice specifying the date on which, and the time and place at which, the Tribunal will conduct the hearing to be served on each party to the proceedings.

**[4] Section 25I (5)**

Omit “the application” where firstly occurring.

Insert instead “an application, or a notice,”.

**[5] Sections 27 (1), 31C (1) and 43 (1)**

Omit “(on which is endorsed a notice specifying the time, date and place set down for the hearing of the application)” wherever occurring.

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**[6] Sections 27 (1A), 31C (1A) and 43 (1A)**

Insert after sections 27 (1), 31C (1) and 43 (1), respectively:

- (1A) Before conducting a hearing into the application, the Tribunal must cause a notice specifying the date on which, and the time and place at which, the Tribunal will conduct the hearing to be served on each person on whom a copy of the application is required to be served under subsection (1).

**[7] Section 98 Service of notices etc**

Insert after section 98 (2):

- (2A) Any notice required or authorised by this Act to be served on a person is sufficiently served if the notice is sent to the person by electronic means and received through an information system designated by or on behalf of the person as the system to be used for the purpose of receiving the notice.

**Explanatory note**

Currently, details of the time, date and place set down for a hearing of the Guardianship Tribunal into an application for an order of the Tribunal must be endorsed on a copy of the application that the applicant is required to serve on relevant parties. Items [1], [3], [5] and [6] of the proposed amendments to the *Guardianship Act 1987 (the Act)* replace this requirement (to endorse the notice of hearing on a copy of the application) with a requirement that the Tribunal serve a separate notice of hearing on relevant parties. Items [2] and [4] make consequential amendments.

Item [7] allows notices under the Act to be served on relevant parties by electronic means.

## **1.16 Licensing and Registration (Uniform Procedures) Act 2002 No 28**

### **Schedule 3A Licences and registration to which Part 4A of Act applies**

Insert in alphabetical order of Acts:

#### **Commercial Agents and Private Inquiry Agents Act 2004**

section 12 (1) (a), operator licence for process serving

section 12 (1) (b), operator licence for debt collection

section 12 (1) (c), operator licence for repossession of goods

section 12 (1) (d), operator licence for surveillance of persons

section 12 (1) (e), operator licence for investigation of persons

**Explanatory note**

The proposed amendment to the *Licensing and Registration (Uniform Procedures) Act 2002* extends the provisions relating to ID photographs in Part 4A of the Act to photographs of applicants for certain operator licences under the *Commercial Agents and Private Inquiry Agents Act 2004*. Those provisions include a requirement to enter

into arrangements for the provision of photographs of applicants for licences and provisions for the security and protection of the photographs.

## 1.17 Local Government Act 1993 No 30

### Section 344 Objects

Omit “marital status and” from section 344 (1) (a).

Insert instead “marital or domestic status and”.

#### Explanatory note

The proposed amendment to the *Local Government Act 1993* updates the wording of an object of a Part of the Act dealing with equal employment opportunity in local councils so that it reflects the wording of an object of a Part of the *Anti-Discrimination Act 1977* dealing with equal opportunity in public employment, with which it is intended to be parallel. (Recent amendments to the *Anti-Discrimination Act 1977* replaced the term *marital status* with the term *marital or domestic status* for the purposes of that Act, the latter term extending to the status or condition of being in a de facto relationship.)

## 1.18 Mental Health Act 2007 No 8

### [1] Section 151 Procedure at meetings of Tribunal to be informal

Insert “, or any matter relating to a community treatment order” after “facility” in section 151 (2).

### [2] Schedule 3 Statement of rights

Omit “as soon as possible”. Insert instead “as soon as practicable”.

#### Explanatory note

Since 2007, applications under the *Mental Health Act 2007 (the Act)* for community treatment orders (which set out the terms under which a person must accept medication, therapy, rehabilitation and other services while living in the community) may be made about persons who are not in a mental health facility (in addition to persons who are detained in or patients in a mental health facility). Item [1] of the proposed amendments to the Act extends a provision that provides that the Mental Health Review Tribunal is not bound by the rules of evidence in determining matters in relation to such orders about persons who are detained in or patients in a mental health facility, to its determination of matters in relation to such orders about persons who are not in a mental health facility.

Item [2] corrects a reference in a statement of legal rights and entitlements, to the time at which a mental health inquiry under the Act must be held, so that it is consistent with the time provided for in the relevant provision of the Act. (The Act requires the statement to be given to certain persons taken to or already in mental health facilities.)

## 1.19 Ombudsman Act 1974 No 68

### Section 31H Confidentiality

Insert “Information Commissioner,” after “Prosecutions,” wherever occurring in section 31H (1A) and (1C).

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**Explanatory note**

The parliamentary committee constituted as the Joint Committee under the *Ombudsman Act 1974 (the Act)* has the power to veto proposed appointments to certain offices, including (due to recent amendments) the office of Information Commissioner. The effect of the proposed amendment is to extend to that office certain related provisions of the Act that require the Joint Committee to take evidence relating to such proposed appointments in private and that protect its deliberations from being improperly disclosed.

**1.20 Public Finance and Audit Act 1983 No 152****[1] Section 39 Application and interpretation**

Insert at the end of section 39 (1):

**Note.** See also section 24A of the *State Owned Corporations Act 1989* which provides that statutory SOCs are also statutory bodies for the purposes of this Part.

**[2] Section 39 (1A)**

Insert “For the avoidance of doubt, any such controlled entity is a separate statutory body for the purposes of this Division and is subject to the same requirements under this Division as apply to a statutory body referred to in subsection (1).” after “Standards.”.

**[3] Section 45A Application and interpretation**

Insert “For the avoidance of doubt, any such controlled entity is a separate Department for the purposes of this Division and is subject to the same requirements under this Division as apply to a Department referred to in subsection (1).” after “Standards.” in section 45A (1A).

**[4] Section 45A (3)**

Omit the subsection. Insert instead:

- (3) A reference in this Division to a Department Head:
  - (a) is, in relation to a Department specified in Column 1 of Schedule 3, a reference to the person holding the position specified in Column 2 of that Schedule opposite the name or description of the Department, or
  - (b) is, in relation to an entity referred to in subsection (1A):
    - (i) a reference to the governing body of the entity, or
    - (ii) if the entity does not have a governing body—a reference to the chief executive officer of the entity or the person who exercises the functions of a chief executive officer in relation to the entity, or
    - (iii) in any other case—a reference to a person prescribed by the regulations.

### **Commencement**

The amendments commence, or are taken to have commenced, on 30 June 2010.

### **Explanatory note**

Items [2] and [3] of the proposed amendments to the *Public Finance and Audit Act 1983 (the Act)* make it clear that a controlled entity of an agency is required to have separate financial reports that are prepared and audited in accordance with the same requirements that apply to statutory bodies and Departments under Divisions 3 and 4A, respectively, of Part 3 of the Act. The amendments will also ensure that these separate financial reports are included in the relevant agency's annual report tabled in Parliament.

Item [4] ensures that an appropriate person or persons can perform the responsibilities of a Department Head that apply in relation to controlled entities under Division 4A of Part 3 of the Act.

Item [1] inserts a note to draw attention to the fact that statutory State owned corporations are statutory bodies for the purposes of Part 3 of the Act.

## **1.21 Public Reserves Management Fund Act 1987 No 179**

### **Section 6 Payments out of Public Reserves Management Fund**

Insert after section 6 (2):

- (3) The Minister may take a mortgage to secure all or any part of a loan made under subsection (1) (b), from a trustee of a public reserve with the power to grant such a mortgage.

### **Explanatory note**

The proposed amendment to the *Public Reserves Management Fund Act 1987 (the Act)* makes it clear that the Minister for Lands may take a mortgage from a trustee of a public reserve who has power to grant the mortgage, to secure a loan made to the trustee under the Act for the cost of maintenance, improvement or development of the reserve.

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

### **Section 32 Folios of the Register**

Omit "and particulars of the date of birth of any such proprietor the Registrar-General knows to be a minor" from section 32 (1) (b).

Insert instead "and the fact that any such proprietor is a minor if the Registrar-General knows that to be the case".

