

Passed by both Houses



New South Wales

# Statute Law (Miscellaneous Provisions) Bill (No 2) 2005

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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, , 2005*



New South Wales

## **Statute Law (Miscellaneous Provisions) Bill (No 2) 2005**

Act No , 2005

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An Act to repeal certain Acts 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.*

*Chairman of Committees 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 (No 2) 2005*.

**2 Commencement**

- (1) This Act commences on the date of assent, except as provided by this section.
- (2) The amendments made by Schedules 1–3 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 the date of assent.

**3 Amendments**

The Acts and instruments specified in Schedules 1–3 are amended as set out in those Schedules.

**4 Repeals**

Each Act specified in Schedule 4 is repealed.

**5 General savings, transitional and other provisions**

Schedule 5 has effect.

**6 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

(Section 3)

### 1.1 Annual Reports (Departments) Act 1985 No 156

#### [1] Section 3 Definitions

Omit “financial statements” from paragraph (b) (i) of the definition of *financial year*.

Insert instead “a financial report”.

#### [2] Section 9 Annual reports

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

Insert instead “a financial report”.

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

Omit “those statements”. Insert instead “the financial report”.

#### [4] Section 9 (2) (a)

Omit “the financial statements”. Insert instead “a financial report”.

#### [5] Section 9 (2) (b)

Omit “those financial statements”. Insert instead “the financial report”.

#### [6] Section 9 (2) (b)

Omit “them”. Insert instead “it”.

#### [7] Section 9 (2) (b)

Omit “the other financial statements of the Department”.

Insert instead “the Department’s financial report”.

#### [8] Section 18 Additional information

Omit “accounts” from section 18 (1). Insert instead “financial report”.

##### Explanatory note

##### IASB standards

The Australian Accounting Standards Board (**AASB**) is implementing the Financial Reporting Council’s policy of adopting accounting standards of the International Accounting Standards Board (**IASB**). The Financial Reporting Council is a statutory body under the *Australian Securities and Investments Commission Act 2001* of the Commonwealth. The AASB has issued Australian Accounting Standards that are equivalent to IASB standards.

The proposed amendments make certain terms used in the *Annual Reports (Departments) Act 1985 (the Act)* consistent with Australian Accounting Standards that are equivalent to standards of the IASB.

These amendments are explained below in further detail.

**References to “financial statements”**

Items [1]–[5] and [7] of the proposed amendments omit references in the nature of “financial statements” or “statements”. The object of these amendments is to make the language of the Act in this respect consistent with Australian Accounting Standards that are equivalent to IASB standards. Accordingly, those items insert instead references to “financial report”.

Item [6] of the proposed amendments makes a consequential change substituting “it” for “them” where, in the same provision, “financial report” is substituted for “financial statements”.

**Reference to “accounts”**

Item [8] of the proposed amendments omits a reference to “accounts” of a Department. The object of this amendment is to make the language of the Act in this respect consistent with Australian Accounting Standards that are equivalent to IASB standards. Accordingly, the item inserts instead a references to “financial report”.

## 1.2 Annual Reports (Departments) Regulation 2005

### [1] Clause 4 Identification of audited financial reports

Omit “statements”. Insert instead “report”.

### [2] Clause 6

Omit the clause. Insert instead:

#### **6 Inclusion of unaudited financial reports and information**

If an unaudited financial report or unaudited financial information is included in the annual report of a Department, the fact that the financial report or financial information has not been audited is to be clearly indicated by note or otherwise.

#### **Explanatory note**

##### **IASB standards**

The Australian Accounting Standards Board (**AASB**) is implementing the Financial Reporting Council’s policy of adopting accounting standards of the International Accounting Standards Board (**IASB**). The Financial Reporting Council is a statutory body under the *Australian Securities and Investments Commission Act 2001* of the Commonwealth. The AASB has issued Australian Accounting Standards that are equivalent to IASB standards.

The proposed amendments make certain terms used in the *Annual Reports (Departments) Regulation 2005 (the Regulation)* consistent with the *Annual Reports (Departments) Act 1985* which is, in turn, amended by this Schedule to be consistent with Australian Accounting Standards that are equivalent to standards of the IASB.

These amendments are explained below in further detail.

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**Omission of entire provision**

In the case of item [2], multiple changes have been made to the one provision by way of the omission and re-insertion of the provision. See the references to item [2] in the notes below as to the changes effected by the item.

**References to “financial statements”**

Items [1] and [2] of the proposed amendments omit references to “financial statements” or “statements”. The object of these amendments is to make the language of the Regulation in this respect consistent with Australian Accounting Standards that are equivalent to IASB standards. Accordingly, those items insert instead references to “financial report” or “report” as the context requires.

Item [2] of the proposed amendments also makes other changes as a consequence of the substitution of “financial report” for “financial statements”.

### **1.3 Annual Reports (Statutory Bodies) Act 1984 No 87**

**[1] Section 7 Annual reports**

Omit section 7 (1) (a) (i), (ia) and (ii). Insert instead:

- (i) the statutory body’s financial report prepared in accordance with Division 3 of Part 3 of the *Public Finance and Audit Act 1983* and the regulations under that Act,
- (ia) the financial report so prepared of each entity referred to in section 39 (1A) of the *Public Finance and Audit Act 1983* which is controlled by the statutory body,
- (ii) the opinion of the auditor given in accordance with Division 3 of Part 3 of that Act as to any financial report referred to in subparagraph (i) or (ia),

**[2] Section 7 (1) (a) (iii)**

Omit “those statements relate”. Insert instead “the annual report relates”.

**[3] Section 7 (1) (b)**

Omit “financial statements”. Insert instead “financial reports”.

**[4] Section 15 Additional information**

Omit “accounts” from section 15 (1). Insert instead “financial report”.

**Explanatory note**

**IASB standards**

The Australian Accounting Standards Board (**AASB**) is implementing the Financial Reporting Council’s policy of adopting accounting standards of the International Accounting Standards Board (**IASB**). The Financial Reporting Council is a statutory body under the *Australian Securities and Investments Commission Act 2001* of the Commonwealth. The AASB has issued Australian Accounting Standards that are equivalent to IASB standards.

The proposed amendments make certain terms used in the *Annual Reports (Statutory Bodies) Act 1984 (the Act)* consistent with Australian Accounting Standards that are equivalent to standards of the IASB.

These amendments are explained below in further detail.

**Omission of entire provisions**

In the case of item [1], multiple changes have been made to the one group of provisions by way of the omission and re-insertion of the provisions. See the references to item [1] in the notes below for an explanation of the changes.

**References to “financial statements”**

Items [1]–[3] of the proposed amendments omit references in the nature of “financial statements” or “statements”. The object of these amendments is to make the language of the Act in this respect consistent with Australian Accounting Standards that are equivalent to IASB standards. Accordingly, those items insert instead references to “financial report”, “financial reports” or “report” as the context requires.

Item [1] of the proposed amendments also makes an amendment in the nature of statute law revision to make it clear that the financial report referred to is the financial report of the relevant statutory body.

**References to “accounts”**

Item [4] of the proposed amendments omits a reference to the “accounts” of a statutory body in section 15 (1) of the Act. The object of this amendment is to make the language of the Act in this respect consistent with Australian Accounting Standards that are equivalent to IASB standards. Accordingly, the item inserts instead a reference to “financial report”.

## **1.4 Annual Reports (Statutory Bodies) Regulation 2005**

### **[1] Clause 5 Identification of audited financial reports**

Omit “statements”. Insert instead “report”.

### **[2] Clause 7 Place for inclusion of detailed budget**

Omit “statements”. Insert instead “report”.

### **[3] Clause 9**

Omit the clause. Insert instead:

#### **9 Inclusion of unaudited financial reports and information**

If an unaudited financial report or unaudited financial information is included in the annual report of a statutory body, the fact that the financial report or financial information has not been audited is to be clearly indicated by note or otherwise.

### **[4] Clause 10 Annual reports of prescribed statutory bodies**

Omit clause 10 (1) (b). Insert instead:

- (b) a copy of the audited financial report for the Heritage Conservation Fund for the year for which the annual report is prepared.

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**[5] Clause 10 (2)**

Omit the subclause. Insert instead:

- (2) For the purposes of section 7 (1) (b) of the Act, the financial report of The Dumaresq—Barwon Border Rivers Commission, which has been audited by the Auditor-General of New South Wales or Queensland (as the case may be), is prescribed in relation to that Commission.

**[6] Schedule 1 Report of operations**

Omit “Department” wherever occurring. Insert instead “statutory body”.

**Explanatory note**

**IASB standards**

The Australian Accounting Standards Board (**AASB**) is implementing the Financial Reporting Council's policy of adopting accounting standards of the International Accounting Standards Board (**IASB**). The Financial Reporting Council is a statutory body under the *Australian Securities and Investments Commission Act 2001* of the Commonwealth. The AASB has issued Australian Accounting Standards that are equivalent to IASB standards.

Items [1]–[5] of the proposed amendments make certain terms used in the *Annual Reports (Statutory Bodies) Regulation 2005 (the Regulation)* consistent with the *Annual Reports (Statutory Bodies) Act 1984* which is, in turn, amended by this Schedule to be consistent with Australian Accounting Standards that are equivalent to standards of the IASB.

These amendments are explained below in further detail.

**IASB standards—omission of entire provisions**

In the case of items [3]–[5] of the proposed amendments, multiple changes have been made to the one provision by way of the omission and re-insertion of the provision. See the reference or references to the relevant item in the notes below as to the particular change or changes effected by the item.

**IASB standards—references to “financial statements”**

Items [1]–[5] of the proposed amendments omit references to “financial statements” or “statements”. The object of these amendments is to make the language of the Act in this respect consistent with Australian Accounting Standards that are equivalent to IASB standards. Accordingly, those items insert instead references to “financial report” or “report” as the context requires.

Items [3]–[5] of the proposed amendments also make changes consequential on the substitution of the term “financial report” for the term “financial statements”, for example, substituting a reference to “is” prepared for a reference to “are” prepared.

Item [4] also makes an amendment to clause 10 (1) (b) to make it clear that the reference to the year for which “the report is prepared” is a reference to the year for which the annual report of the statutory body is prepared.

**Law revision amendment**

Item [6] of the proposed amendments makes amendments in the nature of law revision to substitute references to “statutory body” for incorrect references in the Regulation to “Department”.

## 1.5 Commons Management Act 1989 No 13

### [1] Section 3 Definitions

Insert “, by notice published in the Gazette,” after “Minister” in paragraph (b) of the definition of *common* in section 3 (1).

### [2] Section 3 (6)

Insert after section 3 (5):

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

### [3] Section 61A

Insert after section 61:

#### 61A Revocation of a common

- (1) The revocation of the setting aside of land as a common is to be effected by the Minister by notice published in the Gazette.
- (2) Any such revocation may relate to the whole or part of the land concerned.
- (3) If the revocation relates to part of the land only, the Minister may deal with that part as if it were Crown land subject to the Crown Lands Acts and not otherwise.

**Note.** Section 24 provides that on the revocation of the whole of a common, the trust established for the common is dissolved and that the Minister may deal with any real property of the trust as if it were Crown land subject to the Crown Lands Acts and not otherwise.

#### Explanatory note

A *common* is defined in section 3 of the *Commons Management Act 1989* to include land set aside by the Governor or the Minister as a common or for pasturage for the use of the inhabitants of a specified locality. Item [1] of the proposed amendments provides for the setting aside of the land to occur by notice published in the Gazette. This reflects existing administrative practice.

Item [2] of the proposed amendments is a consequential amendment clarifying the status of notes.

Item [3] of the proposed amendments provides for the revocation of the setting aside of land as a common to be effected by notice of the Minister published in the Gazette, which also reflects existing administrative practice.

In addition, item [3] provides that, in the case of a partial revocation, the land concerned is to be dealt with as if it were Crown land subject to Crown lands legislation. This is consistent with the position currently applying where a revocation relates to the whole of a common.

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## 1.6 Crown Lands Act 1989 No 6

### [1] Section 45 Licences

Omit “34B” from section 45 (1). Insert instead “34A”.

### [2] Section 92 Reserve trusts

Insert “the Minister (to the extent that the Minister is responsible for managing the affairs of a reserve trust), or” after “is a reference to” in section 92 (6A).

### [3] Section 92 (6B)

Omit section 92 (6B) and (6C). Insert instead:

- (6B) There can be more than one reserve trust manager for a reserve trust with the function of managing the affairs of the reserve trust allocated between them by the Minister in accordance with the following provisions:
- (a) The Minister can allocate the exercise of functions in respect of different aspects of the affairs of the reserve trust or different parts of the reserve to different reserve trust managers, as specified in the allocation or as determined by the Minister, with those functions to be exercised in accordance with such arrangements (if any) as may be determined by the Minister.
  - (b) The Minister is the reserve trust manager for any aspect of the affairs of a reserve trust or any part of the reserve not allocated to another reserve trust manager and is accordingly allocated the function of managing the affairs of the reserve trust in respect of any such unallocated aspects of those affairs or unallocated parts of the reserve.
  - (c) A reserve trust manager has the function of managing the affairs of the reserve trust only to the extent of the allocated functions and is, for the purposes of this or any other Act or law, the reserve trust manager to that extent only.

#### Explanatory note

Item [1] of the proposed amendments corrects an incorrect cross-reference.

Currently, section 92 of the *Crown Lands Act 1989* enables the affairs of a reserve trust to be managed by the Minister for Lands or reserve trust managers appointed by the Minister (**appointed reserve trust managers**). Item [3] of the proposed amendments makes provision for the affairs of a reserve trust to be managed by more than one reserve trust manager, including the Minister. This provision represents an extension of the existing section 92 (6B) and (6C), which make provision for the affairs of a reserve trust to be managed by more than one appointed reserve trust manager, but not in conjunction with the Minister.

The amendment made by item [2] is consequential on the amendment made by item [3].

## **1.7 Exhibited Animals Protection Act 1986 No 123**

### **Section 46A**

Insert after section 46:

#### **46A Penalty notices**

- (1) An authorised officer may serve a penalty notice on a person if it appears to the officer that the person has committed an offence against this Act or the regulations, being an offence prescribed by the regulations as a penalty notice offence.
- (2) A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person can pay, within the time and to the person specified in the notice, the amount of the penalty prescribed by the regulations for the offence if dealt with under this section.
- (3) A penalty notice may be served personally or by post.
- (4) If the amount of penalty prescribed for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence.
- (5) Payment under this section is not to be regarded as an admission of liability for the purpose of, and does not in any way affect or prejudice, any civil claim, action or proceeding arising out of the same occurrence.
- (6) The regulations may:
  - (a) prescribe an offence for the purposes of this section by specifying the offence or by referring to the provision creating the offence, and
  - (b) prescribe the amount of penalty payable for the offence if dealt with under this section, and
  - (c) prescribe different amounts of penalties for different offences or classes of offences.
- (7) The amount of a penalty prescribed under this section for an offence is not to exceed the maximum amount of penalty that could be imposed for the offence by a court.
- (8) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.

- (9) In this section, **authorised officer** means any of the following:
- (a) an inspector (other than a member who is deemed to be an inspector under section 9 (2)),
  - (b) a person of a class prescribed by the regulations as a class of persons who may issue penalty notices under this section.

**Explanatory note**

The proposed amendment allows penalty notices (on-the-spot fines) to be issued in respect of offences against the *Exhibited Animals Protection Act 1986* or the regulations made under that Act, but only if those offences are prescribed by regulations under that Act as penalty notice offences.

