

Passed by both Houses



New South Wales

Statute Law (Miscellaneous Provisions) Bill 2008

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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, , 2008*



New South Wales

Statute Law (Miscellaneous Provisions) Bill 2008

Act No , 2008

An Act to repeal certain Acts and statutory instruments 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.

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

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts:**1 Name of Act**

This Act is the *Statute Law (Miscellaneous Provisions) Act 2008*.

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

- (1) Each Act or statutory instrument specified in Part 1 or 2 of Schedule 4 is repealed.
- (2) Each Act or instrument specified in Part 3 of Schedule 4 is, to the extent indicated in that Part, repealed.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.

7 Repeal of provisions of Act

- (1) Sections 3 and 4 and Schedules 1–4 are repealed on the day following the day on which all of the provisions of this Act have commenced.
- (2) The repeal of Schedules 1–4 does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by those Schedules.

Schedule 1 Minor amendments

(Section 3)

1.1 Aboriginal Land Rights Act 1983 No 42

Schedule 4 Savings, transitional and other provisions

Omit “, after 18 months after the commencement of this clause” from clause 45 (2).

Insert instead “on or after 1 July 2010”.

Explanatory note

Under section 52B of the *Aboriginal Land Rights Act 1983 (the Act)*, which commenced on 1 July 2007, a Local Aboriginal Land Council may provide, but only in accordance with an approval of the New South Wales Aboriginal Land Council, community benefits by operating a social housing scheme for Aboriginal persons in its area. Approval must not be given unless the social housing scheme satisfies various specified criteria, including that it is consistent with the community, land and business plan of the Local Aboriginal Land Council and that the income from the scheme will be sufficient to meet its expenses including long term maintenance requirements.

Clause 45 of Schedule 4 to the Act provides that any existing social housing scheme must not be operated after 18 months from the commencement of that clause unless it has been approved or, with the approval of the New South Wales Aboriginal Land Council, arrangements have been made for it to be operated by another person or body. The proposed amendment has the effect of extending the transitional time frame for an approval or other arrangements by a further 18 months to 30 June 2010.

1.2 Agricultural Industry Services Act 1998 No 45

[1] Section 3 Definitions

Omit the definition of *inspector*. Insert instead:

inspector means a person appointed by the Director-General under section 41A.

[2] Section 41A

Omit the section. Insert instead:

41A Appointment of inspectors

- (1) The Director-General may appoint any person to be an inspector for the purposes of this Act.
- (2) The Director-General may, in and by the instrument of an inspector’s appointment, limit the functions that the inspector may exercise under this Act.

- (3) An inspector is, to the extent to which the inspector is exercising functions as an inspector under this Act, subject to the control and direction of the Director-General.

[3] Schedule 4 Savings, transitional and other provisions

Insert (with appropriate numbering) at the end of the Schedule:

**Part Provision consequent on enactment of
Statute Law (Miscellaneous Provisions)
Act 2008**

Inspectors

Any person who, immediately before the substitution of section 41A by the *Statute Law (Miscellaneous Provisions) Act 2008*, was an inspector under this Act is taken to have been appointed as an inspector under that section as so substituted.

Explanatory note

Item [2] of the proposed amendments to the *Agricultural Industry Services Act 1998* (**the Act**) allows the Director-General of the Department of Primary Industries to appoint any person (rather than the Minister for Primary Industries appointing members of the Government Service, as is currently the case) to be an inspector for the purposes of the Act. Under the proposed provision, inspectors are to be subject to the control and direction of the Director-General in exercising their functions as an inspector under the Act. Item [1] makes a consequential amendment.

Item [3] of the proposed amendments inserts a savings and transitional provision.

1.3 Australian Museum Trust Act 1975 No 95

[1] Section 6 Appointment and procedure

Omit “9 trustees” from section 6 (1). Insert instead “11 trustees”.

[2] Section 8 Powers of Trust

Insert at the end of section 8 (1) (g) (ii):

and

- (iii) any matter for which the Trust determines fees are payable under subsection (9A),

[3] Section 8 (9A)–(9C)

Insert after section 8 (9):

- (9A) The Trust may from time to time determine the following:
- (a) the fees payable for admission to the Australian Museum or any part of the Museum,

(b) the fees payable for the photographing of exhibits for commercial purposes.

(9B) Fees may differ according to such factors as the Trust may determine.

(9C) The Trust may exempt any person or class of persons from paying any fee.

[4] Section 19 Regulations

Omit section 19 (1) (d) (i) and (ii).

[5] Schedule 1 Composition and procedure of the Trust

Insert at the end of clause 1 (b):

, and

(c) at least 1 person who has knowledge of, or experience in, Australian Indigenous culture.

[6] Schedule 1, clause 9 (2) and (3)

Omit the subclauses.

[7] Schedule 1, clause 9 (5)

Omit “Five trustees”. Insert instead “Six trustees”.

[8] Schedule 3 Savings and other provisions

Insert at the end of the Schedule:

6 Provision consequent on enactment of Statute Law (Miscellaneous Provisions) Act 2008

The amendment to section 6 made by the *Statute Law (Miscellaneous Provisions) Act 2008* does not affect the appointment or term of office of a person who held office as a trustee immediately before the amendment took effect.

Repeal

Clause 5 of the *Australian Museum Trust Regulation 2003* is repealed on the date of assent to this Act.

Explanatory note

Section 6 of the *Australian Museum Trust Act 1975 (the Act)* provides that the Australian Museum Trust (**the Trust**) is to consist of 9 trustees appointed by the Governor on the nomination of the Minister. Clause 9 of Schedule 1 to the Act provides that the quorum for meetings of the Trust is five trustees.

Item [1] of the proposed amendments increases the number of trustees to 11. Item [7] of the proposed amendments consequently increases the quorum for meetings of the

Trust to 6 trustees. Item [8] of the proposed amendments inserts a transitional provision relating to the amendment proposed to be made by item [1].

Item [5] of the proposed amendments inserts an additional requirement relating to the composition of the Trust, namely, that the trustees must include at least 1 person who has knowledge of, or experience in, Australian Indigenous culture. (Currently, the Act requires the trustees to include at least 1 person with knowledge of, or experience in, science, and at least one person with knowledge of, or experience in, education.)

Item [6] of the proposed amendments omits spent provisions that required the Minister to call the first meeting of the Trust by giving notice to the first 8 trustees of the Trust and that dealt with the conduct of the first meeting of the Trust.

Clause 5 of the *Australian Museum Trust Regulation 2003 (the Regulation)* allows the Trust to determine the fees payable for admission to the Australian Museum and for photographing Museum exhibits for commercial purposes.

Item [3] of the proposed amendments transfers the provisions of clause 5 of the Regulation into the section of the Act dealing with powers of the Trust. Items [2] and [4] make consequential amendments. Clause 5 of the Regulation is repealed on the date of assent to this Act.

1.4 Births, Deaths and Marriages Registration Act 1995 No 62

[1] Section 28 Application to register change of child's name

Omit section 28 (2). Insert instead:

- (2) If the parents of a child are dead, cannot be found or for some other reason cannot exercise their parental responsibilities in relation to a child, an application for registration of a change of the child's name may be made, in a form approved by the Registrar, by a person to whom a court within Australia has allocated:
 - (a) parental responsibility for the child, or
 - (b) specific aspects of parental responsibility for the child so long as the making of the application is not outside the scope of the aspects allocated.
- (2A) If there is more than one such person, an application may be made under subsection (2) only as a joint application of those persons.

[2] Section 28 (6)

Omit the subsection. Insert instead:

- (6) In this section:
parental responsibility, in relation to a child, means all the duties, powers, responsibilities and authority which, by law, parents have in relation to their children.

[3] Section 49 Issue of certificate

Omit "Registrar-General" from section 49 (5). Insert instead "Registrar".

Explanatory note

Section 28 (2) of the *Births, Deaths and Marriages Registration Act 1995 (the Act)* enables a child's primary care-giver to apply to the Registrar of Births, Deaths and Marriages for registration of a change of the child's name where the parents of the child cannot exercise their parental responsibilities in relation to the child (for example, where they are dead).

Items [1] and [2] of the proposed amendments ensure that:

- (a) only a person who has been allocated parental responsibility (or relevant aspects of parental responsibility) for the child will be able to make an application under section 28 (2) of the Act, and
- (b) if there is more than one such person, such an application may only be made as a joint application of all of those persons.

Item [3] of the proposed amendments corrects a reference to an office.

1.5 Conveyancers Licensing Act 2003 No 3

[1] Section 95 Powers of a manager

Insert after section 95 (1) (c):

- (c1) wind up the affairs of the business, and

[2] Section 95 (1) (e)

Insert "or winding up" after "conduct".

Explanatory note

Section 95 of the *Conveyancers Licensing Act 2003 (the Act)* sets out the powers of a manager (appointed by the Director-General under the Act) to operate a licensee's business if the licensee is no longer able to operate the business. These powers include the power to carry out work on behalf of existing or new clients of the business and to dispose of property in relation to the business. The proposed amendments specify that a manager also has the power to wind up the affairs of the business and incur expenses that are reasonably related to the winding up of the business.

1.6 Dental Practice Act 2001 No 64

Section 109 Staff

Omit "the Health Administration Corporation" from section 109 (2).

Insert instead "the Director-General".

Explanatory note

Section 109 of the *Dental Practice Act 2001 (the Act)* allows the Dental Board (**the Board**) to employ such staff as may be necessary to enable the Board to exercise its functions. The section requires the Board to concur with the Health Administration Corporation (**the HAC**) (whose functions, before 17 March 2006, included employer functions) in fixing the salary, wages, allowances and conditions of employment of such staff in so far as they are not fixed by any other Act or law.

On 17 March 2006, the employer functions of the HAC were removed and are currently exercised (in relation to staff who are members of the NSW Health Service) by the Director-General of the Department of Health.

Accordingly, the proposed amendment to the Act substitutes the Director-General for the HAC as the entity with whom the Board must concur for the purposes of section 109 of the Act.

1.7 Fines Act 1996 No 99

Section 36 How person may elect to have matter dealt with by court

Insert “or other electronic” after “facsimile” in section 36 (3).

Explanatory note

Under section 36 of the *Fines Act 1996*, a person may elect to have a penalty notice matter dealt with by a court by serving on an appropriate person a written statement that the person so elects. The section currently allows the statement to be served electronically only by facsimile. The proposed amendment allows the statement to be served by any means of electronic transmission.

1.8 First State Superannuation Act 1992 No 100

Schedule 1 Employers

Omit the matter relating to the Electricity Association of New South Wales from the Schedule.

Commencement

The amendment to the *First State Superannuation Act 1992* commences on the date on which an order made under clause 3 of Schedule 1 to the *Local Government Associations Incorporation Act 1974*, as inserted by this Schedule, takes effect.

Explanatory note

The proposed amendment to the *First State Superannuation Act 1992* is consequential on the proposed amendments to the *Local Government Associations Incorporation Act 1974* referred to elsewhere in this Schedule.

1.9 Forestry Act 1916 No 55

[1] Section 27A Timber licences

Insert “is the term specified in the licence, but the term” after “timber licence” in section 27A (2).

[2] Section 27A (2)

Omit “shall” wherever occurring. Insert instead “must”.

[3] Sections 27A (3), 27B (3) and 27C (3)

Omit “shall” wherever occurring. Insert instead “are to”.

[4] Section 27B Products licences

Omit “shall be” from section 27B (2). Insert instead “is”.

[5] Section 27C Forest materials licences

Omit section 27C (2). Insert instead:

- (2) The term of a forest materials licence is the term specified in the licence, but the term:
 - (a) must not exceed 5 years without the prior written approval of the Minister, and
 - (b) must not, in any event, exceed 20 years.

Explanatory note

The *Forestry Act 1916* (***the Act***) currently allows the Forestry Commission to issue forest materials licences of up to 5 years duration, and timber licences of up to 5 years duration, or of between 5 and 20 years duration with the approval of the Minister. A timber licence authorises the holder to take timber on Crown-timber lands (being land within a State forest or flora reserve and Crown lands except for certain tenured Crown lands). A forest materials licence authorises the holder to take forest materials (being rock, stone, clay, shells, earth, sand, gravel or any like material) from a State forest. The taking of timber and forest materials under these licences is subject to various restrictions contained in the Act and the regulations and in the conditions and limitations of the licence concerned.

Item [5] of the proposed amendments extends the term for which a forest materials licence may be issued, in line with the term for which a timber licence may be issued, under the Act.

Item [1] of the proposed amendments amends section 27A (2) to make it clear that the term of a timber licence is the term (otherwise in accordance with the requirements of that provision) that is specified in the licence (as is the case with forest materials licences and products licences under the Act).

Items [2]–[4] of the proposed amendments replace references to “shall” with plainer language.

1.10 Forestry and National Park Estate Act 1998 No 163

[1] Section 14 Making of agreements

Omit section 14 (2). Insert instead:

- (2) The parties to a forest agreement are to be the Minister for Climate Change and the Environment and the Minister for Primary Industries.

[2] Sections 21 (2) and 22 (3) and (6)

Omit “Department of Natural Resources” wherever occurring.

Insert instead “Department of Environment and Climate Change”.

[3] Section 22 Public notice and public availability of agreements, assessment documents, approvals and reports

Omit “each regional office of the Department of Natural Resources” from section 22 (2).

Insert instead “the appropriate regional office of the Department of Environment and Climate Change (as determined by the head of the Department)”.

[4] Section 23 Committees of advice—forest landscape management

Omit “Minister administering the *Environmental Planning and Assessment Act 1979*” from section 23 (1).

Insert instead “Minister”.

[5] Section 27 Approvals to be granted jointly by relevant Ministers

Omit section 27 (1). Insert instead:

- (1) An integrated forestry operations approval may only be granted jointly by the Minister for Climate Change and the Environment and the Minister for Primary Industries.