### **Explanatory note**

Currently, in creating a folio of the Register for land, the Registrar-General must record (among other things) the particulars of the date of birth of any proprietor of the estate or interest concerned whom the Registrar-General knows to be a minor. To reduce the risk of the fraudulent use of this information, the proposed amendment to the *Real Property Act 1900* instead requires the Registrar-General to record the fact that such a proprietor is a minor.

## **1.23 Retirement Villages Act 1999 No 81**

### **Section 118 Auditing of accounts**

Insert “under section 114 (1)–(7)” after “in the same way that it is required” in section 118 (2) (c).

#### **Explanatory note**

The *Retirement Villages Act 1999 (the Act)* currently provides for the process by which a retirement village operator must seek to obtain the consent of village residents to the proposed annual budget for the village, and by cross-reference requires that process to be complied with in relation to an operator’s obtaining of residents’ consent to the appointment of an auditor to audit the village accounts.

The proposed amendment to the Act makes it clear that a recently inserted provision of the Act that deems village residents to have consented to the proposed annual budget in certain circumstances does not form part of the consent process that applies to the obtaining of residents’ consent to the appointment of an auditor.

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

### **Schedule 2 Meetings and procedure of owners corporation**

Omit “in the prescribed manner” from clause 2 (1).

Insert instead “in accordance with Divisions 1 and 2 of Part 2”.

#### **Explanatory note**

The proposed amendment to the *Strata Schemes Management Act 1996* omits a regulation-making power to prescribe the manner in which the first annual general meeting of an owners corporation must be held and, instead, incorporates into the relevant provision of the Act the matter prescribed by the regulations for that purpose.

## **1.25 Strata Schemes Management Regulation 2005**

### **Clause 28 Convening of first annual general meeting of owners corporation**

Omit the clause.

#### **Explanatory note**

The proposed amendment to the *Strata Schemes Management Regulation 2005* omits a redundant clause as a consequence of a proposed amendment to the *Strata Schemes Management Act 1996* elsewhere in this Schedule.

## **1.26 Subordinate Legislation Act 1989 No 146**

### **[1] Section 4 Guidelines**

Insert at the end of the section:

- (2) This section does not apply to a statutory rule containing matters of a savings or transitional nature (provided the only other

provisions contained in the statutory rule are provisions dealing with its citation and commencement).

**[2] Section 10 Staged repeal of statutory rules**

Omit section 10 (4)–(4B).

**[3] Section 10A**

Insert after section 10:

**10A Certain statutory rules to remain in force**

- (1) Despite the other provisions of this Part, the following statutory rules remain in force until 1 September 2011, unless sooner repealed:
  - (a) *Motor Vehicle Repairs Regulation 1999*,
  - (b) *Public Health (Microbial Control) Regulation 2000*,
  - (c) *Public Health (Skin Penetration) Regulation 2000*,
  - (d) *Public Health (Swimming Pools and Spa Pools) Regulation 2000*,
  - (e) *Road Transport (Safety and Traffic Management) Regulation 1999*.
- (2) Despite the other provisions of this Part, the *Occupational Health and Safety Regulation 2001* remains in force until 1 September 2012, unless sooner repealed.

**[4] Section 11 Governor may postpone repeal by order**

Omit “section 10 (4), (4A) or (4B)” from section 11 (6).

Insert instead “section 10A”.

**[5] Schedule 4 Excluded instruments**

Insert “being an instrument that was in force on 1 July 2010” after “commencement”)” in item 18.

**Explanatory note**

Items [2]–[4] of the proposed amendments to the *Subordinate Legislation Act 1989* (**the Act**) have the effect of keeping the *Motor Vehicle Repairs Regulation 1999*, the *Public Health (Microbial Control) Regulation 2000*, the *Public Health (Skin Penetration) Regulation 2000*, the *Public Health (Swimming Pools and Spa Pools) Regulation 2000* and the *Road Transport (Safety and Traffic Management) Regulation 1999* in force for a further period of one year after the date on which they would otherwise be repealed by the Act. However, any of the Regulations may be sooner repealed by other legislation.

This is necessary as the Regulations have each been postponed on 5 occasions, and are now due to be repealed by the Act on 1 September 2010. However, amendments to the *Motor Vehicle Repairs Act 1980* that may impact on the *Motor Vehicle Repairs*

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*Regulation 1999* are proposed for later this year. The *Public Health (Microbial Control) Regulation 2000*, the *Public Health (Skin Penetration) Regulation 2000* and the *Public Health (Swimming Pools and Spa Pools) Regulation 2000* are all made under the *Public Health Act 1991*, the repeal of which is proposed by the *Public Health Bill 2010* (released for public comment in February 2010). It is also proposed that the *Road Transport (Safety and Traffic Management) Regulation 1999* be consolidated with other legislation in 2011 as part of a larger consolidation of road transport legislation.

Item [5] ensures that statutory rules (other than those in force on 1 July 2010) that contain only matters of a savings or transitional nature will no longer be excluded instruments under the Act and will instead be automatically repealed after 5 years in the same way as other statutory rules. Item [1] makes a consequential amendment to preserve the status of such statutory rules, as those to which certain guidelines in the Act concerning the preparation of statutory rules do not apply.

## 1.27 Sydney Opera House Trust Act 1961 No 9

### [1] Section 11A Transaction of business outside meetings or by telephone

Omit “regulations” from section 11A (4). Insert instead “by-laws”.

### [2] Section 28 By-laws

Omit section 28 (3). Insert instead:

- (3) A by-law has no effect unless approved by the Governor.

**Note.** Any by-law made by a person or body that requires the approval of the Governor is a statutory rule for the purposes of the *Interpretation Act 1987*. Accordingly, it must be published on the NSW legislation website to come into force.

#### Explanatory note

Item [1] of the proposed amendments to the *Sydney Opera House Trust Act 1961 (the Act)* corrects a reference to an instrument that may be made under the Act.

Item [2] replaces a provision concerning the making of by-laws under the Act with its modern (and more succinct) equivalent. The new provision removes the need for the Sydney Opera House Trust to seal every by-law it makes, with its common seal.

## 1.28 Workers Compensation Act 1987 No 70

### Schedule 6 Savings, transitional and other provisions

Insert after clause 3 (2) in Part 18:

- (2A) To the extent that subclause (1) operates to apply section 151A (3) and (3A) as in force before the 2001 amendments, a reference to the Compensation Court in those subsections is to be read as a reference to the District Court.
- (2B) Subclause (2A) is taken to have commenced on 1 January 2004 but does not affect any judgment or other order of a court given or made before 9 July 2010.

Statute Law (Miscellaneous Provisions) Bill 2010

Schedule 1      Minor amendments

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**Explanatory note**

The proposed amendment updates references to the Compensation Court (as being the relevant court in which to commence proceedings to recover permanent loss compensation) in a superseded provision of the *Workers Compensation Act 1987* that continues to apply in respect of coal miners. The jurisdiction of the Compensation Court to hear such matters was conferred on the District Court on the abolition of the Compensation Court on 1 January 2004. The references are taken to have been updated from that date but do not affect any court judgment or order made before the commencement of the subschedule to this Act that inserts the amendment.

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

### **2.1      Adoption Act 2000 No 75**

#### **Section 54, note**

Insert “in” after “defined”.

#### **Explanatory note**

The proposed amendment inserts a missing word.

### **2.2      Agricultural Industry Services Act 1998 No 45**

#### **Section 3, definition of “Department”**

Omit “Primary Industries”. Insert instead “Industry and Investment”.

#### **Explanatory note**

The proposed amendment updates a reference to a Department.

### **2.3      Agricultural Livestock (Disease Control Funding) Act 1998 No 139**

#### **Section 3, definition of “Department”**

Omit “Primary Industries”. Insert instead “Industry and Investment”.

#### **Explanatory note**

The proposed amendment updates a reference to a Department.

### **2.4      Agricultural Scientific Collections Trust Act 1983 No 148**

#### **[1]      Section 4 (1)**

Insert in alphabetical order:

*Department* means the Department of Industry and Investment.