## 1.8 Exotic Diseases of Animals Act 1991 No 73

### Section 73A

Insert after section 73:

#### 73A Service of documents

- (1) A document that is authorised or required by this Act or the regulations to be given to or served on any person may be given or served by:
- (a) in the case of a natural person:
    - (i) delivering it to the person personally, or
    - (ii) sending it by post to the address specified by the person for the giving or service of documents or, if no such address is specified, the residential or business address of the person last known to the person giving or serving the document, or
    - (iii) sending it by facsimile transmission to the facsimile number of the person, or
  - (b) in the case of a body corporate:
    - (i) leaving it with a person apparently of or above the age of 16 years at, or by sending it by post to, the head office, a registered office or a principal office of the body corporate or to an address specified by the body corporate for the giving or service of documents, or
    - (ii) sending it by facsimile transmission to the facsimile number of the body corporate.
- (2) A document that is required or permitted to be given to or served on the occupier of any particular premises may, if addressed to

the occupier of the premises (either by name or as the occupier), be given or served:

- (a) by delivering the document or a true copy of it to some person on those premises who is apparently over the age of 16 years, or
  - (b) if there is no person on those premises who can be given or served with the document, by fixing the document or copy to some conspicuous part of the premises.
- (3) Nothing in this section affects the operation of any provision of a law or of the rules of a court authorising a document to be given or served on a person in any other manner.
- (4) In this section:  
*occupier* of premises includes a person in charge or in apparent control of the premises.  
*premises* includes place, area or vehicle.

**Explanatory note**

The proposed amendment inserts section 73A into the *Exotic Diseases of Animals Act 1991* which provides for the service of documents under the Act.

## 1.9 Fines Act 1996 No 99

### [1] Schedule 1 Statutory provisions under which penalty notices issued

Insert in alphabetical order:

*Exhibited Animals Protection Act 1986*, section 46A

*Meat Industry Act 1978*, section 76A

*Non-Indigenous Animals Act 1987*, section 27A

*Stock (Chemical Residues) Act 1975*, section 15A

*Stock Foods Act 1940*, section 32A

### [2] Schedule 1

Omit “*Ozone Protection Act 1989*, section 20”.

### [3] Schedule 1

Omit “*Wool, Hide and Skin Dealers Act 1935*, section 12A”.

**Explanatory note**

Item [1] of the proposed amendments is consequential and provides for the enforcement of penalty notices issued under:

- (a) certain sections proposed to be inserted into various Acts by amendments made elsewhere in this Schedule, and

- 
- (b) an existing provision of the *Meat Industry Act 1978*.  
Item [2] of the proposed amendments omits a cross-reference to a repealed section.  
Item [3] of the proposed amendments omits a cross-reference to a repealed Act.

### **1.10 Food Act 2003 No 43**

**[1] Section 133 Information in relation to prosecutions to be forwarded to Director-General**

Omit the section.

**[2] Section 137 Publication of names of offenders**

Omit section 137 (2). Insert instead:

- (2) Except as provided by subsection (3), the notification may only be published within 21 days after the last day on which an appeal may be made against the conviction.

**[3] Sections 137A and 137B**

Insert after section 137:

**137A Recovery of fees and charges**

Any charge, fee or money due to the Food Authority under this Act is recoverable by the Food Authority in a court of competent jurisdiction as a debt due to the Crown.

**137B Authorised officers may perform functions under Commonwealth legislation**

The Minister may, on behalf of the State, enter into arrangements with a Commonwealth Minister or officer of the Commonwealth government in relation to the exercise under Commonwealth legislation, by authorised officers authorised under this Act, of functions relating to food inspection.

**Explanatory note**

Item [1] of the proposed amendments omits a section of the *Food Act 2003 (the Act)* that requires a council or the Commissioner of Police to provide certain information to the NSW Food Authority about the taking of proceedings under the Act. The provision is considered unnecessary as the NSW Food Authority is required to be notified by enforcement agencies (which do not include the Commissioner of Police) after the finalisation of proceedings taken by them under the Act (see section 113 (2) of the Act).

Section 137 of the Act enables the NSW Food Authority to publish a notification about certain persons convicted of offences under the Act. Currently, the notification may only be published within 21 days of the conviction concerned unless an appeal against the conviction has been made, in which case the Authority must wait until the outcome of the appeal. However, the time within which an appeal may be made could exceed the 21-day period within which the notification is to be published in the absence of an appeal. Item [2] of the proposed amendments amends section 137 to provide that the

21-day period for publishing a notification in the absence of an appeal is to run from the expiry of the time within which an appeal may be made and not from the time of the conviction.

Item [3] of the proposed amendments inserts sections 137A and 137B into the Act. Proposed section 137A states that fees, charges and other money due to the NSW Food Authority may be recovered as a debt due to the Crown. Proposed section 137B enables the Minister for Primary Industries to enter into arrangements with the Commonwealth for the exercise by authorised officers under the Act of functions under Commonwealth legislation relating to the inspection of food. Similar provisions were contained in the *Food Production (Safety) Act 1998* (now repealed) which established Safe Food Production NSW but were not reproduced in the Act. The NSW Food Authority is a continuation of Safe Food Production NSW.

## **1.11 Forestry Act 1916 No 55**

### **[1] Section 7 Incorporation**

Omit “State Forests of NSW” from section 7 (4).

Insert instead “Forests NSW”.

### **[2] Section 13 Application of money**

Omit section 13 (5). Insert instead:

- (5) The Minister may from time to time by notice published in the Gazette set a limit on the amount of money that the commission may expend on any work without the approval of the Minister. Any expenditure by the commission that exceeds that limit is subject to the approval of the Minister.

#### **Explanatory note**

Item [1] of the proposed amendments updates a reference to the trading name of the Forestry Commission, which the commission may use in the exercise of its functions under any Act.

Item [2] of the proposed amendments allows the Minister for Primary Industries to set a limit on the amount of money that the Forestry Commission may expend on any work without the approval of the Minister and provides that any expenditure by the commission that exceeds that limit is subject to the approval of the Minister. At present, all expenditure above \$500,000 must be approved by the Minister (see section 13 (5) of the *Forestry Act 1916*).

## **1.12 Home Building Act 1989 No 147**

### **Section 45 Surrender of authority**

Omit the section.

#### **Explanatory note**

The proposed amendment omits a section of the *Home Building Act 1989* that provides for a matter (being the means by which authorities under that Act may be surrendered) that is adequately dealt with by section 21 (7) of the *Licensing and Registration (Uniform Procedures) Act 2002*.

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### 1.13 Independent Commission Against Corruption Act 1988 No 35

**[1] Section 57E Staff of Inspector**

Omit “government department” from section 57E (4) (a).

Insert instead “Department”.

**[2] Section 57E (4A)**

Insert after section 57E (4):

- (4A) The Department Head of a Department in which staff of the Inspector are employed may delegate to the Inspector or a member of staff of the Inspector any of the Department Head’s functions under the *Public Sector Employment and Management Act 2002* with respect to those staff (other than this power of delegation).

**[3] Section 57E (6)**

Insert after section 57E (5):

- (6) In this section:

**Department** has the same meaning as in the *Public Sector Employment and Management Act 2002*.

**Department Head** has the same meaning as in the *Public Sector Employment and Management Act 2002*.

**[4] Section 70 Confidentiality**

Insert “or Inspector” after “Commissioner” wherever occurring in section 70 (1A) and (1C).

**Explanatory note**

Under section 57E of the *Independent Commission Against Corruption Act 1988 (the Act)*, staff of the Inspector of the Independent Commission Against Corruption (**the ICAC**) may include persons who are employed by a Department of the Public Service. Item [2] of the proposed amendments allows the Department Head of a Department in which staff of the Inspector are employed to delegate to the Inspector or a member of staff of the Inspector any of the Department Head’s functions under the *Public Sector Employment and Management Act 2002* with respect to those staff.

Items [1] and [3] are consequential amendments.

The Act empowers the Committee on the Independent Commission Against Corruption (**the Committee**) to veto a proposal to appoint a person as Commissioner for the ICAC or Inspector of the ICAC. Section 70 (1A) of the Act requires the Committee to take in private, evidence proposed to be given to the Committee that relates to the proposed appointment of a person as Commissioner for the ICAC or to direct that any documents produced or proposed to be produced to the Committee relating to such a proposed appointment be treated as confidential. Item [4] of the proposed amendments extends

that provision to cover evidence or documents relating to the proposed appointment of a person as Inspector of the ICAC.

Item [4] also extends section 70 (1C) of the Act (which requires the Committee not to disclose (except to the Minister) whether or not it has vetoed or proposes to veto the proposed appointment of a person as Commissioner for the ICAC) to the proposed appointment of a person as Inspector of the ICAC. (These amendments bring the confidentiality provisions in the Act in line with those in the *Ombudsman Act 1974* in their application to the proposed appointment of a person as Inspector of the Police Integrity Commission.)

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

### **[1] Schedule 1 Alcohol and drugs—breath analysis and related matters**

Insert after clause 3 (2):

- (3) Before requiring a person to undergo a breath test under subclause (1A) or (1), and for the purpose of determining whether to conduct such a test, a police officer or other authorised officer (as the case may be) may conduct a preliminary assessment to determine if alcohol is present in the person's breath by requiring the person to talk into a device that indicates the presence of alcohol.

### **[2] Schedule 3 Amendment of other Acts**

Omit Schedule 3.2.

#### **Explanatory note**

Item [1] of the proposed amendments confirms the current practice of police and other authorised officers of conducting a preliminary assessment to determine whether alcohol is present in the breath of a person who is or was operating a vessel. The purpose of conducting the preliminary assessment is to determine whether to proceed to assess the concentration of alcohol present in a person's blood by means of a breath test. The preliminary assessment is conducted by requiring a person to talk into a device that indicates the presence of alcohol.

Item [2] of the proposed amendments omits an uncommenced amendment to a repealed Act.

## **1.15 Non-Indigenous Animals Act 1987 No 166**

### **Section 27A**

Insert after section 27:

#### **27A Penalty notices**

- (1) An authorised officer may serve a penalty notice on a person if it appears to the officer that the person has committed an offence against this Act or the regulations, being an offence prescribed by the regulations as a penalty notice offence.

- 
- (2) A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person can pay, within the time and to the person specified in the notice, the amount of the penalty prescribed by the regulations for the offence if dealt with under this section.
  - (3) A penalty notice may be served personally or by post.
  - (4) If the amount of penalty prescribed for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence.
  - (5) Payment under this section is not to be regarded as an admission of liability for the purpose of, and does not in any way affect or prejudice, any civil claim, action or proceeding arising out of the same occurrence.
  - (6) The regulations may:
    - (a) prescribe an offence for the purposes of this section by specifying the offence or by referring to the provision creating the offence, and
    - (b) prescribe the amount of penalty payable for the offence if dealt with under this section, and
    - (c) prescribe different amounts of penalties for different offences or classes of offences.
  - (7) The amount of a penalty prescribed under this section for an offence is not to exceed the maximum amount of penalty that could be imposed for the offence by a court.
  - (8) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.
  - (9) In this section, ***authorised officer*** includes a person of a class prescribed by the regulations as a class of persons who may issue penalty notices under this section.

**Explanatory note**

The proposed amendment allows penalty notices (on-the-spot fines) to be issued in respect of offences against the *Non-Indigenous Animals Act 1987* or the regulations made under that Act, but only if those offences are prescribed by regulations under that Act as penalty notice offences.

## 1.16 Police (Special Provisions) Act 1901 No 5

### [1] Section 101 Magistrates or Justices may appoint special constables

Omit “as in the next subsection provided” from section 101 (1A).

Insert instead “provided for in subsection (2)”.

### [2] Section 101 (4)

Insert after section 101 (3):

- (4) Despite subsection (2), a person who is authorised to administer the oath, affirmation or engagement of the office of a member of a police force (including the Australian Federal Police) referred to in subsection (1A) (a) is authorised to administer to a member of that police force who is appointed as a special constable under that provision the oath referred to in subsection (2).

### [3] Section 104 Penalty for refusing to take the oath of office

Omit “hereinbefore mentioned when thereunto required by the Magistrate or Justices appointing him,”.

Insert instead “of a special constable in accordance with section 101”.

#### **Explanatory note**

Section 101 of the *Police (Special Provisions) Act 1901 (the Act)* presently authorises only the Magistrate or Justices of the Peace who appoint special constables under that provision (being Magistrates or Justices of the Peace of New South Wales) to administer the oath of that office to appointees. The object of item [2] of the proposed amendments is to allow persons who are authorised to administer the police oath (or its equivalent) to a member of a police force referred to in section 101 (1A) (a) of the Act (being the Australian Federal Police, or a police force of another State or of the Australian Capital Territory) to administer the oath of a special constable to a member of that police force who is appointed as a special constable.

Items [1] and [3] are consequential amendments.

## 1.17 Public Finance and Audit Act 1983 No 152

### [1] Section 4 Definitions

Insert in alphabetical order in section 4 (1):

*Australian Accounting Standards* means the standards issued by the Australian Accounting Standards Board as in force for the time being.

*financial report* means:

- (a) in respect of the Total State Sector—the Total State Sector Accounts, and

- (b) in respect of a statutory body—a financial report referred to in section 41A, and
- (c) in respect of a Department—a financial report referred to in section 45D.

**[2] Section 4 (1), definition of “financial year”**

Omit “1 April to the next following 31 March” from paragraph (b) (ii).  
Insert instead “1 July to the next following 30 June”.

**[3] Section 4 (1), definition of “the Total State Sector Accounts”**

Omit “statements”. Insert instead “financial report”.

**[4] Section 6 Preparation of the Total State Sector Accounts**

Omit “consolidated financial statements” from section 6 (1).  
Insert instead “a consolidated financial report”.

**[5] Sections 6 (2) and 43A (3)**

Omit “statements” wherever occurring. Insert instead “report”.

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

Omit “are”. Insert instead “is”.

**[7] Sections 6 (3) and 9 (2) (n)**

Omit “statements” wherever occurring. Insert instead “reports”.

**[8] Sections 9 (2) (g), 27B (3) (a), 52 (3) and 57 (1) (b), (d), (e) and (f)**

Omit “accounts” wherever occurring. Insert instead “financial reports”.

**[9] Section 35 Inspection and audit of books and records of accounting officers**

Omit “books and accounts” from section 35 (2).  
Insert instead “books and records”.

**[10] Section 35 (2)**

Omit “whose accounts”. Insert instead “whose financial report”.

**[11] Sections 36 (1) and (5) (a), 41 (1) and 45C**

Omit “accounts” wherever occurring. Insert instead “books”.

- [12] **Section 36 (3)**  
Omit “books, accounts, records or documents”.  
Insert instead “books, records, documents or papers”.
- [13] **Sections 36 (7) and 38A, definition of “authority”**  
Omit “accounts are” wherever occurring.  
Insert instead “financial report is”.
- [14] **Sections 39 (1A) and 45A (1A)**  
Omit “within the meaning of Australian Accounting Standard AAS 24: *Consolidated Financial Reports* and Accounting Standard AASB 1024: *Consolidated Accounts*” wherever occurring.  
Insert instead “as defined in Australian Accounting Standards”.
- [15] **Sections 39 (3) and 45A (4)**  
Omit “accounts” wherever occurring.  
Insert instead “financial report, books, records”.
- [16] **Section 41 (heading)**  
Omit “accounts”.  
Insert instead “**books and records**”.
- [17] **Section 41 (2)**  
Omit “of account”. Insert instead “and records”.
- [18] **Sections 41A (1) and 45D (1)**  
Omit “financial statements” wherever occurring.  
Insert instead “a financial report”.
- [19] **Section 41A Preparation of financial report**  
Omit “financial statements” from section 41A (2).  
Insert instead “the Audit Office’s financial report”.
- [20] **Sections 41B (heading) and 45D (heading)**  
Omit “statements” wherever occurring. Insert instead “**reports**”.

- [21] Section 41B (1)**  
Omit “The financial statements referred to in section 41A of a statutory body”.  
Insert instead “A statutory body’s financial report”.
- [22] Section 41B (1) (a)**  
Omit “having regard to current accounting standards and industry practices relating to the statutory body”.  
Insert instead “in accordance with Australian Accounting Standards”.
- [23] Section 41B (1) (b)**  
Omit the paragraph.
- [24] Section 41B (1) (c)**  
Omit “shall consist of”. Insert instead “is to include”.
- [25] Section 41B (1) (c) (i)–(v)**  
Omit the subparagraphs.
- [26] Section 41B (1) (e)**  
Omit “transactions” wherever occurring.  
Insert instead “financial performance”.
- [27] Section 41B (2)–(4)**  
Omit the subsections.
- [28] Section 41BA Variation of requirements**  
Omit “of financial statements” from section 41BA (1).  
Insert instead “of financial reports”.
- [29] Section 41BA (1) (a)**  
Omit “the financial statements”. Insert instead “a financial report”.
- [30] Section 41C Auditing etc of financial report**  
Omit section 41C (1). Insert instead:  
  - (1) The Auditor-General is to audit a statutory body’s financial report for a financial year within 10 weeks of its receipt by the Auditor-General.

