



New South Wales

Regulatory and Other Legislation (Amendments and Repeals) Bill 2016

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are as follows:

- (a) to amend the *Property, Stock and Business Agents Act 2002* (Schedule 1):
 - (i) to ensure that certain controls applying to property, stock and business agents who are employers and to their employees also apply to agents who engage staff under non-traditional employment arrangements and to those staff (including independent contractors), and
 - (ii) to strengthen obligations for persons exercising functions as property, stock and business agents to be licensed or hold a certificate of registration under that Act by ensuring that persons carrying on business as property, stock and business agents may only engage staff who are licensed or hold a certificate of registration, and
 - (iii) to strengthen obligations for property, stock and business agents to ensure that their staff are properly supervised and that those staff comply with requirements under that Act,
- (b) to enable licences under the *Conveyancers Licensing Act 2003* and *Pawnbrokers and Second-hand Dealers Act 1996* to have effect for up to 3 years, rather than only 1 year, as at present (Schedule 2.1 and 2.5),
- (c) to amend the *Fair Trading Act 1987* to extend the scheme for the publication of standard retail prices of fuels available for fuelling of motor vehicles at service stations to hydrogen and electricity (Schedule 2.3),

- (d) to amend the *Funeral Funds Act 1979* (Schedule 2.4) to ensure the following:
 - (i) that a friendly society (within the meaning of the *Life Insurance Act 1995* of the Commonwealth) is not required to be registered under the *Funeral Funds Act 1979* to carry on contributory funeral benefit business,
 - (ii) that friendly societies and Crown cemetery trusts are not required to be registered under the *Funeral Funds Act 1979* to act as trustees of trust funds under pre-paid contracts for the supply of funeral services,
 - (iii) that a Crown cemetery trust can both enter into a pre-paid contract for the supply of funeral services and act as trustee of the money paid in advance for that supply (rather than the money having to be paid to a separate trustee who is registered under the *Funeral Funds Act 1979*),
- (e) to encourage the use of the online rental bond service established under the *Residential Tenancies Act 2010* by ensuring that a landlord or agent cannot require or receive a rental bond from a tenant unless the landlord or agent is registered as a user of the online service and has invited the tenant to use the online service to deposit the rental bond (Schedule 2.7),
- (f) to repeal provisions of certain Acts that, for policy reasons, are no longer required (clause 1 of Schedule 3),
- (g) to repeal certain other Acts and instruments for the purpose of statute law revision (clauses 2 and 3 of Schedule 3),
- (h) to make amendments to various other Acts and instruments consequent on or related to the proposed repeals, including amendments relating to the abolition of the Compensation Court in 2004 (Schedule 4).

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act, except for specified provisions, which commence on a day or days to be appointed by proclamation.

Schedule 1 Amendment of Property, Stock and Business Agents Act 2002 No 66

Schedule 1 [1] inserts a definition of *regulated functions* for the purposes of the amendments made by Schedule 1 [5] and [9]–[12].

Generally, the *Property, Stock and Business Agents Act 2002* (*the PSBA Act*) requires a person exercising any of the functions of a real estate salesperson, stock and station salesperson, business salesperson or registered manager (a *registrable person*) to hold a certificate of registration. It is an offence for a person who is not the holder of a certificate of registration to represent that the person is a registrable person employed by a person licensed (or required to be licensed) under the PSBA Act. **Schedule 1 [2]** ensures that it is an offence for a person who is not the holder of a certificate of registration to represent that the person is a registrable person, whether or not the person also represents that the person is employed by a person licensed (or required to be licensed) under that Act.

Schedule 1 [3] inserts a note.

The PSBA Act makes it an offence for the holder of a certificate of registration to act as an auctioneer, except in certain circumstances. The relevant circumstances include that the holder is registered as a stock and station salesperson and conducts the auction as an employee of the holder of a stock and station agent's licence. **Schedule 1 [4]** inserts a corresponding requirement for a person carrying on business as an auctioneer to ensure that the holder of a certificate of registration does not act for or on behalf of the person as an auctioneer, except in the relevant circumstances.

Schedule 1 [5] makes it an offence for a person carrying on the business of an agent to make use of the services of another person (a *service provider*) to exercise any functions of an agent in the course of the business unless the following requirements are met:

- (a) the person must hold a licence authorising the functions concerned to be exercised by the person,
- (b) the service provider must hold a licence or certificate of registration authorising the service provider to exercise those functions,
- (c) in the case of a service provider required to hold a certificate of registration to exercise those functions—the service provider must be an employee of the person.

The proposed amendment made by Schedule 1 [5] is consistent with requirements in the PSBA Act for a person acting as or carrying on business as an agent to hold a licence, for persons exercising any functions of an agent to hold a licence or a certificate of registration and for holders of certificates of registration to only exercise functions of an agent as an employee of the holder of a licence.

The PSBA Act requires a licensee carrying on business as an agent, and any licensee employed as the person in charge at another licensee's place of business, to properly supervise employees engaged in the business. **Schedule 1 [6] and [7]** extend those requirements to ensure that any person engaged in the business who is not an employee must also be properly supervised.

The PSBA Act generally prohibits a licensee from employing a person who is a disqualified person (and, therefore, not eligible to hold a licence or a certificate of registration). It also generally requires a licensee to notify the Commissioner for Fair Trading, Department of Finance, Services and Innovation (the *Secretary*) on becoming aware that an employee of the licensee is a disqualified person and requires an employee of a licensee to notify the licensee if the employee becomes a disqualified person.

Schedule 1 [10]–[12] extend that prohibition and those requirements to licensees who engage staff, and to staff engaged, other than as employees if the staff are engaged to exercise regulated functions in the course of the business conducted by the licensee. **Schedule 1 [9]** inserts a related provision that describes the circumstances in which a person is taken to be engaged by a licensee to exercise regulated functions in the course of the business conducted by the licensee. **Schedule 1 [8]** makes a consequential amendment.

Schedule 1 [13] inserts a provision that provides for the meaning of references to a person who is engaged by a real estate agent or a stock and station agent. The proposed provision is related to the amendments made by Schedule 1 [14], [18] and [20].