#### **[2]      Section 12 (1) and Schedule 1, clause 5 (a)**

Omit “of Agriculture” wherever occurring.

#### **Explanatory note**

The proposed amendments update references to a Department.

## **2.5 Albury Local Environmental Plan 2000**

### **Clause 62 (1)**

Omit “apples”. Insert instead “applies”.

#### **Explanatory note**

The proposed amendment corrects a typographical error.

## **2.6 Animal Diseases (Emergency Outbreaks) Act 1991 No 73**

### **Dictionary, definition of “Department”**

Omit “Primary Industries”. Insert instead “Industry and Investment”.

#### **Explanatory note**

The proposed amendment updates a reference to a Department.

## **2.7 Animal Diseases (Emergency Outbreaks) Regulation 2008**

### **Clauses 5 (3) and 6**

Omit “of Primary Industries” wherever occurring.

#### **Explanatory note**

The proposed amendment updates references to a Department.

## **2.8 Apiaries Act 1985 No 16**

### **Section 3 (1), definition of “Department”**

Omit “Primary Industries”. Insert instead “Industry and Investment”.

#### **Explanatory note**

The proposed amendment updates a reference to a Department.

## **2.9 Biofuels Act 2007 No 23**

### **[1] Section 3 (1), definition of “Director-General”**

Omit the definition. Insert in alphabetical order:

*Department* means the Land and Property Management Authority.

*Director-General* means the Chief Executive of the Department.

### **[2] Sections 18 (1), 25 (1) (b) and 29 (9)**

Omit “of Lands” wherever occurring.

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**[3] Section 24 (1) (a)**

Omit “of Lands, the Department of State and Regional Development, the Department of Primary Industries, the Department of Environment and Climate Change and the Department of Commerce”.

Insert instead “, the Department of Industry and Investment, the Department of Environment, Climate Change and Water and the Department of Services, Technology and Administration”.

**[4] Section 24 (2)**

Omit “of the Department of Lands or that”. Insert instead “or the”.

**Explanatory note**

The proposed amendments update references to Departments.

**2.10 Biological Control Act 1985 No 199**

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

Insert in alphabetical order:

*Department* means the Department of Industry and Investment.

**[2] Sections 9 (1) and 53**

Omit “of Agriculture” wherever occurring.

**Explanatory note**

The proposed amendments update references to a Department.

**2.11 Camden Local Environmental Plan No 48**

**Clause 5 (1)**

Omit the definition of *motor vehicle depot* where secondly occurring.

**Explanatory note**

The proposed amendment removes a duplicate definition.

**2.12 Child Protection (Offenders Prohibition Orders) Act 2004 No 46**

**Section 16G (2) (c)**

Omit “*Registration Act) 2000*”. Insert instead “*Registration) Act 2000*”.

**Explanatory note**

The proposed amendment corrects a reference to an Act.

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

### **Clause 212**

Omit “of Primary Industries”.

#### **Explanatory note**

The proposed amendment updates a reference to a Department.

## **2.14 Coastal Protection Act 1979 No 13**

### **Section 4 (3)**

Insert after section 4 (2):

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

#### **Explanatory note**

The proposed amendment clarifies the status of notes.

## **2.15 Commercial Vessels (Equipment) Regulation 1986**

### **Clause 4 (1), definition of “Code”**

Renumber paragraph (a) where secondly occurring as paragraph (b).

#### **Explanatory note**

The proposed amendment corrects numbering.

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

### **Sections 11 (4) (e) and 13 (5) (a)**

Omit “Primary Industries” wherever occurring.

Insert instead “Industry and Investment”.

#### **Explanatory note**

The proposed amendment updates references to a Department.

## **2.17 Conveyancers Licensing Regulation 2006**

### **[1] Clauses 12 (a) and 15**

Omit “Part 3 of the *Consumer, Trader and Tenancy Tribunal Regulation 2002*” wherever occurring.

Insert instead “section 24 (2) of the *Consumer, Trader and Tenancy Tribunal Act 2001*”.

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**[2] Clauses 13 (1) and 16 (1)**

Omit “under clause 10 (1) (c) (i), (ii) or (iii) of the *Consumer, Trader and Tenancy Tribunal Regulation 2002* (whichever is applicable)” wherever occurring.

Insert instead “in respect of an application to have a matter (with an equivalent amount in dispute) dealt with by the Tribunal in the General Division”.

**Explanatory note**

The proposed amendments omit references to a repealed instrument.

**2.18 Conveyancing (Sale of Land) Regulation 2005**

**Schedule 1, item 3 (b)**

Omit “Department of Lands”.

Insert instead “Land and Property Management Authority”.

**Explanatory note**

The proposed amendment updates a reference to a Department.

**2.19 Coroners Act 2009 No 41**

**Section 55 (2)**

Omit “which inquest”. Insert instead “which the inquest”.

**Explanatory note**

The proposed amendment inserts a missing word.

**2.20 Crown Lands Act 1989 No 6**

**Section 3 (1), definitions of “Department” and “Director-General”**

Omit the definitions. Insert instead:

*Department* means the Land and Property Management Authority.

*Director-General* means the Chief Executive of the Department.

**Explanatory note**

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

**2.21 Crown Lands (Continued Tenures) Act 1989 No 7**

**Section 3 (1), definition of “Department”**

Omit the definition. Insert instead:

*Department* means the Land and Property Management Authority.

**Explanatory note**

The proposed amendment updates a reference to a Department.

**2.22 Crown Lands (General Reserves) By-law 2006**

**Schedule 1, Part 1**

Omit “of Lands” wherever occurring.

**Explanatory note**

The proposed amendment updates references to a Department.

**2.23 Crown Lands Regulation 2006**

**[1] Clause 3 (1), definition of “Department”**

Omit the definition.

**[2] Clause 44 (1)**

Omit “of Lands”.

**Explanatory note**

Item [1] of the proposed amendments omits a redundant definition.

Item [2] updates a reference to a Department.

**2.24 Deer Act 2006 No 113**

**Section 3 (1), definition of “Department”**

Omit “Primary Industries”. Insert instead “Industry and Investment”.

**Explanatory note**

The proposed amendment updates a reference to a Department.

**2.25 Drug Misuse and Trafficking Act 1985 No 226**

**Sections 38 (1) and 43 (5)**

Omit “Agriculture and Fisheries” wherever occurring.

Insert instead “Industry and Investment”.

**Explanatory note**

The proposed amendment updates a reference to a Department.

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## 2.26 Education Act 1990 No 8

### Section 23 (3) (a1)

Insert before section 23 (3) (a):

- (a1) the child has written permission from the principal of a government school or registered non-government school, and from the director of a TAFE establishment, to enrol in a course referred to in section 21B (5) (b) and is so enrolled, or

#### Explanatory note

The proposed amendment restores an amendment to section 23 made by the *Education Amendment Act 2009* that was inadvertently omitted by the replacement of that section by the *Education Amendment (School Attendance) Act 2009* that commenced on the same day.

## 2.27 Environmental Planning and Assessment Regulation 2000

### [1] Clause 226 (2) and (3)

Omit “for the purposes of section 116G of the Act (as referred to in section 116B (a) of the Act)” wherever occurring.

Insert instead “under section 88 (2) (a) of the Act (as modified by section 109R (1) of the Act) for the purposes of section 109R”.

### [2] Schedule 3A

Omit “(Clauses 46A, 98C and 136E)”. Insert instead “(Clause 98C)”.

#### Explanatory note

The proposed amendments update cross-references (item [1], as a consequence of an amendment made to the *Environmental Planning and Assessment Act 1979* in Schedule 1).

## 2.28 Exhibited Animals Protection Act 1986 No 123

### Section 5 (1), definition of “Department”

Omit “Primary Industries”. Insert instead “Industry and Investment”.

#### Explanatory note

The proposed amendment updates a reference to a Department.

## 2.29 Explosives Regulation 2005

### [1] Clause 3 (1), definition of “ADG Code”

Omit “goods”. Insert instead “Goods”.

**[2] Clauses 6 (1), 15 (2), note 2, 39 (2) and 75 (2), note**

Omit “Primary Industries” wherever occurring.