**[31] Sections 41C (1A) (a) and 45F (1A) (a)**

Omit “accounts caused to be kept by” wherever occurring.

Insert instead “financial report of”.

**[32] Sections 41C (1A) (b) and 45F (1A) (b)**

Omit “statements comply” wherever occurring.

Insert instead “report complies”.

**[33] Section 41C (1B)**

Omit the subsection. Insert instead:

(1B) An opinion in relation to the financial report of a statutory body is not to be furnished under subsection (1A) unless the Auditor-General has received a statement made in accordance with a resolution of the statutory body and:

- (a) stating whether, in the opinion of the person or persons by whom the statement is signed:
  - (i) the financial report exhibits a true and fair view of the financial position and financial performance of the statutory body, or
  - (ii) if the statutory body is the Senate, Council or Board of Governors of a university, the financial report exhibits a true and fair view of the financial position and financial performance of the university, and
- (b) including such matters as are prescribed by the regulations for the purposes of this subsection.

**[34] Section 41C (2)**

Omit the subsection. Insert instead:

(2) Nothing in this section prevents the alteration of a statutory body’s financial report, with the approval of the Auditor-General, after its receipt by the Auditor-General and before its submission to the Minister.

**[35] Section 41D**

Omit the section. Insert instead:

**41D Return of audited financial report etc to statutory body**

The Auditor-General or a person authorised by the Auditor-General shall, after all the functions conferred by section 41C in relation to the financial report of a statutory body have

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been performed, submit the financial report and the opinion under that section to the statutory body for submission to the Minister.

- [36] Section 43 Inspection and audit of financial reports, books and records of statutory bodies**  
Omit “accounts” from section 43 (1). Insert instead “financial reports, books”.
- [37] Section 43A General audit of former statutory bodies**  
Omit section 43A (2) (a). Insert instead:
- (a) a financial report for the portion of the financial year ending when the body ceased to be such a statutory body (and for any previous financial year) is to be prepared and submitted, and
- [38] Section 43A (2) (b)**  
Omit “the accounts of the body are”. Insert instead “the financial report is”.
- [39] Section 43A (2)**  
Omit “they”. Insert “it”.
- [40] Section 45 Particular audit**  
Omit section 45 (1). Insert instead:
- (1) In accordance with the request of the Treasurer, a Minister or a person prescribed for the purposes of this section in relation to a statutory body, the Auditor-General is to inspect and audit:
    - (a) in the case of a statutory body to which section 44 (1) (a) applies—the financial report of the statutory body and the books and records of financial transactions of or relating to:
      - (i) the statutory body, and
      - (ii) assets of or in the custody of the body, and
    - (b) in the case of a statutory body to which section 44 (1) (b) applies—the financial report of the statutory body and the books and records of financial transactions of or relating to the fund or account under the control or management of the statutory body.

**[41] Section 45E Nature of financial reports**

Omit section 45E (1). Insert instead:

- (1) A Department's financial report:
  - (a) is to be prepared in accordance with Australian Accounting Standards, and
  - (b) is to comply with any written directions of the Treasurer as to form and content, and
  - (c) is to exhibit a true and fair view of the financial position and financial performance of the Department.

**[42] Section 45EA Variation of requirements**

Omit "of financial statements" from section 45EA (1).

Insert instead "of a financial report".

**[43] Section 45EA (1) (a)**

Omit "the financial statements". Insert instead "a financial report".

**[44] Section 45F Auditing etc of financial reports**

Omit section 45F (1). Insert instead:

- (1) The Auditor-General is to audit a Department's financial report for a financial year within 10 weeks of its receipt by the Auditor-General.

**[45] Section 45F (1B)**

Omit the subsection. Insert instead:

- (1B) An opinion in relation to the financial report of a Department is not to be furnished under subsection (1A) unless the Auditor-General has received a statement:
  - (a) stating whether, in the opinion of the Department Head, the financial report exhibits a true and fair view of the financial position and financial performance of the Department, and
  - (b) including such matters as are prescribed by the regulations for the purposes of this subsection.

**[46] Section 45F (2)**

Omit the subsection. Insert instead:

- (2) Nothing in this section prevents the alteration of a Department's financial report, with the approval of the Auditor-General, after its receipt by the Auditor-General and before its submission to the Minister.

**[47] Section 45G**

Omit the section. Insert instead:

**45G Return of audited financial report etc to Department Head**

The Auditor-General or a person authorised by the Auditor-General shall, after all the functions conferred by section 45F in relation to the financial report of a Department have been performed, submit the financial report and the opinion under that section to the Department Head for submission to the Minister.

**[48] Section 45I Inspection and audit of financial reports, books and records of Departments**

Omit "accounts" from section 45I (1).

Insert instead "financial reports, books".

**[49] Section 47 Appointment and functions of auditor**

Omit "books and accounts" from section 47 (1).

Insert instead "Audit Office's financial report and the books and records".

**[50] Section 48 Auditing of financial report and records**

Omit "books and accounts" from section 48 (1).

Insert instead "Audit Office's financial report and the books and records".

**[51] Section 49 Examination by Auditor-General of the Total State Sector Accounts**

Omit section 49 (1). Insert instead:

- (1) The Auditor-General shall examine the Total State Sector Accounts transmitted to the Auditor-General by the Treasurer in accordance with section 6 (4) and shall prepare and sign an opinion stating whether the Total State Sector Accounts are properly drawn up in accordance with this Act and accord with the books and records of the Treasurer.

**[52] Section 52 Auditor-General's reports**

Omit "accounts" from section 52 (1).

Insert instead "Total State Sector Accounts".

**[53] Section 52C Definitions**

Omit "accounts are" from the definition of *authority*.

Insert instead "financial report is".

**[54] Section 53 Definitions**

Omit "accounts of which are" from paragraph (b) of the definition of *authority of the State*.

Insert instead "financial report of which is".

**[55] Section 57 Functions of Committee**

Omit "accounts" from section 57 (1) (c). Insert instead "financial report".

**[56] Section 59 Form of books, records etc**

Omit ", account" from section 59 (1), (2), (3) and (4) wherever occurring.

**[57] Section 61 Misappropriation of money or property**

Omit "books of account" from section 61 (3).

Insert instead "books, records".

**[58] Section 63A Reference of matters to Public Accounts Committee**

Omit "statements" from section 63A (2) and (3) wherever occurring.

Insert instead "report".

**Explanatory note**

**IASB standards**

The Australian Accounting Standards Board (**AASB**) is implementing the Financial Reporting Council's policy of adopting accounting standards of the International Accounting Standards Board (**IASB**). The Financial Reporting Council is a statutory body under the *Australian Securities and Investments Commission Act 2001* of the Commonwealth. The AASB has issued Australian Accounting Standards that are equivalent to IASB standards.

Items [1], [3]–[11], [13]–[21] and [24]–[58] of the proposed amendments make certain terms used in the *Public Finance and Audit Act 1983* (**the Act**) consistent with Australian Accounting Standards that are equivalent to standards of the IASB.

These amendments are explained below in further detail.

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**IASB standards—omission of entire provisions**

In the case of items [30], [33], [34], [35], [37], [40], [41], [44], [45], [46], [47] and [51] multiple changes have been made to the one provision by way of the omission and re-insertion of the provision. See the reference or references to the relevant item in the notes below as to the particular change or changes effected by the item.

**IASB standards—definition of Australian Accounting Standards**

Item [1] of the proposed amendments inserts a definition of **Australian Accounting Standards** in section 4 (1) of the Act. The defined term is currently used in the Act and is also inserted in other provisions by items [14], [22] and [41] of the proposed amendments.

The object of this definition is to make it clear that references in the Act to Australian Accounting Standards are references to Australian Accounting Standards as in force for the time being. Accordingly it is made clear that the references include the standards currently in force that are equivalent to IASB standards and such standards issued in the future.

**IASB standards—definition of financial report**

The object of the insertion by item [1] of the proposed amendments of a definition of **financial report** is to make it clear, when referring to a financial report in respect of the relevant accounting entity, to which form of financial report the reference refers.

**IASB standards—control**

Item [14] of the proposed amendments replaces references to control “within the meaning of Australian Accounting Standard AAS 24: *Consolidated Financial Reports* and Accounting Standard AASB 1024: *Consolidated Accounts*” in sections 39 (1A) and 45A (1A) with references to control “as defined in Australian Accounting Standards”. The standards to which reference is omitted are no longer in force.

Instead, reference is made to Australian Accounting Standards, a term defined by a definition inserted by item [1]. As explained in relation to item [1], the references in sections 39 (1A) and 45A (1A) to Australian Accounting Standards accordingly include the standards currently in force that are equivalent to IASB standards and such standards issued in the future.

**IASB standards—financial reports of statutory bodies**

The object of the amendment made by item [24] of the proposed amendments is to provide that financial reports that, under section 41B (1) (a) (as amended by item [22]), are to be prepared in accordance with Australian Accounting Standards, may include matters other than the matters currently set out in section 41B (1) (c), for example matters required under Australian Accounting Standards.

The object of the amendment made by item [25] of the proposed amendments is to ensure that the matters that are required to be included under section 41B (1) (c) are not inconsistent with the requirement to prepare a financial report in accordance with Australian Accounting Standards. This is done by omitting redundant requirements. Item [27] of the proposed amendments (to the extent that it omits section 41B (3), (3A) and (4) of the Act) is an amendment consequential on the amendment made by item [25].

**IASB standards—references to “financial statements”**

Items [3], [4], [5], [7], [18], [19], [20], [21], [28], [29], [32], [33], [34], [35], [37], [41], [42], [43], [46], [47] and [58] of the proposed amendments omit references to “financial statements” or “statements”. The object of these amendments is to make the language of the Act in this respect consistent with Australian Accounting Standards that are equivalent to IASB standards. Accordingly, those items insert instead references to “financial report”, “financial reports” or “report” as the context requires.

Items [6], [33], [34], [38], [39] and [41] of the proposed amendments make consequential changes, for example, substituting “is” for “are” if, in the same provision, “financial report” is substituted for “financial statements”.

**IASB statements—references to “transactions”**

Items [26], [33], [40] and [41] of the proposed amendments replace references in the Act to “transactions” with references to “financial performance”. The object of such amendments is to make the language of the Act in this respect consistent with Australian Accounting Standards that are equivalent to IASB standards.

**IASB standards—references to “accounts”**

Items [8], [9], [10], [11], [13], [15], [16], [17], [30], [31], [36], [38], [40], [44], [45], [48], [49], [50], [51] (where “account” occurs secondly in the current section 49 (1)), [52], [53], [54], [55], [56] and [57] of the proposed amendments omit references to “accounts”. The object of these amendments is to make the language of the Act in this respect consistent with Australian Accounting Standards that are equivalent to IASB standards. Accordingly, those items insert instead references to other terms as the context requires.

Item [56] does not replace the term omitted.

Items [8], [10], [13], [30], [38], [44], [45], [53], [54] and [55] insert instead references to “financial report”.

Items [9], [11], [16], [17] and [51] insert instead references to “records”, “books” or “books and records”.

Items [15], [36], [40], [48], [49] and [50] insert instead references to “financial report and books and records”.

Item [57] omits a reference to “books of account” and inserts instead a reference to “books, records”.

Item [51] of the proposed amendments omits “accounts” where firstly occurring in section 49 (1) and inserts instead “Total State Sector Accounts” to make it clear that the terms are referring to the same financial report. A corresponding amendment is made by item [52] of the proposed amendments in respect of section 52.

**Statutory authority’s financial year**

The object of item [2] of the proposed amendments is to provide (if no other provision applies to the statutory authority in respect of this matter) for a statutory authority’s financial year, within the meaning of the Act, to run from 1 July to the following 30 June instead of from 1 April to the following 31 March.

**Accrual accounting**

Items [23], [27] (to the extent that it omits section 41B (2) of the Act) and [41] (in part) of the proposed amendments remove redundant references in the Act to accrual accounting.

Item [41] of the proposed amendments replaces a redundant reference to preparing a financial statement of a Department on an accrual accounting basis with a reference to preparing a financial report of a Department in accordance with Australian Accounting Standards.

The use in item [41] of the defined term *Australian Accounting Standards*, the relevant definition being inserted by item [1] of the proposed amendments, has the effect that this provision also incorporates reference to existing and future Australian Accounting Standards that are equivalent to IASB standards.

**Inclusion of reference to papers**

Item [12] of the proposed amendments inserts a reference to “papers” in the kinds of documents the Auditor-General is entitled to require the production of under section 36 (3) of the Act.

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This amendment makes section 36 (3) consistent with section 36 (1) (as amended by item [11]) and section 36 (5) (a) (as amended by item [11]) in their reference to such documents.

**Preparation of financial reports of statutory bodies**

Item [22] of the proposed amendments changes the requirements in respect of the preparation of financial reports of statutory bodies under section 41B of the Act. Section 41B (1) (a) of the Act currently provides that the financial statements shall be prepared “having regard to current accounting standards and industry practices relating to the statutory body”. Proposed section 41B (1) (a), as amended by item [22], provides for the financial report of the body to be prepared “in accordance with Australian Accounting Standards”. The effect of the amendment is to require compliance with Australian Accounting Standards rather than providing for their preparation “with regard to” certain matters and also to remove the ability of a statutory body to prepare financial reports with regard to industry practices relevant to the statutory body.

## 1.18 Public Finance and Audit Regulation 2005

**[1] Clause 3 Definitions**

Omit the definitions of *Australian Accounting Standards* and *financial statements* from clause 3 (1).

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

Omit “financial statements”. Insert instead “a financial report”.

**[3] Clause 4 Certification**

Omit “statements have” from clause 4 (a). Insert instead “report has”.

**[4] Clauses 4 (b), 7 (2), 8 (2) and 11 (b)**

Omit “statements” wherever occurring. Insert instead “report”.

**[5] Clause 5 Exemptions**

Omit “statements” from clause 5 (1) and (4) wherever occurring.  
Insert instead “report”.

**[6] Clause 5 (4)**

Omit “to”. Insert instead “within”.

**[7] Clause 6**

Omit the clause. Insert instead:

**6 Accounting standards**

Except as may be provided by the Act, this Regulation and the Treasurer’s directions, the financial report of a statutory body

must be prepared in accordance with Australian Accounting Standards.

**[8] Clause 7 Income and expenditure information**

Omit clause 7 (1). Insert instead:

- (1) For the purposes of section 41B (1) (c) (vi) and (g) of the Act, the particulars set out in Part 1 of Schedule 1 must be shown separately in the financial report of a statutory body.

**[9] Clauses 7 (3) and 8 (3)**

Omit “transactions” wherever occurring.

Insert instead “financial performance”.

**[10] Clause 8 Balance sheet information**

Omit clause 8 (1). Insert instead:

- (1) For the purposes of section 41B (1) (c) (vi) and (g) of the Act, the particulars set out in Part 2 of Schedule 1 must be shown separately in the financial report of a statutory body.

**[11] Clause 9 Rounding off**

Omit “statement”. Insert instead “report”.

**[12] Clause 10 Exclusion of budget information from certain financial reports submitted for certification**

Omit “statements” from clause 10 (1). Insert instead “report”.

**[13] Clause 10 (2)**

Omit the subclause. Insert instead:

- (2) Subclause (1) does not apply to the financial report of a statutory body if the statutory body is required by or under the Act (including by a condition of exemption granted under the Act or a direction of the Treasurer under the Act) to include a budget or budget information in that report.

**[14] Clause 11 Certification**

Omit “statements have” from clause 11 (a). Insert instead “report has”.

