

Passed by both Houses



New South Wales

Statute Law (Miscellaneous Provisions) Bill (No 2) 2009

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I certify that this PUBLIC BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

Legislative Council
2009

Clerk of the Parliaments



New South Wales

Statute Law (Miscellaneous Provisions) Bill (No 2) 2009

Act No , 2009

An Act to repeal certain Acts and to amend certain other Acts and instruments in various respects and for the purpose of effecting statute law revision; and to make certain savings.

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

This Act is the *Statute Law (Miscellaneous Provisions) Act (No 2) 2009*.

2 Commencement

- (1) This Act commences on 8 January 2010, except as provided by this section.
- (2) The amendments made by the Schedules to this Act commence on the day or days specified in those Schedules in relation to the amendments concerned. If a commencement day is not specified, the amendments commence on 8 January 2010.

3 Repeal of this Act

- (1) A subschedule of Schedule 1, 2, 3, 4 or 5 is repealed on the day following the day on which all of the provisions of the subschedule have commenced (except as provided by subsection (2)).
- (2) If a subschedule of Schedule 1, 2, 3, 4 or 5 commences before the date of assent to this Act, the subschedule is repealed on the day after the date of assent to this Act.
- (3) The repeal by this section of any such subschedule does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by those subschedules.

4 Explanatory notes

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

Schedule 1 Minor amendments

1.1 Associations Incorporation Act 2009 No 7

Section 34 Public officer

Insert after section 34 (6):

- (7) If there is any change in the address of the public officer of an association, the public officer must notify the Director-General, in the approved form, of the new address within 28 days after the change occurs.

Maximum penalty: 1 penalty unit.

Explanatory note

The proposed amendment to the (uncommenced) *Associations Incorporation Act 2009* (**the Act**) requires the public officer of an association registered under the Act to notify the Director-General of any change in the public officer's address within 28 days of the change occurring. The penalty for contravening the requirement is 1 penalty unit (currently, \$110). The same requirement and penalty are currently provided for in the *Associations Incorporation Act 1984*, but with a 14-day period for notification.

1.2 Building Professionals Act 2005 No 115

Section 63 Accredited certifiers to have required insurance

Omit section 63 (3). Insert instead:

- (3) Subsection (1) does not apply to the exercise of the functions of a certifying authority by an accredited certifier if the certifier is employed by a council and is exercising the functions on the council's behalf, whether within or beyond its area.

Explanatory note

Section 63 (1) of the *Building Professionals Act 2005* (**the Act**) makes it an offence for an accredited certifier to exercise the functions of a certifying authority or hold out that the accredited certifier has the required insurance unless the accredited certifier is covered by insurance that complies with the regulations or, in the case of an accredited certifier who is employed by a local council to exercise those functions, is covered by the council's general insurance policy.

As some local councils have arrangements with other local councils to "self insure" rather than to insure with insurance companies, they do not hold general insurance policies. Accordingly, the proposed amendment to the Act provides that an accredited certifier employed by a council and exercising the functions of a certifying authority on the local council's behalf is exempt from the requirement in section 63 (1) of the Act to be covered by the prescribed insurance.

1.3 Building Professionals Amendment Act 2008 No 37

[1] Schedule 1 Principal amendments

Omit proposed section 5 (1A) from Schedule 1 [5]. Insert instead:

- (1A) An application for accreditation to carry out certification work only on behalf of councils may not be made except on the recommendation of a council.

[2] Schedule 1 [11]

Omit “a particular council” from proposed section 6A (1).

Insert instead “councils”.

[3] Schedule 1 [17]

Omit “particular” from proposed section 8 (2) (b1).

Explanatory note

The proposed amendments to the *Building Professionals Amendment Act 2008* amend uncommenced amendments to the *Building Professionals Act 2005* that provide for a class of accreditation that is limited to exercising the functions of an accredited certifier as an employee of a particular local council. An application for such accreditation can only be made on the recommendation of the particular local council concerned. The proposed amendments remove the references to “particular” from those provisions to enable that class of accredited certifier to exercise functions for any local council and not just the local council that recommended the application for accreditation.