Insert instead “Industry and Investment”.

**Explanatory note**

Item [1] of the proposed amendments corrects the name of a document.

Item [2] updates references to a Department.

**2.30 Farm Water Supplies Act 1946 No 22**

**Section 2A (a)**

Omit “Agriculture”. Insert instead “Industry and Investment”.

**Explanatory note**

The proposed amendment updates a reference to a Department.

**2.31 Farrer Memorial Research Scholarship Fund Act 1930 No 38**

**Section 2, definition of “Department”**

Omit “Primary Industries”. Insert instead “Industry and Investment”.

**Explanatory note**

The proposed amendment updates a reference to a Department.

**2.32 Fertilisers Act 1985 No 5**

**Section 3 (1), definition of “Department”**

Omit “Primary Industries”. Insert instead “Industry and Investment”.

**Explanatory note**

The proposed amendment updates a reference to a Department.

**2.33 Fisheries Management Act 1994 No 38**

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

Omit “Primary Industries”. Insert instead “Industry and Investment”.

**[2] Section 20 (7)**

Omit “subsection (1) (c)”. Insert instead “subsection (3) (c)”.

**[3] Sections 220B (1), definition of “Department” and 220ZF (3)**

Omit the definition and subsection, respectively.

**[4] Sections 221ZJ (1) (b) and 221ZQ (1) (b)**

Omit “of Primary Industries” wherever occurring.

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**[5] Sections 269 (2) and 282I (6)**

Omit “A Local Court” wherever occurring.

Insert instead “The Local Court”.

**[6] Section 269 (2)**

Omit “*Local Courts Act 1982*”. Insert instead “*Local Court Act 2007*”.

**[7] Sections 269 (3) and 282I (5)**

Omit “a Local Court” wherever occurring.

Insert instead “the Local Court”.

**[8] Schedule 7, clause 26**

Omit the clause.

**Explanatory note**

Items [1], [3] and [4] of the proposed amendments update references to a Department.

Item [3] also omits a redundant provision.

Item [2] corrects a cross-reference.

Items [5]–[7] update references to a Court.

Item [8] omits a redundant provision.

**2.34 Fisheries Management (Estuary General Share Management Plan) Regulation 2006**

**Appendix, Schedule 1, matter relating to Clarence River (Lower Reaches)—Set Meshing Net**

Omit “acrosss”. Insert instead “across”.

**Explanatory note**

The proposed amendment corrects a typographical error.

**2.35 Fisheries Management (General) Regulation 2002**

**Schedule 2**

Omit “Lady Denam”. Insert instead “Lady Denman”.

**Explanatory note**

The proposed amendment corrects a typographical error.

**2.36 Gene Technology (GM Crop Moratorium) Act 2003 No 12**

**Section 4 (1), definition of “Department”**

Omit “Agriculture”. Insert instead “Industry and Investment”.

**Explanatory note**

The proposed amendment updates a reference to a Department.

**2.37 Geographical Names Act 1966 No 13**

**[1] Section 2**

Insert in alphabetical order:

*Department* means the Land and Property Management Authority.

*Director-General* means the Chief Executive of the Department.

**[2] Section 18 (2) (a)**

Omit “, Department of Lands”.

**[3] Section 18 (2) (a)**

Omit “that Department”. Insert instead “the Department”.

**Explanatory note**

The proposed amendments update references to a Department.

**2.38 Gloucester Local Environmental Plan 2000**

**Clause 49 (2)**

Omit “facia” wherever occurring. Insert instead “fascia”.

**Explanatory note**

The proposed amendment standardises the spelling of a word.

**2.39 Growth Centres (Development Corporations) Act 1974 No 49**

**Section 9 (2) (a)**

Omit “or any”. Insert instead “for any”.

**Explanatory note**

The proposed amendment corrects a typographical error.

**2.40 Hay Irrigation Regulation 2007**

**Clause 3 (1), definition of “Hay District Office”**

Omit the definition. Insert instead:

*Hay District Office* means the district office at Hay of the Land and Property Management Authority.

**Explanatory note**

The proposed amendment updates a reference to a Department.

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## 2.41 Health Care Complaints Act 1993 No 105

### Section 30 (3) and Schedule 1

Omit “Dated this            day of            19    .” wherever occurring.

Insert instead “Dated:”.

#### Explanatory note

The proposed amendment removes date-specific references.

## 2.42 Health Practitioner Regulation Act 2009 No 86 (as amended by the Health Practitioner Regulation Amendment Act 2010)

### Section 7 (2) (e1)

Insert after section 7 (2) (e):

(e1) the *Interpretation Act 1987*,

#### Commencement

The amendment commences, or is taken to have commenced, on the date of assent to the *Health Practitioner Regulation Amendment Act 2010*.

#### Explanatory note

The proposed amendment applies the standard requirements for the making, disallowance and publication of regulations to the NSW regulations made under the *Health Practitioner Regulation National Law (NSW)*.

## 2.43 Hemp Industry Act 2008 No 58

### Section 3 (1), definition of “Department”

Omit “Primary Industries”. Insert instead “Industry and Investment”.

#### Explanatory note

The proposed amendment updates a reference to a Department.

## 2.44 Independent Pricing and Regulatory Tribunal Act 1992 No 39

### Section 4 (4)

Omit “in the Gazette”. Insert instead “on the NSW legislation website”.

#### Explanatory note

The proposed amendment provides for an instrument to be published on the NSW legislation website.

## 2.45 Judicial Officers Act 1986 No 100

### Section 44C

Omit “an assessor”. Insert instead “a Commissioner”.

**Explanatory note**

The proposed amendment updates a reference to an officer of a court.

**2.46 Lake Illawarra Authority Act 1987 No 285**

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

Insert in alphabetical order:

*Department* means the Land and Property Management Authority.

*Director-General* means the Chief Executive of the Department.

**[2] Section 6 (4) (b2)**

Omit “of Land and Water Conservation”.

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

Omit “of Land and Water Conservation nominated by the Director of that Department shall be”.

Insert instead “nominated by the Director-General is to be”.

**Explanatory note**

The proposed amendments update references to a Department and the head of that Department.

**2.47 Land and Environment Court Act 1979 No 204**

**[1] Sections 17–19, 20 (1) and (2) and 21**

Insert “the following” after “dispose of” wherever occurring.

**[2] Sections 17 (ea), (eb) and (g)–(i), 18 (f), 19 (g3), 20 (2) (c) and 21 (h), (ha), (hb) and (hc)**

Omit “, and”. Insert instead “,”.

**[3] Section 20 (3) (a)**

Insert “or” after “*Waste Recycling and Processing Corporation Act 2001*,”.

**[4] Section 20 (3) (b)**

Omit “, or”. Insert instead “,”.

**Explanatory note**

The proposed amendments clarify the operation of lists.

## **2.48 Lane Cove Local Environmental Plan 2009**

### **Land Use Table, Zone B2 Local Centre**

Omit “hierachy” from item 1. Insert instead “hierarchy”.

#### **Explanatory note**

The proposed amendment corrects a typographical error.

## **2.49 Law Enforcement (Powers and Responsibilities) Regulation 2005**

### **Schedule 1, Form 20A, item 8**

Omit “*Act 2002*”. Insert instead “*Act 2002*”.

#### **Explanatory note**

The proposed amendment inserts missing punctuation.

## **2.50 Liverpool Local Environmental Plan 2008**

### **Schedule 2, Advertisements—business identification signs for businesses other than brothels in business zones**

Omit “*facia*” from subclause (1). Insert instead “*fascia*”.

#### **Explanatory note**

The proposed amendment standardises the spelling of a word.

## **2.51 Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005**

### **Clause 91 (3)**

Omit the subclause.

#### **Explanatory note**

The proposed amendment omits a duplicate provision.

## **2.52 Marine Parks Act 1997 No 64**

### **Sections 29 (2) (b), 31, 32 (2), 37 (2) (a), 42 (2) (a) and 44 (3) and (6) and Schedule 2, clause 6**

Omit “Primary Industries” wherever occurring.

Insert instead “Industry and Investment”.