**[15] Clause 12 Exemptions**

Omit “statements” from clause 12 (1) and (4) wherever occurring.

Insert instead “report”.

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**[16] Clause 12 (4)**

Omit “to”. Insert instead “within”.

**[17] Clause 14 Definitions of “authority” and “officer of an authority”**

Omit “the Police Service” from clause 14 (1) and (2) wherever occurring.

Insert instead “NSW Police”.

**[18] Schedule 1 (heading)**

Omit “statements”. Insert instead “reports”.

**Explanatory note**

**IASB standards**

The Australian Accounting Standards Board (**AASB**) is implementing the Financial Reporting Council's policy of adopting accounting standards of the International Accounting Standards Board (**IASB**). The Financial Reporting Council is a statutory body under the *Australian Securities and Investments Commission Act 2001* of the Commonwealth. The AASB has issued Australian Accounting Standards that are equivalent to IASB standards.

The proposed amendments make certain terms used in the *Public Finance and Audit Regulation 2005 (the Regulation)* consistent with the *Public Finance and Audit Act 1983 (the Act)* which is, in turn, amended by this Schedule to be consistent with Australian Accounting Standards that are equivalent to standards of the IASB.

These amendments are explained below in further detail.

**IASB standards—omission of entire provisions**

In the case of items [7], [8], [10] and [13] of the proposed amendments, multiple changes have been made to the one provision by way of the omission and re-insertion of the provision. See the reference or references to the relevant item in the notes below as to the particular change or changes effected by the item.

**IASB standards—omission of definitions**

Item [1] of the proposed amendments omits definitions of **Australian Accounting Standards** and **financial statements** from clause 3 (1) of the Regulation.

The definition of **Australian Accounting Standards** is unnecessary because an amendment to the Act by this Schedule inserts a definition of **Australian Accounting Standards** in the Act.

The definition of **financial statements** is omitted as a consequence of the removal of the term from the Act by amendments made by this Schedule.

**IASB standards—references to “financial statements”**

Items [2], [3], [4], [5], [7], [8], [10], [11], [12], [13], [14], [15] and [18] of the proposed amendments omit references to “financial statements” or “statements”. The object of these amendments is to make the language of the Regulation in this respect consistent with Australian Accounting Standards that are equivalent to IASB standards. Accordingly, those items insert instead references to “financial report”, “financial reports” or “report” as the context requires.

**IASB standards—references to notes “to” financial statements**

Items [6] and [16] of the proposed amendments omit references to notes “to” financial statements and insert instead a reference to notes “within” a financial report. The object of these amendments is to make the language of the Regulation in this respect consistent with Australian Accounting Standards that are equivalent to IASB standards.

**IASB standards—financial reports of statutory bodies**

Items [7] and [8] of the proposed amendments omit words that are redundant because of amendments made to section 41B of the Act by this Schedule with respect to the requirement that a financial report of a statutory body be prepared in accordance with Australian Accounting Standards.

**IASB standards—references to “transactions”**

Item [9] of the proposed amendments replaces references in the Regulation to “transactions” with references to “financial performance”. The object of such amendments is to make the language of the Regulation in this respect consistent with Australian Accounting Standards that are equivalent to IASB standards.

**Law revision**

Item [17] of the proposed amendments is consequential on the change of name of an organisation.

**1.19 Road Transport (Safety and Traffic Management) Act 1999  
No 20**

**Section 13 Power to conduct random breath testing**

Insert after section 13 (3):

- (3A) Before requiring a person to undergo a breath test under subsection (1), and for the purpose of determining whether to conduct such a test, a police officer may conduct a preliminary assessment to determine if alcohol is present in the person’s breath by requiring the person to talk into a device that indicates the presence of alcohol.

**Explanatory note**

The proposed amendment confirms the current practice of police officers of conducting a preliminary assessment to determine whether alcohol is present in a driver’s breath. The purpose of conducting the preliminary assessment is to determine whether to proceed to assess the concentration of alcohol present in a driver’s blood by means of a breath test. The preliminary assessment is conducted by requiring a driver to talk into a device that indicates the presence of alcohol.

**1.20 Roads Act 1993 No 33**

- [1] **Sections 46 (b), 47, 51 (b), 61 (1) (a), 214 (1) and 216 (1) and Dictionary, definition of “classified road”**

Omit “State highway” wherever occurring. Insert instead “highway”.

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

Insert after Part 3:

**Part 4 Provisions consequent on enactment of  
Statute Law (Miscellaneous Provisions)  
Act (No 2) 2005**

**72 Definition**

In this Part:

*amending Act* means the *Statute Law (Miscellaneous Provisions) Act (No 2) 2005*.

**73 State highways taken to be classified as highways**

An order in force under section 47 immediately before the date of assent to the amending Act is taken to have been made under section 47 as amended by Schedule 1.20 to the amending Act.

**74 References to State highways**

Subject to the regulations, in any other Act or instrument, a reference to a State highway (within the meaning of this Act immediately before the date of assent to the amending Act) is taken to be a reference to a highway.

**[3] Dictionary**

Insert in alphabetical order:

*highway* means a road that is declared to be a highway by an order in force under section 47.

**[4] Dictionary, definition of “State highway”**

Omit the definition.

**Explanatory note**

Item [1] of the proposed amendments replaces references in the *Roads Act 1993 (the Act)* to “State highway” with references to “highway”.

Item [3] of the proposed amendments inserts a definition of *highway* into the Act for the purposes of the Act.

Item [4] of the proposed amendments omits the definition of *State highway* in the Act (being a road that is declared to be a State highway by an order in force under section 47 of the Act).

Item [2] of the proposed amendments inserts savings and transitional provisions into the Act consequent on the amendments proposed to be made by item [1].

## 1.21 Security Industry Act 1997 No 157

### [1] Section 21 Grant of licence

Insert “and nominate a place where the person is to collect the licence” after “application” in section 21 (1) (a).

### [2] Section 21 (4)

Insert after section 21 (3):

- (4) A licence is granted subject to the condition that the person making the application collect the licence from the place nominated by the Commissioner under subsection (1) (a) within 60 days of being notified of the grant.

### [3] Section 24 Term of licence

Insert before section 24 (1):

- (1A) A licence comes into force on the day that it is collected from the place nominated by the Commissioner under section 21 (1) (a).

### [4] Section 24 (1)

Omit “was granted”. Insert instead “comes into force”.

### [5] Section 24 (3)

Insert after section 24 (2):

- (3) Despite subsection (1), if the person who made the application for a licence (the *applicant*) fails to collect the licence in accordance with the condition set out in section 21 (4):
- (a) the licence does not come into force and is taken to have not been granted, and
- (b) for the purposes of section 18 (5), the applicant is taken to be a person who was an applicant for, but was never granted, a licence.

### [6] Section 29 Right to seek review from Administrative Decisions Tribunal

Insert “(other than by operation of section 24 (3))” after “person” in section 29 (1) (a).

#### Explanatory note

Item [2] of the proposed amendments provides that the grant of a licence under the *Security Industry Act 1997* is subject to the condition that the applicant must collect the licence from a place nominated by the Commissioner of Police (usually a Roads and Traffic Authority motor registry) within 60 days of the applicant being notified of the grant of the licence.

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Item [3] of the proposed amendments provides that a licence comes into force when it is collected from the place nominated by the Commissioner.

Item [5] of the proposed amendments provides that if the applicant fails to collect the licence from the place nominated by the Commissioner of Police within 60 days of being notified of the grant of the licence, the licence does not come into force and is taken not to have been granted. Currently, uncommenced amendments to the *Security Industry Act 1997* contained in the *Security Industry Amendment Act 2005* provide for a licence to be revoked in such circumstances.

Items [1], [4] and [6] are consequential amendments.

Consequential amendments proposed to be made to the *Security Industry Amendment Act 2005* and the *Security Industry Regulation 1998* are contained elsewhere in this Schedule.

## 1.22 Security Industry Amendment Act 2005 No 63

### [1] Schedule 1 Amendment of Security Industry Act 1997

Insert “selling,” before “installing” wherever occurring in section 12 (1) (c) and (e) of the *Security Industry Act 1997* (as inserted by Schedule 1 [14]).

### [2] Schedule 1 [14]

Insert “sell,” before “install” in section 12 (1) (f) of the *Security Industry Act 1997* (as inserted by Schedule 1 [14]).

### [3] Schedule 1 [43], [46] and [50]

Omit the items.

#### Explanatory note

The *Security Industry Amendment Act 2005* (which is not yet in force) substitutes section 12 (1) of the *Security Industry Act 1997* (**the principal Act**). Items [1] and [2] of the proposed amendments amend that provision (as substituted) to clarify that the holder of a class 2C licence under the principal Act is authorised to sell security equipment, the holder of a class 2E licence under that Act to sell barrier equipment and the holder of a class 2F licence under that Act to sell electronic security equipment (in addition to the other activities that that Act currently expressly authorises under those licences).

Item [3] of the proposed amendments is consequential on the amendments proposed to be made to the principal Act contained elsewhere in this Schedule.

## 1.23 Security Industry Regulation 1998

### Clause 17 Pending application for subsequent licence

Omit clause 17 (1). Insert instead:

- (1) If a person applies for a subsequent licence before the term of the person’s current licence expires (referred to in this clause as the **old licence**) and the application has not been dealt with by the time the old licence expires, the authority conferred by the old licence continues:

- (a) until the person is notified of the refusal of the subsequent licence, or
  - (b) until the person collects the subsequent licence in accordance with the condition set out in section 21 (4) of the Act, or
  - (c) until 60 days after the person is notified of the grant of the subsequent licence,
- whichever occurs first.

**Explanatory note**

The proposed amendment is consequential on the amendments proposed to be made to the *Security Industry Act 1997 (the Act)* contained elsewhere in this Schedule. The amendment provides for the authority of an existing licence under the Act to continue when a subsequent licence is granted until such time as the subsequent licence is collected from a place nominated by the Commissioner of Police or until 60 days after the notification of the grant of the subsequent licence (whichever occurs first). Proposed section 21 (4) of the Act provides that the grant of a licence is subject to the condition that the applicant must collect the licence from a place nominated by the Commissioner of Police (usually a Roads and Traffic Authority motor registry) within 60 days of the applicant being notified of the grant of the licence. If the applicant fails to collect the licence in accordance with this condition the licence does not come into force and is taken not to have been granted.

**1.24 State Owned Corporations Act 1989 No 134**

**[1] Section 19 Acquisition and disposal of assets etc**

Omit “accounts” wherever occurring in section 19 (1) (a) and (b).

Insert instead “financial report”.

**[2] Section 20X Acquisition and disposal of assets, investments and liabilities**

Omit “accounts” wherever occurring in section 20X (1) (a) and (b).

Insert instead “financial report”.

**[3] Section 22 Statement of corporate intent: contents**

Omit “accounts” from section 22 (d).

Insert instead “financial reports of the corporation and of its subsidiaries”.

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**[4] Section 24 Annual reports and financial reports: company SOCs**

Omit section 24 (1) (b). Insert instead:

- (b) the SOC's financial report for that financial year, audited by the Auditor-General, being a financial report that conforms to the requirements of the *Corporations Act 2001* of the Commonwealth or any other law applying to the report, and

**[5] Section 24 (1) (c)**

Omit "those financial statements". Insert instead "the SOC's financial report".

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

Omit "Every report". Insert instead "Every annual report".

**[7] Section 24 (3)**

Omit "Every report". Insert instead "Every Auditor-General's report".

**[8] Section 24 (9)**

Omit "financial statements". Insert instead "a financial report".

**[9] Section 24 (9) (a)**

Omit "statements". Insert instead "reports".

**[10] Section 24 (9) (b)**

Omit "statements". Insert instead "report".

**[11] Section 24A, heading**

Omit "accounts". Insert instead "financial reports".

**[12] Section 26 Information to be laid before Parliament**

Omit "financial statements" from section 26 (1) (i).

Insert instead "financial report".

**[13] Section 26 (1) (i)**

Omit "those statements". Insert instead "that financial report".

**[14] Section 28 Public Accounts Committee**

Omit "statements" from section 28 (1). Insert instead "reports".

**[15] Section 28 (2)**

Omit “statements and reports”.

Insert instead “reports and Auditor-General’s reports”.

**[16] Section 28 (2)**

Omit “accounts and reports of”.

Insert instead “financial reports and Auditor-General’s reports in relation to”.

**Explanatory note**

**IASB standards**

The Australian Accounting Standards Board (**AASB**) is implementing the Financial Reporting Council’s policy of adopting accounting standards of the International Accounting Standards Board (**IASB**). The Financial Reporting Council is a statutory body under the *Australian Securities and Investments Commission Act 2001* of the Commonwealth. The AASB has issued Australian Accounting Standards that are equivalent to IASB standards.

The proposed amendments make certain terms used in the *State Owned Corporations Act 1989 (the Act)* consistent with Australian Accounting Standards that are equivalent to standards of the IASB.

These amendments are explained below in further detail.

**Omission of entire provision**

In the case of item [4] of the proposed amendments, multiple changes have been made to the one provision by way of the omission and re-insertion of the provision. See the references to item [4] in the notes below as to the particular change or changes effected by the item.

**References to “financial statements”**

Items [4], [5], [8]–[10], [12], [14] and [15] of the proposed amendments omit references to “financial statements” or “statements”. The object of these amendments is to make the language of the Act in this respect consistent with Australian Accounting Standards that are equivalent to IASB standards. Accordingly, those items insert instead references to “financial report”, “financial reports” or “report” as the context requires.

Items [4] and [5] make amendments consequential on the amendments omitting references to “financial statements”, making it clear that the relevant provisions refer to the financial report of the relevant State owned corporation.

Items [6] and [7] make amendments consequential on the amendments omitting references to “financial statements”, making it clear that section 24 (2) and (3) of the Act refer to an annual report and an Auditor-General’s report, respectively, rather than to a financial report.

**References to “accounts”**

Items [1]–[3], [11] and [16] of the proposed amendments omit references to “accounts”. The object of these amendments is to make the language of the Act in this respect consistent with Australian Accounting Standards that are equivalent to IASB standards. Accordingly, those items insert instead references to “financial report”.

Item [16] also makes an amendment to make it clear that both financial reports and Auditor-General’s reports are referred to in section 28 (2) of the Act.

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## 1.25 Workplace Surveillance Act 2005 No 47

### [1] Section 16 Prohibition on surveillance using work surveillance device while employee not at work

Insert at the end of section 16:

- (3) This section does not apply to the carrying out, or causing to be carried out, of surveillance by an employer that is a law enforcement agency.

### [2] Section 37 Covert surveillance records may be used or disclosed for relevant purpose only

Omit “only” from section 37 (3).

### [3] Section 37 (4)

Insert after section 37 (3):

- (4) Without limiting subsection (3), if the covert surveillance of an employee was not authorised by a covert surveillance authority, the following use or disclosure of the information or record is for a relevant purpose:
  - (a) disclosure to a member or officer of a law enforcement agency for use in connection with disciplinary or managerial action or legal proceedings against an employee of a law enforcement agency as a consequence of any alleged misconduct (other than an unlawful activity) or unsatisfactory performance of the employee,
  - (b) use or disclosure for a purpose that is directly or indirectly related to the taking of such disciplinary or managerial action or legal proceedings,
  - (c) disclosure to a member or officer of a law enforcement agency for use in connection with the training of law enforcement members or officers.

#### Explanatory note

Section 16 of the *Workplace Surveillance Act 2005* (**the Act**) makes it an offence for an employer to carry out, or cause to be carried out, surveillance of an employee when the employee is not at work unless the surveillance is computer surveillance of the use by the employee of equipment or resources provided by or at the expense of the employer. Item [1] of the proposed amendments excludes law enforcement agencies from the application of the section so that it will not be an offence under the section for a law enforcement agency to carry out, or caused to be carried out, such surveillance of an employee of the agency.