1.4 Commission for Children and Young People Act 1998 No 146

Section 33 Definitions

Insert “and juvenile correctional centres (within the meaning of the *Crimes (Administration of Sentences) Act 1999*)” after “*Children (Detention Centres) Act 1987*” in paragraph (a) (iv) of the definition of *child-related employment* in section 33 (1).

Explanatory note

The proposed amendment to the *Commission for Children and Young People Act 1998 (the Act)* expands the definition of *child-related employment* so that the provisions of the Act that prohibit certain persons from engaging in child-related employment, and require background checks to be carried out, extend to employment in a juvenile correctional centre. Currently, child-related employment includes employment in child detention centres. However, children may also be detained in juvenile correctional centres, which are administered by the Commissioner of Corrective Services.

1.5 Dangerous Goods (Road and Rail Transport) Act 2008 No 95

[1] Section 4 Definitions

Omit the definition of *authorised officer* from section 4 (1). Insert instead:

authorised officer means:

- (a) an authorised officer appointed under section 17, or
- (b) a police officer.

[2] Section 17 Appointment of authorised officers

Omit section 17 (1). Insert instead:

- (1) A Competent Authority may appoint a person, or persons included in a class of persons, to be an authorised officer or authorised officers.

[3] Section 20 Competent Authority may delegate functions

Insert after section 20 (a):

- (a1) if the Competent Authority is the EPA, a police officer, or

[4] Section 21 General powers of authorised officers who are police officers or appointed by EPA: application of Chapter 7 of Protection of the Environment Operations Act 1997

Insert “who is a police officer or who is” before “appointed by the EPA” wherever occurring in section 21 (1) and (2) (a).

[5] Section 34 Review of notices by Competent Authority

Omit section 34 (8). Insert instead:

- (8) In this section, *relevant Competent Authority* means:
 - (a) the Competent Authority that appointed the authorised officer who issued the notice concerned, or
 - (b) if the authorised officer who issued the notice is a police officer, the EPA.

[6] Section 65 Protection from liability

Omit section 65 (2). Insert instead:

- (2) A liability that would, apart from this section, attach to an authorised officer attaches instead:
 - (a) to the Competent Authority that appointed the authorised officer, or
 - (b) if the authorised officer is a police officer, to the EPA.

[7] Section 66 Confidentiality and disclosure of information

Omit “or a police officer” from section 66 (2) (d).

Explanatory note

Item [1] of the proposed amendments to the *Dangerous Goods (Road and Rail Transport) Act 2008 (the Act)* extends the definition of **authorised officer** for the purposes of the Act to include police officers. Currently, the term applies only to persons appointed under the Act as authorised officers by a **Competent Authority**, being the Environment Protection Authority (**the EPA**) or the WorkCover Authority.

Item [4] enables an authorised officer who is a police officer to exercise the same general powers under the Act as authorised officers appointed under the Act by the EPA.

Items [3], [5] and [6] are consequential amendments that make the EPA the Competent Authority in relation to authorised officers who are police officers in provisions of the Act dealing with the delegation of a Competent Authority’s functions under the Act to authorised officers (item [3]), the review by a Competent Authority of certain notices issued under the Act by authorised officers (item [5]) and the vicarious liability of a Competent Authority for the acts or omissions of authorised officers (item [6]).

Item [7] is a consequential amendment that removes a redundant reference to a police officer in a provision that refers to an authorised officer and a police officer in the alternative.

Item [2] of the proposed amendments allows a Competent Authority to appoint persons included in a class of persons to be authorised officers.

1.6 Environmental Planning and Assessment Act 1979 No 203

[1] Section 34B Special provision for development in Sydney water catchment relating to water quality

Omit “*Water Management Act 2000*” from section 34B (4) (a).

Insert instead “*Sydney Water Catchment Management Act 1998*”.

[2] Section 53 Minister may make environmental planning instruments for local areas (LEPs)

Omit “(or delegate)” from section 53 (1).