#### **Explanatory note**

The proposed amendment updates references to a Department.

## **2.53 Maritime Services Act 1935 No 47**

### **Section 13Z (1)**

Omit “Mineral Resources shall”.

Insert instead “Industry and Investment must”.

#### **Explanatory note**

The proposed amendment updates a reference to a Department.

## **2.54 McGarvie Smith Institute Incorporation Act 1928 No 28**

### **Section 5 (b)**

Omit “Agriculture”. Insert instead “Industry and Investment”.

#### **Explanatory note**

The proposed amendment updates a reference to a Department.

## **2.55 Meat Industry (Meat Industry Levy) Regulation 2006**

### **Schedule 1, Forms 2 and 3**

Omit “Director-General” wherever occurring.

Insert instead “Chief Executive Officer”.

#### **Explanatory note**

The proposed amendment updates references to the head of an authority.

## **2.56 Mine Health and Safety Act 2004 No 74**

### **Section 3 (1), definition of “Department”**

Omit “Mineral Resources”. Insert instead “Industry and Investment”.

#### **Explanatory note**

The proposed amendment updates a reference to a Department.

## **2.57 Mine Health and Safety Regulation 2007**

### **Clauses 109 (2) and 170**

Omit “of Primary Industries” wherever occurring.

#### **Explanatory note**

The proposed amendment updates references to a Department.

## **2.58 Mine Safety (Cost Recovery) Act 2005 No 116**

### **Section 3 (1), definition of “Department”**

Omit “Primary Industries”. Insert instead “Industry and Investment”.

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**Explanatory note**

The proposed amendment updates a reference to a Department.

**2.59 Mine Safety (Cost Recovery) Regulation 2005**

**Clause 4A, note**

Omit “Primary Industries”. Insert instead “Industry and Investment”.

**Explanatory note**

The proposed amendment updates a reference to a Department.

**2.60 Mine Subsidence Compensation Act 1961 No 22**

**[1] Section 4**

Insert in alphabetical order:

*Department* means the Department of Industry and Investment.

*Director-General* means the Director-General of the Department.

**[2] Section 5 (2) (a)**

Omit “of the Department of Primary Industries or a member of staff of that Department”.

Insert instead “or a member of staff of the Department”.

**[3] Section 6 (5)**

Omit “of Mineral Resources”.

**Explanatory note**

The proposed amendments update references to a Department.

**2.61 Mining Act 1992 No 29**

**[1] Section 179 (3)**

Omit “of the Department of Agriculture”.

**[2] Schedule 2, clause 1 (1), definition of “the relevant authority”**

Omit “of the Department of Agriculture or any officer of that Department authorised by the Director-General of that Department”.

Insert instead “or any officer of the Department authorised by the Director-General”.

**[3] Dictionary, definition of “Department”**

Omit “Primary Industries”. Insert instead “Industry and Investment”.

**Explanatory note**

The proposed amendments update references to a Department.

**2.62 Mining Amendment Act 2008 No 19**

**[1] Schedule 1 [2], proposed section 6 (3) (c)**

Omit “beneficiation”. Insert instead “beneficiation”.

**[2] Schedule 1 [131]**

Omit “of the Department of Agriculture”.

**Explanatory note**

Item [1] of the proposed amendments corrects a typographical error.

Item [2] updates a reference to a Department.

**2.63 Mining Regulation 2003**

**[1] Clause 3 (1), definition of “land identification map”**

Omit “Department of Lands”.

Insert instead “Land and Property Management Authority”.

**[2] Clause 9 (a)**

Omit “Department of Lands, the Department of Mineral Resources”.

Insert instead “Land and Property Management Authority, the Department of Industry and Investment”.

**Explanatory note**

The proposed amendments update references to Departments.

**2.64 Motor Vehicles Taxation Act 1988 No 111**

**Section 3 (5)**

Insert at the end of section 3:

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

**Explanatory note**

The proposed amendment clarifies the status of notes.

**2.65 National Parks and Wildlife Regulation 2009**

**Schedule 2**

Omit the matter relating to clause 24 (3) of the *National Parks and Wildlife Regulation 2009*.

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**Explanatory note**

The proposed amendment omits a redundant reference.

**2.66 Non-Indigenous Animals Act 1987 No 166**

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

Insert in alphabetical order:

*Department* means the Department of Industry and Investment.

**[2] Sections 3 (1), definition of “Director-General”, 7 (4) (a), 28 (2) (b) and 29A**

Omit “of Agriculture” wherever occurring.

**Explanatory note**

The proposed amendments update references to a Department.

**2.67 Noxious Weeds Act 1993 No 11**

**[1] Section 27 (1) and Dictionary, definition of “Director-General”**

Omit “of Primary Industries” wherever occurring.

**[2] Dictionary**

Insert in alphabetical order:

*Department* means the Department of Industry and Investment.

**Explanatory note**

The proposed amendments update references to a Department.

**2.68 Occupational Health and Safety Regulation 2001**

**[1] Clauses 3 (1), definition of “Department Head (Mining)”, 4, note, 358 (1) and 358A**

Omit “Primary Industries” wherever occurring.

Insert instead “Industry and Investment”.

**[2] Clause 261 (1)**

Omit “NOHSC Commission”. Insert instead “NOHS Commission”.

**Explanatory note**

Item [1] of the proposed amendments update references to a Department.

Item [2] corrects a typographical error.

## **2.69 Parliamentary Electorates and Elections Amendment Act 2006 No 68**

**[1] Schedule 19.2, heading**

Omit “(Polls and Elections) Regulation 2005”.

Insert instead “Regulation 2009”.

**[2] Schedule 19.2 [1], heading**

Omit “Clause 3”. Insert instead “Clause 17”.

**[3] Schedule 19.2 [1]**

Omit “clause 3”. Insert instead “clause 17”.

**[4] Schedule 19.2 [2] and [3]**

Omit the items. Insert instead:

**[2] Clause 17 (1), definition of “official mark”**

Omit the definition. Insert instead:

*official mark* means a mark authorised by the Electoral Commissioner.

**[3] Clauses 37 (4) (a) and 64 (4) (a)**

Omit “neither” wherever occurring. Insert instead “not”.

**[4] Clauses 37 (4) (a) and 64 (4) (a)**

Omit “nor bears an official mark” wherever occurring.

**[5] Schedule 19.26**

Omit the subschedule.

**Explanatory note**

Items [1]–[4] of the proposed amendments update amendments to an instrument that has been repealed and replaced.

Item [5] omits a redundant subschedule.

## **2.70 Pesticides Act 1999 No 80**

**Section 67 (3) (b)**

Omit “Agriculture”. Insert instead “Industry and Investment”.

**Explanatory note**

The proposed amendment updates a reference to a Department.

## **2.71 Petroleum (Onshore) Act 1991 No 84**

### **Section 3 (1), definition of “Department”**

Omit “Mineral Resources”. Insert instead “Industry and Investment”.

#### **Explanatory note**

The proposed amendment updates a reference to a Department.

## **2.72 Petroleum (Onshore) Regulation 2007**

### **Clause 27 (3)**

Omit “of Primary Industries”.

#### **Explanatory note**

The proposed amendment updates a reference to a Department.

## **2.73 Plant Diseases Act 1924 No 38**

### **Section 3 (1), definition of “Department”**

Omit “Primary Industries”. Insert instead “Industry and Investment”.

#### **Explanatory note**

The proposed amendment updates a reference to a Department.

## **2.74 Port Stephens Local Environmental Plan 2000**

### **Clause 6 (3)**

Insert after clause 6 (2):

(3) Notes included in this plan do not form part of this plan.

#### **Explanatory note**

The proposed amendment clarifies the status of notes.

## **2.75 Poultry Meat Industry Act 1986 No 101**

### **Section 3 (1), definition of “Department”**

Omit “Primary Industries”. Insert instead “Industry and Investment”.

#### **Explanatory note**

The proposed amendment updates a reference to a Department.

## **2.76 Prevention of Cruelty to Animals Act 1979 No 200**

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

Insert in alphabetical order:

*Department* means the Department of Industry and Investment.

*Director-General* means the Director-General of the Department.