Explanatory note

Items [1], [4] and [5] of the proposed amendments to the *Forestry and National Park Estate Act 1998* (**the Act**) update ministerial references as a consequence of the *Public Sector Employment and Management (General) Order 2007* and the *Public Sector Employment and Management (Climate Change, Environment and Water) Order 2008*.

Item [2] of the proposed amendments updates references in the Act to the Department of Natural Resources, which has been abolished.

Item [3] of the proposed amendments replaces the requirement that copies of forest agreements and integrated forestry operations approvals be made available for public inspection at every regional office with a provision that directs that copies be available at the appropriate regional offices as determined by the head of Department of Environment and Climate Change (**DECC**). All forest agreements and integrated forestry operations approvals are currently made available for public inspection at the head office of DECC and on the Internet.

1.11 Guardianship Act 1987 No 257

[1] Section 49 Constitution of the Tribunal

Insert “at least” before “one” in section 49 (4) (b).

[2] Sections 51A (4), 51B (d) and (e), 69 (3) and 72

Omit “the Deputy President” wherever occurring.

Insert instead “a Deputy President”.

[3] Section 51B Presiding member of Tribunal

Omit section 51B (c). Insert instead:

- (c) if the Tribunal is so constituted as not to include the President of the Tribunal but is so constituted as to include a Deputy President of the Tribunal—that Deputy President of the Tribunal, or
- (c1) if the Tribunal is so constituted as not to include the President of the Tribunal but is so constituted as to include more than one Deputy President of the Tribunal—the Deputy President of the Tribunal that the President of the Tribunal nominates, or

[4] Sections 54 (3), 60, 67D (1) (a) and 68 (1A) (a)

Omit “Deputy President” wherever occurring.

Insert instead “a Deputy President”.

[5] Section 75 Rules

Omit “(who shall include the President or the Deputy President, or both)” from section 75 (1).

[6] Section 75 (1A)

Insert after section 75 (1):

- (1A) The members so nominated must include:
 - (a) the President, or
 - (b) a Deputy President,but may include both the President and one or more Deputy Presidents.

[7] Schedule 1 Provisions relating to the Tribunal

Insert “a” after “The President or” in clause 3 (1).

[8] Schedule 1, clause 3 (2)

Omit “The Deputy President”. Insert instead “A Deputy President”.

[9] Schedule 1, clause 3 (2) (a) (i)

Omit “the Deputy President”. Insert instead “that Deputy President”.

[10] Schedule 1, clause 3 (2A)

Insert after clause 3 (2):

- (2A) Subject to any delegation under clause 4, if there is more than one Deputy President of the Tribunal, the Deputy President who is to exercise the President's functions under this clause is:
- (a) if there is only one Deputy President appointed on a full-time basis—that Deputy President, or
 - (b) if there is more than one Deputy President appointed on a full-time basis or there is no Deputy President appointed on a full-time basis—the Deputy President with the earliest date of appointment as Deputy President.

[11] Schedule 1, clause 3 (3) and (5)

Omit “the Deputy President” where firstly occurring in clause 3 (3) and wherever occurring in clause 3 (5).

Insert instead “a Deputy President”.

[12] Schedule 1, clause 3 (3)

Omit “the Deputy President” where secondly occurring.

Insert instead “that Deputy President”.

[13] Schedule 1, clause 3 (4)

Omit the subclause. Insert instead:

- (4) While a Deputy President of the Tribunal exercises the President's functions, that Deputy President is taken to be the President.

[14] Schedule 1, clause 4

Omit “the Deputy President”. Insert instead “any Deputy President”.

Explanatory note

Item [1] of the proposed amendments to the *Guardianship Act 1987* will enable the Governor to appoint more than one Deputy President of the Guardianship Tribunal. Items [2]–[9] and [11]–[14] are consequential amendments.

Item [10] of the proposed amendments provides that where there is more than one Deputy President appointed, the Deputy President who will exercise the President's functions in the absence of a delegation by the President will be determined according to whether there is a Deputy President appointed on a full-time basis and, if necessary, according to which Deputy President has the earliest date of appointment as Deputy President.

1.12 Licensing and Registration (Uniform Procedures) Act 2002 No 28

[1] Schedule 1 Licences to which Part 2 of Act applies

Omit “section 133A (1) (d), trapper’s licence” from the matter relating to the *National Parks and Wildlife Act 1974*.

Insert instead “section 133A (1) (d), commercial fauna harvester’s licence”.

[2] Schedule 4 Amendment of other Acts and statutory rules

Omit “An authorised officer” from proposed section 133A (1) in Schedule 4.9.

Insert instead “The Director-General”.

[3] Schedule 4.9

Omit “trappers’ licences” from proposed section 133A (1) (d).

Insert instead “commercial fauna harvesters’ licences”.

Explanatory note

The proposed amendments to the *Licensing and Registration (Uniform Procedures) Act 2002* are consequential on items [2] and [10]–[15] of the proposed amendments to the *National Parks and Wildlife Act 1974* referred to elsewhere in this Schedule. Those amendments:

- (a) replace references to an “authorised officer” in Part 9 of that Act (Licensing in respect of fauna, native plants and threatened species) with references to the Director-General of the Department of Environment and Climate Change, and
- (b) change the name of a trapper’s licence under that Act to a commercial fauna harvester’s licence.

1.13 Liquor Act 2007 No 90

[1] Section 33 Wine producers

Omit section 33 (3) (b). Insert instead:

- (b) in the case only of wine—it is uniquely the licensee’s (or a related corporation of the licensee’s) own product, but only if that product contains not less than a percentage of wine, as prescribed by the regulations, that has been produced:
 - (i) by or under the direction of the licensee (or a related corporation of the licensee) on the licensed premises or a vineyard related to the licensed premises, or
 - (ii) on the licensee’s behalf from fruit grown on the licensed premises or a vineyard related to the licensed premises.

[2] Section 33 (4) (b)

Omit “is contiguous with the licensed premises or”.

[3] Section 34 Small-scale producers of beer, spirits etc in non-metropolitan areas

Omit “Areas of Newcastle” from section 34 (3) (b).

Insert instead “Area of Newcastle”.

Explanatory note

Section 33 of the *Liquor Act 2007* (**the Act**) authorises licensed wine producers to sell the licensee’s product in a number of ways, including take-away sales and for “tastings” on the licensed premises. The definition of **licensee’s product** requires the wine to have been produced from fruit grown on the licensed premises or a related vineyard (that is, a vineyard operated by the licensee and that is nearby the licensed premises). The requirement for the fruit to be grown on the licensed premises or a related vineyard does not currently apply to licensed vigneronns under section 22 of the *Liquor Act 1982*.

Item [1] of the proposed amendments will restore existing arrangements so that a licensed wine producer will be able to sell wine that is produced on the licensed premises regardless of whether it is made from fruit grown on those premises.

Section 33 (4) (b) of the Act currently defines a vineyard as being related to licensed premises if it “is contiguous with the licensed premises or is within 500 metres of the licensed premises”. Item [2] of the proposed amendments omits the reference to the vineyard being contiguous as a vineyard within 500 metres of licensed premises is necessarily contiguous with those premises.

Item [3] of the proposed amendments corrects a typographical error.

**1.14 Local Government Associations Incorporation Act 1974
No 20**

[1] Sections 14 and 15

Insert after section 13:

14 Regulations

The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

15 Savings, transitional and other provisions

Schedule 1 has effect.

[2] **Schedule 1**

Insert at the end of the Act:

Schedule 1 Savings, transitional and other provisions

(Section 15)

Part 1 General

1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

Statute Law (Miscellaneous Provisions) Act 2008, to the extent that it amends this Act

- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned 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.

Part 2 Abolition of Electricity Association of New South Wales

2 Definitions

In this Part:

abolition order—see clause 3 (1).

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

Electricity Association means the Electricity Association of New South Wales.

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

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

3 Minister may abolish Electricity Association

- (1) The Minister may, by order published in the Gazette (an ***abolition order***), abolish the Electricity Association.
- (2) The Minister may make an abolition order only if:
 - (a) the Electricity Association has requested, in writing, that the Minister make the order, and
 - (b) the Minister for Energy has consented to the making of the order.
- (3) An abolition order has effect from the day that the order is published in the Gazette or on such later day as may be specified in the order.

4 Provisions consequent on abolition of Electricity Association

- (1) A person who immediately before the abolition of the Electricity Association held office as a member of the Electricity Association:
 - (a) ceases to hold that office on the abolition of the Association, and
 - (b) is not entitled to any remuneration or compensation because of the loss of that office.
- (2) On the day on which an abolition order has effect the assets, rights and liabilities of the Electricity Association become the assets, rights and liabilities of the Crown.

5 Amendment of this Act consequent on abolition of Electricity Association

On the day on which an abolition order has effect, this Act is amended by:

- (a) inserting “and” after “New South Wales,” in section 2 (a) (ii), and

(b) omitting sections 2 (a) (iii) and 4 (3)–(9).

Explanatory note

The Electricity Association of New South Wales (*the Association*) was formed when councils joined together to exercise certain powers in relation to electricity distribution. In 2001 the Association wound back its operations and now the Association does not have an office or any staff. The Association's executive has decided to wind up the Association.

Currently, the *Local Government Associations Incorporation Act 1974 (the Act)* does not provide a mechanism for the abolition of the Association. The purpose of the proposed amendments is to provide such a mechanism.

Item [2] inserts proposed Schedule 1 into the Act. Proposed clause 3 of that Schedule provides a mechanism for abolishing the Association by enabling the Minister to make an order abolishing the Association if the Association has requested that the Minister make such an order and the Minister for Energy consents to the making of the order. The proposed Schedule also contains consequential savings and transitional provisions (proposed clauses 2, 4 and 5) and allows for the making of transitional regulations (proposed clause 1).

Item [1] inserts a regulation-making power into the Act and a machinery provision to give effect to proposed Schedule 1.

1.15 Medical Practice Act 1992 No 94

Section 142 Staff of the Board

Omit “the Health Administration Corporation” from section 142 (2).

Insert instead “the Director-General”.

Explanatory note

Section 142 of the *Medical Practice Act 1992 (the Act)* allows the New South Wales Medical Board (*the Board*) to employ such staff as may be required to enable the Board to exercise its functions. The section requires the Board to concur with the Health Administration Corporation (*the HAC*) (whose functions, before 17 March 2006, included employer functions) in fixing the salary, wages, allowances and conditions of employment of such staff in so far as they are not fixed by any other Act or law.

On 17 March 2006, the employer functions of the HAC were removed and are currently exercised (in relation to staff who are members of the NSW Health Service) by the Director-General of the Department of Health.

Accordingly, the proposed amendment to the Act substitutes the Director-General for the HAC as the entity with whom the Board must concur for the purposes of section 142 of the Act.

1.16 National Parks and Wildlife Act 1974 No 80

[1] Section 21

Omit the section. Insert instead:

21 Delegation

- (1) The Minister may delegate the exercise of any function of the Minister under this Act (other than this power of delegation) to:

- (a) the Director-General, or
 - (b) a member of staff of the Department of Environment and Climate Change, or
 - (c) a board of management, or
 - (d) any person, or any class of persons, authorised for the purposes of this subsection by the regulations.
- (2) The Director-General may delegate the exercise of any function of the Director-General under this Act (other than this power of delegation) to:
- (a) a member of staff of the Department of Environment and Climate Change, or
 - (b) a board of management, or
 - (c) any person, or any class of persons, authorised for the purposes of this subsection by the regulations.
- [2] **Sections 45 (3) (a), 56 (3) (a), 58Q (3) (a), 70 (3) (a), 98 (3) (a), 103 (2), 121 (1) (b) and 129 (a) and (b)**
Omit “trapper’s licence” wherever occurring.
Insert instead “commercial fauna harvester’s licence”.
- [3] **Section 69A Definitions**
Omit the definition of *Trust* from section 69A (1).
- [4] **Section 69B Conservation agreements**
Omit “, or the Minister and the Trust (but not the Trust alone),” from section 69B (1).
- [5] **Section 69B (1A) and (1B)**
Omit the subsections.
- [6] **Section 69C Purpose and content of agreements**
Omit “or the Trust, or both the Minister and the Trust” from section 69C (3) where firstly occurring.
- [7] **Section 69C (3)**
Omit “or the Trust, or both the Minister and the Trust severally,” wherever occurring.

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- [8] Section 69I Proposals by statutory authorities affecting conservation areas**
Omit “, or both the Minister and the Trust, as appropriate” from section 69I (5).
- [9] Section 119 Definition**
Omit the definition of *authorised officer*.
- [10] Sections 120 (1), 121 (1), 123 (1), 124 (1) and (3), 125 (1) and (3), 125A, 126 (1) and (2), 127, 128 (1), 131 (1), 132, 132A (1) and (2), 132C (1) and 133 (2) and (3)**
Omit “An authorised officer” wherever occurring.
Insert instead “The Director-General”.
- [11] Section 123 Commercial fauna harvester’s licence**
Omit “*trapper’s licence*” from section 123 (1).
Insert instead “*commercial fauna harvester’s licence*”.
- [12] Section 123 (2) and (3)**
Omit “trapper’s licence” wherever occurring.
Insert instead “commercial fauna harvester’s licence”.
- [13] Section 133 Conditions and restrictions attaching to licences and certificates and variation of licences and certificates**
Omit “the authorised officer” from section 133 (2).
Insert instead “the Director-General”.
- [14] Section 133 (3) (b)**
Omit “by any authorised officer”.
- [15] Section 135 Appeal**
Omit “an authorised officer” from section 135 (1).
Insert instead “the Director-General”.