[3] Section 59 Making of local environmental plan by Minister

Omit “(or the Minister’s delegate)” wherever occurring in section 59 (2)–(4).

[4] Section 59 (2) (a) and (4)

Omit “(or delegate)” wherever occurring.

[5] Section 145B Exemption from liability—contaminated land

Insert “, including a planning proposal for the proposed environmental planning instrument” after “instrument” in section 145B (2) (a).

[6] Section 145B (2) (c)

Insert “and any application under Part 3A” after “development application”.

Explanatory note

State environmental planning policies declaring Sydney drinking water catchment

Section 34B of the *Environmental Planning and Assessment Act 1979 (the EP&A Act)* requires the approval of the Minister administering the *Water Management Act 2000* before the making of a State environmental planning policy declaring a Sydney drinking water catchment is recommended by the Minister administering the EP&A Act. Item [1] of the proposed amendments replaces the reference to the Minister administering the *Water Management Act 2000* with a reference to the Minister administering the *Sydney Water Catchment Management Act 1998*, as being the Minister whose approval is required.

Delegation of Minister’s power to make local environmental plans

Section 23 of the EP&A Act provides comprehensively for the delegation of functions under that Act, including the delegation of Ministerial functions. Under that section, any act or thing done or suffered while acting under the power of a delegation from the Minister has the same force and effect as if the act or thing had been done or suffered by the Minister. Items [2]–[4] remove unnecessary references to the Minister’s delegate in sections of the EP&A Act dealing with the making of local environmental plans.

Exemption from liability relating to contaminated land

Section 145B of the EP&A Act provides for exemption from liability for contaminated land for actions in good faith taken in exercising a planning function under the EP&A Act. Items [5] and [6] include, as planning functions to which the exemption applies, the preparation of a planning proposal (required under the EP&A Act before the making of an environmental planning instrument) and (in addition to the existing function of processing and determination of development applications) the processing and determination of applications under Part 3A of the EP&A Act. The proposed amendments correct inadvertent admissions.

1.7 Environmental Planning and Assessment Amendment Act 2008 No 36

[1] Schedule 1 Amendments relating to environmental planning

Omit the uncommenced part of Schedule 1.1 [11] (namely, proposed section 56 (2) (g) and the sentence following that paragraph).

[2] Schedule 2 Amendments relating to development assessment

Omit “or (b)” from proposed section 78A (8) (c) in Schedule 2.1 [17].

Explanatory note

Delegation of function relating to making of environmental planning instruments

Section 23 of the *Environmental Planning and Assessment Act 1979 (the EP&A Act)* provides comprehensively for the delegation of functions under that Act, including the delegation of Ministerial functions. Item [1] of the proposed amendments to the *Environmental Planning and Assessment Amendment Act 2008* omits an uncommenced amendment which would require that the Minister determine whether or not to delegate a plan-making function when reviewing a plan-making proposal. Any

such determination and delegation may be made under the existing section 23 of the EP&A Act.

Documents to accompany development applications

Section 78A (8) of the EP&A Act requires certain development applications to be accompanied by an environmental impact statement. Item [2] ensures that a statement of environmental effects is required, even where a species impact statement is also required.

1.8 Fisheries Management Act 1994 No 38

[1] Sections 185 and 186

Omit “is infected with” wherever occurring.

Insert instead “is, or is infected with,”.

[2] Section 187 Regulations relating to diseased fish and marine vegetation

Omit “is infected or suspected of being infected with” from section 187 (2) (a).

Insert instead “is, or is suspected of being, a declared disease or infected with”.

[3] Section 187 (2) (c)

Insert “the presence or suspected presence of a declared disease or” after “officer of”.

Explanatory note

The proposed amendments to the *Fisheries Management Act 1994 (the Act)* extend references in the Act to fish or marine vegetation infected with a declared disease (being a disease declared under the Act to be subject to certain prohibitions and quarantine provisions) to accommodate the possibility (provided for in the Act) that fish and marine vegetation may themselves be declared to be a disease if they are a parasite or pest.