### **[2] Sections 4 (1), definition of “officer” and 24D (2)**

Omit “of Primary Industries” wherever occurring.

### **[3] Sections 8 (4) and 29C (3) (a)**

Omit “of Agriculture” wherever occurring.

### **[4] Section 34AA (1) (d) and (2)**

Omit “of the Department of Primary Industries” wherever occurring.

#### **Explanatory note**

The proposed amendments update references to a Department.

## **2.77 Prevention of Cruelty to Animals (General) Regulation 2006**

### **Clause 3 (1), definition of “the Department”**

Omit the definition.

#### **Explanatory note**

The proposed amendment omits a redundant definition.

## **2.78 Private Health Facilities Regulation 2010**

### **Clause 24 (1), definition of “former Act”**

Omit “*Day Care Procedure*”. Insert instead “*Day Procedure*”.

#### **Explanatory note**

The proposed amendment corrects a reference to an Act.

## **2.79 Property, Stock and Business Agents Regulation 2003**

### **[1] Clause 11 (1) (e)**

Omit “buyers’ agents”. Insert instead “buyers agents”.

### **[2] Clause 15 (2) and (5) and Schedule 5, clause 1**

Omit “buyer’s agent” wherever occurring. Insert instead “buyers agent”.

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**Explanatory note**

The proposed amendments correct typographical errors.

**2.80 Protection of the Environment Operations (General) Regulation 2009**

**Clause 81 (6) (g)**

Omit “Primary Industries”. Insert instead “Industry and Investment”.

**Explanatory note**

The proposed amendment updates a reference to a Department.

**2.81 Real Property Act 1900 No 25**

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

Insert in alphabetical order:

*Department*—The Land and Property Management Authority.

**[2] Sections 13F (1) (c), 13KA (1) (c), 13M (2) and 135 (6)**

Omit “Department of Lands” wherever occurring.

Insert instead “Department”.

**[3] Sections 13F (1) (c) and 13KA (1) (c)**

Omit “Agriculture and Fisheries” wherever occurring.

Insert instead “Industry and Investment”.

**Explanatory note**

The proposed amendments update references to Departments.

**2.82 Retirement Villages Act 1999 No 81**

**Section 119 (2) (a) (iii)**

Omit “section 97 (3) (a) (i) or (ii)”.

Insert instead “section 100 (2) (a) (i) or (ii)”.

**Explanatory note**

The proposed amendment corrects a cross-reference.

**2.83 Retirement Villages Regulation 2009**

**[1] Clause 3 (2)**

Insert “(other than in Schedule 1)” before “do not form”.

**[2] Clause 29**

Omit “clause 4 (1) (b)”. Insert instead “clause 5 (1) (b)”.

**Explanatory note**

Item [1] of the proposed amendments clarifies the status of notes.

Item [2] corrects a cross-reference.

**2.84 Rice Marketing Act 1983 No 176**

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

Omit “Agriculture”. Insert instead “Industry and Investment”.

**[2] Sections 15 (2), 70 (2), 107 (2), 132 (1) and 133**

Omit “of Agriculture” wherever occurring.

**Explanatory note**

The proposed amendments update references to a Department.

**2.85 Roads Regulation 2008**

**[1] Clauses 77 (1) (g) and (2) and 79 (1) (g) and (2)**

Omit “Department of Lands” wherever occurring.

Insert instead “Land and Property Management Authority”.

**[2] Clauses 78 (1) and 81 (1)**

Omit “Director-General of the Department of Lands and the senior executive officers of that Department” wherever occurring.

Insert instead “Chief Executive, and the senior executive officers, of the Land and Property Management Authority”.

**Explanatory note**

The proposed amendments update references to a Department and the head of that Department.

**2.86 Rural Lands Protection Act 1998 No 143**

**Dictionary, definition of “Department”**

Omit “Primary Industries”. Insert instead “Industry and Investment”.

**Explanatory note**

The proposed amendment updates a reference to a Department.

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

**[1] Clauses 2.10 (c), 2.12 (k), 2.20 (1) (j), 2.70 (i) and 2.72 (h)**

Omit “facia” wherever occurring. Insert instead “fascia”.

**[2] Clauses 2.26, 3.33 (2), 4.1C, 5.2 (h), 5.8 (e), 5.10 (e) and 5.12 (b)**

Omit “AS 2601—2001, *Demolition of structures*” wherever occurring.

Insert instead “AS 2601—2001, *The demolition of structures*”.

**Explanatory note**

Item [1] of the proposed amendments standardises the spelling of a word.

Item [2] corrects a reference.

## **2.88 State Environmental Planning Policy (Major Development) 2005**

**[1] Schedule 3, Part 15, clause 8 (2)**

Omit “Zoning Map”. Insert instead “Land Zoning Map”.

**[2] Schedule 3, Part 22**

Renumber clause 19 where firstly occurring as clause 12.

**Explanatory note**

Item [1] of the proposed amendments inserts a missing word.

Item [2] corrects numbering.

## **2.89 State Environmental Planning Policy (Sydney Region Growth Centres) 2006**

**[1] Appendix 1, clause 1.9 (1) and Appendix 2, clause 1.9 (1)**

Omit “and any regional environmental plan that prevail” wherever occurring.

Insert instead “that prevails”.

**[2] Appendix 1, clause 1.9 (1), note and Appendix 2, clause 1.9 (1), note**

Omit “REPs and LEPs and that REPs prevail over” wherever occurring.

**[3] Appendix 1, clause 1.9 (1), note and Appendix 2, clause 1.9 (1), note**

Omit “or REP” wherever occurring.

**[4] Appendix 1, clause 1.9 (2) and Appendix 2, clause 1.9 (2)**

Omit “and regional environmental plans” wherever occurring.

**Explanatory note**

The proposed amendments omit redundant references.

**2.90 State Environmental Planning Policy (Temporary Structures) 2007**

**Clause 15 (3) (e)**

Omit “clause 18”. Insert instead “clause 3.3”.

**Explanatory note**

The proposed amendment updates a cross-reference.

**2.91 State Environmental Planning Policy (Western Sydney Employment Area) 2009**

**Clause 18 (1), note**

Omit the note.

**Explanatory note**

The proposed amendment omits a redundant note.

**2.92 Stock (Chemical Residues) Act 1975 No 26**

**Section 3, definition of “Department”**

Omit “Primary Industries”. Insert instead “Industry and Investment”.

**Explanatory note**

The proposed amendment updates a reference to a Department.

**2.93 Stock Diseases Act 1923 No 34**

**Section 3 (1), definition of “Department”**

Omit “Primary Industries”. Insert instead “Industry and Investment”.

**Explanatory note**

The proposed amendment updates a reference to a Department.

**2.94 Stock Foods Act 1940 No 19**

**Section 3, definition of “Director-General”**

Omit the definition. Insert instead:

*Director-General* means the Director-General of the Department of Industry and Investment.

**Explanatory note**

The proposed amendment updates a reference to a Department.

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## **2.95 Stock Medicines Act 1989 No 182**

### **Section 3 (1), definition of “Director-General”**

Omit “Agriculture”. Insert instead “Industry and Investment”.

#### **Explanatory note**

The proposed amendment updates a reference to a Department.

## **2.96 Surveying and Spatial Information Act 2002 No 83**

### **Section 36 (3) (b)**

Omit the paragraph.

#### **Explanatory note**

The proposed amendment omits a reference to a repealed Act.

## **2.97 Sydney Water Catchment Management Act 1998 No 171**

### **Section 35, definition of “regulatory agencies”**

Omit “Primary Industries” from paragraph (b).

Insert instead “Industry and Investment”.

#### **Explanatory note**

The proposed amendment updates a reference to a Department.

## **2.98 Telecommunications (Interception and Access) (New South Wales) Act 1987 No 290**

### **Section 3 (4)**

Insert after section 3 (3):

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

#### **Explanatory note**

The proposed amendment clarifies the status of notes.

## **2.99 Threatened Species Conservation Regulation 2002**

### **Clause 12 (e) (iii)**

Omit “Primary Industries”. Insert instead “Industry and Investment”.