Schedule 1 [14] strengthens a prohibition on a real estate agent, or an agent's employee, making any statement to a buyer or prospective buyer of residential property, in the course of marketing the property, that the property is likely to be sold for a price that is less than the estimated selling price for the property. The estimated selling price is required to be set out in the agency agreement for the sale of the property.

In particular, Schedule 1 [14] extends the prohibition to any person engaged to provide services in the course of the business carried on by a real estate agent and (in line with the prohibition on underquoting in advertisements for residential property) to any statement made to any person, in the course of marketing the property, that the property may be sold for a price that is less than the estimated selling price for the property. Schedule 1 [14] also requires a real estate agent to ensure that any person engaged by the agent does not make any such statement in the course of marketing the property. It is a defence to a prosecution for an offence of failing to comply with that requirement for the real estate agent to establish that the agent took all reasonable precautions against committing the offence. **Schedule 1 [15] and [16]** make consequential amendments.

Schedule 1 [18] strengthens a requirement for a real estate agent to keep written records of statements made in the course of marketing a residential property that the property is likely to be sold for a specified price or within a specified price range. In particular, Schedule 1 [18] requires a real estate agent to ensure that any person engaged by the real estate agent who makes such a

statement also makes a written record of the statement. In line with the amendment made by Schedule 1 [14], it is a defence to a prosecution for an offence of failing to comply with the new requirement for the real estate agent to establish that the agent took all reasonable precautions against committing the offence. **Schedule 1 [17] and [19]** make consequential amendments.

The PSBA Act prohibits a real estate agent or stock and station agent, or an employee of such an agent, from making a statement, in the course of marketing a property passed in at an auction, indicating the amount of the last bid accepted at the auction if the last bid was a vendor bid, unless the statement clearly indicates that the bid was a vendor bid. **Schedule 1 [20]** extends the prohibition to any person engaged by a real estate agent or stock and station agent.

Schedule 1 [21] and [22] extend a provision that disqualifies a person from acting as an auditor in relation to a licensee's trust account if the person has been, at any time within a 2 year period, or is, an employee or partner of the licensee, so that the person is also disqualified if the person has been at any time within the 2 year period, engaged in the business of the licensee to provide services in the course of that business.

Schedule 1 [23] amends a provision that enables the Secretary to direct that a trust account be frozen if it appears to the Secretary that a licensee, the person in charge of a licensee's business at a place or a licensee's employee has, or may have, stolen, misappropriated or misapplied trust money. In particular, the proposed amendment extends the provision to cases in which it appears to the Secretary that any other person connected with a licensee has, or may have, stolen, misappropriated or misapplied trust money.

Schedule 2 Amendment of other Acts and regulations

Amendments enabling certain licences to be issued for up to 3 years

Schedule 2.1 [1] and 2.5 [1] amend the *Conveyancers Licensing Act 2003* and the *Pawnbrokers and Second-hand Dealers Act 1996* to enable licences under those Acts to have effect for up to 3 years, rather than only 1 year.

Schedule 2.1 [3] and 2.5 [4] insert savings provisions consequent on the amendments made by the proposed Act to those Acts.

Schedule 2.1 [2] enables the Governor to make regulations of a savings or transitional nature consequent on any Act that amends the *Conveyancers Licensing Act 2003* (including the proposed Act). **Schedule 2.5 [3]** makes a corresponding amendment to the *Pawnbrokers and Second-hand Dealers Act 1996*.

Schedule 2.5 [2] inserts a provision enabling the Governor to make regulations for or with respect to the waiver or refund of fees chargeable for any service provided by the Secretary under the *Pawnbrokers and Second-hand Dealers Act 1996*.

Schedule 2.2 and 2.6 make amendments to the regulations made under the *Conveyancers Licensing Act 2003* and the *Pawnbrokers and Second-hand Dealers Act 1996* that provide for the fees payable in relation to 3 year licences and the refund of those fees in certain cases.

Publication of standard retail prices for hydrogen or electricity supplied to motor vehicles

Schedule 2.3 [1] and [2] amend the *Fair Trading Act 1987* to enable the Commissioner for Fair Trading, Department of Finance, Services and Innovation to publish standard retail prices of hydrogen and electricity available for the fuelling (including charging) of motor vehicles at service stations. Section 58 (4) makes it an offence for the operator of a service station to offer fuel at a standard retail price other than the price notified under the scheme. **Schedule 2.3 [4] and [5]** make consequential amendments.

Currently, *service station* is defined to generally mean a building or place used for the fuelling of motor vehicles involving the sale by retail of the fuels to which the scheme for publishing standard retail prices applies. **Schedule 2.3 [3]** makes an amendment to that definition that is consequent on the inclusion of electricity as a fuel to which the scheme applies, so that it is clear that the sale

by retail must be by a person operating or controlling the operation of the building or place (and that the sale by retail of electricity for the purpose of supplying it to a building or place that is used to charge electric motor vehicles is excluded from the definition).

Exemptions from registration under Funeral Funds Act 1979 and other amendments

Schedule 2.4 [3] exempts friendly societies (within the meaning of the *Life Insurance Act 1995* of the Commonwealth) that carry on contributory funeral benefit business from being required to be registered to carry on that business under the *Funeral Funds Act 1979*.

Schedule 2.4 [5] exempts friendly societies and Crown cemetery trusts (within the meaning of the *Cemeteries and Crematoria Act 2013*) from being required to be registered under the *Funeral Funds Act 1979* to act as trustees of trust funds under pre-paid contracts for the supply of funeral services (which include burial and cremation services).

Schedule 2.4 [7] exempts Crown cemetery trusts from a provision that prohibits a person from agreeing to supply a funeral service under a pre-paid contract unless the money to be paid under the contract is required to be paid to a trustee who has entered into an agreement with the person to act as trustee of that money and who:

- (a) is registered under the *Funeral Funds Act 1979* to act as trustee of trust funds under pre-paid contracts for the supply of funeral services, or
- (b) is exempt from the requirement to be registered under that Act to act as such a trustee.

The effect of the exemption is that Crown cemetery trusts will be able to both enter into pre-paid contracts for the supply of funeral services and act as trustee of the money paid in advance for that supply.