[16] Schedule 3 Savings, transitional and other provisions

Insert at the end of the Schedule with appropriate Part and clause numbers:

**Part Provisions consequent on enactment of
Statute Law (Miscellaneous Provisions)
Act 2008**

Definition

In this Part, *amending Act* means the *Statute Law (Miscellaneous Provisions) Act 2008*.

Saving of delegations

Any delegation made under section 21 by the Minister or the Director-General and in force immediately before the substitution of that section by the amending Act continues to have effect as if it were a delegation made by the Minister or the Director-General under section 21 as substituted, but may be revoked at any time by the Minister or the Director-General, as appropriate.

Saving of trapper's licences

Any trapper's licence in force immediately before the commencement of the amending Act is taken to be a commercial fauna harvester's licence in force under section 123.

Saving of certain licences and certificates issued by authorised officers under Part 9

A licence or certificate issued by an authorised officer under Part 9 of the Act, and a condition or restriction attached to such a licence or certificate, that was in force immediately before that Part was amended by the amending Act is taken to have been issued or attached by the Director-General.

Explanatory note

Item [1] of the proposed amendments to the *National Parks and Wildlife Act 1974 (the Act)* substitutes section 21 of the Act to clarify to whom the Minister for Climate Change and the Environment and the Director-General of the Department of Environment and Climate Change (*DECC*) may delegate their functions under the Act (by replacing references to an officer of or an office holder in the now dissolved National Parks and Wildlife Service with a reference to a member of staff of DECC) and to expand their delegation powers by allowing delegation to a board of management established for Aboriginal land under Part 4A of the Act.

Items [3]–[8] amend sections 69A, 69B, 69C and 69I of the Act to remove references to, and the role of, the Nature Conservation Trust in relation to the making of conservation agreements under the Act. These amendments arise from recommendations contained in the 5 year statutory review of the *Nature Conservation Trust Act 2001*.

Item [10] amends various provisions in Part 9 (Licensing in respect of fauna, native plants and threatened species) of the Act to provide that it is the Director-General, and not an authorised officer, who is to issue licences and certificates under that Part. Items [9] and [13]–[15] make consequential amendments.

Items [11] and [12] of the proposed amendments amend section 123 of the Act to change the name of the trapper's licence to the commercial fauna harvester's licence to more accurately reflect the activities authorised by the licence. Item [2] makes consequential amendments.

Item [16] inserts savings provisions into Schedule 3 (Savings, transitional and other provisions) to the Act.

1.17 Native Vegetation Act 2003 No 103

Section 4 Definitions

Omit the definition of *Director-General* in section 4 (1). Insert instead:

Director-General means the Director-General of the Department of Environment and Climate Change.

Commencement

The amendment to the *Native Vegetation Act 2003* is taken to have commenced on 27 April 2007.

Explanatory note

On 27 April 2007, the *Public Sector Employment and Management (General) Order 2007* abolished the Department of Natural Resources. Clause 17 of that Order provided that in any document a reference to the Department of Natural Resources is to be construed as a reference to the Department of Environment and Climate Change (except in the limited circumstances set out in that clause). A previous Order, the *Public Sector Employment and Management (Planning and Natural Resources) Order 2005*, had abolished the Department of Infrastructure, Planning and Natural Resources and established the Department of Natural Resources. That Order also provided as to how references to the abolished Department were to be construed. The combined effect of these Orders means that the definition of *Director-General* in section 4 (1) of the *Native Vegetation Act 2003* is to be construed as a reference to the Director-General of the Department of Environment and Climate Change.

The proposed amendment to the *Native Vegetation Act 2003* updates the definition of *Director-General* in section 4 (1) of the Act in accordance with those Orders. The amendment is taken to have effect on 27 April 2007, the date of commencement of Part 3 of the *Public Sector Employment and Management (General) Order 2007*.

1.18 Nature Conservation Trust Act 2001 No 10

[1] Section 3 Definitions

Omit the definitions of *conservation agreement* and *property agreement*.

[2] Section 6 Meaning of “conservation priorities”

Omit “conservation agreement, property agreement or” from section 6 (1) (a).

[3] Section 6 (2)

Omit the subsection. Insert instead:

- (2) Any conservation priorities of the Trust must be consistent with this Act (in relation to Trust agreements).

[4] Section 7 Meaning of “Revolving Fund Scheme”

Omit “(which may, but need not, take the form of a conservation agreement or a property agreement)” from section 7 (b).

[5] Section 11 Functions of Trust

Omit section 11 (2) (d)–(g) and (3).

[6] Section 13

Omit the section. Insert instead:

13 Seal of Trust

- (1) The seal of the Trust is to be kept by the Chief Executive Officer of the Trust or a member of the Board authorised by the Board to keep it.
- (2) The seal of the Trust is to be affixed to a document only:
 - (a) in the presence of the Chief Executive Officer or a member of the Board who is authorised to do so by the Board generally or in a particular case or class of cases, and
 - (b) with an attestation by the signature of the Chief Executive Officer or member, as the case may be, of the fact of the affixing of the seal.

[7] Section 18 Members of Board

Omit “10” from section 18 (1). Insert instead “9”.

[8] Section 18 (1) (a)

Omit section 18 (1) (a) and (b). Insert instead:

- (a) one is to be an officer of the Department of Environment and Climate Change, and

[9] Section 18 (1A)

Insert after section 18 (1):

- (1A) The Chief Executive Officer of the Trust is not to be appointed as a member of the Board.

[10] Section 18 (2) (d)

Omit “conservation agreements, property agreements and”.

[11] Section 22 Trust to submit draft business plan to Minister

Omit section 22 (2). Insert instead:

- (2) The conservation priorities of the Trust must be consistent with any regulations made under section 46 (2) (a).

[12] Section 23 Consideration of plan

Omit section 23 (1). Insert instead:

- (1) The Minister is to determine whether the conservation priorities of the Trust specified in the draft business plan delivered to the Minister under section 22 are consistent with any regulations made under section 46 (2) (a).

[13] Section 23 (2)

Omit “(having regard to the views of the Minister for Land and Water Conservation)”.

[14] Section 25 Amendment of plan

Omit “, in consultation with the Minister for Land and Water Conservation,”.

[15] Section 34

Omit the section. Insert instead:

34 Duration of agreement

- (1) A Trust agreement:
- (a) takes effect from a day specified in the agreement, and
 - (b) remains in force for such period as is specified in the agreement or, if no period is specified, until it is terminated under subsection (2).
- (2) Despite subsection (1), a Trust agreement may be terminated at any time by consent of all parties to the agreement.

[16] Section 39 Register of agreements

Omit section 39 (1). Insert instead:

- (1) The Trust must keep a written register of all Trust agreements.

[17] Section 45

Omit the section. Insert instead:

45 Landholders may seek assistance

Nothing in this Act prevents a landholder who is a party to a Trust agreement from seeking financial or other assistance from any Government source in meeting his or her obligations under the agreement concerned.

[18] Schedule 1 Members and procedure of the Board

Insert after clause 2 (2) of Schedule 1:

- (3) Section 19 does not apply to the re-appointment of a member that is for a period of 12 months or less, but only in respect of the first re-appointment of that member.

[19] Schedule 1, clause 5 (1) (i)

Omit “or (b)”.

[20] Schedule 1, clause 12

Omit “7”. Insert instead “5”.

Commencement

Items [7], [8], [19] and [20] of the amendments to the *Nature Conservation Trust Act 2001* commence on 1 August 2008.

Explanatory note

The proposed amendments to the *Nature Conservation Trust Act 2001* (**the Act**) outlined below arise from recommendations contained in the report of the NSW Government Review Group on the statutory review of the *Nature Conservation Trust Act 2001* which was tabled in Parliament in 2007.

At present under the Act, the Nature Conservation Trust of New South Wales (**the Trust**) is able to negotiate, and be a party to:

- (a) conservation agreements under the *National Parks and Wildlife Act 1974*, to be entered into by a landholder and the Minister administering that Act for conservation purposes associated with the land concerned, and
- (b) property agreements under the now repealed *Native Vegetation Conservation Act 1997*, to be entered into by a landholder and the Director-General of the former Department of Land and Water Conservation for the purpose of the conservation and management of vegetation on the land concerned.

The Trust currently has the functions of monitoring and enforcing compliance with such agreements to which it is a party, as well as providing ongoing managerial, technical

and financial assistance to the landholders concerned. The NSW Government Review Group found that these functions had not yet been exercised by the Trust and that it was inappropriate for the Trust to exercise the functions. The Group recommended that functions of the Trust in respect of conservation agreements and property agreements be removed from the Act so that there is a clear differentiation between the activities of the Trust and the work of certain government agencies. Items [1]–[5], [10], [11], [16] and [17] of the proposed amendments therefore remove references in the Act to conservation agreements and property agreements. Items [12]–[14] make consequential amendments by removing the requirement for the Trust to consult with the Minister for Land and Water Conservation when considering or amending a business plan under the Act.

Item [6] of the proposed amendments provides that the seal of the Trust is to be kept by the Chief Executive Officer of the Trust (*the CEO*) or a member of the Board of the Trust authorised by the Board (currently, the seal is to be kept by the Chairperson of the Board). The item also provides that the seal is to be affixed to a document only in the presence of the CEO or a member of the Board authorised by the Board to do so (instead of 2 members as is currently the case) and with an attestation by the signature of the relevant person.

Currently, the Board of the Trust is required to have 10 members, with a quorum of 7 members for Board meetings. The NSW Government Review Group noted that it has sometimes been difficult to achieve a quorum of 7 members and so recommended that the Board membership requirement be reduced to 9 members and that the quorum requirement be reduced to 5 members. Items [7], [19] and [20] of the proposed amendments implement this recommendation.

The Act also currently provides that of the 10 members of the Board, one is to be an officer of the National Parks and Wildlife Service (now part of the Department of Environment and Climate Change (*DECC*)) and one is to be an officer of the former Department of Land and Water Conservation. That Department previously administered functions relating to property agreements under the repealed *Native Vegetation Conservation Act 1997*, but, as a consequence of administrative changes, these functions are now carried out by DECC. This means there are currently two members of the Board who are officers of DECC. As the Trust's functions in respect of property agreements are to be removed from the Act, and as the Board's membership is to be reduced from 10 to 9 members, item [8] of the proposed amendments provides for just one member of the Board to be appointed from DECC.

Item [9] of the proposed amendments provides that the CEO of the Trust is not to be appointed as a member of the Board.

Item [15] of the proposed amendments allows for the Trust to enter into Trust agreements for a fixed period or until terminated at any time by consent of all parties to an agreement (currently such agreements may only be entered into for a fixed period).

Item [18] of the proposed amendments provides that a non-government member of the Board may be re-appointed without the requirement for advertising for nominations for an appointment under section 19 of the Act, but only in respect of a re-appointment that is for a period of 12 months or less and only in respect of that member's first re-appointment.

1.19 Occupational Health and Safety Act 2000 No 40

[1] Sections 86 and 87

Omit “mining workplace” from sections 86 (5) and 87 (6) (as amended by the *Mine Health and Safety Act 2004*), wherever occurring.

Insert instead “mine to which the *Mine Health and Safety Act 2004* applies”.

[2] Section 107A Time for instituting proceedings—special provision for work incident notification

Omit “*Mines Inspection Act 1901* applies—to section 47” from section 107A (6) (a).

Insert instead “*Mine Health and Safety Act 2004* applies—to section 88”.

Commencement

The amendments made to the *Occupational Health and Safety Act 2000* commence on 1 September 2008 (being, in relation to the amendment made by item [1], the date on which Schedule 2 [15] to the *Mine Health and Safety Act 2004* commences and, in relation to the amendment made by item [2], the date on which section 191 of that Act (which repeals the *Mines Inspection Act 1901*) commences).

Explanatory note

Schedule 2 to the *Mine Health and Safety Act 2004* (**the Amending Act**) makes various amendments to the *Occupational Health and Safety Act 2000* (**the Principal Act**) which are due to commence on 1 September 2008. These include replacing the definition of *mine* in the Principal Act with a definition of **mining workplace**. The definition of **mining workplace** (unlike the definition of *mine*) includes places of work at which activities under the *Petroleum (Onshore) Act 1991* or the *Petroleum (Submerged Lands) Act 1982* (**the Petroleum Acts**) are carried out.

The effect of the amendment made by Schedule 2 [15] to the Amending Act to sections 86 and 87 of the Principal Act (which provide for notification procedures in the event of a notifiable incident occurring at a workplace and measures to be taken to ensure that plant is not disturbed in the event of a serious incident occurring at a workplace) is to disapply those sections in relation to mining workplaces. The Amending Act makes alternative provision for those procedures and measures in relation to mines (as defined) but not in relation to workplaces at which activities under the Petroleum Acts are carried out.

To the extent to which sections 86 and 87 are disapplied in relation to workplaces at which activities under the Petroleum Acts are carried out, the effect of the amendment made by Schedule 2 [15] is unintended. Item [1] of the proposed amendments allows sections 86 and 87 to continue to apply in relation to those workplaces.

The Amending Act also repeals the *Mines Inspection Act 1901*, with effect from 1 September 2008. Item [2] of the proposed amendments replaces a reference to a section of the *Mines Inspection Act 1901* with the section of the Amending Act that replaces it.

1.20 Ombudsman Act 1974 No 68

Section 10 Delegation

Insert “or 29 (1) (a) or (2) (a)” after “section 28” in section 10 (2A) (b).

Explanatory note

Section 29 (1) (a) and (2) (a) of the *Ombudsman Act 1974* (**the Act**) provide for the Ombudsman to keep complainants informed of the progress of investigations made by the Ombudsman in relation to their complaints. Currently, the Ombudsman may delegate these largely administrative reporting functions only to an Assistant Ombudsman. The proposed amendment to the Act allows delegation of these functions also to a special officer of the Ombudsman. (The Ombudsman may currently delegate another of the Ombudsman’s reporting functions to special officers, namely, the function of reporting the Ombudsman’s opinion that a public authority is or may be guilty of serious misconduct, to Ministers and heads of public authorities.)