1.9 Industrial Relations Amendment (Jurisdiction of Industrial Relations Commission) Act 2009 No 32

[1] Schedule 2 Amendment of other legislation

Omit “Sections 123 (1), 124 (1) and 141 (1)” from Schedule 2.16 [1].

Insert instead “Sections 123 (1) and 124 (1)”.

[2] Schedule 2.16 [5]

Omit “Sections 124 (2) and 141 (2)”. Insert instead “Section 124 (2)”.

Commencement

The amendments commence, or are taken to have commenced, immediately before the commencement of Schedule 2.16 to the *Industrial Relations Amendment (Jurisdiction of Industrial Relations Commission) Act 2009*.

Explanatory note

The proposed amendments to the *Industrial Relations Amendment (Jurisdiction of Industrial Relations Commission) Act 2009* prevent certain amendments made by that Act to section 141 of the *Rail Safety Act 2008* (which would otherwise become unincorporable on the commencement of amendments elsewhere in this Schedule that are proposed to be made to that section) from taking effect.

1.10 Interpretation Act 1987 No 15

[1] Section 26 Exercise of certain powers between enactment and commencement of Acts and making and commencement of instruments

Insert after section 26 (3):

- (4) This section applies to an instrument that does not commence on its making in the same way as it applies to an Act that does not commence on its enactment. For that purpose, a reference in this section to an amendment of some other Act includes a reference to an amendment of some other instrument.

[2] Section 45C Publication on NSW legislation website

Insert after section 45C (5):

- (6) For the purpose of facilitating public access to instruments on the NSW legislation website, the Parliamentary Counsel may determine the following matters:
- (a) the requirements for lodging instruments required to be published on that website,
- (b) standard technical requirements with respect to the drafting of those instruments.

[3] Section 68 References to amended Acts and instruments

Omit “subsection (3)” from section 68 (3A). Insert instead “this section”.

[4] Section 68 (5)

Insert after section 68 (4):

- (5) This section extends to a reference to a repealed Act or instrument that is replaced by Commonwealth legislation (including legislation enacted in reliance on a referral of legislative power by the State).

Explanatory note

Exercise of certain powers between making and commencement of instruments

The effect of item [1] of the proposed amendments to the *Interpretation Act 1987 (the Act)* is to enable instruments of a legislative or administrative character to be made under an uncommenced regulation or other instrument that would, if it had commenced, confer a power to make such an instrument. The purpose of the provision

being applied (which currently applies only in relation to uncommenced Acts) is to enable certain acts to be done, such as the making of an appointment, where the provision enabling the act to be done has been made but has not yet commenced.

Authority relating to publication of legislation on NSW website

Item [2] amends section 45C of the Act relating to the publication of legislation on the NSW legislation website. The making of regulations and certain other statutory instruments is now required to be published on the NSW legislation website maintained by the Parliamentary Counsel's Office (instead of in the Gazette). Schedule 3 contains amendments to legislation to extend the requirement for publication on the website to additional categories of statutory instruments (as part of a staged program for the publication on the website of statutory instruments of a legislative nature). Apart from the publication of instruments, the website also provides public access to up-to-date in force versions of regulations and other statutory instruments.

For the purpose of facilitating public access to those statutory instruments, item [2] authorises the Parliamentary Counsel to determine:

- (a) the requirements for lodging instruments required to be published on that website (such as the email, fax or other address to which they are to be sent; and special arrangements for urgent publications), and
- (b) standard technical requirements with respect to the drafting of those instruments (such as requirements for a unique name or citation; requirements relating to the electronic file type; and requirements relating to standard numbering and other formatting used in NSW legislation).

References to repealed Acts or instruments re-enacted or remade in another jurisdiction

Item [4] provides that the provisions of section 68 of the Act that require references to repealed Acts and instruments to be construed as references to any re-enacted Act or remade instrument extend to re-enacting or remaking in another jurisdiction. This ensures the provisions will apply where the State refers powers to the Commonwealth and a State law is replaced by a Commonwealth law.

Item [3] makes an amendment consequential on that made by item [4].