Schedule 2.4 [4] and [6] replace sections that are generally redundant and re-enact, or save the effect of, provisions within those sections that have ongoing effect. **Schedule 2.4 [1], [2] and [8]–[16]** make consequential and related amendments.

Encouraging use of online rental bond service

Schedule 2.7 amends the *Residential Tenancies Act 2010* to prohibit a person (generally a landlord or landlord's agent) from requiring or receiving from a tenant a rental bond unless the landlord or landlord's agent is a registered user of the online rental bond service established under that Act and (if the tenant has provided an address that can be used to invite the tenant to use the service to deposit the rental bond) has invited the tenant to use that service to deposit the bond.

Schedule 3 Repeals

Schedule 3 provides for the repeal of various Acts, instruments and provisions.

Clause 1 provides for the repeal of provisions of the *Architects Act 2003* and *Building Professionals Act 2005* that require complaints made under those Acts against architects and accreditation holders, respectively, to be verified by statutory declaration.

Clause 1 also provides for the repeal of provisions of the *Photo Card Act 2005* that prevent the holder of a driver licence from being issued with a New South Wales Photo Card. The repeal of a provision of the *Road Transport (Driver Licensing) Regulation 2008* by clause 1 is a consequential amendment.

Clause 2 provides for the repeal of redundant Acts, instruments and provisions. The Acts and instruments repealed include the *Compensation Court Repeal Act 2002* and *Energy Services Corporations (Dissolution of Energy Distributors) Regulation 2001*. Certain provisions of that Act and Regulation that have possible ongoing effect are transferred to the *District Court Act 1973* and the *Energy Services Corporations Act 1995* by Schedule 4.1 [7] and 4.2, respectively.

Clause 3 provides for the repeal of a number of uncommenced amending Acts and amending provisions.

The repeal of the *Classification (Publications, Films and Computer Games) Enforcement Amendment Act 2001* is at the request of the portfolio concerned.

The repeals of the *Licensing and Registration (Uniform Procedures) Amendment (Photo ID) Act 2004* and Schedule 2 to the *Photo Card Act 2005* are related and are also at the request of the portfolios concerned. All of the amendments in the *Licensing and Registration (Uniform Procedures) Amendment (Photo ID) Act 2004* have been commenced, except for an amendment that inserts a provision that Schedule 2 to the *Photo Card Act 2005* (a later Act) provides is to be repealed. It has never been necessary to commence that repeal as the provision concerned has not commenced.

The uncommenced amendment made by the *State Insurance and Care Governance Act 2015* is unnecessary and can be repealed because the amendment was provided for elsewhere in that Act.

Schedule 4 Amendments consequent on other repeals and the abolition of the Compensation Court

Schedule 4 makes amendments consequent on the repeal of the *Compensation Court Repeal Act 2002* and the *Energy Services Corporations (Dissolution of Energy Distributors) Regulation 2001* by Schedule 3 to the proposed Act. It also makes amendments consequent on the abolition of the Compensation Court by the *Compensation Court Repeal Act 2002* (including amendments relating to the jurisdiction conferred on the District Court by that Act).

Schedule 4.1 [7] transfers the substance of provisions of the *Compensation Court Repeal Act 2002* having possible ongoing effect to the *District Court Act 1973*. **Schedule 4.2** transfers the substance of provisions of the *Energy Services Corporations (Dissolution of Energy Distributors) Regulation 2001* having possible ongoing effect to the *Energy Services Corporations Act 1995*. In accordance with section 30A of the *Interpretation Act 1987*, the transfer of provisions by Schedule 4.1 [7] and 4.2 does not affect the operation or meaning of those provisions.

Schedule 4.1 [2] makes an amendment to the *District Court Act 1973* that replaces a definition of *residual jurisdiction* and a related note, with a new definition of *compensation jurisdiction* that, in effect, has the same meaning. When the Compensation Court was abolished by the *Compensation Court Repeal Act 2002* on 1 January 2004, that Court's jurisdiction (over both existing and new matters) was split between the Workers Compensation Commission and the District Court. The jurisdiction conferred on the District Court is currently known as the "residual jurisdiction". Matters in existence when the Compensation Court was abolished have been finally disposed of, and the proposed change to the name of the jurisdiction reflects the fact that the jurisdiction applies to new matters and is ongoing. **Schedule 4.1 [1], [4] and [6] and Schedule 4.4** make consequential amendments to the *District Court Act 1973* and the *Supreme Court Act 1970*.

Schedule 4.1 [3] removes cross-references to provisions that were repealed by the *Civil Procedure Act 2005*.

Schedule 4.1 [5] omits a provision from the *District Court Act 1973* that conferred on the District Court, for the purposes of exercising its residual jurisdiction, the same powers, authorities, duties and functions as the Compensation Court had under the *Compensation Court Act 1984* immediately before its repeal by the *Compensation Court Repeal Act 2002*. The provision is redundant because the District Court has sufficient powers, authorities, duties and functions under other provisions (including provisions of the *District Court Act 1973*, the *Civil Procedure Act 2005* and the *Uniform Civil Procedure Rules 2005*).

Schedule 4.3 omits a redundant reference in the *Judicial Officers Act 1986* to a Commissioner of the abolished Compensation Court.

Schedule 4.5 amends the *Workers Compensation Act 1987* to ensure that the Principal Registrar of the District Court (rather than "the Registrar of the District Court") has responsibility for appointing and nominating medical referees for coal miner matters, which are dealt with in the District Court's residual jurisdiction. There is no single Registrar of the District Court and instead

registrars are appointed for each place at which the District Court may sit. The proposed amendments reflect the administrative practice of the District Court relating to coal miner matters.



New South Wales

Regulatory and Other Legislation (Amendments and Repeals) Bill 2016

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New South Wales

Regulatory and Other Legislation (Amendments and Repeals) Bill 2016

No. , 2016

A Bill for

An Act to amend regulatory and other Acts and instruments; and to repeal certain Acts and instruments for the purpose of statute law revision.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Regulatory and Other Legislation (Amendments and Repeals) Act 2016*.

2 Commencement

- (1) This Act commences on the date of assent to this Act, except as otherwise provided by this section.
- (2) Schedules 1 and 2 (except for items [1], [2], [4], [6] and [8]–[16] of Schedule 2.4) and clause 1 of Schedule 3 commence on a day or days to be appointed by proclamation.