#### **Explanatory note**

The proposed amendment updates a reference to a Department.

## 2.100 Travel Agents Regulation 2006

### Clause 11

Omit the clause.

#### Explanatory note

The proposed amendment omits a redundant clause.

## 2.101 Valuation of Land Act 1916 No 2

### [1] Section 4 (1), definitions of “Department” and “Director-General”

Omit the definitions. Insert instead in alphabetical order:

*Department* means the Land and Property Management Authority.

*Director-General* means that Chief Executive of the Department.

### [2] Section 79

Omit “department” wherever occurring. Insert instead “Department”.

#### Explanatory note

The proposed amendments update references to a Department and the head of that Department.

## 2.102 Veterinary Practice Regulation 2006

### Clause 23 (1)

Omit “Primary Industries” wherever occurring.

Insert instead “Industry and Investment”.

#### Explanatory note

The proposed amendment updates references to a Department.

## 2.103 Victims Support and Rehabilitation Act 1996 No 115

### Schedule 1, table

Omit “ligaments(s)” wherever occurring under the heading **Lower limbs**.

Insert instead “ligament(s)”.

#### Explanatory note

The proposed amendment corrects typographical errors.

## **2.104 Warren Local Environmental Plan 2009**

### **Clause 29, note**

Omit “comply”. Insert instead “complying”.

### **Explanatory note**

The proposed amendment corrects a typographical error.

## **2.105 Water Sharing Plan for the Tomago Tomaree Stockton Groundwater Sources 2003**

### **Schedule 6, clause 2 (2) (g), (4), (6) (f), (8) and (9)**

Omit “uS/cm” wherever occurring. Insert instead “µS/cm”.

### **Explanatory note**

The proposed amendment corrects typographical errors.

## **2.106 Waverley Local Environmental Plan (Bondi Junction Centre) 2010**

### **Land Use Table, note**

Omit “apples”. Insert instead “applies”.

### **Explanatory note**

The proposed amendment corrects a typographical error.

## **2.107 Western Lands Act 1901 No 70**

### **[1] Section 3 (1), definition of “Department”**

Omit the definition. Insert instead:

*Department* means the Land and Property Management Authority.

### **[2] Section 18E (2) (c) (iii)**

Omit “Mineral Resources”. Insert instead “Industry and Investment”.

### **[3] Schedule 1, paragraph (c)**

Omit “Agriculture”. Insert instead “Industry and Investment”.

### **Explanatory note**

The proposed amendments update references to Departments.

## **2.108 Western Lands Regulation 2004**

### **Schedule 4, item 6**

Omit “Agriculture”. Insert instead “Industry and Investment”.

#### **Explanatory note**

The proposed amendment updates a reference to a Department.

## **2.109 Wine Grapes Marketing Board (Reconstitution) Act 2003 No 100**

### **Section 3, definition of “Department”**

Omit “Primary Industries”. Insert instead “Industry and Investment”.

#### **Explanatory note**

The proposed amendment updates a reference to a Department.

## **2.110 Wollongong Local Environmental Plan 2009**

### **Clause 7.1**

Re-number subclause (3) where secondly occurring as subclause (4).

#### **Explanatory note**

The proposed amendment corrects numbering.

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## Schedule 3 Repeals

### 1 Repeal of redundant Act and provisions

The following provisions of the following Act and instruments are repealed:

Act or instrument	Provisions repealed
<i>Fertilizers (Amendment) Act 1992</i> No 8	Whole Act
<i>State Environmental Planning Policy (Affordable Rental Housing) 2009</i>	Schedule 3.11
<i>Sydney Regional Environmental Plan No 26—City West</i>	Part 4

### 2 Repeal of provisions that contain only amendments that have commenced or that are redundant

The following provisions of the following Acts are repealed:

Act	Provisions repealed
<i>Courts and Crimes Legislation Further Amendment Act 2008</i> No 107	Schedules 4, 7 and 24
<i>Building Professionals Amendment Act 2008</i> No 37	Schedule 1 [5], [7], [11], [17] and [38]

#### Explanatory note

Clause 1 repeals an Act and provisions of 2 instruments that are redundant.

Clause 2 repeals provisions of Acts that contain only amendments to other Acts or instruments.

In relation to the repeal of amending provisions, it should be noted that the provisions are repealed simply to rationalise the legislation in force and that the repeals have no substantive effect on the amendments made by the provisions, or any associated provisions. The Acts and instruments that were amended by the provisions being repealed are up-to-date on the NSW legislation website maintained by the Parliamentary Counsel's Office ([www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)).

Section 30 (2) of the *Interpretation Act 1987* ensures that the following matters are not affected when an Act or statutory rule is amended or repealed:

- (a) the proof of any past act or thing,
- (b) any right, privilege, obligation or liability saved by the operation of the Act or statutory rule,
- (c) any amendment or validation made by the Act or statutory rule,

Statute Law (Miscellaneous Provisions) Bill 2010

Schedule 3 Repeals

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- (d) the operation of any savings or transitional provision contained in the Act or statutory rule.

Section 5 (6) of the *Interpretation Act 1987* provides that the provisions of section 30 that apply to a statutory rule also apply to an environmental planning instrument.

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## 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 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

- (1) The Governor may by proclamation published on the NSW legislation website revoke the repeal of any Act or instrument effected by the following:

this Act

*Statute Law (Miscellaneous Provisions) Act (No 2) 2007*

*Statute Law (Miscellaneous Provisions) Act 2008*

- (2) Any Act or instrument the subject of a proclamation under subclause (1) is taken not to be, and never to have been, repealed by the Act concerned.
- (3) Subclause (2) does not operate in respect of any Act or instrument 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 publication on the NSW legislation website of the proclamation under subclause (1) in respect of that Act or instrument, 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 publication of that proclamation.
- (4) A reference in this clause to an Act or instrument includes a reference to a provision of any Act or instrument.

#### **Explanatory note**

This clause enables the Governor, by proclamation, to revoke the repeal of any Act or instrument or the provision of any Act or instrument repealed by this Act or any of the other statute law revision Acts listed. The Act or instrument or provision of an Act or instrument 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.

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- (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.

## Notes

### Index of Acts and instruments amended by Schedules 1 and 2

- Aboriginal Land Rights Act 1983* No 42—Schedule 1
- Adoption Act 2000* No 75—Schedules 1 and 2
- Agricultural Industry Services Act 1998* No 45—Schedule 2
- Agricultural Livestock (Disease Control Funding) Act 1998* No 139—Schedule 2
- Agricultural Scientific Collections Trust Act 1983* No 148—Schedule 2
- Albury Local Environmental Plan 2000*—Schedule 2
- Animal Diseases (Emergency Outbreaks) Act 1991* No 73—Schedule 2
- Animal Diseases (Emergency Outbreaks) Regulation 2008*—Schedule 2
- Animal Research Act 1985* No 123—Schedule 1
- Annual Reports (Departments) Act 1985* No 156—Schedule 1
- Annual Reports (Statutory Bodies) Act 1984* No 87—Schedule 1
- Apiaries Act 1985* No 16—Schedule 2
- Associations Incorporation Act 2009* No 7—Schedule 1
- Australian Museum Trust Act 1975* No 95—Schedule 1
- Biofuels Act 2007* No 23—Schedule 2
- Biological Control Act 1985* No 199—Schedule 2
- Camden Local Environmental Plan No 48*—Schedule 2
- Child Protection (Offenders Prohibition Orders) Act 2004* No 46—Schedule 2
- Children and Young Persons (Care and Protection) Act 1998* No 157—Schedule 1
- Coal Mine Health and Safety Regulation 2006*—Schedule 2
- Coastal Protection Act 1979* No 13—Schedule 2
- Commercial Vessels (Equipment) Regulation 1986*—Schedule 2
- Commission for Children and Young People Act 1998* No 146—Schedule 1
- Contaminated Land Management Act 1997* No 140—Schedule 2
- Conveyancers Licensing Regulation 2006*—Schedule 2
- Conveyancing (Sale of Land) Regulation 2005*—Schedule 2
- Coroners Act 2009* No 41—Schedule 2
- Crown Lands Act 1989* No 6—Schedule 2
- Crown Lands (Continued Tenures) Act 1989* No 7—Schedule 2
- Crown Lands (General Reserves) By-law 2006*—Schedule 2
- Crown Lands Regulation 2006*—Schedule 2
- Dairy Industry Act 2000* No 54—Schedule 1
- Deer Act 2006* No 113—Schedule 2