1.21 Payroll Tax Act 2007 No 21

Schedule 1 Calculation of payroll tax liability for financial year commencing 1 July 2007 and subsequent financial years

Omit “2006” from the definition of **B** in clause 1A (2).

Insert instead “2007”.

Commencement

The amendment to the *Payroll Tax Act 2007* commences or is taken to have commenced on 1 July 2008.

Explanatory note

The proposed amendment to the *Payroll Tax Act 2007* corrects a reference to the base year to be used in the indexation of the payroll tax threshold amount.

1.22 Pharmacy Practice Act 2006 No 59

Section 101 Staff

Omit “the Health Administration Corporation” from section 101 (3).

Insert instead “the Director-General”.

Explanatory note

Section 101 of the *Pharmacy Practice Act 2006* (**the Act**) allows the Pharmacy Board (**the Board**) to employ such staff as are necessary to enable the Board to exercise its functions. The section requires the Board to concur with the Health Administration Corporation (**the HAC**) (whose functions, before 17 March 2006, included employer functions) in fixing the salary, wages, allowances and conditions of employment of such staff in so far as they are not fixed by any other Act or law.

On 17 March 2006, the employer functions of the HAC were removed and are currently exercised (in relation to staff who are members of the NSW Health Service) by the Director-General of the Department of Health.

Accordingly, the proposed amendment to the Act substitutes the Director-General for the HAC as the entity with whom the Board must concur for the purposes of section 101 of the Act.

1.23 Police Act 1990 No 47

Section 141 Factors affecting decision as to investigation of complaint

Insert after section 141 (1):

- (1A) Additional information from the person making the complaint, and any existing information relevant to the complaint to which the Commissioner or Ombudsman can readily obtain access, may be used in making a decision under subsection (1).
- (1B) The making of a decision under subsection (1) is not an investigation of the complaint to which the decision relates.

Explanatory note

The proposed amendment to the *Police Act 1990* permits the Commissioner of Police or the Ombudsman, when deciding whether a complaint against a police officer needs to be investigated, to use additional information from the complainant and any existing relevant information to which they can readily gain access. The proposed amendment also clarifies that the preliminary assessment of whether a complaint is to be investigated is not an investigation of the complaint.

1.24 Poultry Meat Industry Act 1986 No 101

[1] Section 6A Establishment of Advisory Group

Omit “elected” from section 6A (3) (c). Insert instead “nominated”.

[2] Schedule 1 Provisions relating to the members of the Committee and the Advisory Group

Omit clause 5.

[3] Schedule 1, clause 6 (2)

Omit the subclause.

[4] Schedule 3 Savings, transitional and other provisions

Insert after Part 3:

Part 4 Provisions consequent on enactment of Statute Law (Miscellaneous Provisions) Act 2008

16 Transitional provision

A person appointed as a member of the Advisory Group under section 6A (3) (c) and holding office as such immediately before the commencement of the amendment made to that provision by

the *Statute Law (Miscellaneous Provisions) Act 2008* is taken to have been appointed under that provision as so amended.

Commencement

The amendments to the *Poultry Meat Industry Act 1986* commence on 30 September 2008.

Explanatory note

The Poultry Meat Industry Advisory Group (***the Advisory Group***) established under the *Poultry Meat Industry Act 1986* (***the Act***) advises the Poultry Meat Industry Committee constituted under the Act on various matters with respect to the poultry meat industry.

The Advisory Group consists of 7 members appointed by the Minister, of whom 1 is an independent person chosen by the Minister, 3 are nominated in accordance with the regulations to represent poultry processors, and 3 are elected in accordance with the regulations to represent poultry growers.

Item [1] of the proposed amendments provides for the 3 members who are to represent poultry growers to be appointed from persons nominated (rather than elected) in accordance with the regulations. Items [2] and [3] make consequential amendments.

Item [4] of the proposed amendments inserts a transitional provision.

1.25 Probate and Administration Act 1898 No 13

[1] Section 61A Application and interpretation

Omit “\$50,000” from paragraph (a) of the definition of ***prescribed amount*** in section 61A (2).

Insert instead “\$200,000”.

[2] Section 84A Interest on legacies and annuities

Omit “at such rate” from section 84A (1).

Insert instead “at 6 per cent per year or such other rate”.

Explanatory note

Section 61A (2) of the *Probate and Administration Act 1898* (***the Act***) provides for a prescribed amount that is used to determine the distribution of an estate where a person dies intestate and leaves a spouse and also leaves issue. The prescribed amount is set at \$50,000 or such other amount as may be prescribed by regulations in force at the death of the intestate. The *Probate and Administration Regulation 2003* (***the Regulation***) currently prescribes an amount of \$200,000.

Section 84A (1) of the Act provides that the rate at which interest is payable on any legacy or on any arrears of an annuity is the rate prescribed by the regulations unless the will or instrument pursuant to which the legacy or annuity is payable or the Court provides otherwise. The Regulation currently prescribes a rate of 6 per cent per year.

Items [1] and [2] of the proposed amendments incorporate into the Act the amount and rate currently prescribed by the Regulation. Regulations can continue to be made should it be necessary to amend the amount or rate in the future.

1.26 Property, Stock and Business Agents Act 2002 No 66

[1] Section 128 Powers of manager

Insert after section 128 (1) (c):

(c1) wind up the affairs of the business, and

[2] Section 128 (1) (e)

Insert “or winding up” after “conduct”.

Explanatory note

Section 128 of the *Property, Stock and Business Agents Act 2002 (the Act)* sets out the powers of a manager (appointed by the Director-General under the Act) to operate a licensee’s business if the licensee is no longer able to operate the business. These powers include the power to carry out work on behalf of existing or new clients of the business and to dispose of property in relation to the business. The amendments specify that a manager also has the power to wind up the affairs of the business and incur expenses that are reasonably related to the winding up of the business.

1.27 Protection of the Environment Operations Act 1997 No 156

[1] Section 88 Contributions by licensee of waste facility

Omit section 88 (8). Insert instead:

(8) In this section, *liquid waste* has the same meaning as it has in Schedule 1.

[2] Section 189 Identification

Omit section 189 (1) and (2). Insert instead:

- (1) Every authorised officer or enforcement officer, who is not a police officer, is to be provided with an identification card as an authorised officer or enforcement officer by the regulatory or other authority that appointed the officer.
- (2) In the course of exercising the functions of an authorised officer or enforcement officer under this Act, the officer must, if requested to do so by any person affected by the exercise of any such function, produce to the person the officer’s identification card, issued in accordance with this section, or, in the case of a police officer, the officer’s police identification.

Explanatory note

Section 88 of the *Protection of the Environment Operations Act 1997 (the Act)* requires occupiers of waste facilities to pay contributions for waste received including liquid waste. The *Protection of the Environment Operations Amendment (Scheduled Activities and Waste) Regulation 2008* inserted a new definition of *liquid waste* into Schedule 1 to the Act. Item [1] of the proposed amendments updates the definition of *liquid waste* in section 88 of the Act accordingly.

Section 189 of the Act currently requires all authorised and enforcement officers to be provided with an identification card and to produce that identification card on request. Item [2] of the proposed amendments removes the requirement for the Environment Protection Authority to provide identification cards to police officers, who are appointed as authorised officers, and requires them to produce their police identification on request.

1.28 Registered Clubs Amendment Act 2006 No 103

Schedule 1 Amendments

Omit Schedule 1 [11].

Explanatory note

Under section 17AH of the *Registered Clubs Act 1976*, registered clubs may amalgamate only if they are situated in the same area (that is, within a 50km radius). However, an amalgamation with a club outside of the same area may be approved if the club that would be dissolved as a result of the amalgamation is not able to amalgamate with another club in the same area. The uncommenced amendment to be made by Schedule 1 [11] to the *Registered Clubs Amendment Act 2006* requires the dissolved club, before it is allowed to amalgamate with a club outside its area, to call for expressions of interest in accordance with the regulations from clubs in the same area. However, the amendment is no longer necessary because it is now a general requirement under the *Registered Clubs Regulation 1996* for any club that is seeking to amalgamate to call for expressions of interest from other clubs in the same area.

1.29 Road Transport Legislation Amendment (Car Hoons) Act 2008 No 4

[1] Schedule 1 Amendment of Road Transport (General) Act 2005

Omit “place specified in the notice within 10 days after the notice is given” from proposed section 218 (1A) (c) in Schedule 1 [7].

Insert instead “place, on a date (not being later than 10 days after the notice is given) and within a time period, specified in the notice”.

[2] Schedule 1 [11]

Omit “specified in the notice within 10 days after being given the notice” from proposed section 218 (7) (b).

Insert instead “, on the date and within the time period, specified in the notice”.

[3] Schedule 1 [12]

Insert “(if appropriate in view of any restrictions imposed under section 219C (4))” after “may” in proposed section 219 (3).

[4] Schedule 1 [19]

Insert after proposed section 223 (1):

- (2) The regulations may prescribe the fees (if any) payable in respect of storage of an impounded vehicle.

Explanatory note

The proposed amendments amend uncommenced provisions of the *Road Transport (General) Act 2005 (the 2005 Act)* inserted by the *Road Transport Legislation Amendment (Car Hoons) Act 2008 (the amending Act)*.

Proposed section 218 (1A) (c) and (7) of the 2005 Act require a driver or operator of a vehicle that is operated on a road so as to commit a street racing, burnout or aggravated burnout offence to remove the vehicle to, or produce it at, a specified place within 10 days after a production notice is given. Items [1] and [2] of the proposed amendments amend the uncommenced provisions to instead require such a vehicle to be produced at the place on a date (not being later than 10 days after the notice is given) and within a time period specified in the notice. This will ensure that an appropriate person is available to receive the vehicle when it is removed to, or produced at, the place.

Schedule 1 [12] to the amending Act amends the 2005 Act to make provision with respect to the clamping of motor vehicles. Proposed section 219C effectively enables the application of the proposed clamping provisions to be restricted to a trial period or area. Item [3] of the proposed amendments amends proposed section 219 (3) of the 2005 Act (which enables a court to order that a vehicle be clamped instead of being impounded) to make it clear that such an order can only be made if the vehicle is able to be clamped in accordance with any restrictions imposed relating to such trial periods or areas.

Item [4] of the proposed amendments reinstates a regulation-making power relating to fees for storage of impounded vehicles inadvertently omitted from section 223 of the 2005 Act by Schedule 1 [19] to the amending Act.

1.30 Soil Conservation Act 1938 No 10

[1] Section 3 Definitions

Omit the definition of *Deputy Commissioner* from section 3 (1).

Insert instead:

Deputy Commissioner means a Deputy Soil Conservation Commissioner holding office as such under Chapter 1A of the *Public Sector Employment and Management Act 2002*.

[2] Section 4A Deputy Commissioners

Omit section 4A (1) and (2).

[3] Section 4A (3)

Omit “The Deputy”. Insert instead “A Deputy”.

[4] Sections 4A (3) (c), (4) and (5) and 30A (1) and (2)

Omit “the Deputy” wherever occurring. Insert instead “a Deputy”.

[5] First Schedule Savings, transitional and other provisions

Insert after Part 3:

**Part 4 Provisions consequent on enactment of
Statute Law (Miscellaneous Provisions)
Act 2008**

8 Deputy Commissioners

- (1) On and from the commencement of the amendments made to this Act by the *Statute Law (Miscellaneous Provisions) Act 2008* (the **relevant commencement**), a reference in any other Act, in any instrument made under any Act or in any other instrument of any kind (including any instrument of appointment) to the Deputy Commissioner of the Soil Conservation Service is to be construed as a reference to a Deputy Soil Conservation Commissioner.
- (2) Without limiting the operation of subclause (1), any person appointed (or purported to have been appointed) as Deputy Commissioner of the Soil Conservation Service and holding office as such immediately before the relevant commencement is taken to have been appointed as a Deputy Soil Conservation Commissioner holding office as such under Chapter 1A of the *Public Sector Employment and Management Act 2002*.

Explanatory note

The proposed amendments to the *Soil Conservation Act 1938* provide for the appointment of more than one person to hold office under Chapter 1A of the *Public Sector Employment and Management Act 2002* as Deputy Soil Conservation Commissioner and provide for the continuation of any existing appointments to the position of Deputy Commissioner.

**1.31 State Authorities Non-contributory Superannuation Act
1987 No 212**

Schedule 1 Employers

Omit the matter relating to the Electricity Association of New South Wales from Part 1 of the Schedule.

Commencement

The amendment to the *State Authorities Non-contributory Superannuation Act 1987* commences on the date on which an order made under clause 3 of Schedule 1 to the *Local Government Associations Incorporation Act 1974*, as inserted by this Schedule, takes effect.

Explanatory note

The proposed amendment to the *State Authorities Non-contributory Superannuation Act 1987* is consequential on the proposed amendments to the *Local Government Associations Incorporation Act 1974* referred to elsewhere in this Schedule.

1.32 State Authorities Superannuation Act 1987 No 211

Schedule 1 Employers

Omit the matter relating to the Electricity Association of New South Wales from Part 1 of the Schedule.

Commencement

The proposed amendment to the *State Authorities Superannuation Act 1987* commences on the date on which an order made under clause 3 of Schedule 1 to the *Local Government Associations Incorporation Act 1974*, as inserted by this Schedule, takes effect.

Explanatory note

The proposed amendment to the *State Authorities Superannuation Act 1987* is consequential on the proposed amendments to the *Local Government Associations Incorporation Act 1974* referred to elsewhere in this Schedule.