Schedule 1	Amendment of Property, Stock and Business Agents Act 2002 No 66	1
		2
[1] Section 3 Definitions		3
	Insert in alphabetical order in section 3 (1):	4
	<i>regulated functions</i> means the functions of a real estate agent, stock and station agent, business agent, strata managing agent, community managing agent or on-site residential property manager.	5 6 7
[2] Section 10 Salespersons and managers require certificate of registration		8
	Omit “in the employment of a person licensed (or required to be licensed) under this Act” from section 10 (1) (b).	9 10
[3] Section 11 Registered salespersons and managers required to be employed and supervised by licensee		11 12
	Insert after section 11 (2):	13
	Note. See Division 2 of Part 3 for requirements for a place at which a business is carried on under a licence to be in the charge of a licensee and for staff to be properly supervised.	14 15 16
[4] Section 11 (3A)		17
	Insert after section 11 (3):	18
	(3A) A person carrying on business as an auctioneer must ensure that the holder of a certificate of registration does not act for or on behalf of the person as an auctioneer, except as permitted by subsection (4).	19 20 21
[5] Section 11A		22
	Insert after section 11:	23
11A Person carrying on business of agent to ensure staff exercising regulated functions hold licence or certificate		24 25
	A person carrying on the business of an agent must not make use of the services of another person (a <i>service provider</i>) to exercise any regulated functions in the course of the business unless:	26 27 28
	(a) the person is the holder of a licence that authorises the regulated functions concerned to be exercised by the person, and	29 30
	(b) the service provider is the holder of a licence or a certificate of registration that authorises the service provider to exercise the regulated functions concerned, and	31 32 33
	(c) in the case of a service provider required to hold a certificate of registration to exercise the regulated functions concerned—the service provider is an employee of the person.	34 35 36
	Maximum penalty: 100 penalty units.	37
[6] Section 32 Duty of licensee and person in charge to properly supervise business		38
	Omit “employees” from section 32 (3) (a). Insert instead “persons”.	39

[7] Section 32 (5)	1
Insert after section 32 (4):	2
(5) A reference in this section to a person who is engaged in a business carried on by a licensee is a reference to a person:	3
(a) who is engaged in the business as an employee of the licensee, or	4
(b) who is engaged by the licensee, other than as an employee of the licensee, to provide services in the course of the business, or	5
(c) whose services are provided to the licensee in the course of the business, other than as an employee of the licensee, under an arrangement entered into by the licensee with another person.	6
[8] Part 3, Division 3, heading	7
Insert “and others” after “Employees”.	8
[9] Section 40A	9
Insert before section 41:	10
40A Interpretation—persons engaged by licensees	11
Without limiting the circumstances in which a person is to be regarded, for the purposes of this Division, as being engaged by a licensee to exercise regulatory functions in the course of the business conducted by the licensee, a person is taken to be so engaged if:	12
(a) the services of the person are provided to the licensee under an arrangement entered into by the licensee with another person, and	13
(b) the services are or include exercising regulated functions in the course of the business.	14
[10] Section 43 Duty of licensee not to engage certain persons	15
Insert “, or engage a person to exercise any regulated functions in the course of the business,” after “the licensee” in section 43 (1).	16
[11] Section 43 (2)	17
Insert “or engagement” after “employment”.	18
[12] Sections 44 and 45	19
Omit the sections. Insert instead:	20
44 Duty of licensee to notify disqualification of employees and others	21
A licensee must notify the Secretary in writing within 7 days after becoming aware that any of the following persons has become a disqualified person:	22
(a) a person employed by the licensee (other than a person whose disqualification is on a ground that does not disqualify the person from eligibility to hold a certificate of registration),	23
(b) a person engaged by the licensee, other than as an employee of the licensee, to exercise regulated functions in the course of the business conducted by the licensee.	24
Maximum penalty: 50 penalty units.	25

45	Employees and others required to notify disqualification	1
	A person must notify a licensee within 7 days after the person becomes a disqualified person if the person is:	2
		3
	(a) employed by the licensee (except where the person’s disqualification is on a ground that does not disqualify the person from eligibility to hold a certificate of registration), or	4
		5
		6
	(b) engaged by the licensee, other than as an employee of the licensee, to exercise regulated functions in the course of the business conducted by the licensee.	7
		8
		9
	Maximum penalty: 50 penalty units.	10
[13]	Section 72 Definitions	11
	Insert after section 72 (3):	12
	(4) A reference in this Division to a person who is engaged by a real estate agent or stock and station agent is a reference to a person who is:	13
		14
	(a) an employee of the agent, or	15
	(b) engaged by the agent, other than as an employee of the agent, to provide services in the course of the business carried on by the agent, or	16
		17
	(c) a person whose services are provided, other than as an employee of the agent, in the course of the business carried on by the agent under an arrangement entered into by the agent with another person.	18
		19
		20
[14]	Section 73A Underquoting in representations by real estate agents	21
	Omit section 73A (1) and the penalty to section 73A (1). Insert instead:	22
	(1) A real estate agent or any person engaged by a real estate agent must not, in the course of marketing a residential property, make any statement to any person that indicates or suggests that the property may be sold for a price that is less than the estimated selling price for the property.	23
		24
		25
		26
	(1A) A real estate agent must ensure that any person engaged by the real estate agent does not, in the course of marketing a residential property, make any statement to any person that indicates or suggests that the property may be sold for a price that is less than the estimated selling price for the property.	27
		28
		29
		30
	(1B) It is a defence to a prosecution for an offence under subsection (1A) if the real estate agent establishes that the real estate agent took all reasonable precautions against committing the offence.	31
		32
		33
[15]	Section 73A (2)	34
	Insert “, or the person engaged by the real estate agent,” after “agent”.	35
[16]	Section 73A, penalty to section	36
	Insert at the end of the section:	37
	Maximum penalty: 200 penalty units.	38
[17]	Section 73B Real estate agents to keep records of quotes	39
	Omit the penalty to section 73B (1).	40