Section 37 of the Act makes it an offence in certain circumstances to use or disclose to another person surveillance information or a surveillance record if the information has been obtained or record made as a result of covert surveillance of an employee while at work unless the use or disclosure is for a relevant purpose. At present, the only

relevant purposes when the covert surveillance is not authorised by a covert surveillance authority are related to proceedings for offences. Items [2] and [3] of the proposed amendments expand the relevant purposes when covert surveillance is not authorised by a covert surveillance authority to include use and disclosure by a law enforcement agency for the purpose of taking disciplinary or managerial action or legal proceedings against an employee in connection with alleged misconduct (other than unlawful activity) or unsatisfactory performance and disclosure to a member or officer of a law enforcement agency for training purposes.

## **1.26 Stock (Chemical Residues) Act 1975 No 26**

### **Section 15A**

Insert after section 15:

#### **15A Penalty notices**

- (1) An authorised officer may serve a penalty notice on a person if it appears to the officer that the person has committed an offence against this Act or the regulations, being an offence prescribed by the regulations as a penalty notice offence.
- (2) A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person can pay, within the time and to the person specified in the notice, the amount of the penalty prescribed by the regulations for the offence if dealt with under this section.
- (3) A penalty notice may be served personally or by post.
- (4) If the amount of penalty prescribed for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence.
- (5) Payment under this section is not to be regarded as an admission of liability for the purpose of, and does not in any way affect or prejudice, any civil claim, action or proceeding arising out of the same occurrence.
- (6) The regulations may:
  - (a) prescribe an offence for the purposes of this section by specifying the offence or by referring to the provision creating the offence, and
  - (b) prescribe the amount of penalty payable for the offence if dealt with under this section, and
  - (c) prescribe different amounts of penalties for different offences or classes of offences.

- (7) The amount of a penalty prescribed under this section for an offence is not to exceed the maximum amount of penalty that could be imposed for the offence by a court.
- (8) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.
- (9) In this section, *authorised officer* means any of the following:
  - (a) an inspector,
  - (b) a person of a class prescribed by the regulations as a class of persons who may issue penalty notices under this section.

**Explanatory note**

The proposed amendment allows penalty notices (on-the-spot fines) to be issued in respect of offences against the *Stock (Chemical Residues) Act 1975* or the regulations made under that Act, but only if those offences are prescribed by regulations under that Act as penalty notice offences.

## 1.27 Stock Diseases Regulation 2004

### Clause 10A Testing of stock for Bovine Spongiform Encephalopathy

Omit “100 penalty units” wherever occurring in clause 10A (1) and (2).

Insert instead “50 penalty units”.

**Explanatory note**

The proposed amendment to the *Stock Diseases Regulation 2004* reduces the maximum penalty for certain offences under the Regulation. Section 23 (3) (b) of the *Stock Diseases Act 1923* provides that the maximum penalty that may be imposed by the regulations for such offences is 50 penalty units.

## 1.28 Stock Foods Act 1940 No 19

### Section 32A

Insert after section 32:

#### 32A Penalty notices

- (1) An authorised officer may serve a penalty notice on a person if it appears to the officer that the person has committed an offence against this Act or the regulations, being an offence prescribed by the regulations as a penalty notice offence.

- (2) A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person can pay, within the time and to the person specified in the notice, the amount of the penalty prescribed by the regulations for the offence if dealt with under this section.
- (3) A penalty notice may be served personally or by post.
- (4) If the amount of penalty prescribed for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence.
- (5) Payment under this section is not to be regarded as an admission of liability for the purpose of, and does not in any way affect or prejudice, any civil claim, action or proceeding arising out of the same occurrence.
- (6) The regulations may:
  - (a) prescribe an offence for the purposes of this section by specifying the offence or by referring to the provision creating the offence, and
  - (b) prescribe the amount of penalty payable for the offence if dealt with under this section, and
  - (c) prescribe different amounts of penalties for different offences or classes of offences.
- (7) The amount of a penalty prescribed under this section for an offence is not to exceed the maximum amount of penalty that could be imposed for the offence by a court.
- (8) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.
- (9) In this section, **authorised officer** means any of the following:
  - (a) an inspector,
  - (b) a person of a class prescribed by the regulations as a class of persons who may issue penalty notices under this section.

**Explanatory note**

The proposed amendment allows penalty notices (on-the-spot fines) to be issued in respect of offences against the *Stock Foods Act 1940* or the regulations made under that Act, but only if those offences are prescribed by regulations under that Act as penalty notice offences.

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## 1.29 University of Western Sydney Act 1997 No 116

### [1] Section 12 Constitution of Board

Omit “are” from section 12 (1) (h) (ii). Insert instead “may be”.

### [2] Section 40 By-laws

Insert after section 40 (1) (j):

- (ja) the designation of members of staff of the University as academic staff, general staff, full-time staff, part-time staff or otherwise,

#### **Explanatory note**

Item [1] of the proposed amendments makes wording in a provision consistent with that used in related provisions in the same section.

Item [2] of the proposed amendments will allow the governing body of the University of Western Sydney to make by-laws, not inconsistent with the *University of Western Sydney Act 1997*, for or with respect to the designation of members of staff of the University as academic staff, general staff, full-time staff, part-time staff or otherwise. The by-law making power is contained in the Acts of most other universities in New South Wales.

## 1.30 Valuers Act 2003 No 4

### Section 48 Regulations

Insert at the end of the section:

- (2) Without affecting the generality of subsection (1), the regulations may make provision for or with respect to the waiver or refund of the whole or any part of a fee payable under this Act.

#### **Explanatory note**

The object of the proposed amendment is to allow the making of regulations to provide for the waiver or refund of any fees payable under the *Valuers Act 2003*.

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

(Section 3)

### **2.1 Animal Research Regulation 2005**

#### **Clause 17**

Insert “of the Act” after “section 25C (3)”.

#### **Explanatory note**

The proposed amendment inserts a missing Act reference.

### **2.2 Baulkham Hills Local Environmental Plan 2005**

#### **[1] Clause 2**

Omit “**Explanatory note**”. Insert instead “**Note**”.

#### **[2] Clause 5 (2) (d)**

Omit “any explanatory notes to this plan are intended to assist the reader to understand this plan but”.

Insert instead “notes included in this plan”.

#### **Explanatory note**

The proposed amendments clarify the status of notes.

### **2.3 Births, Deaths and Marriages Registration Regulation 2001**

#### **Clause 7 (2)**

Omit the note.

#### **Explanatory note**

The proposed amendment omits a redundant note.

### **2.4 Blue Mountains Local Environmental Plan 1991**

#### **[1] Clause 10.5 (da) (iv)**

Omit “any, lake”. Insert instead “any lake”.

#### **[2] Schedule 4**

Omit “**Definitions, references and headings**” from the heading.

Insert instead “**Interpretation**”.

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**[3] Schedule 4, clause 1, definition of “Forestry”**

Omit “aboriculture, sylviculture”.

Insert instead “arboriculture, silviculture”.

**[4] Schedule 4, clause 1, definition of “Original lot”**

Omit “(1919)”. Insert instead “1919”.

**[5] Schedule 4, clause 2A**

Insert after clause 2:

**2A Notes**

Notes included in this plan do not form part of this plan.

**[6] Schedule 4, clause 3**

Omit the clause.

**Explanatory note**

Items [1] and [3] of the proposed amendments correct typographical errors.

Item [2] of the proposed amendments updates a heading.

Item [4] of the proposed amendments corrects the citation of an Act.

Item [5] of the proposed amendments inserts a provision clarifying the status of notes.

Item [6] of the proposed amendments omits a redundant provision.

**2.5 Blue Mountains Local Environmental Plan 2005**

**Clause 54A (4) (l)**

Omit “*Surveying Act 2000*”. Insert instead “*Surveying Act 2002*”.

**Explanatory note**

The proposed amendment corrects the citation of an Act.

**2.6 Blue Mountains Local Environmental Plan No 4**

**[1] Clause 10 (1)**

Re-number paragraph (b) where secondly occurring as paragraph (c).

**[2] Clause 61B (1)**

Omit “McLachlan Load”. Insert instead “McLachlan Road”.

**[3] Clause 61B (3)**

Omit “subclause (1)”. Insert instead “subclause (2)”.

**[4] Clause 65A (2)**

Omit “to which this plan applies”. Insert instead “to which this clause applies”.

**Explanatory note**

Item [1] of the proposed amendments corrects duplicated numbering.

Items [2] and [3] of the proposed amendments correct typographical errors.

Item [4] of the proposed amendments clarifies the operation of a provision.

**2.7 Brigalow and Nandewar Community Conservation Area Act 2005 No 56**

**Schedule 9, clause 5 (2) (b)**

Omit “the appointed day”. Insert instead “the commencement of this Act”.

**Explanatory note**

The proposed amendment replaces a reference to the “appointed day” (an undefined term) with a reference to the “commencement of the Act”.

**2.8 Charles Sturt University Act 1989 No 76**

**Section 9 (1) (g) (ii)**

Omit “are”. Insert instead “may be”.

**Explanatory note**

The proposed amendment makes wording in a provision consistent with that used in related provisions in the same section.

**2.9 Child Protection (Offenders Registration) Regulation 2001**

**Clause 4**

Omit the clause. Insert instead:

**4 Notes**

Notes included in this Regulation do not form part of this Regulation.

**Explanatory note**

The proposed amendment inserts a provision clarifying the status of notes.

**2.10 Civil Procedure Act 2005 No 28**

**Schedule 3**

Omit “(Section 9 (3))”. Insert instead “(Section 9 (2))”.

**Explanatory note**

The proposed amendment corrects an incorrect cross-reference.

## **2.11 Coal Mine Health and Safety Act 2002 No 129**

### **Schedule 2.6**

Omit the Subschedule.

#### **Explanatory note**

The proposed amendment omits uncommenced amendments to a repealed Act.

## **2.12 Co-operative Housing and Starr-Bowkett Societies Regulation 2005**

### **Schedule 4, Form A**

Omit “2000”. Insert instead “2005”.

#### **Explanatory note**

The proposed amendment corrects the citation of a Regulation.

## **2.13 Dams Safety Act 1978 No 96**

### **[1] Schedule 2, clauses 4 and 7 (1) (c)**

Omit “him” wherever occurring. Insert instead “the member”.

### **[2] Schedule 2, clause 7 (2)**

Omit “him”. Insert instead “the Minister”.

#### **Explanatory note**

The proposed amendments replace gender-specific language.

## **2.14 Defamation Act 2005 No 77**

### **[1] Section 24 (1)**

Omit “exclusion or liability”. Insert instead “exclusion of liability”.

### **[2] Section 32 (3) (g)**

Insert “or provider” after “operator” where secondly occurring.

#### **Explanatory note**

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

Item [2] of the proposed amendments inserts missing words.

## **2.15 Dust Diseases Tribunal Act 1989 No 63**

### **Section 33**

Re-number subsections (8) and (9) where secondly occurring as subsections (10) and (11) respectively.

#### **Explanatory note**

The proposed amendment corrects duplicated numbering.

## **2.16 Dust Diseases Tribunal Regulation 2001**

### **Clause 3**

Omit the clause. Insert instead:

#### **3 Notes**

Notes included in this Regulation (other than those in Schedules 1 and 2) do not form part of this Regulation.

#### **Explanatory note**

The proposed amendment inserts a provision clarifying the status of notes.

## **2.17 Dust Diseases Tribunal Rules**

### **Rule 18 (1)**

Omit “subpoeana”. Insert instead “subpoena”.

#### **Explanatory note**

The proposed amendment corrects a typographical error.

## **2.18 Electricity Supply (General) Regulation 2001**

### **Clause 71 (2) (a) (ii)**

Omit the subparagraph. Insert instead:

(ii) any payment plan operated by the exempt person, is pending, or

#### **Explanatory note**

The proposed amendment clarifies the operation of a provision.

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

### **[1] Section 75V (5)**

Omit “was”. Insert instead “way”.

**[2] Schedule 6, clause 91 (3)**

Omit “be matter”. Insert instead “be a matter”.

**Explanatory note**

The proposed amendments correct typographical errors.

**2.20 Environmental Planning and Assessment Amendment  
(Infrastructure and Other Planning Reform) Act 2005 No 43**

**Schedule 7.11 [1]**

Omit “Schedule 7.9”. Insert instead “Schedule 7.11”.

**Explanatory note**

The proposed amendment corrects an incorrect cross-reference.

**2.21 Eurobodalla Rural Local Environmental Plan 1987**

**[1] Clause 4 (1) (d) (x)**

Omit “archeological”. Insert instead “archaeological”.

**[2] Clause 11, Table**

Omit “Nil; telecommunications” from item 3 of the matter relating to Zone No 8.

Insert instead “Telecommunications”.

**[3] Clause 13 (7)**

Insert “In this clause,” before “*existing parcel* means”.

**[4] Clause 17 (3) (i)**

Omit “prupose”. Insert instead “purpose”.

**[5] Clause 36 (1)**

Renumber paragraph (c) of the definition of *Temporary sign* as paragraph (b).

**[6] Clause 36 (2) (c)**

Omit “larger that”. Insert instead “larger than”.

**Explanatory note**

Items [1], [4] and [6] of the proposed amendments correct typographical errors.

Item [2] of the proposed amendments omits a redundant reference.

Item [3] of the proposed amendments clarifies the operation of a provision.

Item [5] of the proposed amendments corrects incorrect numbering.

## **2.22 Eurobodalla Rural Local Environmental Plan 1987 (Amendment No 36)**

### **Clause 4**

Omit “clause 10”. Insert instead “clause 11”.

### **Commencement**

The amendment to the *Eurobodalla Rural Local Environmental Plan 1987 (Amendment No 36)* is taken to have commenced on 22 November 2002.

### **Explanatory note**

The proposed amendment corrects an incorporation direction.

## **2.23 Exhibited Animals Protection Regulation 2005**

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

Insert at the end of clause 3:

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

### **[2] Schedule 2, Part 6**

Omit “**Montremes**” from the heading to the first table.

Insert instead “**Monotremes**”.

### **Explanatory note**

Item [1] of the proposed amendments inserts a provision clarifying the status of notes.

Item [2] of the proposed amendments corrects a typographical error.

## **2.24 Explosives Regulation 2005**

### **Schedule 1, clause 6 (2) (c) (iii)**

Omit “thriugh”. Insert instead “through”.

### **Explanatory note**

The proposed amendment corrects a typographical error.

## **2.25 Food Regulation 2004**

### **Clause 3 (2)**

Insert at the end of clause 3:

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

### **Explanatory note**

The proposed amendment inserts a provision clarifying the status of notes.

## **2.26 Forestry and National Park Estate Act 1998 No 163**

### **[1] Sections 21 (1) and (3) and 22 (1)**

Omit “Minister administering the *Environmental Planning and Assessment Act 1979*” wherever occurring.

Insert instead “Minister”.

### **[2] Sections 21 (2) and 22 (2), (3) and (6)**

Omit “Department of Urban Affairs and Planning” wherever occurring.

Insert instead “Department of Natural Resources”.

#### **Explanatory note**

The proposed amendments change associated ministerial and departmental references to reflect the operation of a series of *Administrative Changes Orders* and ministerial allocations since 2001.

## **2.27 Freedom of Information Regulation 2005**

### **Schedule 4, Part 2**

Omit the matter relating to the Inspector of Dangerous Goods.

#### **Explanatory note**

The proposed amendment omits matter consequential on the repeal of an Act.

## **2.28 Guardianship Act 1987 No 257**

### **Section 5, definition of “eligible witness”**

Omit “Clerk” from paragraph (a) (iii). Insert instead “registrar”.

#### **Explanatory note**

The proposed amendment updates a reference to an office.

## **2.29 Health Services Act 1997 No 154**

### **Sections 99A (1) and 117A (1)**

Omit “chief executive officer” wherever occurring.

Insert instead “chief executive”.

#### **Explanatory note**

The proposed amendment updates references to an office.

## **2.30 Home Building Regulation 2004**

### **Clause 7 (a) (iii) and (v)**

Omit the subparagraphs.

#### **Explanatory note**

The proposed amendment removes references to repealed instruments.