1.11 Local Government Act 1993 No 30

Section 733 Exemption from liability—flood liable land and land in coastal zone

Omit “or development” from section 733 (3) (a).

Insert instead “, including a planning proposal for the proposed environmental planning instrument, or a development”.

Explanatory note

Section 733 of the *Local Government Act 1993* (**the Act**) exempts councils from liability for actions in good faith in exercising a planning or local government function relating to flooding or the likelihood of flooding or coastline hazards.

The effect of the proposed amendment to the Act is to include within the exemption the preparation of a planning proposal that, under section 55 of the *Environmental Planning and Assessment Act 1979*, is required before the making of an environmental planning instrument. This amendment is consequential on the changes to the plan-making procedures made by the *Environmental Planning and Assessment Amendment Act 2008* and by oversight was not made by that Act.

1.12 Marine Safety Act 1998 No 121

[1] Schedule 1 Alcohol and drug use—random breath testing and related matters

Omit “blood, and” from clause 7 (3) (d). Insert instead “blood.”.

[2] Schedule 1, clause 7 (3) (e)

Omit the paragraph.

[3] Schedule 1, clause 7 (4)

Omit the subclause. Insert instead:

- (4) The medical practitioner must, as soon as reasonably practicable after the sample of blood is taken, arrange for the sample to be submitted to a laboratory prescribed by the regulations for analysis by an analyst to determine the concentration of alcohol in the blood.

[4] Schedule 1, clauses 7 (5A), 15 (5A) and 20 (5A)

Insert after clauses 7 (5), 15 (5) and 20 (5), respectively:

- (5A) An authorised officer may make the arrangements referred to in subclause (4). The making of such arrangements under this subclause operates to discharge the duty provided for in subclause (4) to make those arrangements.

[5] Schedule 1, clause 12 (5A)

Insert after clause 12 (5):

- (5A) The making of arrangements under subclause (5) for analysis of a blood sample to determine the concentration of alcohol in the blood operates to discharge the duty referred to in subclause (2) to make those arrangements.

Explanatory note

Items [1]–[5] make amendments to the *Marine Safety Act 1998* parallel to those made by items [1]–[4], [6] and [7] of the proposed amendments to the *Road Transport (Safety and Traffic Management) Act 1999* elsewhere in this Schedule.

1.13 Protection of the Environment Operations Act 1997 No 156

[1] Schedule 1 Scheduled activities

Omit the definition of *general chemicals storage* from clause 9 (1).

Insert instead:

general chemicals storage, meaning the storage or packaging in containers, bulk storage facilities or stockpiles of any chemical substance classified as a dangerous good in the *Transport of Dangerous Goods Code*, other than the following:

- (a) petroleum or petroleum products,
- (b) radioactive substances within the meaning of the *Radiation Control Act 1990*.

[2] Schedule 1, clause 13 (2)

Omit “concrete or”.

Explanatory note

General chemicals storage is an activity in relation to which a licence under the *Protection of the Environment Operations Act 1997 (the Act)* is required in specified circumstances. Item [1] of the proposed amendments amends the definition of *general chemicals storage* to reinstate a broad description of the chemical substances to which the term applies (in line with the broad description of the chemicals to which the term applied in the previous definition of the term). The current definition of the term (which was inserted in recent amendments to the Act) incorrectly refers to the storage or packaging of chemicals classified as dangerous goods in the *Transport of Dangerous Goods Code* (as defined in the Act) as being excluded from the term.

Item [2] omits redundant wording from a provision of the Act applying to *concrete works* (being a term that previously included the production of both pre-mixed concrete and concrete products, but which now includes only the latter).

1.14 Public Finance and Audit Act 1983 No 152

[1] Section 27B The Auditor-General

Insert after section 27B (6):

- (6A) Towards defraying the costs and expenses of any particular audit or audit-related service provided at the request of both Houses of Parliament or of a Minister under subsection (3), there is payable to the Auditor-General, out of funds available for the expenditure of Parliament or of the Minister (as the case requires), such amounts at such times as the Treasurer decides.