[18] Section 73B (1A) and (1B)	1
Insert after section 73B (1):	2
(1A) A real estate agent must ensure that any person engaged by the real estate agent who makes a statement, in the course of marketing a residential property, of a kind referred to in subsection (1) makes a written record in accordance with subsection (2).	3 4 5 6
(1B) It is a defence to a prosecution for an offence under subsection (1A) if the real estate agent establishes that the real estate agent took all reasonable precautions against committing the offence.	7 8 9
[19] Section 73B, penalty to section	10
Insert at the end of the section:	11
Maximum penalty: 200 penalty units.	12
[20] Section 76A Marketing statements about vendor bids when property passed in	13
Omit “an employee of” from section 76A (1). Insert instead “a person engaged by”.	14
[21] Section 115 Qualifications of auditors	15
Omit section 115 (2) (a). Insert instead:	16
(a) has been, at any time within 2 years before the last day of the period in respect of which the audit is to be made, or is:	17 18
(i) an employee or partner of the person whose records or documents are to be audited, or	19 20
(ii) engaged in the business carried on by the person whose records or documents are to be audited, other than as an auditor for the purposes of this Division, or	21 22 23
[22] Section 115 (3)	24
Insert after section 115 (2):	25
(3) A reference in this section to a person engaged in a business carried on by another person (a <i>regulated person</i>) is a reference to a person:	26 27
(a) who is engaged by the regulated person, other than as an employee of the regulated person, to provide services in the course of the business conducted by the regulated person, or	28 29 30
(b) whose services are or have been provided to the regulated person in the course of the business carried on by the regulated person, other than as an employee of the regulated person, under an arrangement entered into by the regulated person with another person.	31 32 33 34
[23] Section 118 Secretary may freeze licensee’s accounts in particular cases	35
Insert after section 118 (1) (c):	36
(d) any other person connected or formerly connected with a licensee.	37

Schedule 2	Amendment of other Acts and regulations	1
2.1	Conveyancers Licensing Act 2003 No 3	2
[1]	Section 17	3
	Omit the section. Insert instead:	4
	17 Duration	5
	(1) A licence has effect for the term specified in the licence (not exceeding 3 years) unless it is sooner cancelled.	6 7
	(2) The suspension of a licence does not affect the term of the licence.	8
[2]	Schedule 1 Savings and transitional provisions	9
	Insert at the end of clause 2 (1):	10
	any other Act that amends this Act	11
[3]	Schedule 1	12
	Insert at the end of the Schedule, with appropriate Part and clause numbering:	13
	Part Provision consequent on enactment of Regulatory and Other Legislation (Amendments and Repeals) Act 2016	14 15 16
	Duration of licences	17
	Section 17, as in force immediately before its substitution by the <i>Regulatory and Other Legislation (Amendments and Repeals) Act 2016</i> , continues to have effect in relation to a licence in force immediately before that substitution.	18 19 20
2.2	Conveyancers Licensing Regulation 2015	21
[1]	Clause 5A	22
	Insert after clause 5:	23
	5A Refund of application fees for certain 3-year licences	24
	(1) This clause applies to an application fee paid by or on behalf of a person who has surrendered a licence granted under the Act or has died, but only if the term of the licence was 3 years.	25 26 27
	(2) A person may apply to the Secretary for a refund of an application fee to which this clause applies if the person:	28 29
	(a) paid the application fee, or	30
	(b) is the legal representative of a deceased person who paid the application fee, or	31 32
	(c) is applying for or on behalf of the person who paid the application fee.	33
	(3) A person who makes an application under subclause (2) is:	34
	(a) if the surrender or death occurred not more than one year after the date of the grant, renewal or restoration of the licence—to be refunded two-thirds of the application fee (excluding the processing component) so paid, or	35 36 37 38

- (b) if the surrender or death occurred more than one year but not more than 2 years after the date of the grant, renewal or restoration of the licence—to be refunded one-third of the application fee (excluding the processing component) so paid. 1
 2
 3
 4
- (4) In this clause: 5
application fee means any of the following: 6
 (a) an application fee for the grant of a new licence, 7
 (b) an application fee for the renewal of a licence, 8
 (c) an application fee for the restoration of a licence. 9
processing component of an application fee is the amount set out in Column 3 of Schedule 2 in relation to the fee. 10
 11

[2] Schedule 2 Fees 12
 Omit the table to the Schedule. Insert instead: 13

Item	Column 1 Type of fee	Column 2 Fixed component	Column 3 Processing component
1	Application for grant of licence—1 year	\$229	\$209
2	Application for grant of licence—3 years	\$687	\$209
3	Application for renewal of licence—1 year	\$229	\$68
4	Application for renewal of licence—3 years	\$687	\$68
5	Application for restoration of licence—1 year	\$229	\$139
6	Application for restoration of licence—3 years	\$687	\$139
7	Application for replacement of licence	Nil	\$45

2.3 Fair Trading Act 1987 No 68 14

- [1] Section 58 Scheme for publication of service station fuel prices** 15
 Insert after paragraph (e) of the definition of *prescribed fuel* in section 58 (6): 16
 (e1) hydrogen, 17
- [2] Section 58 (6), definition of “prescribed fuel”** 18
 Insert after paragraph (f) of the definition: 19
 (g) electricity. 20
- [3] Section 58 (6), definition of “service station”** 21
 Insert “by a person operating or controlling the operation of the building or place” after “prescribed fuel”. 22
 23
- [4] Section 58 (6), definition of “standard retail price”** 24
 Insert “(or, if the fuel is hydrogen or electricity, the price per kilogram or kilowatt hour)” after “litre”. 25
 26