## **2.31 Hunter Regional Environmental Plan 1989**

### **Clause 46 (1)**

Omit “Scheule”. Insert instead “Schedule”.

#### **Explanatory note**

The proposed amendment corrects a typographical error.

## **2.32 Judges’ Pensions Act 1953 No 41**

### **Schedule 1, clause 4 (4), definition of “de facto partner amendments”**

Omit “*Prosecutions*” from paragraph (b). Insert instead “*Prosecutions*”.

#### **Explanatory note**

The proposed amendment corrects the citation of an Act.

## **2.33 Jury Act 1977 No 18**

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

Insert after section 4 (3):

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

#### **Explanatory note**

The proposed amendment inserts a provision clarifying the status of notes.

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

### **Section 117 (1) (c)**

Omit “section 108”. Insert instead “section 281”.

#### **Explanatory note**

The proposed amendment corrects an incorrect cross-reference.

## 2.35 Legal Profession Regulation 2005

### Clause 147 (1), definition of “registered valuer”

Omit “*Valuation Act 2003*”. Insert instead “*Valuers Act 2003*”.

#### Explanatory note

The proposed amendment corrects the citation of an Act.

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

### Schedule 4.3 and 4.4

Omit the Subschedules.

#### Explanatory note

The proposed amendment omits uncommenced amendments to repealed legislation.

## 2.37 Local Government (General) Regulation 2005

### [1] Schedule 11, Forms 2 and 3

Insert “person” after “Aboriginal” wherever occurring.

### [2] Schedule 11, Form 3

Omit “*no by-elections*”. Insert instead “*not by-elections*”.

#### Explanatory note

Item [1] of the proposed amendments inserts missing words.

Item [2] of the proposed amendments corrects a typographical error.

## 2.38 Macquarie University Act 1989 No 126

### Section 9 (1) (g) (ii)

Omit “are”. Insert instead “may be”.

#### Explanatory note

The proposed amendment makes wording in a provision consistent with that used in related provisions in the same section.

## 2.39 Maitland Local Environmental Plan 1993

### Clause 27, table

Omit “landuses” from item (1) (a) of the matter relating to Zone 7 (b).

Insert instead “land uses”.

#### Explanatory note

The proposed amendment corrects a typographical error.

## 2.40 Manly Local Environmental Plan 1988

### Schedule 4, table

Omit “Superintendent’s house” from the first column of the matter under the heading “(A) Alphabetical Entry by Street”.

Insert instead “Superintendent’s house”.

#### Explanatory note

The proposed amendment corrects a typographical error.

## 2.41 Mine Health and Safety Act 2004 No 74

### Schedule 4.3

Omit the Subschedule.

#### Explanatory note

The proposed amendment omits an uncommenced amendment to a repealed Act.

## 2.42 Motor Accidents Compensation Regulation 2005

### Clause 18 (1) (k) (ii)

Omit “*Road Transport (Heavy Vehicle Registration Charges) Act 1995*”.

Insert instead “*Road Transport (Heavy Vehicles Registration Charges) Act 1995*”.

#### Explanatory note

The proposed amendment corrects the citation of an Act.

## 2.43 National Park Estate (Southern Region Reservations) Act 2000 No 103

### [1] Schedule 1, clause 19 (1)

Omit “about 3,664” hectares”. Insert instead “about 3,664 hectares”.

### [2] Schedule 1, clause 19 (1)

Omit “lots 51 52”. Insert instead “lots 51, 52”.

### [3] Schedule 1, clause 19 (1)

Omit “Registrar General”. Insert instead “Registrar-General”.

#### Explanatory note

The proposed amendments correct typographical errors.

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## 2.44 Occupational Health and Safety Regulation 2001

**[1] Clause 150 (2) (a1)**

Insert “must” before “be”.

**[2] Clause 150 (2) (a2)**

Insert “must” before “contain”.

**[3] Clause 174ZN (4)**

Omit “Maximum penalty: Level 4.”.

**[4] Clause 174ZN**

Insert at the end of the clause:

Maximum penalty: Level 4.

**[5] Clause 174ZW (5)**

Omit “Maximum penalty: Level 1.”.

**[6] Clause 174ZW**

Insert at the end of the clause:

Maximum penalty: Level 1.

**Explanatory note**

Items [1] and [2] of the proposed amendments insert missing words.

Items [3]–[6] of the proposed amendments clarify the operation of penalty provisions.

## 2.45 Passenger Transport Act 1990 No 39

**Section 46BC (2)**

Omit “An transport”. Insert instead “A transport”.

**Explanatory note**

The proposed amendment corrects a typographical error.

## 2.46 Pipelines Regulation 2005

**Schedule 3, Form 17**

Omit “[*what goes in here?*]”. Insert instead “\$ [*amount*]”.

**Explanatory note**

The proposed amendment clarifies the matter that is to be inserted in a form.

## **2.47 Privacy Code of Practice (General) 2003**

### **Clause 4 (2)**

Insert at the end of clause 4:

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

#### **Explanatory note**

The proposed amendment inserts a provision clarifying the status of notes.

## **2.48 Protection of the Environment Operations (Clean Air) Regulation 2002**

### **Clause 26 (1) (d)**

Insert “and” at the end of the paragraph.

#### **Explanatory note**

The proposed amendment inserts a missing word.

## **2.49 Road Transport (Driver Licensing) Act 1998 No 99**

### **Section 33A**

Omit “of this Act” where secondly occurring.

#### **Explanatory note**

The proposed amendment omits unnecessary words.

## **2.50 Road Transport (General) Act 2005 No 11**

### **Sections 3 (1), definition of “applicable road law”, 40 (1) (b), note and 41 (1) (b), note**

Omit “*Road Transport (Mass, Loading and Access) Regulation 1996*” wherever occurring.

Insert instead “*Road Transport (Mass, Loading and Access) Regulation 2005*”.

#### **Explanatory note**

The proposed amendment updates references to a repealed instrument.

## **2.51 Road Transport (General) Regulation 2005**

### **Schedule 3**

Omit “*Road Transport (Mass, Loading and Access Regulation 2005)*” wherever occurring in column 1 of the matter relating to the *Road Transport (General) Act 2005*.

Insert instead “*Road Transport (Mass, Loading and Access) Regulation 2005*”.

#### **Explanatory note**

The proposed amendments corrects the citation of an instrument.

## **2.52 Security Interests in Goods Act 2005 No 69**

### **Schedule 5.3**

Omit “**Co-operatives Regulation 1997**” from the heading.

Insert instead “**Co-operatives Regulation 2005**”.

#### **Commencement**

The amendment to the *Security Interests in Goods Act 2005* commences or is taken to have commenced immediately before the commencement of Schedule 5.3 to that Act.

#### **Explanatory note**

The proposed amendment updates a reference to a repealed regulation.

## **2.53 Southern Cross University Act 1993 No 69**

### **Section 10 (1) (g) (ii)**

Omit “are”. Insert instead “may be”.

#### **Explanatory note**

The proposed amendment makes wording in a provision consistent with that used in related provisions in the same section.

## **2.54 State Environmental Planning Policy No 14—Coastal Wetlands**

### **Clause 9**

Omit the clause.

#### **Explanatory note**

The proposed amendment omits a clause containing spent amendments.

## **2.55 State Environmental Planning Policy No 53—Metropolitan Residential Development**

### **Clause 5 (3)**

Omit “, except as provided by clause 1 (3) of Schedule 4”.

#### **Explanatory note**

The proposed amendment omits a redundant cross-reference.

## **2.56 State Environmental Planning Policy No 65—Design Quality of Residential Flat Development**

### **[1] Part 4**

Omit “12 months or more after the date of commencement of *State Environmental Planning Policy No 65—Design Quality of Residential Flat Development*” from the matter relating to development applications occurring after clause 29.

Insert instead “on or after 1 December 2003”.

### **[2] Part 4**

Omit “*Architects Act 1921*” from the matter relating to development applications occurring after clause 29.

Insert instead “*Architects Act 2003*”.

#### **Explanatory note**

Item [1] of the proposed amendments updates a note.

Item [2] of the proposed amendments updates the citation of an Act.

## **2.57 Superannuation Administration Act 1996 No 39**

### **Section 128B (1) (f)**

Omit “scheme, and”. Insert instead “scheme,”.

#### **Explanatory note**

The proposed amendment omits an unnecessary word.

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## 2.58 Superannuation Legislation Amendment Act 2005 No 52

### Schedule 5 [1]

Omit the item. Insert instead:

#### [1] Sections 2C and 43AA

Omit “Part 3 of Schedule 5” wherever occurring.

Insert instead “Part 2 of Schedule 5”.

#### Commencement

The amendment to the *Superannuation Legislation Amendment Act 2005* is taken to have commenced immediately before the commencement of Schedule 5 [1] to that Act.

#### Explanatory note

The proposed amendment corrects an incorporation direction.

## 2.59 Supreme Court (Corporations) Rules 1999

### Schedule 1, Form 8

Omit “+address”. Insert instead “[address]”.

#### Explanatory note

The proposed amendment corrects a typographical error.

## 2.60 Supreme Court Rules 1970

### [1] Part 60, rules 1A (1), (4) and (6), 3 and 4 (1)

Omit “A associate” wherever occurring. Insert instead “An associate”.

### [2] Part 65C, rule 10

Omit the note.

#### Explanatory note

Item [1] of the proposed amendments corrects typographical errors.

Item [2] of the proposed amendments removes a redundant note.

## 2.61 Sydney Regional Environmental Plan No 5—(Chatswood Town Centre)

### Clause 15 (1) (f)

Omit “metres,”. Insert instead “metres, or”.

#### Explanatory note

The proposed amendment inserts a missing word.

## **2.62 Sydney Regional Environmental Plan No 11—Penrith Lakes Scheme**

### **Clause 8 (4) (f) (iii)**

Omit “acquatic”. Insert instead “aquatic”.

#### **Explanatory note**

The proposed amendment corrects a typographical error.

## **2.63 Sydney Regional Environmental Plan No 17—Kurnell Peninsula (1989)**

### **[1] Clause 5 (1), definition of “recreation area”**

Omit “childrens” from paragraph (a). Insert instead “children’s”.

### **[2] Clause 23B (2)**

Omit “archaeolocal”. Insert instead “archaeological”.

#### **Explanatory note**

The proposed amendments correct typographical errors.

## **2.64 Threatened Species Conservation Act 1995 No 101**

### **[1] Schedule 1, Part 1, Animals, Vertebrates, Mammals, Dasyuridae**

Omit the matter relating to *Antechinomys laniger*.

Insert that matter instead before the matter relating to *Dasyurus viverrinus*.

### **[2] Schedule 2, Part 1, Animals, Vertebrates, Birds, Laridae**

Omit “White Tern Columbidae”. Insert instead “White Tern”.

### **[3] Schedule 2, Part 1, Animals, Vertebrates, Birds**

Insert the heading “Columbidae” before the matter relating to *Ptilinopus magnificus*.

### **[4] Schedule 2, Part 1, Animals, Vertebrates, Birds, Meliphagidae**

Omit the matter relating to *Lichenostomus cratitius*.

Insert that matter instead before the matter relating to *Lichenostomus fasciogularis*.

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**[5] Schedule 2, Part 1, Animals, Vertebrates, Birds, Pachycephalidae**

Omit the matter relating to *Pachycephala inornata*.

Insert that matter instead before the matter relating to *Pachycephala olivacea*.

**Explanatory note**

Items [1], [4] and [5] of the proposed amendments correct the alphabetic listing of species names.

Items [2] and [3] of the proposed amendments correct a typographical error.

**2.65 Trustee Companies Act 1964 No 6**

**[1] Second Schedule**

Omit “Tower Trust (NSW) Limited”.

Insert instead “Australian Executor Trustees (NSW) Limited”.

**[2] Third Schedule, First Part**

Omit “Tower Trust Limited”.

Insert instead “Australian Executor Trustees Limited”.

**[3] Third Schedule, First Part**

Omit “Executor Trustee and Agency Company of South Australia, Limited”.

Insert instead “Executor Trustee Australia Limited”.

**[4] Third Schedule, First Part**

Omit “Tower Trust (NSW) Limited”.

Insert instead “Australian Executor Trustees (NSW) Limited”.

**[5] Third Schedule, First Part**

Omit “Sandhurst and Northern District Trustees Executors and Agency Company Limited”.

Insert instead “Sandhurst Trustees Limited”.

**[6] Third Schedule, First Part**

Omit “Guardian Trust Australia Limited”.

Insert instead “J.P. Morgan Trust Australia Limited”.

**Explanatory note**

The proposed amendments are consequential on the change of names of companies.

## **2.66 University of New England Act 1993 No 68**

### **Section 9 (1) (h) (ii)**

Omit “are”. Insert instead “may be”.

#### **Explanatory note**

The proposed amendment makes wording in a provision consistent with that used in related provisions in the same section.

## **2.67 University of New South Wales Act 1989 No 125**

### **Section 9 (1) (h) (ii)**

Omit “are”. Insert instead “may be”.

#### **Explanatory note**

The proposed amendment makes wording in a provision consistent with that used in related provisions in the same section.

## **2.68 University of Newcastle Act 1989 No 68**

### **Section 9 (1) (h) (ii)**

Omit “are”. Insert instead “may be”.

#### **Explanatory note**

The proposed amendment makes wording in a provision consistent with that used in related provisions in the same section.

## **2.69 University of Sydney Act 1989 No 124**

### **Section 9 (1) (h) (ii)**

Omit “are”. Insert instead “may be”.

#### **Explanatory note**

The proposed amendment makes wording in a provision consistent with that used in related provisions in the same section.

## **2.70 University of Technology, Sydney, Act 1989 No 69**

### **Section 9 (1) (h) (ii)**

Omit “are”. Insert instead “may be”.

#### **Explanatory note**

The proposed amendment makes wording in a provision consistent with that used in related provisions in the same section.

## **2.71 University of Wollongong Act 1989 No 127**

### **Section 9 (1) (g) (ii)**

Omit “are”. Insert instead “may be”.

#### **Explanatory note**

The proposed amendment makes wording in a provision consistent with that used in related provisions in the same section.

## **2.72 Water Sharing Plan for the Tenterfield Creek Water Source 2003**

**Clauses 21 (2) (a) (ii), 22, 45 (1) (a) (i), (b) (i), (c) (i), (d) (i) and (e) (i), 46 (1) (b) (i) and (2) (a) (i), (b) (i), (c) (i), (d) (i) and (e) (i), 67 (d) and 75 (1), (2) (b), (3) (b) and (c) (ii) and (iii), (4) and (5)**

Omit “clause 62”. Insert instead “clause 62A”.

#### **Explanatory note**

The proposed amendment corrects incorrect cross-references.

## **2.73 Workers Compensation Amendment (Insurance Reform) Act 2003 No 81**

### **Schedule 2 [60]**

Omit “1988”. Insert instead “1998”.

#### **Commencement**

The amendment to the *Workers Compensation Amendment (Insurance Reform) Act 2003* is taken to have commenced immediately before the commencement of Schedule 2 [60] to that Act.

#### **Explanatory note**

The proposed amendment corrects an incorporation direction.

## **Schedule 3 Amendments consequential on the enactment of the Legal Profession Act 2004 No 112**

(Section 3)

### **Explanatory note**

The *Legal Profession Act 2004* introduced new terms to distinguish between different types of lawyers. In particular, the Act introduced the concept of an **Australian lawyer** (a person who is admitted to the legal profession under the Act or a corresponding law) and an **Australian legal practitioner** (an Australian lawyer who holds a current local practising certificate or a current interstate practising certificate). The proposed amendments in Schedule 3 replace references in various Acts to a legal practitioner, solicitor, barrister, lawyer, counsel or attorney with the appropriate term for these positions following the enactment of the *Legal Profession Act 2004*. The proposed amendments also replace references to the *Legal Profession Act 1987* (now repealed) with references to the *Legal Profession Act 2004*. Currently, the meaning of **Australian legal practitioner** is contained in the *Interpretation Act 1987* for ease of reference in other Acts. The proposed amendments also contain a similar amendment to the *Interpretation Act 1987* in connection with the term **Australian lawyer**.