1.33 State Property Authority Act 2006 No 40

[1] Section 3 Definitions

Omit paragraph (b) of the definition of *property* in section 3 (1).

Insert instead:

- (b) an interest in land, being an interest that is vested in or held by the government agency.

[2] Section 20 Effect of transfer of property under this Part

Omit “section” from section 20 (5). Insert instead “Part”.

[3] Schedule 2 Savings, transitional and other provisions

Insert after clause 1:

2 Operation of amendments made by Statute Law (Miscellaneous Provisions) Act 2008

Any thing that was done before the commencement of this clause that could have been validly done under this Act if the amendments made to this Act by the *Statute Law (Miscellaneous Provisions) Act 2008* had been in force when it was done is taken to have been validly done on and from the time when it was done.

Explanatory note

Item [1] of the proposed amendments to the *State Property Authority Act 2006 (the Act)* makes it clear that an interest in land such as a lease held by a government agency (in addition to a freehold interest in land) can be property of the agency for the purposes of that Act even though it is not an interest in government owned land.

Item [3] of the proposed amendments ensures the validity of anything done before the commencement of item [1] that could be done after that commencement.

Item [2] of the proposed amendments corrects a cross-reference.

1.34 State Records Act 1998 No 17

Section 36A

Insert after section 36:

36A Arrangements to facilitate copying, publication and access to State archives

- (1) The Authority may enter into arrangements (*access arrangements*) under which the Authority is to provide a person (including a public office) with access to State archives for the purpose of enabling the person to make copies of State archives or publish or provide other persons with access to copies of State archives. Access arrangements can only relate to State archives that are open to public access under this Act.
- (2) Access arrangements can be commercial arrangements (entitling the Authority to payment in connection with the operation of the arrangements) and can provide for the arrangements under which the person to whom the Authority gives access to State archives may make copies of State archives or publish or provide other persons with access to copies of State archives and arrangements under which the person may charge for publishing or providing access to copies of State archives.
- (3) Access arrangements can include arrangements with a person outside the State and arrangements that provide for the publishing of and provision of access to copies of State archives outside the State.
- (4) This section does not give the Authority power to override any right in the nature of copyright and does not give the Authority or any party to an access arrangement power to do anything that would be an infringement of copyright.
- (5) If an access arrangement provides for the provision of access to copies of State archives to other persons by the person to whom access is provided by the Authority under the arrangement, section 62 (Protection from liability when access given) extends

to the provision of access by that person pursuant to the arrangement in the same way as it applies to the giving of access to a record under this Act by an access provider.

- (6) The Authority is taken to have always had the power conferred by this section.

Explanatory note

The proposed amendment confirms the power of the State Records Authority to enter into arrangements for providing access to State archives for the purpose of enabling a party to the arrangement to make copies of those archives or to publish or provide other persons with access to copies of those archives.

1.35 Subordinate Legislation Act 1989 No 146

[1] Section 10 Staged repeal of statutory rules

Omit “2008” from section 10 (4). Insert instead “2009”.

[2] Section 10 (4) (e)

Insert after section 10 (4) (d):

- (e) the *Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998*.

Explanatory note

The *Subordinate Legislation Act 1989 (the Act)* provides for the automatic repeal of statutory rules. The repeal takes effect on the fifth anniversary of the date on which the statutory rule was published (in the case of a statutory rule published on 1 September in any year) or on 1 September following the fifth anniversary of the date on which it was published (in any other case)—see section 10 (2) of the Act. Unless it is intended to allow the statutory rule to lapse, a statutory rule that is due for repeal under the Act is usually remade in advance of the repeal date.

Section 11 of the Act permits the repeal of a statutory rule to be postponed, by order of the Governor, for a period of one year. However, the repeal of a particular statutory rule cannot be postponed on more than five occasions.

The proposed amendments to the Act have the effect of keeping the *Day Procedure Centres Regulation 1996*, the *Liquor Regulation 1996*, the *Parking Space Levy Regulation 1997*, the *Private Hospitals Regulation 1996*, the *Registered Clubs Regulation 1996* and the *Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998* in force for a further period of one year after the date on which they would otherwise be repealed by the Act. However, any of the Regulations may be sooner repealed by other legislation.

This is necessary as the Regulations have each been postponed on five occasions, and are now due to be repealed on 1 September 2008. However, proposed legislative reforms involving the repeal and re-enactment of the *Private Hospitals and Day Procedure Centres Act 1988* and the *Liquor Act 1982*, and extensive amendments to the *Registered Clubs Act 1976*, will have a substantial impact on the matters dealt with by the Regulations made under those 3 Acts. In addition, a National Transport Commission review of the Commonwealth’s national scheme for transport of dangerous goods by road and rail has resulted in the recent development of Commonwealth model legislation (which itself is currently being reviewed), the implementation of which will have a substantial impact on the content of the

Regulations made under the *Road and Rail Transport (Dangerous Goods) Act 1997*. Extensive amendments to the *Parking Space Levy Act 1992* are also likely as a result of a recent review of that Act.

The proposed amendments will keep the current regulatory schemes of the Regulations in place until such time as replacement provisions come into force under new or revised legislation.

1.36 Superannuation Act 1916 No 28

Schedule 3 List of employers

Omit the matter relating to the Electricity Association of New South Wales from Part 1 of the Schedule.

Commencement

The amendment to the *Superannuation Act 1916* commences on the date on which an order made under clause 3 of Schedule 1 to the *Local Government Associations Incorporation Act 1974*, as inserted by this Schedule, takes effect.

Explanatory note

The proposed amendment to the *Superannuation Act 1916* is consequential on the proposed amendments to the *Local Government Associations Incorporation Act 1974* referred to elsewhere in this Schedule.

1.37 Sydney Water Catchment Management Act 1998 No 171

- [1] **Sections 11 (12), 14 (1) (d), 16 (1) (c3) and (f), 24C (a) and (d), 31 (3) (b), 44 (2) (b) and 55 (1) (b)**

Omit “the Authority’s” wherever occurring. Insert instead “the SCA’s”.

- [2] **Section 57 Exercise of powers of entry**

Omit section 57 (2) (a). Insert instead:

- (a) is in possession of the identification he or she is required to produce on request under section 69H, and

- [3] **Section 57 (2) (c)**

Omit the paragraph. Insert instead:

- (c) produces the person’s identification if required to do so by the occupier of the land, and

[4] Section 69H

Omit the section. Insert instead:

69H Identification

- (1) Every authorised officer, who is not a police officer or an authorised officer under the *National Parks and Wildlife Act 1974*, is to be provided with an identification card as an authorised officer by the SCA.
- (2) In the course of exercising the functions of an authorised officer under this Act, the officer must, if requested to do so by any person affected by the exercise of any such function, produce to the person:
 - (a) in the case of a police officer, the officer's police identification, or
 - (b) in the case of an authorised officer under the *National Parks and Wildlife Act 1974*, the officer's identification card as an authorised officer under that Act, or
 - (c) in any other case, the authorised officer's identification card issued in accordance with this section.

[5] Schedule 5 Amendment of other Acts

Omit the Schedule.

Explanatory note

Item [1] of the proposed amendments changes references in the *Sydney Water Catchment Management Act 1998* (**the Act**) to the Sydney Catchment Authority (**the SCA**) from "the Authority" to "the SCA".

Authorised officers appointed by the SCA have, among other functions, certain powers of entry under the Act, including the power to enter and occupy a building or land for purposes such as finding a source of water pollution or investigating breaches of the Act. Prior to the commencement of the *Sydney Water Catchment Management Amendment Act 2007* (**the amending Act**) a certificate of authority was required for the powers of entry to be exercised. The amending Act replaced certificates of authority with identification cards issued by the SCA. Items [2] and [3] of the proposed amendments remove outdated references to the certificates of authority.

Section 69H of the Act currently requires all authorised officers to be provided with an identification card by the SCA and requires them to produce that identification card on request. Item [4] of the proposed amendments removes the requirement for the SCA to provide identification cards to police officers and authorised officers under the *National Parks and Wildlife Act 1974* who are appointed as authorised officers. Instead, those officers will be required, when exercising powers under the Act, to produce their police identification or identification card as an authorised officer under the *National Parks and Wildlife Act 1974*.

Item [5] of the proposed amendments removes a redundant Schedule.

1.38 Threatened Species Conservation Act 1995 No 101

Section 128A Functions of Scientific Committee

Omit “or critically endangered” from section 128A (2) (c).

Insert instead “, critically endangered or vulnerable”.

Explanatory note

The proposed amendment to the *Threatened Species Conservation Act 1995 (the Act)* includes as a principal function of the Scientific Committee its current function under Part 2 of the Act of determining which ecological communities are to be listed under the Act as vulnerable ecological communities. (Like functions of the Scientific Committee under Part 2 of the Act are currently included as principal functions of the Committee in section 128A of the Act.)

1.39 Valuation of Land Act 1916 No 2

Section 4 Definitions

Omit paragraph (d1) from the definition of *Land improvements* in section 4 (1).

Insert instead:

- (d1) without limiting paragraph (d), any excavation, filling, grading or levelling of land (otherwise than for the purpose of irrigation or conservation) that is associated with:
 - (i) the erection of any building or structure, or
 - (ii) the carrying out of any work, or
 - (iii) the operations of any mine or extractive industry,

Explanatory note

The proposed amendment to the *Valuation of Land Act 1916* clarifies the definition of *Land improvements*. Currently, it is unclear if certain works (particularly underground works) undertaken in the preparation of land for mining or the extraction of raw materials are to be included in the definition of *Land improvements*. The proposed amendment makes it clear that certain work done to the land in association with mining or extractive industry is to be included in the definition.

1.40 Waste Avoidance and Resource Recovery Act 2001 No 58

[1] Section 12 Development of waste strategies

Omit “2 years” from section 12 (5). Insert instead “5 years”.

[2] Section 12 (7) (b)

Omit “each of the offices”. Insert instead “the head office”.

Explanatory note

Item [1] of the proposed amendments to the *Waste Avoidance and Resource Recovery Act 2001 (the Act)* increases from 2 years to 5 years the interval at which waste

strategies for the State, to replace existing waste strategies, are to be developed by the Director-General of the Department of Environment and Climate Change (*the Department*). (The requirement under section 24 of the Act for the Director-General to report to the Minister every 2 years on a description of the strategies being implemented by the Director-General and the degree of success achieved by them remains unchanged.)

The effect of item [2] of the proposed amendments is to require the Director-General, before adopting a waste strategy, to cause copies of the proposed strategy to be made available for public inspection at the head office of the Department (rather than at each office of the Department, as is currently the case) and on the Internet.

Both of the proposed amendments implement recommendations contained in a statutory review of the Act (required under section 32 of the Act), a report on which was tabled in Parliament in 2007.

1.41 Wesley College Incorporation Act 1910

[1] Section 2

Omit the section. Insert instead:

2 Definitions

In this Act:

by-laws means the by-laws made by the council under section 16 and in force for the time being.

college means Wesley College, University of Sydney.

corporation means the body corporate constituted by section 3.

council means the Council of Wesley College constituted by section 9.

councillor means a member of the corporation.

Moderator means the Moderator for the time being of the Synod, and includes any person for the time being authorised by the Synod to perform or carry out the functions or duties of Moderator.

Principal means the Principal of the college appointed under section 5.

Synod means the Synod of The Uniting Church in Australia in New South Wales.

the church means the Uniting Church in Australia.

[2] Section 3 Constitution of corporation

Omit section 3 (2). Insert instead:

- (2) The corporation consists of:
 - (a) the Principal, and
 - (b) 12 other councillors.

- (3) The councillors (other than the Principal) are to be elected or appointed in accordance with the by-laws.
- (4) The councillors (other than the Principal) hold office for the term provided by the by-laws.
- (5) The procedure at meetings of the corporation is to be as provided by the by-laws.

[3] Section 5

Omit the section. Insert instead:

5 Principal of the college

- (1) The Principal of the college is to be appointed by the council in accordance with the by-laws.
- (2) The Principal must accept the Basis of Union set out in Schedule 2 to the *Uniting Church in Australia Act 1977* and agree to uphold the values and ethos of the church.
- (3) The council may from time to time determine the terms and conditions on which the Principal holds office.
- (4) If the person holding office as Principal is not an ordained minister of the church, the council must use its best endeavours to appoint an ordained minister of the church as Chaplain to the college.

[4] Sections 6, 7, 10, 11, 11A and 12

Omit the sections.

[5] Section 9 Constitution of council

Omit “At any meeting of such council 10 members shall form a quorum.”.

[6] Section 9 (2)

Insert at the end of section 9:

- (2) The number of members at a council meeting that constitute a quorum is to be as provided by the by-laws.

[7] Section 14 Removal or suspension of Principal

Insert “if the Principal is a minister of the church and” after “Provided that,”.

[8] Section 20

Insert after section 19:

20 Savings and transitional provisions

- (1) Until the first election or appointment of all councillors under the by-laws after the commencement of this section, the corporation comprises those persons who constituted the corporation immediately before the commencement of this section.
- (2) The person who held office as Principal immediately before the commencement of this section is taken to have been appointed as Principal in accordance with this Act as amended by the *Statute Law (Miscellaneous Provisions) Act 2008*, and is taken to have been appointed subject to the same terms and conditions as those on which the person was appointed, and for the remainder of the person's term of office as Principal.

Commencement

The amendments to the *Wesley College Incorporation Act 1910* commence on a day or days to be appointed by proclamation.

Explanatory note

The *Wesley College Incorporation Act 1910* is a private Act that incorporates Wesley College as the Uniting Church college within the University of Sydney.

Item [1] of the proposed amendments updates the definitions section of the Act, to include new terms used in the other proposed amendments, and to omit terms that will no longer be used.