[5] Section 58 (7)	1
Insert after section 58 (6):	2
(7) A reference in this section to the fuelling of a motor vehicle includes a reference to the charging of a battery, or other energy storage device, used to power the motor of an electric motor vehicle.	3 4 5
2.4 Funeral Funds Act 1979 No 106	6
[1] Section 4 Definitions	7
Omit “16C” from paragraph (b) of the definition of <i>funeral contribution fund</i> in section 4 (1).	8 9
Insert instead “16B”.	10
[2] Section 4 (1), definition of “pre-paid funeral fund”, paragraph (b)	11
Omit “39B”. Insert instead “39A”.	12
[3] Section 11 Contributory funeral benefit business to be carried on only by companies registered under this Act	13 14
Insert after section 11 (2):	15
(3) A person is exempt from the application of subsection (1) if the person is a friendly society within the meaning of the <i>Life Insurance Act 1995</i> of the Commonwealth.	16 17 18
[4] Part 3, Division 1A	19
Omit the Division. Insert instead:	20
Division 1A Persons registered as funeral contribution funds on or after 30 November 2004 who were previously exempt	21 22
16B Provisions applying to previously exempt persons who are registered to carry on contributory funeral benefit business	23 24
(1) This section applies to a person (whether an individual or corporation) who, immediately before the repeal of section 16C by the <i>Regulatory and Other Legislation (Amendments and Repeals) Act 2016 (the Amendments and Repeals Act)</i> , was registered under that section to carry on contributory funeral benefit business.	25 26 27 28 29
(2) The following provisions apply in relation to a person to whom this section applies:	30
(a) the person continues to be registered to carry on contributory funeral benefit business (except if the person’s registration is cancelled or during any period in which the person’s registration is suspended),	31 32 33 34
(b) the person’s registration continues to be subject to any conditions to which it was subject immediately before the repeal of section 16C by the Amendments and Repeals Act,	35 36 37
(c) if the person was exempt from complying with one or more provisions of this Act or the regulations because of an exemption granted by the Secretary, that exemption continues in force,	38 39 40
(d) if the person is an individual, this Act continues to apply to that person in the same way as it applies to a funeral contribution fund that is a company, with any necessary changes.	41 42 43

(3)	The Secretary may exempt a person registered under this section from complying with such of the provisions of this Act or the regulations as the Secretary considers appropriate having regard to all of the circumstances in which the person carries on contributory funeral benefit business.	1 2 3 4
[5]	Section 34 Trustee under pre-arranged contract to be registered under this Act	5
	Insert after section 34 (1):	6
(2)	A person is exempt from the application of subsection (1) if:	7
(a)	the person is a friendly society within the meaning of the <i>Life Insurance Act 1995</i> of the Commonwealth, or	8 9
(b)	the person is a Crown cemetery trust within the meaning of the <i>Cemeteries and Crematoria Act 2013</i> .	10 11
[6]	Part 4, Division 1A	12
	Omit the Division. Insert instead:	13
	Division 1A Persons registered as pre-paid funeral funds on or after 30 November 2004 who were previously exempt	14 15
39A	Provisions applying to previously exempt persons who are registered to act as trustees under pre-paid contracts	16 17
(1)	This section applies to a person who, immediately before the repeal of section 39B by the <i>Regulatory and Other Legislation (Amendments and Repeals) Act 2016 (the Amendments and Repeals Act)</i> , was registered under that section to act as trustee of trust funds under a pre-paid contract.	18 19 20 21
(2)	The following provisions apply in relation to a person to whom this section applies:	22 23
(a)	the person continues to be registered to act as trustee of trust funds under a pre-paid contract (except if the person's registration is cancelled or during any period in which the person's registration is suspended),	24 25 26
(b)	the person's registration continues to be subject to any conditions to which it was subject immediately before the repeal of section 39B by the Amendments and Repeals Act,	27 28 29
(c)	if the person was exempt from complying with one or more provisions of this Act or the regulations because of an exemption granted by the Secretary, that exemption continues in force.	30 31 32
(3)	The Secretary may exempt a person registered under this section from complying with such of the provisions of this Act or the regulations as the Secretary considers appropriate having regard to all of the circumstances in which the person acts as trustee of trust funds under a pre-paid contract.	33 34 35 36
[7]	Section 40 Payment of money and giving of consideration under pre-paid contract to pre-paid funeral fund	37 38
	Insert after section 40 (3):	39
(4)	This section does not apply to a Crown cemetery trust that agrees to supply a funeral service under a pre-paid contract.	40 41
[8]	Section 66A Notices to show cause	42
	Omit "39B" from section 66A (1) (b) (ii). Insert instead "39A".	43

[9]	Section 75 Appeal against refusal to register funeral contribution fund or to approve alteration or addition of rules	1 2
	Omit “or a person to carry on contributory funeral benefit business under section 16B” from section 75 (1) (a).	3 4
[10]	Section 75 (1) (c)	5
	Omit “16C (5)”. Insert instead “16B (3)”.	6
[11]	Section 77 Appeal against refusal to register pre-arranged funeral fund or decision to cancel that registration etc	7 8
	Omit “or section 39B” from section 77 (1) (a).	9
[12]	Section 77 (1) (ba)	10
	Omit “39B (5)”. Insert instead “39A (3)”.	11
[13]	Section 82 Failure of Secretary to act on application deemed refusal	12
	Omit “(other than on application under section 16B)” from section 82 (1) (a).	13
[14]	Section 82 (1) (d)	14
	Omit “(other than on application under section 39A)”.	15
[15]	Section 82 (2)	16
	Omit the subsection.	17
[16]	Sections 125 and 126	18
	Omit the sections.	19
2.5	Pawnbrokers and Second-hand Dealers Act 1996 No 13	20
[1]	Section 10	21
	Omit the section. Insert instead:	22
	10 Duration of licence	23
	(1) A licence has effect for the term specified in the licence (not exceeding 3 years) unless it is sooner cancelled.	24 25
	(2) The suspension of a licence does not affect the term of the licence.	26
[2]	Section 43 Regulations	27
	Insert after section 43 (1) (g):	28
	(g1) the waiver or refund of the whole or any part of a fee chargeable for any service provided by the Secretary under this Act or the regulations,	29 30
[3]	Schedule 2 Savings and transitional provisions	31
	Insert at the end of clause 2 (1):	32
	any other Act that amends this Act	33