### **3.1 Aboriginal Land Rights Act 1983 No 42**

**[1] Sections 202 and 206 (4)**

Omit “a legal practitioner” wherever occurring.

Insert instead “an Australian legal practitioner”.

**[2] Section 206 Privilege concerning answers and documents**

Omit “the legal practitioner” from section 206 (4).

Insert instead “the Australian legal practitioner”.

### **3.2 Adoption Act 2000 No 75**

**[1] Section 119 Hearings to be in camera**

Omit “barristers, solicitors” from section 119 (2).

Insert instead “Australian legal practitioners”.

**[2] Sections 122 (2)–(5) and 124 (2)**

Omit “a lawyer” wherever occurring.

Insert instead “an Australian legal practitioner”.

**[3] Sections 122 (3), (6) and (9), 123 (3) (b) and 124 (1) (b) and (4) (b)**

Omit “the lawyer” wherever occurring.

Insert instead “the Australian legal practitioner”.

**[4] Sections 122 (8), 123 (4) and 124 (5)**

Omit “A lawyer” wherever occurring.

Insert instead “An Australian legal practitioner”.

**[5] Section 124 Guardian ad litem and amicus curiae—birth parents of child**

Omit “or their, lawyer” from section 124 (1).

Insert instead “or their, Australian legal practitioner”.

**[6] Dictionary**

Omit the definition of *lawyer*.

**3.3 Annual Holidays Act 1944 No 31**

**Section 12 Proceedings for recovery of penalties**

Omit “a counsel, attorney” from section 12 (5).

Insert instead “an Australian legal practitioner”.

**3.4 Anti-Discrimination Act 1977 No 48**

**[1] Section 87 Definitions**

Omit “legal practitioner” from the definition of *agent*.

Insert instead “Australian legal practitioner”.

**[2] Section 98 Rights of appearance and representation**

Omit “a legal practitioner” from section 98 (3).

Insert instead “an Australian legal practitioner”.

**[3] Section 122O Representation**

Omit “counsel or a solicitor”.

Insert instead “an Australian legal practitioner”.

### **3.5 Apprenticeship and Traineeship Act 2001 No 80**

#### **Section 45 Legal representation**

Omit “a legal practitioner” wherever occurring.

Insert instead “an Australian legal practitioner”.

### **3.6 Bail Act 1978 No 161**

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

Omit the definition of *lawyer* from section 4 (1).

#### **[2] Section 19 Procedure following determination as to bail**

Omit “a lawyer” from section 19 (1) (a).

Insert instead “an Australian legal practitioner”.

#### **[3] Section 25A Stay of decision to grant bail if review sought**

Omit “legal practitioner” wherever occurring in section 25A (1) and (2).

Insert instead “Australian legal practitioner”.

### **3.7 Chiropractors Act 2001 No 15**

#### **[1] Sections 44 (2) and 112, clause 13 (1) of Schedule 1 and clause 9 (2) of Schedule 5**

Omit “a legal practitioner” wherever occurring.

Insert instead “an Australian legal practitioner”.

#### **[2] Section 47 Making submissions to inquiry**

Omit “a legal practitioner” from section 47 (6).

Insert instead “an Australian lawyer”.

### **3.8 Civil Liability Act 2002 No 22**

#### **[1] Section 17A Tariffs for damages for non-economic loss**

Omit “counsel” from section 17A (2).

Insert instead “Australian legal practitioner”.

#### **[2] Section 25 Obligation of Australian legal practitioners to provide advice**

Omit “A legal practitioner”.

Insert instead “An Australian legal practitioner”.

**[3] Section 26 Offer of structured settlement—legal costs**

Omit “Section 198F of the *Legal Profession Act 1987*” from section 26 (1).  
Insert instead “Section 340 of the *Legal Profession Act 2004*”.

**3.9 Community Land Management Act 1989 No 202**

**[1] Section 93 Appearance before Tribunal**

Omit “counsel or solicitor,” from section 93 (3).  
Insert instead “an Australian legal practitioner”.

**[2] Section 97A Intervention by Director-General**

Omit “a barrister, solicitor” from section 97A (3).  
Insert instead “an Australian legal practitioner”.

**3.10 Community Services (Complaints, Reviews and Monitoring) Act 1993 No 2**

**Section 33 Right of appearance**

Omit “a barrister or solicitor” from section 33 (1).  
Insert instead “an Australian legal practitioner”.

**3.11 Confiscation of Proceeds of Crime Act 1989 No 90**

**Section 70 Existence and operation of monitoring order not to be disclosed**

Omit “a barrister or solicitor” wherever occurring in section 70 (1) (d) and (2) (a) (iii).  
Insert instead “an Australian legal practitioner”.

**3.12 Contracts Review Act 1980 No 16**

**Section 13 Intervention**

Omit “counsel, solicitor”. Insert instead “an Australian legal practitioner”.

**3.13 Co-operatives Act 1992 No 18**

**[1] Section 351 Directors to arrange for reports**

Omit “solicitors” from section 351 (1) (a).  
Insert instead “Australian legal practitioners”.

- [2] **Sections 375 (2) (a) and 385 (definition of “involved person”)**  
Omit “solicitor” wherever occurring.  
Insert instead “Australian legal practitioner”.
- [3] **Sections 383 (1), 388 (1) and 392 (4)**  
Omit “A legal practitioner” wherever occurring.  
Insert instead “An Australian legal practitioner”.
- [4] **Sections 383 (1) (a) and (b), (3) and (4), 389 (1)–(3) and 392 (3)**  
Omit “the legal practitioner” wherever occurring.  
Insert instead “the Australian legal practitioner”.
- [5] **Sections 383 (1) (a) and (b), 389 (1) and 392 (3)**  
Omit “a legal practitioner” wherever occurring.  
Insert instead “an Australian legal practitioner”.
- [6] **Sections 383 (2) and (3) and 389 (2)**  
Omit “The legal practitioner” wherever occurring.  
Insert instead “The Australian legal practitioner”.
- [7] **Section 408A Power of Registrar to intervene in proceedings**  
Omit “solicitor or barrister” from section 408A (3) (c).  
Insert instead “an Australian legal practitioner”.
- [8] **Schedule 4 Receivers, and other controllers, of property of co-operatives**  
Omit “a solicitor” from clause 5 (2) (n).  
Insert instead “an Australian legal practitioner”.

### **3.14 Coroners Act 1980 No 27**

- [1] **Section 32 Representation at inquests or inquiries**  
Omit “thereat by counsel or a solicitor” from section 32 (1).  
Insert instead “by an Australian legal practitioner”.
- [2] **Section 32 (3) (a)**  
Omit “a barrister or solicitor”.  
Insert instead “an Australian legal practitioner”.

**[3] Schedule 1 Special provisions—inquests concerning deaths or suspected deaths in mines**

Omit “counsel, solicitor” from clause 2 (h).

Insert instead “Australian legal practitioner”.

**3.15 Credit Act 1984 No 94**

**[1] Sections 47 (1) (a), 70 (1) (d) (v), 71 (3) (b) and 102 (3) (b) (ii), clause 1 (f) (iii) of Schedule 2 and clause 1 (c) (iii) of Schedule 4**

Omit “a duly qualified legal practitioner” wherever occurring.

Insert instead “an Australian legal practitioner”.

**[2] Section 159A Persons who may take proceedings**

Omit “a legal practitioner” from section 159A (3).

Insert instead “an Australian legal practitioner”.

**3.16 Credit (Home Finance Contracts) Act 1984 No 97**

**Section 13 Who may take proceedings for offences**

Omit “counsel or attorney” from section 13 (3).

Insert instead “an Australian legal practitioner”.

**3.17 Crimes (Forensic Procedures) Act 2000 No 59**

**[1] Sections 3 (1) (definitions of “legal representative” and “time out”), 4 (3) (b), 9 (2) (d), 10 (5) (a) and (6), 30 (2), (3) (b) and (5), 67 (1) (c) and 77 (1) (e)**

Omit “a legal practitioner” wherever occurring.

Insert instead “an Australian legal practitioner”.

**[2] Sections 9 (3), 10 (8) and 67 (2)**

Omit “the legal practitioner” wherever occurring.

Insert instead “the Australian legal practitioner”.

**3.18 Crimes (Sentencing Procedure) Act 1999 No 92**

**Sections 38 (1), 39 (1) and 39A (1)**

Omit “a legal practitioner” wherever occurring.

Insert instead “an Australian legal practitioner”.

### **3.19 Criminal Appeal Act 1912 No 16**

**[1] Section 5A Point of law stated by judge**

Omit “counsel” from section 5A (2) (e).

Insert instead “an Australian legal practitioner”.

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

Omit “a barrister or solicitor”.

Insert instead “an Australian legal practitioner”.

**[3] Section 17 Costs of appeal**

Omit “solicitor or counsel” from section 17 (2).

Insert instead “Australian legal practitioner”.

### **3.20 Criminal Assets Recovery Act 1990 No 23**

**[1] Section 16B Maximum legal expenses that can be met from restrained property**

Omit “*Legal Profession Act 1987*” from section 16B (3).

Insert instead “*Legal Profession Act 2004*”.

**[2] Section 16B (4)**

Omit “a legal practitioner”.

Insert instead “an Australian legal practitioner”.

**[3] Section 50 Existence and operation of monitoring order not to be disclosed**

Omit “a barrister or solicitor” wherever occurring in section 50 (1) (c) and (2) (a) (iii).

Insert instead “an Australian legal practitioner”.

### **3.21 Employment Protection Act 1982 No 122**

**Section 19 Summary procedure for offences**

Omit “a legal practitioner” from section 19 (3) (b).

Insert instead “an Australian legal practitioner”.

### **3.22 Entertainment Industry Act 1989 No 230**

#### **Schedule 2 Conduct and procedure of inquiries by the Complaints Committee**

Omit “a barrister or solicitor” from clause 2.

Insert instead “an Australian legal practitioner”.

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

#### **[1] Section 121I Making of representations**

Omit “a barrister, solicitor” from section 121I (2).

Insert instead “an Australian legal practitioner”.

#### **[2] Section 149B Applications for building certificates**

Omit “solicitor” from section 149B (1) (c).

Insert instead “Australian legal practitioner”.

#### **[3] Section 152 Right to be heard**

Omit “counsel, solicitor”. Insert instead “an Australian legal practitioner”.

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

#### **[1] Section 13 Grant of legal assistance**

Omit “solicitor to whom the case is assigned under section 14, or any barrister or solicitor” from section 13 (3) (a).

Insert instead “Australian legal practitioner to whom the case is assigned under section 14, or any Australian legal practitioner”.

#### **[2] Section 14 Assignment to Australian legal practitioner of case of assisted person**

Omit “a solicitor” wherever occurring in section 14 (1) (b)–(d).

Insert instead “an Australian legal practitioner”.

#### **[3] Section 14 (1)**

Omit “the solicitor”. Insert instead “the Australian legal practitioner”.

#### **[4] Section 14 (2)**

Omit “The solicitor”. Insert instead “The Australian legal practitioner”.

**[5] Section 14 (2)**

Omit “legal practitioner”. Insert instead “Australian legal practitioner”.

**[6] Section 14 (3)**

Omit “A solicitor”. Insert instead “An Australian legal practitioner”.

**[7] Section 15 Court proceedings to which assisted person is a party**

Omit “a solicitor has been assigned under section 14, the solicitor” from section 15 (1).

Insert instead “an Australian legal practitioner has been assigned under section 14, the Australian legal practitioner”.

**[8] Section 17 Privilege attaching to certain relationships**

Omit “solicitor” wherever occurring.

Insert instead “Australian legal practitioner”.

**3.25 Farm Debt Mediation Act 1994 No 91**

**Section 11B Rights during cooling off period**

Omit “solicitor” wherever occurring in section 11B (1) and (2).

Insert instead “Australian legal practitioner”.

**3.26 Fisheries Management Act 1994 No 38**

**Section 86 Procedure at appeals**

Omit “a legal practitioner” from section 86 (4).

Insert instead “an Australian legal practitioner”.

**3.27 Gaming Machines Act 2001 No 127**

**Section 82 Definitions**

Omit “a legal practitioner” wherever occurring from paragraph (a) of the definition of *gaming machine adviser*.

Insert instead “an Australian legal practitioner”.

### **3.28 Gas Industry Restructuring Act 1986 No 213**

#### **Section 50 Information concerning shareholding**

Omit “solicitor” from section 50 (3).

Insert instead “Australian legal practitioner”.

### **3.29 Health Care Complaints Act 1993 No 105**

#### **[1] Section 8 Who may make a complaint?**

Omit “a lawyer”. Insert instead “an Australian legal practitioner”.

#### **[2] Section 50 Assistance to parties at conciliation**

Omit “a legal practitioner” from section 50 (2).

Insert instead “an Australian legal practitioner”.

### **3.30 Health Services Act 1997 No 154**

#### **[1] Sections 93 (5) and 110 (1)**

Omit “a practising legal practitioner” wherever occurring.

Insert instead “an Australian legal practitioner”.

#### **[2] Dictionary**

Omit the definition of *practising legal practitioner* from Part 1.

### **3.31 Heritage Act 1977 No 136**

#### **[1] Section 36 Commissioner of Inquiry**

Omit “legal practitioner” from section 36 (1).

Insert instead “an Australian legal practitioner”.

#### **[2] Sections 72 and 79**

Omit “counsel, solicitor” wherever occurring.

Insert instead “an Australian legal practitioner”.

### **3.32 Housing Act 2001 No 52**

#### **Section 70 Misuse of information**

Omit “solicitor” from section 70 (6) (d).

Insert instead “Australian legal practitioner”.

### **3.33 Insurance Act 1902 No 49**

#### **Section 21 Exemption**

Omit “section 41 of the *Legal Profession Act 1987*” from section 21 (2) (c).

Insert instead “section 406 of the *Legal Profession Act 2004*”.

### **3.34 Interpretation Act 1987 No 15**

#### **Section 21 Meaning of commonly used words and expressions**

Insert in alphabetical order in section 21 (1):

*Australian lawyer* has the same meaning as in the *Legal Profession Act 2004*.

### **3.35 Judicial Officers Act 1986 No 100**

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

Omit the definition of *legal practitioner* from section 3 (1).

#### **[2] Sections 24 (6) and 47**

Omit “a legal practitioner” wherever occurring.

Insert instead “an Australian legal practitioner”.

#### **[3] Section 24 Hearings by Conduct Division**

Omit “any legal practitioner” from section 24 (7) (c).

Insert instead “any Australian legal practitioner”.

### **3.36 Jurisdiction of Courts (Cross-vesting) Act 1987 No 125**

#### **Section 5 Transfer of proceedings**

Omit “a barrister or a solicitor, or as both a barrister and a solicitor,” from section 5 (8).

Insert instead “an Australian legal practitioner”.

### **3.37 Jury Act 1977 No 18**

#### **[1] Section 44 Australian legal practitioner may make challenge on behalf of accused**

Omit “barrister or solicitor”. Insert instead “Australian legal practitioner”.

**[2] Schedule 2 Persons ineligible to serve as jurors**

Omit item 7. Insert instead:

- 7 An Australian lawyer (whether or not an Australian legal practitioner).

**3.38 Law and Justice Foundation Act 2000 No 97**

**[1] Section 3 Definitions**

Omit the definition of *legal practitioner*.

**[2] Section 3, definition of “Public Purpose Fund”**

Omit “Division 2 of Part 6 of the *Legal Profession Act 1987*”.

Insert instead “Division 7 of Part 3.1 of the *Legal Profession Act 2004*”.

**3.39 Limitation Act 1969 No 31**

**Schedule 5 Further transitional provisions**

Omit “a solicitor or barrister” from the definition of *legal professional negligence* in clause 1 (1).

Insert instead “an Australian legal practitioner”.

**3.40 Local Government Act 1993 No 30**

**[1] Section 133 Making of representations**

Omit “a barrister, solicitor” from section 133 (2).

Insert instead “an Australian legal practitioner”.