Item [2] reduces the number of councillors who form the corporation constituted by the Act from 26 to 13. The councillors (other than the Principal) are to be elected or appointed in accordance with the by-laws. The proposed provisions also provide for the term of office of councillors and the procedure of the corporation at its meetings to be determined by the by-laws.

Item [3] provides that the Principal is to be appointed by the council in accordance with the by-laws. The Principal is no longer required to be an ordained minister of the church, but is required to accept the Basis of Union and to agree to uphold the values and ethos of the church. It also provides that if the Principal is not an ordained minister of the church, the council must use its best endeavours to appoint an ordained minister of the church as Chaplain to the college.

Item [4] omits redundant provisions about presiding officers, the election and appointment of councillors, the tenure of office of councillors and casual vacancies (which will instead all be dealt with by the by-laws).

Item [5] omits a reference to the quorum at meetings of the council. Item [6] instead provides for the by-laws to specify the quorum.

Item [7] makes it clear that the procedure for removal or suspension of the Principal that involves a trial by the courts of the church applies only when the Principal is an ordained minister of the church.

Item [8] allows existing councillors to continue to constitute the corporation until all elections can be held under the amended provisions and allows the existing Principal to continue to hold office under the amended Act.

1.42 Zoological Parks Board Act 1973 No 34

Section 5 Constitution of Board

Insert after section 5 (1):

- (1A) The Board may also be called the Taronga Conservation Society Australia and the use of that name has the same effect for all purposes as the use of its corporate name.

Explanatory note

The proposed amendment to the *Zoological Parks Board Act 1973* gives statutory authority for the use of the name "Taronga Conservation Society Australia" by or in relation to the Zoological Parks Board of New South Wales.

Schedule 2 Amendments by way of statute law revision

(Section 3)

2.1 Armidale Dumaresq Local Environmental Plan 2008

Clauses 15 (7) (c) and 16 (7) (c)

Insert “*and*” before “*Miscellaneous*” wherever occurring.

Explanatory note

The proposed amendment corrects citations.

2.2 Betting Tax Act 2001 No 43

[1] Section 3

Omit the definitions of *backer*, *bet*, *bet back*, *betting auditorium*, *bookmaker*, *money* and *sports betting event*.

[2] Sections 4, 5A, 6, 7, 11 and 17 and Part 4

Omit the provisions.

Explanatory note

The proposed amendments omit redundant provisions that relate to betting tax payable by bookmakers which was abolished on 31 March 2002.

2.3 Bombala Local Environmental Plan 1990

Clause 5 (3)

Insert at the end of clause 5:

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

Explanatory note

The proposed amendment clarifies the status of notes.

2.4 Building and Construction Industry Security of Payment Act 1999 No 46

Section 11 (2) (a)

Omit the paragraph. Insert instead:

(a) prescribed under section 101 of the *Civil Procedure Act 2005*, or

Explanatory note

The proposed amendment updates a redundant reference.

2.5 Cabonne Local Environmental Plan 1991

Schedule 1

Omit “Hhuse” from the matter relating to Molong. Insert instead “House”.

Explanatory note

The proposed amendment corrects a typographical error.

2.6 Casino, Liquor and Gaming Control Authority Act 2007 No 91

Section 30 (1)

Insert “is” after “which information”.

Explanatory note

The proposed amendment inserts a missing word.

2.7 Children and Young Persons (Care and Protection) Act 1998 No 157

[1] Section 106

Omit “(b)”.

[2] Section 106

Omit “(c)”. Insert instead “(b)”.

Explanatory note

Item [1] of the proposed amendments removes unintentional numbering.

Item [2] of the proposed amendments renumbers a provision as a result of item [1].

2.8 Coal Acquisition (Compensation) Arrangements 1985

Schedule 2, clause 8 (6)

Omit “summmons”. Insert instead “summons”.

Explanatory note

The proposed amendment corrects a typographical error.

2.9 Commercial Fishing Environmental Impact Statement Arrangements 2001

Clause 5 (5)

Omit “for the time being payable on unpaid judgments of the Supreme Court”.

Insert instead “prescribed under section 101 of the *Civil Procedure Act 2005* in respect of unpaid judgments”.

Explanatory note

The proposed amendment updates a redundant reference.

2.10 Conargo Local Environmental Plan 1987

[1] Clause 4 (1)

Omit “granddaughter” from the definition of *immediate family*.

Insert instead “granddaughter”.

[2] Clause 11 (2), definition of “existing holding”

Omit “appointed” from paragraph (b). Insert instead “appointed”.

Explanatory note

The proposed amendments correct typographical errors.

2.11 Consumer Credit Administration Regulation 2002

Clause 2F

Omit “section 95 (1) of the *Supreme Court Act 1970*”.

Insert instead “section 101 of the *Civil Procedure Act 2005*”.

Explanatory note

The proposed amendment updates a redundant reference.

2.12 Conveyancing Act 1919 No 6

Section 131

Omit “registered real estate valuer (within the meaning of the *Valuers Registration Act 1975*)”.

Insert instead “registered valuer (within the meaning of the *Valuers Act 2003*)”.

Explanatory note

The proposed amendment updates a reference to a repealed Act.

2.13 Coonabarabran Local Environmental Plan 1990

[1] Clause 5 (1), definition of “existing holding”

Omit “provided” from paragraph (a). Insert instead “provided”.

[2] Clause 8

Omit “Pakrs” wherever occurring. Insert instead “Parks”.

[3] Clause 29 (1) (a)

Omit “repsect”. Insert instead “respect”.

[4] Clause 33 (1) (d) (ii)

Omit “prupose”. Insert instead “purpose”.

Explanatory note

The proposed amendments correct typographical errors.

2.14 Co-operatives Act 1992 No 18

Part 3, Division 4

Omit the Division.

Explanatory note

The proposed amendment removes a redundant heading.

2.15 Court Security Act 2005 No 1

Section 4 (1), definition of “court”

Omit “Parole Board” from paragraph (m).

Insert instead “State Parole Authority”.

Explanatory note

The proposed amendment updates a reference to a body.

2.16 Credit (Savings and Transitional) Regulation 1984

[1] Clauses 14A (1) (h) and 27 (1) (g)

Omit “registered real estate valuer within the meaning of the *Valuers Registration Act 1975*” wherever occurring.

Insert instead “registered valuer within the meaning of the *Valuers Act 2003*”.

[2] Schedule 1, Form 12

Omit “(ie 4 times the rate of interest prescribed under section 95 (1) of the *Supreme Court Act 1970* at the time the regulated contract is entered into)”.

Insert instead “as set out in section 170 of the *Credit Act 1984*”.

Explanatory note

Item [1] of the proposed amendments updates references to a repealed Act.

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

2.17 Culcairn Local Environmental Plan 1998

Clause 5 (1), definition of “parcel”

Omit “Portions ing”. Insert instead “portions in”.

Explanatory note

The proposed amendment corrects typographical errors.

2.18 Election Funding Regulation 2004

Clause 30 (1) (a)

Omit “practising real estate valuers under section 15 (1) of the *Valuers Registration Act 1975*”.

Insert instead “valuers under the *Valuers Act 2003*”.

Explanatory note

The proposed amendment updates a reference to a repealed Act.

2.19 Electricity Supply (General) Regulation 2001

Clause 27 (2) (d) and Schedule 1, clause 2 (3)

Omit “section 95 (1) of the *Supreme Court Act 1970*” wherever occurring.

Insert instead “section 101 of the *Civil Procedure Act 2005*”.

Explanatory note

The proposed amendment updates redundant references.

2.20 Encroachment of Buildings Act 1922 No 23

Section 3 (4)

Omit “registered real estate valuer (within the meaning of the *Valuers Registration Act 1975*)”.

Insert instead “registered valuer (within the meaning of the *Valuers Act 2003*)”.

Explanatory note

The proposed amendment updates a reference to a repealed Act.

2.21 Environmental Planning and Assessment Act 1979 No 203

Section 33A (4)

Insert “or by an Act” after “subsection (1)”.

Commencement

The amendment to the *Environmental Planning and Assessment Act 1979* is taken to have commenced on 1 January 2008.

Explanatory note

The proposed amendment clarifies that amendments made by an Act to the *Standard Instrument (Local Environmental Plans) Order 2006* can automatically apply to existing instruments that adopt the standard instrument set out in that Order.

2.22 Environmental Planning and Assessment Regulation 2000

Clause 265 (1)

Insert “application for a” after “for each”.

Explanatory note

The proposed amendment inserts missing words.

2.23 Eurobodalla Rural Local Environmental Plan 1987

Clause 9 (3)

Insert at the end of clause 9:

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

Explanatory note

The proposed amendment clarifies the status of notes.

2.24 Firearms Act 1996 No 46

[1] Sections 6 (3) (c), 34 (5) and 81 (3) (a)

Omit “Police Service” wherever occurring. Insert instead “Police Force”.

[2] Section 6 (4)

Omit “Naval Reserve Cadets”. Insert instead “Australian Navy Cadets”.

Explanatory note

The proposed amendments update references to organisations.

2.25 Freedom of Information Regulation 2005

Schedule 3, Part 3

Omit the matter relating to the Parole Board.

Insert in alphabetical order of bodies:

State Parole Authority

Department of Corrective Services

Explanatory note

The proposed amendment updates a reference to a body.

2.26 Health Services Act 1997 No 154

Schedule 1

Omit “Sydney West Area Health service” from column 1.

Insert instead “Sydney West Area Health Service”.

Explanatory note

The proposed amendment corrects a typographical error.

2.27 Holroyd Local Environmental Plan 1991

Clause 40 (1)–(4)

Omit “Part 1” wherever occurring. Insert instead “Part I”.

Explanatory note

The proposed amendment corrects typographical errors.

2.28 Home Building Act 1989 No 147

Section 40 (2F) (c)

Omit “*Valuers Registration Act 1975*”. Insert instead “*Valuers Act 2003*”.

Explanatory note

The proposed amendment updates a reference to a repealed Act.

2.29 Housing Act 2001 No 52

Section 57 (4) (b)

Omit “payable on unpaid judgments of the Supreme Court”.

Insert instead “prescribed under section 101 of the *Civil Procedure Act 2005* in respect of unpaid judgments”.

Explanatory note

The proposed amendment updates a redundant reference.

2.30 Interpretation Act 1987 No 15

Section 68 (4) (a) (viiia)

Omit “*Law*,”. Insert instead “*Law*, and”.

Explanatory note

The proposed amendment inserts a missing conjunction.

2.31 Land and Environment Court Regulation 2005

Clause 3 (1), definition of “the Act”

Omit the definition. Insert instead:

the Act means the *Civil Procedure Act 2005*.

Note. This Regulation was originally made under the *Land and Environment Court Act 1979* but on and from 28 January 2008 is taken to be made under the *Civil Procedure Act 2005* (see clause 14 of Schedule 6 to that Act).

Explanatory note

The proposed amendment updates a reference.

2.32 Legal Aid Commission Act 1979 No 78

[1] Sections 4 (1), definition of “legal aid” and 11 (2)

Omit “*Mental Health Act 1990*” wherever occurring.

Insert instead “*Mental Health Act 2007*”.

[2] Section 16 (3)

Omit “Part 2A of the *Public Sector Management Act 1988*, but is not subject to Part 2 of that Act”.

Insert instead “Part 3.1 of the *Public Sector Employment and Management Act 2002*, but is not subject to Chapter 1A or 2 of that Act”.

[3] Section 63 (1) (i)

Omit the paragraph.

Explanatory note

Items [1] and [2] of the proposed amendments update references to repealed Acts.

Item [3] of the proposed amendments removes a redundant provision.

2.33 Lithgow City Local Environmental Plan 1994

Clause 17 (c)

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

Explanatory note

The proposed amendment inserts a missing conjunction.

2.34 Mid-Western Regional Interim Local Environmental Plan 2008

Dictionary, definition of “permanent group home”

Omit “*State Environmental Planning Policy (Seniors Living) 2004*”.

Insert instead “*State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*”.

Explanatory note

The proposed amendment corrects the citation of an instrument.

2.35 Newcastle City Centre Local Environmental Plan 2008

Dictionary, definitions of “permanent group home” and “transitional group home”

Omit “*State Environmental Planning Policy (Seniors Living) 2004*” wherever occurring.

Insert instead “*State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*”.

Explanatory note

The proposed amendment corrects the citation of an instrument.

2.36 Occupational Health and Safety Regulation 2001

[1] Clause 40

Omit “*Electricity Safety (Electrical Installations) Regulation 1998*” wherever occurring.

Insert instead “*Electricity (Consumer Safety) Regulation 2006*”.

[2] Clause 40, note

Omit “as defined in that Regulation”.

Insert instead “within the meaning of the *Electricity (Consumer Safety) Act 2004*”.

Explanatory note

The proposed amendments update references to an instrument.

2.37 Parramatta Park Trust Regulation 2007

Schedule 1

Omit from Columns 1 and 2 under the heading “Parramatta Park Trust Regulation 2007” the matter relating to clause 17 (g)–(k).

Insert instead:

| | |
|---------------|-------|
| clause 17 (g) | \$75 |
| clause 17 (h) | \$300 |
| clause 17 (i) | \$75 |
| clause 17 (j) | \$75 |
| clause 17 (k) | \$150 |

Explanatory note

The proposed amendment corrects penalty notice amounts that were incorrectly transposed when the regulation was remade.

2.38 Penrith City Centre Local Environmental Plan 2008

[1] Dictionary, definition of “coastal lake”

Omit “*State Environmental Planning Policy 71—Coastal Protection*”.

Insert instead “*State Environmental Planning Policy No 71—Coastal Protection*”.

[2] Dictionary, definitions of “permanent group home” and “transitional group home”

Omit “*State Environmental Planning Policy (Seniors Living) 2004*” wherever occurring.

Insert instead “*State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*”.

Explanatory note

The proposed amendments correct the citations of instruments.