[4] Schedule 2	1
Insert at the end of the Schedule, with appropriate Part and clause numbering:	2
Part Provision consequent on enactment of Regulatory and Other Legislation (Amendments and Repeals) Act 2016	3
	4
	5
Duration of licences	6
Section 10, as in force immediately before its substitution by the <i>Regulatory and Other Legislation (Amendments and Repeals) Act 2016</i> , continues to have effect in relation to a licence in force immediately before that substitution.	7
	8
	9
2.6 Pawnbrokers and Second-hand Dealers Regulation 2015	10
[1] Clause 8A	11
Insert after clause 8:	12
8A Refund of application fees for certain 3-year licences	13
(1) This clause applies to an application fee paid by or on behalf of a person who has surrendered a licence granted under the Act or has died, but only if the term of the licence was 3 years.	14
	15
	16
(2) A person may apply to the Secretary for a refund of an application fee to which this clause applies if the person:	17
	18
(a) paid the application fee, or	19
(b) is the legal representative of a deceased person who paid the application fee, or	20
	21
(c) is applying for or on behalf of the person who paid the application fee.	22
(3) A person who makes an application under subclause (2) is:	23
	24
(a) if the surrender or death occurred not more than one year after the date of the grant, renewal or restoration of the licence—to be refunded two-thirds of the application fee (excluding the processing component) so paid, or	25
	26
	27
(b) if the surrender or death occurred more than one year but not more than 2 years after the date of the grant, renewal or restoration of the licence—to be refunded one-third of the application fee (excluding the processing component) so paid.	28
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(4) In this clause:	32
application fee means any of the following:	33
(a) an application fee for the grant of a new licence,	34
(b) an application fee for the renewal of a licence,	35
(c) an application fee for the restoration of a licence.	36
processing component of an application fee is the amount set out in Column 3 of Schedule 3 in relation to the fee.	37
	38

[2] Schedule 3

Omit the table to the Schedule. Insert instead:

Item	Column 1	Column 2	Column 3	Column 4
	Type of fee	Fixed component	Processing component	Total
1	Application for granting of licence—1 year	\$329	\$188	\$517
2	Application for granting of licence—3 years	\$987	\$188	\$1,175
3	Application for renewal of licence—1 year	\$329	\$44	\$373
4	Application for renewal of licence—3 years	\$987	\$44	\$1,031
5	Application for restoration of licence— 1 year	\$329	\$90	\$419
6	Application for restoration of licence— 3 years	\$987	\$90	\$1,077
7	Application for replacement of licence	Nil	\$45	\$45
8	Application for extract of register (per entry)	\$18	Nil	\$18

2.7 Residential Tenancies Act 2010 No 42

Section 159 Payment of bonds

Insert after section 159 (1):

- (1A) A landlord, landlord’s agent or any other person must not require or receive from a tenant a rental bond unless:
- (a) the landlord or landlord’s agent is registered as a user of the online rental bond service established under section 157A, and
 - (b) the tenant has been invited by the landlord or the landlord’s agent to provide an address that can be used to invite the tenant (using the online service) to use the online service to deposit the rental bond with the Secretary, and
 - (c) if the tenant has provided such an address:
 - (i) the landlord or landlord’s agent has invited the tenant (using the online service) to use the online service to deposit the rental bond with the Secretary, and
 - (ii) the tenant has been given a reasonable opportunity to use the online service to deposit the rental bond with the Secretary or has declined the invitation.

Schedule 3 Repeals

1 Repeals by way of regulatory reform

The following Acts or instruments, or provisions of Acts or instruments, are repealed:

Act or instrument	Provisions repealed
<i>Architects Act 2003</i> No 89	Section 36 (2)
<i>Architects Regulation 2012</i>	Clause 15
<i>Building Professionals Act 2005</i> No 115	Section 21 (2) (c)
<i>Photo Card Act 2005</i> No 20	Section 6 (1) (c) and (2)
<i>Road Transport (Driver Licensing) Regulation 2008</i>	Clause 47 (2)

2 Repeal of redundant Acts, instruments and provisions

The following Acts or instruments, or provisions of Acts or instruments, are repealed:

Act or instrument	Provisions repealed
<i>Appropriation Act 2015</i> No 9	Whole Act
<i>Appropriation (Budget Variations) Act 2015</i> No 11	Whole Act
<i>Appropriation (Parliament) Act 2015</i> No 10	Whole Act
<i>Compensation Court Repeal Act 2002</i> No 23	Whole Act
<i>Compensation Court Repeal (Transitional) Regulation 2003</i>	Whole Regulation
<i>Crimes (Administration of Sentences) Regulation 2014</i>	Clause 317 (2) (a), (b), (d) and (e)
<i>Energy Services Corporations (Dissolution of Energy Distributors) Regulation 2001</i>	Whole Regulation
<i>Marine Safety Act 1998</i> No 121	Schedule 3
<i>Regulatory Reform and Other Legislative Repeals Act 2015</i> No 48	Whole Act
<i>State Environmental Planning Policy (Infrastructure) 2007</i>	Clauses 9 (1) (a), 10 and 88 (2) and Schedule 4
<i>Statute Law (Miscellaneous Provisions) Act 2014</i> No 33	Whole Act

3 Repeal of uncommenced amending Acts and amending provisions that are no longer required because they have been superseded or for other reasons

The following Acts or provisions of Acts are repealed:

Act	Provisions repealed
<i>Classification (Publications, Films and Computer Games) Enforcement Amendment Act 2001</i> No 95	Whole Act
<i>Licensing and Registration (Uniform Procedures) Amendment (Photo ID) Act 2004</i> No 105	Whole Act

Act	Provisions repealed
<i>Photo Card Act 2005</i> No 20	Schedule 2
<i>State Insurance and Care Governance Act 2015</i> No 19	Schedule 5