**[2] Section 264 Can a person be represented in proceedings before the Boundaries Commission?**

Omit section 264 (1) (a). Insert instead:

- (a) by an Australian lawyer or by a person qualified for admission as an Australian lawyer, or

**[3] Sections 473 and 477 (4)**

Omit “a legal practitioner” wherever occurring.

Insert instead “an Australian legal practitioner”.

**[4] Section 477 Privilege concerning answers and documents**

Omit “the legal practitioner” from section 477 (4).

Insert instead “the Australian legal practitioner”.

**[5] Section 486A Contempt of Pecuniary Interest and Disciplinary Tribunal**

Omit “a practising legal practitioner” from section 486A (1) (b) (iii).

Insert instead “an Australian legal practitioner”.

**[6] Section 682 Power to appear before local land boards**

Omit “counsel, solicitor”. Insert instead “an Australian legal practitioner”.

**3.41 Long Service Leave Act 1955 No 38**

**Section 11 Recovery of penalties**

Omit “counsel, attorney” from section 11 (4).

Insert instead “Australian legal practitioner”.

**3.42 Long Service Leave (Metalliferous Mining Industry) Act 1963 No 48**

**Section 11 Recovery of penalties**

Omit “counsel, attorney” from section 11 (4).

Insert instead “Australian legal practitioner”.

**3.43 Medical Practice Act 1992 No 94**

**[1] Sections 162 (1) and (2) and 177 (1), (2) and (3), clause 13 (1) of Schedule 1 and clause 9 (2) of Schedule 2**

Omit “a barrister or solicitor” wherever occurring.

Insert instead “an Australian legal practitioner”.

**[2] Section 177 Representation at inquiry**

Omit “the barrister or solicitor” from section 177 (1).

Insert instead “the Australian legal practitioner”.

**[3] Schedule 3A Provisions relating to performance assessments**

Omit “a legal practitioner” from clause 12 (2).

Insert instead “an Australian legal practitioner”.

**[4] Schedule 3A, clause 12 (2)**

Omit “the legal practitioner”.

Insert instead “the Australian legal practitioner”.

**3.44 Mental Health Act 1990 No 9**

**[1] Sections 43 (1), 159 (d), 274 (3) and (4) and 288**

Omit “a barrister or solicitor” wherever occurring.

Insert instead “an Australian legal practitioner”.

**[2] Section 172 Notice of decision**

Omit “barrister or solicitor” from section 172 (1).

Insert instead “Australian legal practitioner”.

**[3] Section 226 Appointment of Principal official visitor**

Omit “barrister, solicitor”. Insert instead “Australian legal practitioner”.

**3.45 Mine Health and Safety Act 2004 No 74**

**Section 95 Boards of Inquiry**

Omit “a legal practitioner” wherever occurring in section 95 (5) and (9).

Insert instead “an Australian legal practitioner”.

**3.46 Mining Act 1992 No 29**

**[1] Section 146 Right of appearance**

Omit “a barrister or a solicitor” wherever occurring in section 146 (2) (a) and (b).

Insert instead “an Australian legal practitioner”.

**[2] Section 304 Right of appearance**

Omit “a solicitor or barrister”. Insert instead “an Australian legal practitioner”.

**[3] Section 332 Practice and procedure etc of Wardens’ Courts**

Omit “barristers and solicitors” from section 332 (c).

Insert instead “Australian legal practitioners”.

### **3.47 Police Integrity Commission Act 1996 No 28**

**[1] Section 4 Definitions**

Omit the definition of *legal practitioner* from section 4 (1).

**[2] Section 4 (1), definition of “officer of the Police Royal Commission”**

Omit “legal practitioner”. Insert instead “Australian legal practitioner”.

**[3] Sections 12, 33 (2), 35 (1) (b), 40 (5), 56 (1) (c) and 118 (1) (d) (ii) and (iv)**

Omit “a legal practitioner” wherever occurring.

Insert instead “an Australian legal practitioner”.

**[4] Sections 35 (3), 37 (2) and 137 (2)**

Omit “A legal practitioner” wherever occurring.

Insert instead “An Australian legal practitioner”.

**[5] Section 37 Examination and cross-examination of witnesses**

Omit “legal practitioner” from section 37 (1).

Insert instead “Australian legal practitioner”.

**[6] Section 40 Privilege as regards answers, documents etc**

Omit “the legal practitioner” from section 40 (5).

Insert instead “the Australian legal practitioner”.

**[7] Section 56 Secrecy**

Omit “legal practitioner’s” from section 56 (1) (c).

Insert instead “Australian legal practitioner’s”.

**[8] Section 65**

Omit the section. Insert instead:

**65 Legal Profession Act 2004**

Section 602 of the *Legal Profession Act 2004* does not apply to proceedings for an offence under this Act.

**[9] Section 137 Protection from liability**

Insert after section 137 (5):

- (6) For the purposes of this section, *barrister* has the same meaning as in the *Legal Profession Act 2004*.

### **3.48 Shops and Industries Act 1962 No 43**

#### **Section 145 Proceedings**

Omit “counsel, attorney” from section 145 (5).

Insert instead “Australian legal practitioner”.

### **3.49 Supreme Court Act 1970 No 52**

#### **[1] Section 48 Assignment to the Court of Appeal**

Omit subparagraph (viii) from the definition of *specified tribunal* in section 48 (1) (a).

Insert instead:

(viii) the Legal Services Division of the Administrative Decisions Tribunal.

#### **[2] Section 101A Question of law concerning criminal contempt may be submitted to Court of Appeal**

Omit “counsel” from section 101A (5).

Insert instead “an Australian legal practitioner”.

#### **[3] Section 101A (7)**

Omit “a legal practitioner”. Insert instead “an Australian legal practitioner”.

#### **[4] Section 124 Rule-making power**

Omit “section 7 or 14 of the *Legal Profession Act 1987*” from section 124 (9).

Insert instead “section 28 or 38 (4) of the *Legal Profession Act 2004*”.

#### **[5] Section 124 (10)**

Omit “Part 11 of the *Legal Profession Act 1987*”.

Insert instead “Part 3.2 of the *Legal Profession Act 2004*”.

### **3.50 Travel Agents Act 1986 No 5**

#### **Section 49 Who may take proceedings for offences**

Omit “counsel or attorney” from section 49 (3).

Insert instead “an Australian legal practitioner”.

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## Schedule 4 Repeals

(Section 4)

<b>Name of Act</b>	<b>Extent of repeal</b>
<i>Anti-Discrimination Amendment (Miscellaneous Provisions) Act 2004</i> No 79	Whole Act <sup>1</sup>
<i>Appropriation Act 2004</i> No 60	Whole Act <sup>2</sup>
<i>Appropriation (Budget Variations) Act 2004</i> No 32	Whole Act <sup>2</sup>
<i>Appropriation (Special Offices) Act 2004</i> No 62	Whole Act <sup>2</sup>
<i>Child Protection (Offenders Registration) Amendment Act 2004</i> No 85	Whole Act <sup>1</sup>
<i>Civil Liability Amendment (Food Donations) Act 2005</i> No 16	Whole Act <sup>1</sup>
<i>Civil Liability Amendment (Offender Damages) Act 2005</i> No 9	Whole Act <sup>1</sup>
<i>Coal Acquisition Amendment (Fair Compensation) Act 2005</i> No 24	Whole Act <sup>1</sup>
<i>Courts Legislation Amendment Act 2005</i> No 31	Whole Act <sup>1</sup>
<i>Crimes Amendment (Grievous Bodily Harm) Act 2005</i> No 14	Whole Act <sup>1</sup>
<i>Crimes (Sentencing Procedure) Amendment (Existing Life Sentences) Act 2005</i> No 13	Whole Act <sup>1</sup>
<i>Criminal Assets Recovery Amendment Act 2005</i> No 32	Whole Act <sup>1</sup>
<i>Criminal Procedure Amendment (Evidence) Act 2005</i> No 15	Whole Act <sup>1</sup>
<i>Crown Lands Legislation Amendment Act 2005</i> No 58	Whole Act <sup>1</sup>
<i>Dust Diseases Tribunal Amendment (Claims Resolution) Act 2005</i> No 22	Whole Act <sup>1</sup>
<i>Duties Amendment (Abolition of Vendor Duty) Act 2005</i> No 66	Whole Act <sup>1</sup>
<i>Electricity Supply Amendment Act 2005</i> No 17	Whole Act <sup>1</sup>
<i>Environmental Planning and Assessment Amendment (Development Contributions) Act 2005</i> No 19	Whole Act <sup>1</sup>
<i>Fire Brigades Amendment (Community Fire Units) Act 2005</i> No 33	Whole Act <sup>1</sup>
<i>Gambling (Two-up) Amendment Act 2005</i> No 44	Whole Act <sup>1</sup>

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<b>Name of Act</b>	<b>Extent of repeal</b>
<i>Game and Feral Animal Control Amendment Act 2005</i> No 26	Whole Act <sup>1</sup>
<i>Health Legislation Amendment (Complaints) Act 2004</i> No 98	Whole Act <sup>1</sup>
<i>Health Registration Legislation Amendment Act 2004</i> No 99	Whole Act <sup>1</sup>
<i>Historic Houses Amendment Act 2005</i> No 3	Whole Act <sup>1</sup>
<i>Independent Commission Against Corruption Amendment Act 2005</i> No 10	Whole Act <sup>1</sup>
<i>Legal Profession Amendment Act 2005</i> No 46	Whole Act <sup>1</sup>
<i>Liquor Amendment (Parliamentary Precincts) Act 2004</i> No 57	Whole Act <sup>1</sup>
<i>Local Government Amendment (Public-Private Partnerships) Act 2004</i> No 113	Whole Act <sup>1</sup>
<i>Local Government and Valuation of Land Amendment (Water Rights) Act 2005</i> No 49	Whole Act <sup>1</sup>
<i>Marine Safety Amendment (Random Breath Testing) Act 2005</i> No 4	Whole Act <sup>1</sup>
<i>Occupational Health and Safety Amendment (Dangerous Goods) Act 2003</i> No 38	Whole Act <sup>1</sup>
<i>Occupational Health and Safety Amendment (Workplace Deaths) Act 2005</i> No 34	Whole Act <sup>1</sup>
<i>Passenger Transport Amendment (Maintenance of Bus Services) Act 2005</i> No 61	Whole Act <sup>1</sup>
<i>Pawnbrokers and Second-hand Dealers Amendment Act 2005</i> No 62	Whole Act <sup>1</sup>
<i>Petroleum (Submerged Lands) Amendment (Permits and Leases) Act 2005</i> No 35	Whole Act <sup>1</sup>
<i>Retail Leases Amendment Act 2004</i> No 84	Whole Act <sup>1</sup>
<i>Standard Time Amendment (Co-ordinated Universal Time) Act 2005</i> No 7	Whole Act <sup>1</sup>
<i>State Records Amendment Act 2005</i> No 8	Whole Act <sup>1</sup>
<i>State Revenue Legislation Amendment Act 2005</i> No 51	Whole Act <sup>1</sup>
<i>State Revenue Legislation Amendment (Budget Measures) Act 2005</i> No 42	Whole Act <sup>1</sup>
<i>State Revenue Legislation Further Amendment Act 2004</i> No 67	Whole Act <sup>1</sup>

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<b>Name of Act</b>	<b>Extent of repeal</b>
<i>Surveying Amendment Act 2005</i> No 53	Whole Act <sup>1</sup>
<i>Workers Compensation and Other Legislation Amendment Act 2004</i> No 111	Whole Act <sup>1</sup>

**Key**

- 1 indicates repeal of a whole Act that contains only amendments, or amendments and repeals, that have commenced and provisions that are redundant
- 2 indicates repeal of a whole Act that contains amendments that are redundant

**Explanatory note**

The repeals are explained in detail in the Explanatory note relating to this Act. In relation to the repeal of amending Acts, it should be noted that the Acts are repealed simply to rationalise the legislation in force and that the repeals have no substantive effect on the amendments made by the Acts or any associated provisions. The Acts that were amended by the Acts being repealed are up-to-date on the Legislation Database maintained by the Parliamentary Counsel's Office and are available electronically.

Section 30 (2) of the *Interpretation Act 1987* ensures that, when an Act is amended or repealed, no amendment made by the Act is affected. Section 30 (2) also ensures that the following matters are not affected:

- (a) the proof of any past act or thing,
- (b) any right, privilege, obligation or liability saved by the operation of the Act,
- (c) any amendment or validation made by the Act,
- (d) the operation of any savings or transitional provision contained in the Act.

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## Schedule 5    General savings, transitional and other provisions

(Section 5)

### 1    Effect of amendment of amending provisions

- (1) An amendment made by Schedule 1 or 2 to an amending provision contained in an Act is, if the amending provision has commenced before the date of assent to this Act, taken to have effect as from the commencement of the amending provision.
- (2) In this clause:  
**amending provision** means a provision of an Act that makes a direct amendment to an Act by:
  - (a) the repeal or omission of matter contained in the amended Act without the insertion of any matter instead of the repealed or omitted matter, or
  - (b) the omission of matter contained in the amended Act and the insertion of matter instead of the omitted matter, or
  - (c) the insertion into the amended Act of matter, not being matter inserted instead of matter omitted from the Act,whether the provision was enacted before or after the commencement of the *Reprints Act 1972*.

#### **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 Application of Interpretation Act 1987 to amendments to statutory rules**

Sections 39, 40 and 41 of the *Interpretation Act 1987* do not apply to any amendments to statutory rules made by this Act.

**Explanatory note**

This clause makes it clear that certain provisions concerning the making, tabling and disallowance of statutory rules do not apply to amendments to statutory rules made by the proposed Act.

**4 Effect of amendment on regulations**

Except where expressly provided to the contrary, any regulation 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 regulation made under an Act amended by the proposed Act, and in force immediately before the commencement of the amendment, will be taken to have been made under the amended Act.

**5 Effect of amendment on environmental planning instruments**

The amendment of an environmental planning instrument by this Act does not prevent its later amendment or repeal by another environmental planning instrument.

**Explanatory note**

This clause ensures that the amendment of a local environmental plan or other environmental planning instrument does not prevent its amendment or repeal by an environmental planning instrument.

**6 Effect of amendment on water sharing plan**

The amendment by this Act of a water sharing plan made under section 50 of the *Water Management Act 2000* does not prevent its later amendment or repeal by another such water sharing plan or other instrument.

**Explanatory note**

This clause ensures that the amendment of a water sharing plan does not prevent its amendment or repeal by another water sharing plan or other instrument.

**7 Regulations**

- (1) The Governor may make regulations containing provisions of a savings or transitional nature consequent on the enactment of this Act.
- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to this Act or a later date.

- 
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, 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 Act.

## Notes

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- Adoption Act 2000* No 75—Schedule 3
- Animal Research Regulation 2005*—Schedule 2
- Annual Holidays Act 1944* No 31—Schedule 3
- Annual Reports (Departments) Act 1985* No 156—Schedule 1
- Annual Reports (Departments) Regulation 2005*—Schedule 1
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- Anti-Discrimination Act 1977* No 48—Schedule 3
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- Baulkham Hills Local Environmental Plan 2005*—Schedule 2
- Births, Deaths and Marriages Registration Regulation 2001*—Schedule 2
- Blue Mountains Local Environmental Plan 1991*—Schedule 2
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- Brigalow and Nandewar Community Conservation Area Act 2005* No 56—Schedule 2
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- Contracts Review Act 1980* No 16—Schedule 3
- Co-operative Housing and Starr-Bowkett Societies Regulation 2005*—Schedule 2
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*Health Services Act 1997* No 154—Schedules 2 and 3  
*Heritage Act 1977* No 136—Schedule 3  
*Home Building Act 1989* No 147—Schedule 1  
*Home Building Regulation 2004*—Schedule 2  
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*Limitation Act 1969* No 31—Schedule 3  
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*Long Service Leave (Metalliferous Mining Industry) Act 1963* No 48—Schedule 3  
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*Threatened Species Conservation Act 1995* No 101—Schedule 2

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*Gambling (Two-up) Amendment Act 2005* No 44  
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