[2] Section 43A General audit of former statutory bodies

Insert at the end of section 43A (2) (b):

and

- (c) a statement referred to in section 41C (1B) in relation to the financial report is to be prepared and submitted,

[3] Section 43A (3)

Insert “and statement” after “The financial report”.

[4] Section 43A (3)

Insert “, or by any entity that controlled the body” after “continuation of the body”.

Explanatory note

Item [1] of the proposed amendments to the *Public Finance and Audit Act 1983* allows the Auditor-General to recoup his or her costs of audit from Parliament or a Minister if Parliament or a Minister requests a particular audit or audit-related service.

Items [2]–[4] relate to the audit of statutory bodies that have ceased to exist. Items [2] and [3] ensure that the former managers of the body or a successor of the body may, in addition to preparing and submitting the last financial report for the body, prepare and submit the necessary statement about the accuracy of the report to the Auditor-General. Item [4] extends the provisions to a controlling entity of the former body.

1.15 Rail Safety Act 2008 No 97

[1] Section 132 Proceedings for offences

Omit section 132 (1) and (2). Insert instead:

- (1) Proceedings for an offence under this Act or the regulations may be dealt with summarily:
- (a) before the Local Court (if the offence is under a regulation made under section 131), or
 - (b) before either the Local Court or the Industrial Court of New South Wales (if the offence is under a regulation made under Schedule 1), or
 - (c) before the Industrial Court of New South Wales (in any other case).

[2] Section 132 (3)

Omit the subsection.

[3] Section 141 Enforcement of undertakings

Omit “Local Court constituted by an Industrial Magistrate” from section 141 (1).

Insert instead “Industrial Court of New South Wales”.

[4] Section 141 (2)

Omit “the Local Court”. Insert instead “the Court”.

Commencement

The amendments commence, or are taken to have commenced, on the commencement of Schedule 1 [15] to the *Industrial Relations Amendment (Jurisdiction of Industrial Relations Commission) Act 2009*.

Explanatory note

The *Rail Safety Act 2008 (the Act)* provides that proceedings for offences under the Act or its regulations may be dealt with by the Local Court or the Industrial Court of New South Wales (*the Industrial Court*). Item [1] of the proposed amendments to the Act particularises which of these proceedings may be dealt with only by the Local Court (being proceedings for offences relating to passenger conduct and the regulation and control of trains, drivers and railways), which may be dealt with by either the Local Court or the Industrial Court (being offences relating to the presence of alcohol or drugs in persons carrying out rail safety work, and refusals or failures to undergo alcohol or drug tests) and which may be dealt with only by the Industrial Court (being proceedings for all other offences under the Act and its regulations). Item [1] also omits a provision as a consequence of the amendment just described.

Item [2] omits a provision that will become redundant on the commencement of certain amendments to the *Industrial Relations Act 1996*. The provision allows proceedings for offences under the Act or its regulations that are dealt with by the Local Court (other than certain offences relating to passenger conduct and the regulation and control of trains, drivers and railways) to be appealed to the Full Bench of the Industrial Court.

Item [3] updates a reference to the Court that may enforce certain voluntary undertakings given under the Act, as a consequence of (uncommenced) amendments to the *Industrial Relations Act 1996* that abolish the office of Industrial Magistrate. Item [4] makes a consequential amendment.

1.16 Retirement Villages Amendment Act 2008 No 121

[1] Schedule 1 Amendments

Omit Schedule 1 [56].

[2] Schedule 1 [57]

Omit the item. Insert instead:

[57] Section 77 (4)

Omit the subsection. Insert instead:

- (4) An appointment of the operator of a retirement village or close associate of the operator of a retirement village as a proxy is of no effect.

Explanatory note

Item [1] of the proposed amendments to the *Retirement Villages Amendment Act 2008* repeals an uncommenced amendment to the *Retirement Villages Act 1999* (**the principal Act**) that would list the kinds of persons who can be appointed as the proxy of a retirement village resident to vote at resident meetings.

Repealing the amendment will retain the existing provision of the principal Act that allows any person to be appointed as a proxy (except the retirement village operator or a close associate of the operator).