2.39 Pesticides Regulation 1995

[1] Schedule 1

Omit “Penalty (indivs)” and “Penalty (corpns)” wherever occurring.

Insert instead “Penalty \$ (indivs)” and “Penalty \$ (corpns)”, respectively.

[2] Schedule 1

Omit “\$” wherever occurring in Columns 2 and 3 of the matter relating to clauses 11B, 11C, 11E and 11F.

Explanatory note

The proposed amendments clarify the amounts for penalty notice offences.

2.40 Poisons and Therapeutic Goods Regulation 2002

Clause 70 (2) (d)

Omit “nurse or midwife practitioner”. Insert instead “nurse practitioner”.

Explanatory note

The proposed amendment corrects a reference.

2.41 Police Integrity Commission Act 1996 No 28

Section 14A

Omit the section.

Explanatory note

The proposed amendment omits a spent provision.

2.42 Police Regulation 2000

Clause 50 (3)

Omit “authorised officer”. Insert instead “authorised person”.

Explanatory note

The proposed amendment corrects a reference to a class of persons.

2.43 Property, Stock and Business Agents Regulation 2003

Clause 11 (4)

Omit the subclause (including the penalty provision).

Explanatory note

The proposed amendment omits a duplicated penalty.

2.44 Psychologists Act 2001 No 69

Schedule 1, clauses 4 (1) (a) and 30 (6)

Omit “this section” wherever occurring. Insert instead “this clause”.

Explanatory note

The proposed amendment corrects typographical errors.

2.45 Public Health Act 1991 No 10

[1] Section 10AM (2)

Omit “code of practice”. Insert instead “code of conduct”.

[2] Section 57A

Omit “(7)”.

Explanatory note

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

Item [2] of the proposed amendments removes redundant numbering.

2.46 Quirindi Local Environmental Plan 1991

Clause 5 (1), definition of “the map”

Omit “1991’.”.

Insert instead “1991’, as amended by the maps, or sheets of maps, marked as follows:”.

Explanatory note

The proposed amendment clarifies a definition.

2.47 Racing Administration Act 1998 No 114

[1] Sections 26D (4) (a) and (b) and 26E (1) (a) and (b)

Omit the paragraphs.

[2] Section 26D (4) (d)

Omit “failed to pay an amount due as referred to in paragraph (a) or been convicted of an offence as referred to in paragraph (b) or (c)”.

Insert instead “been convicted of an offence as referred to in paragraph (c)”.

[3] Section 26D (4) (e)

Omit “failed to pay an amount due as referred to in paragraph (a) or committed an offence for which it was convicted as referred to in paragraph (b) or (c)”.

Insert instead “committed an offence for which it was convicted as referred to in paragraph (c)”.

[4] Section 26E (1) (e)

Omit “failed to pay an amount due as referred to in paragraph (a), been convicted of an offence as referred to in paragraph (b) or (c)”.

Insert instead “been convicted of an offence as referred to in paragraph (c)”.

[5] Section 26E (1) (f)

Omit “failed to pay an amount due as referred to in paragraph (a), committed an offence for which it was convicted as referred to in paragraph (b) or (c)”.

Insert instead “committed an offence for which it was convicted as referred to in paragraph (c)”.

Explanatory note

The proposed amendments omit redundant provisions that relate to betting tax payable by bookmakers which was abolished on 31 March 2002.

2.48 Rockdale Local Environmental Plan 2000

[1] Clause 4 (c)

Omit “Airport held”. Insert instead “Airport’ held”.

[2] Clause 4 (c)

Omit “Department?”. Insert instead “Department”.

[3] Clause 41A (2) (a)

Omit “13.3.meters”. Insert instead “13.3 metres”.

Explanatory note

The proposed amendments correct punctuation and a typographical error.

2.49 Rylstone Local Environmental Plan 1996

Schedule 2

Omit “Eact of Mt Graham”. Insert instead “East of Mt Graham”.

Explanatory note

The proposed amendment corrects a typographical error.

2.50 Shops and Industries Regulation 2007

Schedule 1

Omit “*Pharmacy Act 1964*” from the matter relating to Chemists’ shops in the second column (Kinds of goods).

Insert instead “*Pharmacy Practice Act 2006*”.

Explanatory note

The proposed amendment updates a reference to a repealed Act.

2.51 Sporting Injuries Insurance Regulation 2004

Clause 4 (2)

Omit “section 95 (1) of the *Supreme Court Act 1970*”.

Insert instead “section 101 of the *Civil Procedure Act 2005*”.

Explanatory note

The proposed amendment updates a redundant reference.

2.52 Standard Instrument (Local Environmental Plans) Order 2006

[1] Standard instrument, Part 2

Insert “or motel” after “Hotel” in item 4 of the matter relating to Zone E2 Environmental Conservation in the Land Use Table at the end of the Part.

[2] Standard instrument, clause 5.4 (9)

Omit “or”. Insert instead “of”.

[3] Standard instrument, Schedule 2

Omit “200 square metres”, “25 square metres” and “150 square metres” from subclauses (2), (4) (a) and (5) (a) of the clause headed “Tents or marquees used solely for filming purposes”.

Insert instead “200m²”, “25m²” and “150m²”, respectively.

[4] Standard instrument, Schedule 2

Omit “(as measured)” from subclause (7) of the clause headed “Tents or marquees used solely for filming purposes”.

Insert instead “as measured”.

[5] Standard instrument, Schedule 2

Omit “which the” from subclause (7) of the clause headed “Tents or marquees used solely for filming purposes”.

Insert instead “which the tent”.

[6] Standard instrument, Schedule 2

Insert “or” at the end of subclause (3) (b) of the clause headed “Rainwater tanks”.

[7] Standard instrument, Schedule 2

Omit “10,000 litres” and “25,000 litres” from subclause (5) of the clause headed “Rainwater tanks”.

Insert instead “10,000L” and “25,000L”, respectively.

[8] Standard instrument, Schedule 2

Omit “public” from subclause (1) (b) of the clause headed “Satellite TV dishes”.

[9] Standard instrument, Schedule 2

Omit “if” from subclause (4) of the clause headed “Satellite TV dishes”.

Insert instead “If”.

[10] Standard instrument, Dictionary, definition of “home business”

Omit “involve” from paragraph (c).

[11] Standard instrument, Dictionary, definition of “relic”

Insert “of” after “name” in paragraph (a).

[12] Standard instrument, Dictionary, definition of “road”

Insert “the” after “meaning of”.

[13] Standard instrument, Dictionary, definition of “shop”

Omit “stationary”. Insert instead “stationery”.

[14] Standard instrument, Dictionary, definition of “temporary structure”

Omit “the Act”. Insert instead “Act”.

Commencement

The amendments to the *Standard Instrument (Local Environmental Plans) Order 2006* are taken to have commenced on 1 January 2008.

Explanatory note

Items [1], [5], [6], [11] and [12] of the proposed amendments insert missing words.

Items [2], [4], [9] and [13] of the proposed amendments correct typographical errors.

Items [3] and [7] of the proposed amendments abbreviate standard measures.

Items [8], [10] and [14] of the proposed amendments omit redundant words.

2.53 State Environmental Planning Policy (Infrastructure) 2007

[1] Clause 70 (v)

Omit “overhead er”. Insert instead “overhead power”.

[2] Clause 117

Insert “In this Division:” after the heading to the clause.

Explanatory note

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

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

2.54 Stock Diseases Act 1923 No 34

Section 20C (1) (b)

Omit “the prescribed conditions”.

Insert instead “such conditions as may be prescribed by the regulations”.

Explanatory note

The proposed amendment clarifies an expression.

2.55 Surveillance Devices Act 2007 No 64

Section 41 (1)

Omit “chief executive officer” wherever occurring.

Insert instead “chief officer”.

Explanatory note

The proposed amendment corrects references to an officer.

2.56 Swimming Pools Act 1992 No 49

Section 19

Omit “outside swimming pool”. Insert instead “outdoor swimming pool”.

Explanatory note

The proposed amendment corrects inconsistent terminology.

2.57 Tamworth Local Environmental Plan 1996

Clause 18, heading before

Omit “zone” from the heading. Insert instead “zones”.

Explanatory note

The proposed amendment updates a heading.

2.58 Terrorism (Police Powers) Act 2002 No 115

Section 27U (5) (a)

Omit “executed occupied the subject premises and, was”.

Insert instead “executed, occupied the subject premises and was”.

Explanatory note

The proposed amendment corrects punctuation.

2.59 Tumbarumba Local Environmental Plan 1988

Clause 9, table

Omit “*National Parks and Wildlife Service Act 1974*” from item 1 (a) of the matter relating to Zone No 8 (National Parks and Nature Reserves Zone).

Insert instead “*National Parks and Wildlife Act 1974*”.

Explanatory note

The proposed amendment corrects the citation of an Act.

2.60 Urana Local Environmental Plan 1990

Clause 5 (1), definition of “the map”

Omit “Plan 1990’”.

Insert instead “Plan 1990’, as amended by the maps, or sheets of maps, marked as follows:”.

Explanatory note

The proposed amendment clarifies a definition.

2.61 Water Sharing Plan for the Lower Lachlan Groundwater Source 2003

[1] Appendix 4, rule 16

Omit “he constructed”. Insert instead “that the licensee constructed”.

[2] Appendix 4, rule 16

Omit “demonstrates developed”.

Insert instead “demonstrates that the licensee developed”.

[3] Appendix 4, rule 16

Omit “purposed”. Insert instead “purposes”.

Explanatory note

Item [1] of the proposed amendments replaces gender-specific language.

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

Item [3] of the proposed amendments corrects a typographical error.

2.62 Weapons Prohibition Act 1998 No 127

Sections 6 (3) (c) and 41 (3) (a)

Omit “Police Service” wherever occurring. Insert instead “Police Force”.

Explanatory note

The proposed amendment updates references to an organisation.

2.63 Weapons Prohibition Regulation 1999

Clause 38 (a) and (b)

Omit “Police Service” wherever occurring. Insert instead “Police Force”.

Explanatory note

The proposed amendment updates references to an organisation.

2.64 Weddin Local Environmental Plan 2002

Clause 29 (6) (c)

Omit “*State Environmental Planning Policy 44*”.

Insert instead “*State Environmental Planning Policy No 44*”.

Explanatory note

The proposed amendment corrects the citation of an instrument.

2.65 World Youth Day Act 2006 No 106

Section 44G (3)

Omit “satisfication”. Insert instead “satisfaction”.

Explanatory note

The proposed amendment corrects a typographical error.

Schedule 3 Amendments consequential on enactment of 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). Currently, the meanings of **Australian legal practitioner** and **Australian lawyer** are contained in the *Interpretation Act 1987* for ease of reference in other Acts.

3.1 Criminal Records Act 1991 No 8

Section 13 Unlawful disclosure of information concerning spent convictions

Omit paragraph (n) of the definition of *law enforcement agency* in section 13 (5).

Insert instead:

- (n) an Australian legal practitioner to the extent to which the Australian legal practitioner is engaged by or on behalf of the Crown to prosecute an offence,

Explanatory note

Section 13 of the *Criminal Records Act 1991* makes it an offence to disclose information concerning a spent conviction. However, the section contains exceptions for law enforcement agencies. The proposed amendment includes an Australian legal practitioner (to the extent to which he or she is engaged by or on behalf of the Crown to prosecute an offence) within the definition of *law enforcement agency*.

3.2 Crown Advocate Act 1979 No 59

Section 3 Appointment of Crown Advocate

Omit “a legal practitioner” from section 3 (1).

Insert instead “an Australian legal practitioner”.

Explanatory note

The proposed amendment to the *Crown Advocate Act 1979* enables the Governor to appoint an Australian legal practitioner of at least 7 years' standing as Crown Advocate.

3.3 Petroleum (Onshore) Act 1991 No 84

Section 69I Right of appearance

Omit “a barrister or a solicitor” wherever occurring in section 69I (2) (a) and (b).

Insert instead “an Australian legal practitioner”.

Explanatory note

The proposed amendment to the *Petroleum (Onshore) Act 1991* provides that any party to a hearing into the question of access to any land by the holder of a prospecting title may be represented by an Australian legal practitioner with the leave of the arbitrator and the agreement of the parties.

3.4 Prisoners (Interstate Transfer) Act 1982 No 104

Sections 14 (3) (a) and 16 (2)

Omit “a legal practitioner” wherever occurring.

Insert instead “an Australian legal practitioner”.

Explanatory note

The proposed amendment to the *Prisoners (Interstate Transfer) Act 1982* provides that a prisoner is entitled to be represented by an Australian legal practitioner in certain circumstances.

3.5 Professional Standards Act 1994 No 81

Section 5 Occupational liability to which Act does not apply

Omit “a legal practitioner” from section 5 (3).

Insert instead “an Australian legal practitioner”.

Explanatory note

The proposed amendment to the *Professional Standards Act 1994* provides that the exclusion from the operation of the Act of liability for damages arising from the death of or personal injury to a person does not extend to liability for damages arising out of any negligence or other fault of an Australian legal practitioner in acting for a client in a personal injury claim.

3.6 Property, Stock and Business Agents Act 2002 No 66

[1] Section 5 Exemptions from Act

Omit “a legal practitioner” from section 5 (2) wherever occurring.

Insert instead “an Australian legal practitioner”.

[2] Section 47 Duty of disclosure to client and prospective buyer of land

Omit “legal practitioner” from the note to section 47 (1).

Insert instead “Australian legal practitioner”.

[3] Section 60 Agency agreement can be rescinded during cooling-off period

Omit “solicitor” and “solicitors” from section 60 (2) (b).

Insert instead “Australian legal practitioner” and “Australian legal practitioners”, respectively.

[4] Section 64 Contracts for sale of residential property

Omit “the purchaser’s solicitor’s name and address” from section 64 (1) (a).