Schedule 4	Amendments consequent on other repeals and on the abolition of the Compensation Court	1
		2
4.1	District Court Act 1973 No 9	3
[1]	Part 3, Division 8A, heading	4
	Omit “ Residual jurisdiction ”. Insert instead “ Compensation jurisdiction ”.	5
[2]	Section 142G Definition	6
	Omit the definition of <i>residual jurisdiction</i> and the note to the definition. Insert instead:	7
	<i>compensation jurisdiction</i> means the following jurisdiction conferred on the Court:	8
		9
	(a) jurisdiction to examine, hear and determine all coal miner matters (within the meaning of the <i>Workplace Injury Management and Workers Compensation Act 1998</i>) except matters arising under Part 5 of the <i>Workers Compensation Act 1987</i> ,	10
		11
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		13
	(b) jurisdiction to make determinations under section 216A of the <i>Police Act 1990</i> ,	14
		15
	(c) jurisdiction to make determinations under section 21 of the <i>Police Regulation (Superannuation) Act 1906</i> ,	16
		17
	(d) jurisdiction to make determinations under section 29 of the <i>Sporting Injuries Insurance Act 1978</i> ,	18
		19
	(e) jurisdiction to make determinations under section 16 or 30 of the <i>Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987</i> ,	20
		21
		22
	(f) jurisdiction to hear and determine appeals under section 8I of the <i>Workers’ Compensation (Dust Diseases) Act 1942</i> .	23
		24
[3]	Section 142H Non-application of other Divisions	25
	Omit “(except for Subdivisions 6 and 7 of Division 3), and nothing in Division 9 or 9A,”.	26
[4]	Part 3, Division 8A, Subdivision 2, heading	27
	Omit “ residual jurisdiction ”. Insert instead “ compensation jurisdiction ”.	28
[5]	Section 142I Powers of Court when exercising residual jurisdiction	29
	Omit the section.	30
[6]	Sections 142J (1) and (2), 142K, 142L, 142N (1) and (2) and 142P (1) and (2) (a)	31
	Omit “residual jurisdiction” wherever occurring.	32
	Insert instead “compensation jurisdiction”.	33

[7] Schedule 3 Savings and transitional provisions consequent on amendments to this Act	1 2
Insert at the end of the Schedule, with appropriate Part and clause numbering:	3
Part Provisions consequent on repeal of Compensation Court Repeal Act 2002 by Regulatory and Other Legislation (Amendments and Repeals) Act 2016	4 5 6
Service and seniority of Judges	7
(1) If a Judge of the Compensation Court is appointed as a Judge of the District Court, the Judge is to have seniority, rank and precedence as a Judge of the District Court as if the date of his or her commission as a Judge of the District Court were the date of his or her commission as a Judge of the Compensation Court.	8 9 10 11 12
(2) Service as a Judge of the Compensation Court is to be reckoned for all purposes as service as a Judge of the District Court in the case of a Judge who is appointed as a Judge of the District Court.	13 14 15
(3) In this clause, a reference to a Judge of the Compensation Court is a reference to a person appointed as a Judge of the District Court by section 5 (1) (a) of the <i>Compensation Court Repeal Act 2002</i> .	16 17 18
(4) Subclauses (1) and (2) re-enact (with minor modifications) section 8 (2) and (4) of the <i>Compensation Court Repeal Act 2002</i> and are transferred provisions to which section 30A of the <i>Interpretation Act 1987</i> applies.	19 20 21
4.2 Energy Services Corporations Act 1995 No 95	22
[1] Schedule 2A Transferred provisions—dissolution of energy services corporations	23
Insert after clause 1:	24
2 Energy Services Corporations (Dissolution of Energy Distributors) Regulation 2001	25 26
[2] Schedule 2A, clause 2 (as inserted by item [1])	27
Transfer clause 7 (1)–(4) of the <i>Energy Services Corporations (Dissolution of Energy Distributors) Regulation 2001</i> (which is repealed by clause 2 of Schedule 3 to this Act) to clause 2 of Schedule 2A, as clause 2 (1)–(4).	28 29 30
[3] Schedule 2A, clause 2 (1) (as inserted by item [2])	31
Insert “ Essential Energy may act in own name or in name of Great Southern Energy or Advance Energy ” as the heading to the subclause.	32 33
[4] Schedule 2A, clause 2 (5)	34
Transfer clause 8 of the <i>Energy Services Corporations (Dissolution of Energy Distributors) Regulation 2001</i> to clause 2 of Schedule 2A as clause 2 (5), with the heading “ References to Great Southern Energy and Advance Energy ”.	35 36 37
[5] Schedule 2A, clause 2 (1) and (5) (as inserted by items [2] and [4])	38
Omit “the commencement of this Regulation” wherever occurring.	39
Insert instead “5 July 2001”.	40

[6] Schedule 2A, clause 2 (1) and (3)–(5) (as inserted by items [2] and [4])	1
Omit “Country Energy” wherever occurring. Insert instead “Essential Energy”.	2
[7] Schedule 2A, clause 2 (6)	3
Transfer clause 7 (5) of the <i>Energy Services Corporations (Dissolution of Energy Distributors) Regulation 2001</i> to clause 2 of Schedule 2A as clause 2 (6).	4 5
[8] Schedule 2A, clause 2 (6) (as inserted by item [7])	6
Omit “to the Act”.	7
[9] Schedule 2A, clause 2 (7)	8
Insert after clause 2 (6) (as inserted by item [7]):	9
(7) Transferred provisions to which Interpretation Act 1987 applies	10
Subclauses (1)–(6) re-enact (with minor modifications) clauses 7 and 8 of the <i>Energy Services Corporations (Dissolution of Energy Distributors) Regulation 2001</i> and are transferred provisions to which section 30A of the <i>Interpretation Act 1987</i> applies.	11 12 13 14
4.3 Judicial Officers Act 1986 No 100	15
Section 44C Immunity of officers performing duties of judicial officers	16
Omit “a Commissioner of the Compensation Court.”.	17
4.4 Supreme Court Act 1970 No 52	18
[1] Section 46A Certain appeals may be heard by 2 Judges of Appeal	19
Omit section 46A (1) (b). Insert instead:	20
(b) from the District Court (in respect of any matter dealt with in the compensation jurisdiction of that Court), where the appeal relates solely to the amount of compensation awarded by that Court, or	21 22 23
[2] Section 46A (8)	24
Insert after section 46A (7):	25
(8) In this section:	26
<i>compensation jurisdiction</i> of the District Court has the same meaning as in Division 8A of Part 3 of the <i>District Court Act 1973</i> .	27 28
4.5 Workers Compensation Act 1987 No 70	29
[1] Schedule 6 Savings, transitional and other provisions	30
Omit “Registrar” wherever occurring in clause 3 (1) and (2) of Part 18D.	31
Insert instead “Principal Registrar”.	32

[2] Schedule 6, Part 18D

Insert after clause 3 (3):

(4) In this clause:

Principal Registrar of the District Court means the registrar of the District Court for Sydney.

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