*Drug Misuse and Trafficking Act 1985* No 226—Schedule 2  
*Education Act 1990* No 8—Schedule 2  
*Environmental Planning and Assessment Act 1979* No 203—Schedule 1  
*Environmental Planning and Assessment Regulation 2000*—Schedule 2  
*Exhibited Animals Protection Act 1986* No 123—Schedule 2  
*Explosives Regulation 2005*—Schedule 2  
*Farm Water Supplies Act 1946* No 22—Schedule 2  
*Farrer Memorial Research Scholarship Fund Act 1930* No 38—Schedule 2  
*Fertilisers Act 1985* No 5—Schedule 2  
*Fines Act 1996* No 99—Schedule 1  
*Fines Regulation 2005*—Schedule 1  
*Fisheries Management Act 1994* No 38—Schedules 1 and 2  
*Fisheries Management (Estuary General Share Management Plan) Regulation 2006*—Schedule 2  
*Fisheries Management (General) Regulation 2002*—Schedule 2  
*Gene Technology (GM Crop Moratorium) Act 2003* No 12—Schedule 2  
*Geographical Names Act 1966* No 13—Schedule 2  
*Gloucester Local Environmental Plan 2000*—Schedule 2  
*Growth Centres (Development Corporations) Act 1974* No 49—Schedule 2  
*Guardianship Act 1987* No 257—Schedule 1  
*Hay Irrigation Regulation 2007*—Schedule 2  
*Health Care Complaints Act 1993* No 105—Schedule 2  
*Health Practitioner Regulation Act 2009* No 86—Schedule 2  
*Hemp Industry Act 2008* No 58—Schedule 2  
*Independent Pricing and Regulatory Tribunal Act 1992* No 39—Schedule 2  
*Judicial Officers Act 1986* No 100—Schedule 2  
*Lake Illawarra Authority Act 1987* No 285—Schedule 2  
*Land and Environment Court Act 1979* No 204—Schedule 2  
*Lane Cove Local Environmental Plan 2009*—Schedule 2  
*Law Enforcement (Powers and Responsibilities) Regulation 2005*—Schedule 2  
*Licensing and Registration (Uniform Procedures) Act 2002* No 28—Schedule 1  
*Liverpool Local Environmental Plan 2008*—Schedule 2  
*Local Government Act 1993* No 30—Schedule 1  
*Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005*—Schedule 2  
*Marine Parks Act 1997* No 64—Schedule 2  
*Maritime Services Act 1935* No 47—Schedule 2

*McGarvie Smith Institute Incorporation Act 1928* No 28—Schedule 2  
*Meat Industry (Meat Industry Levy) Regulation 2006*—Schedule 2  
*Mental Health Act 2007* No 8—Schedule 1  
*Mine Health and Safety Act 2004* No 74—Schedule 2  
*Mine Health and Safety Regulation 2007*—Schedule 2  
*Mine Safety (Cost Recovery) Act 2005* No 116—Schedule 2  
*Mine Safety (Cost Recovery) Regulation 2005*—Schedule 2  
*Mine Subsidence Compensation Act 1961* No 22—Schedule 2  
*Mining Act 1992* No 29—Schedule 2  
*Mining Amendment Act 2008* No 19—Schedule 2  
*Mining Regulation 2003*—Schedule 2  
*Motor Vehicles Taxation Act 1988* No 111—Schedule 2  
*National Parks and Wildlife Regulation 2009*—Schedule 2  
*Non-Indigenous Animals Act 1987* No 166—Schedule 2  
*Noxious Weeds Act 1993* No 11—Schedule 2  
*Occupational Health and Safety Regulation 2001*—Schedule 2  
*Ombudsman Act 1974* No 68—Schedule 1  
*Parliamentary Electorates and Elections Amendment Act 2006* No 68—Schedule 2  
*Pesticides Act 1999* No 80—Schedule 2  
*Petroleum (Onshore) Act 1991* No 84—Schedule 2  
*Petroleum (Onshore) Regulation 2007*—Schedule 2  
*Plant Diseases Act 1924* No 38—Schedule 2  
*Port Stephens Local Environmental Plan 2000*—Schedule 2  
*Poultry Meat Industry Act 1986* No 101—Schedule 2  
*Prevention of Cruelty to Animals Act 1979* No 200—Schedule 2  
*Prevention of Cruelty to Animals (General) Regulation 2006*—Schedule 2  
*Private Health Facilities Regulation 2010*—Schedule 2  
*Property, Stock and Business Agents Regulation 2003*—Schedule 2  
*Protection of the Environment Operations (General) Regulation 2009*—Schedule 2  
*Public Finance and Audit Act 1983* No 152—Schedule 1  
*Public Reserves Management Fund Act 1987* No 179—Schedule 1  
*Real Property Act 1900* No 25—Schedules 1 and 2  
*Retirement Villages Act 1999* No 81—Schedules 1 and 2  
*Retirement Villages Regulation 2009*—Schedule 2  
*Rice Marketing Act 1983* No 176—Schedule 2  
*Roads Regulation 2008*—Schedule 2

*Rural Lands Protection Act 1998* No 143—Schedule 2  
*State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*—Schedule 2  
*State Environmental Planning Policy (Major Development) 2005*—Schedule 2  
*State Environmental Planning Policy (Sydney Region Growth Centres) 2006*—Schedule 2  
*State Environmental Planning Policy (Temporary Structures) 2007*—Schedule 2  
*State Environmental Planning Policy (Western Sydney Employment Area) 2009*—Schedule 2  
*Stock (Chemical Residues) Act 1975* No 26—Schedule 2  
*Stock Diseases Act 1923* No 34—Schedule 2  
*Stock Foods Act 1940* No 19—Schedule 2  
*Stock Medicines Act 1989* No 182—Schedule 2  
*Strata Schemes Management Act 1996* No 138—Schedule 1  
*Strata Schemes Management Regulation 2005*—Schedule 1  
*Subordinate Legislation Act 1989* No 146—Schedule 1  
*Surveying and Spatial Information Act 2002* No 83—Schedule 2  
*Sydney Opera House Trust Act 1961* No 9—Schedule 1  
*Sydney Water Catchment Management Act 1998* No 171—Schedule 2  
*Telecommunications (Interception and Access) (New South Wales) Act 1987* No 290—Schedule 2  
*Threatened Species Conservation Regulation 2002*—Schedule 2  
*Travel Agents Regulation 2006*—Schedule 2  
*Valuation of Land Act 1916* No 2—Schedule 2  
*Veterinary Practice Regulation 2006*—Schedule 2  
*Victims Support and Rehabilitation Act 1996* No 115—Schedule 2  
*Warren Local Environmental Plan 2009*—Schedule 2  
*Water Sharing Plan for the Tomago Tomaree Stockton Groundwater Sources 2003*—Schedule 2  
*Waverley Local Environmental Plan (Bondi Junction Centre) 2010*—Schedule 2  
*Western Lands Act 1901* No 70—Schedule 2  
*Western Lands Regulation 2004*—Schedule 2  
*Wine Grapes Marketing Board (Reconstitution) Act 2003* No 100—Schedule 2  
*Wollongong Local Environmental Plan 2009*—Schedule 2  
*Workers Compensation Act 1987* No 70—Schedule 1

Statute Law (Miscellaneous Provisions) Bill 2010

Notes

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**Index of Acts and instruments wholly or partly repealed by Schedule 3**

*Building Professionals Amendment Act 2008 No 37*

*Courts and Crimes Legislation Further Amendment Act 2008 No 107*

*Fertilizers (Amendment) Act 1992 No 8*

*State Environmental Planning Policy (Affordable Rental Housing) 2009*

*Sydney Regional Environmental Plan No 26—City West*