Insert instead “the name and address of the Australian legal practitioner acting for the purchaser”.

[5] Section 64 (2)

Omit “a solicitor” and “the solicitor”.

Insert instead “an Australian legal practitioner” and “the Australian legal practitioner”, respectively.

[6] Section 64 (6)

Omit the definition of *solicitor*. Insert instead:

Australian legal practitioner includes a licensee under the *Conveyancers Licensing Act 2003*.

[7] Section 153 Examination by receiver

Omit “a solicitor or barrister” from section 153 (2) (a).

Insert instead “an Australian legal practitioner”.

Explanatory note

Item [1] of the proposed amendments to the *Property, Stock and Business Agents Act 2002* provides that the Act does not prevent an Australian legal practitioner from exercising any function that, had the Act not been enacted, he or she might lawfully have exercised as an Australian legal practitioner.

Item [2] of the proposed amendments provides that the relationship between an agent and an Australian legal practitioner is an example of a relationship that should be disclosed to the person for whom the agent is acting.

Item [3] of the proposed amendments provides that the notice rescinding an agency agreement must be signed by the client or the client’s Australian legal practitioner.

Items [4]–[6] of the proposed amendments amend section 64 to provide that:

- (a) a real estate agent may insert the name and address of the Australian legal practitioner acting for the purchaser in a contract for the sale of residential property, and

(b) a real estate agent is not to participate in an exchange of contracts if it is apparent that an Australian legal practitioner is or will be acting for a prospective party to the contract, and

(c) for the purposes of the section, “Australian legal practitioner” includes a licensee under the *Conveyancers Licensing Act 2003*.

Item [7] of the proposed amendments provides that an Australian legal practitioner may represent a licensee or other person who is subject to examination by a receiver.

3.7 Public Finance and Audit Act 1983 No 152

Schedule 2 Statutory bodies

Omit “Legal Practitioners Admission Board constituted by the *Legal Profession Act 1987*”.

Insert instead “*Legal Profession Admission Board constituted under the Legal Profession Act 2004*”.

Explanatory note

The proposed amendment to the *Public Finance and Audit Act 1983* updates a reference so that the Legal Profession Admission Board is treated as a statutory body for the purposes of the auditing provisions in Division 3 of Part 3 of that Act.

3.8 Public Health Act 1991 No 10

[1] Section 35 Restrictions on publication

Omit “legal practitioners” from section 35 (5) (a).

Insert instead “Australian lawyers”.

[2] Section 39 Representation in proceedings under Division 6

Omit “a barrister or solicitor” wherever occurring.

Insert instead “an Australian legal practitioner”.

Explanatory note

Item [1] of the proposed amendments to the *Public Health Act 1991* updates a reference so that the restriction on the publication of information concerning proceedings under Division 6 of Part 3 of that Act does not apply in respect of a publication intended to be read mainly by Australian lawyers.

Item [2] of the proposed amendments provides that a party to proceedings under Division 6 of Part 3 of that Act may be represented by an Australian legal practitioner.

3.9 Registered Clubs Act 1976 No 31

Section 41Y Nature of inquiry

Omit “a legal practitioner” from section 41Y (1) (b).

Insert instead “an Australian lawyer”.

Explanatory note

The proposed amendment to the *Registered Clubs Act 1976* gives an Australian lawyer of at least 7 years' standing who is presiding at an inquiry in relation to a registered club certain powers and authorities conferred on a commissioner by Division 2 of Part 2 of the *Royal Commissions Act 1923* (if expressly stated in his or her instrument of appointment to preside at the inquiry).

Schedule 4 Repeals

(Section 4)

Part 1 Acts that are redundant

Companies Act 1961 No 71

Companies (Acquisition of Shares) (Application of Laws) Act 1981 No 62

Companies (Administration) Act 1981 No 64

Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Act 1981 No 63

Companies (Application of Laws) Act 1981 No 122

Companies (Transfer of Domicile) Act 1968 No 15

Futures Industry (Application of Laws) Act 1986 No 66

Securities Industry Act 1975 (1976 No 3)

Securities Industry (Application of Laws) Act 1981 No 61

Trustees Protection Act 1931 No 28

Part 2 Statutory instruments that are redundant

Catchment Management Authorities (Savings and Transitional) Regulation 2004

Farm Produce (Savings and Transitional) Regulation 1983

Fisheries Management (Continuation of Activities in Lowland Darling River Catchment) Interim Order 2004 Number 2

Fisheries Management (Continuation of Activities in Lowland Darling River Catchment) Interim Order 2005 Number 1

Fisheries Management (Continuation of Activities Relating to Southern Bluefin Tuna) Interim Order 2004

Fisheries Management (Continuation of Activities Relating to Southern Bluefin Tuna) Interim Order 2005

Gaming Machines (Savings and Transitional) Regulation 2002

Law and Justice Foundation (Transitional) Regulation 2000

Parliamentary Contributory Superannuation (Savings and Transitional) Regulation 1999

Privacy and Personal Information Protection (Transitional) Regulation 1999

Probate and Administration Regulation 2003

Rural Lands Protection (Savings and Transitional) Regulation 2001

Southern Cross University (Transitional) Regulation 1994

Part 3 Acts or provisions of Acts or instruments that contain only amendments that are commenced or are unincorporable

Note. Section 30 (2) (c) of the *Interpretation Act 1987* ensures that, when an Act or statutory rule is repealed, no amendment or validation made by the Act or statutory rule is affected. (Section 5 (6) of that Act applies section 30 to environmental planning instruments.)

| Name of Act | Extent of repeal |
|--|---|
| <i>Apiaries Amendment Act 2006</i> No 99 | Section 5 and Schedule 1 [1]–[8], [10]–[18], [20] and [22]–[31], Schedule 2 [1], [3] and [4] and Schedule 3 |
| <i>Coal Acquisition Legislation Repeal Act 2007</i> No 62 | Section 3 and Schedules 1 and 2 |
| <i>Coal Mine Health and Safety Act 2002</i> No 129 | Sections 223 and 224 and Schedules 1 and 2 |
| <i>Community Justice Centres Amendment Act 2007</i> No 70 | Schedule [1]–[3], [5], [6], [9]–[16], [19], [21]–[29], [31] and [34]–[39] and Schedule 2.3 |
| <i>Confiscation of Proceeds of Crime Amendment Act 2005</i> No 73 | Whole Act |
| <i>Courts and Other Legislation Amendment Act 2007</i> No 73 | Schedules 1, 3, 4 [1]–[8] and [10]–[32] and 5 |
| <i>Criminal Legislation Amendment Act 2007</i> No 57 | Section 4 and Schedules 1–3 and 4 [1] and [7]–[12] |
| <i>Electricity (Consumer Safety) Act 2004</i> No 4 | Section 58 and Schedules 2, 3 and 4 |
| <i>Health Legislation Amendment Act 2007</i> No 89 | Section 3 and Schedules 1 and 2.1 [2] and 2.2–2.14 |
| <i>Local Government and Environmental Planning and Assessment Amendment (Transfer of Functions) Act 2001</i> No 93 | Section 5 and Schedule 1 [1]–[3] and [5]–[16], Schedule 2 [1], [4], [7]–[10A], [14] and [15] and Schedule 3 |
| <i>Mental Health Act 2007</i> No 8 | Section 199 and Schedule 7 |
| <i>Payroll Tax Act 2007</i> No 21 | Section 105 and Schedule 4 |
| <i>Pharmacy Practice Act 2006</i> No 59 | Section 156 and Schedule 7 |
| <i>Photo Card Act 2005</i> No 20 | Schedule 2.1, 2.2 [2] and [3], 2.3 [1] and 2.4 |

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Schedule 4 Repeals

| Name of Act | Extent of repeal |
|--|--|
| <i>Registered Clubs Amendment Act 2006</i> No 103 | Schedule 1 [1]–[10], [12], [13], [27]–[33], [38]–[43], [49]–[52] and [54] |
| <i>Security Industry Amendment Act 2005</i> No 63 | Section 4 and Schedule 1 [1]–[4], [8]–[42], [44], [45], [47]–[49], [51]–[53], [55]–[64], [66]–[79] and [81]–[88] |
| <i>Sheriff Act 2005</i> No 6 | Section 17 (2) and Schedule 1 |
| <i>State Environmental Planning Policy (Major Projects) 2005</i> | Clause 13 and Schedule 4 |
| <i>State Property Authority Act 2006</i> No 40 | Section 24 and Schedule 3 |
| <i>Stock Diseases Amendment (Artificial Breeding) Act 2004</i> No 35 | Whole Act |
| <i>Sydney 2009 World Masters Games Organising Committee Act 2005</i> No 65 | Section 42 and Schedule 2 |
| <i>Totalizator Agency Board Privatisation Act 1997</i> No 43 | Sections 11, 19 and 34 and Schedules 2–4 |
| <i>Uniting Church in Australia Act 1977</i> No 47 | Schedule 3 |
| <i>Water Efficiency Labelling and Standards (New South Wales) Act 2005</i> No 12 | Section 21 and Schedule 1 |
| <i>Water Management Act 2000</i> No 92 | Schedule 8.1–8.14, 8.16–8.26, 8.27 [1]–[4] and [6], 8.28 and 8.29 |
| <i>World Youth Day Act 2006</i> No 106 | Section 60 and Schedule 2 |

Explanatory note

Part 1 repeals Acts that are redundant.

Part 2 repeals statutory instruments that are redundant.

Part 3 repeals Acts or provisions of Acts or instruments that contain only:

- (a) commenced amendments to other Acts or instruments, or
- (b) uncommenced amending provisions that cannot be commenced because the Act or instrument that they amend has been repealed or has been amended in such a way that they are unincorporable (as in the case of Schedule 2.7, 2.8, 2.10 [1], 2.15 and 2.17 to the *Coal Mine Health and Safety Act 2002* and Schedule 4.3 [1] to the *Electricity (Consumer Safety) Act 2004*).

In relation to the repeal of amending Acts or amending provisions, it should be noted that the Acts or provisions 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 provisions, or any associated provisions. The Acts that were amended by the Acts being repealed are up-to-date on the NSW legislation website maintained by the Parliamentary Counsel's Office (www.legislation.nsw.gov.au).

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

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

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 (whether or not the amending provision has been repealed).
- (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.

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 instruments

- (1) Except where expressly provided to the contrary, any instrument made under an Act amended by this Act, that is in force immediately before the commencement of the amendment, is taken to have been made under the Act as amended.
- (2) The amendment of an instrument by this Act does not prevent its later amendment or repeal by another instrument.

Explanatory note

Subclause (1) ensures that, unless expressly provided, any instrument that is in force and made under a provision of an Act that is amended or substituted by the proposed Act will be taken to have been made under the Act as amended.

Subclause (2) ensures that the amendment of an instrument by the proposed Act does not prevent its later amendment or repeal by another instrument.

5 Revocation of repeal

- (1) The Governor may by proclamation published in the Gazette revoke the repeal of any Act or instrument effected by this Act.
- (2) Any Act or instrument the subject of a proclamation under subclause (1) is taken not to be, and never to have been, repealed by this Act.
- (3) Subclause (2) does not operate in respect of any Act or instrument so as:
 - (a) to affect in a manner prejudicial to any person (other than the State or an authority of the State) the rights of that person existing before the date of publication in the Gazette of the proclamation under subclause (1) in respect of that Act or instrument, or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of publication of that proclamation.
- (4) A reference in this clause to an Act or instrument includes a reference to a provision of any Act or instrument.

Explanatory note

This clause enables the Governor, by proclamation, to revoke the repeal of any Act or instrument or the provision of any Act or instrument repealed by this Act. The Act or instrument or provision of an Act or instrument the subject of the revocation of repeal is taken not to be, and never to have been, repealed.

6 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 proposed Act.

Notes

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- Aboriginal Land Rights Act 1983* No 42—Schedule 1
Agricultural Industry Services Act 1998 No 45—Schedule 1
Armidale Dumaresq Local Environmental Plan 2008—Schedule 2
Australian Museum Trust Act 1975 No 95—Schedule 1
Betting Tax Act 2001 No 43—Schedule 2
Births, Deaths and Marriages Registration Act 1995 No 62—Schedule 1
Bombala Local Environmental Plan 1990—Schedule 2
Building and Construction Industry Security of Payment Act 1999 No 46—Schedule 2
Cabonne Local Environmental Plan 1991—Schedule 2
Casino, Liquor and Gaming Control Authority Act 2007 No 91—Schedule 2
Children and Young Persons (Care and Protection) Act 1998 No 157—Schedule 2
Coal Acquisition (Compensation) Arrangements 1985—Schedule 2
Commercial Fishing Environmental Impact Statement Arrangements 2001—Schedule 2
Conargo Local Environmental Plan 1987—Schedule 2
Consumer Credit Administration Regulation 2002—Schedule 2
Conveyancers Licensing Act 2003 No 3—Schedule 1
Conveyancing Act 1919 No 6—Schedule 2
Coonabarabran Local Environmental Plan 1990—Schedule 2
Co-operatives Act 1992 No 18—Schedule 2
Court Security Act 2005 No 1—Schedule 2
Credit (Savings and Transitional) Regulation 1984—Schedule 2
Criminal Records Act 1991 No 8—Schedule 3
Crown Advocate Act 1979 No 59—Schedule 3
Culcairn Local Environmental Plan 1998—Schedule 2
Dental Practice Act 2001 No 64—Schedule 1
Election Funding Regulation 2004—Schedule 2
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Forestry Act 1916 No 55—Schedule 1
Forestry and National Park Estate Act 1998 No 163—Schedule 1
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Lithgow City Local Environmental Plan 1994—Schedule 2
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Mid-Western Regional Interim Local Environmental Plan 2008—Schedule 2
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