Item [2] makes a consequential change to a related uncommenced amendment to the principal Act (by deleting a provision that will be redundant as a result of item [1]).

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

[1] Section 18 Procedure to be followed for breath analysis

Omit “blood, and” from section 18 (3) (d). Insert instead “blood.”.

[2] Section 18 (3) (e)

Omit the paragraph.

[3] Section 18 (4)

Omit the subsection. Insert instead:

- (4) The medical practitioner must, as soon as reasonably practicable after the sample of blood is taken, arrange for the sample to be submitted to a laboratory prescribed by the regulations for analysis by an analyst to determine the concentration of alcohol in the blood.

[4] Sections 18 (5A), 18E (5A) and 24B (5A)

Insert after sections 18 (5), 18E (5) and 24B (5), respectively:

- (5A) A police officer may make the arrangements referred to in subsection (4). The making of such arrangements under this subsection operates to discharge the duty provided for in subsection (4) to make those arrangements.

[5] Section 18D Providing an oral fluid sample for oral fluid analysis following arrest

Insert after section 18D (4):

- (4A) A police officer may carry out an oral fluid test on a portion of an oral fluid sample provided under subsection (1) before dealing with the remaining portion of the sample in accordance with subsection (4).
- (4B) If an oral fluid test is carried out under subsection (4A) on a portion of an oral fluid sample, a reference in this Division and sections 33A and 33B to the sample that is required under subsection (4) to be submitted to a laboratory is taken to be a reference to the remaining portion of the sample.

[6] Section 23 Analysis of samples of blood taken under this Division

Insert after section 23 (5):

- (5A) The making of arrangements under subsection (5) for analysis of a blood sample to determine the concentration of alcohol in the blood operates to discharge the duty referred to in subsection (2) to make those arrangements.

[7] Section 27 Procedure for taking samples following arrest

Insert after section 27 (2C):

- (2D) A police officer may make the arrangements referred to in subsection (2B). The making of such arrangements under this subsection operates to discharge the duty referred to in subsection (2B) to make those arrangements.

[8] Dictionary, clause 1

Omit “methylenedioxymethylamphetamine” from paragraph (c) of the definition of *prescribed illicit drug*.

Insert instead “3,4–methylenedioxymethylamphetamine”.

Explanatory note

Duty to arrange for blood samples to be submitted to prescribed laboratory

Items [2] and [3] of the proposed amendments to the *Road Transport (Safety and Traffic Management) Act 1999 (the Act)* replace a requirement in the Act for a police officer to arrange for certain blood samples taken under the Act to be submitted to a prescribed laboratory for analysis, with a requirement for the medical practitioner who took the sample to make those arrangements (in line with the duty imposed in comparable provisions of the Act on health care workers who take blood samples). Item [1] makes a consequential amendment.

However, items [4], [6] and [7] provide that the duty of a health care worker under the Act to arrange for a blood or urine sample to be submitted to a prescribed laboratory for analysis is discharged if a police officer makes those arrangements instead.

Oral fluid testing

Under the Act, police officers may conduct random oral fluid drug testing of drivers for specified illicit drugs, arrest a person who fails or refuses to undergo the test and require the arrested person to provide an oral fluid sample for analysis by an analyst at a prescribed laboratory.

Item [5] confirms the current practice of police of conducting a further oral fluid test on a portion of the oral fluid sample. The further test is conducted at the roadside by means of an approved oral fluid testing device that more accurately indicates the presence of illicit drugs than the approved oral fluid testing device used in the initial roadside test. The purpose of conducting the further oral fluid test is to determine whether to proceed to take action (under the *Law Enforcement (Powers and Responsibilities) Act 2002*) to prohibit the person from driving a motor vehicle for a period of 24 hours.

Item [5] also inserts an interpretative provision as a consequence of the above proposed amendment.

Definition

Item [8] corrects a reference in a definition in the Act to the chemical name for the drug commonly known as "ecstasy".

1.18 Strata Schemes Management Act 1996 No 138

Section 183 Order for reallocation of unit entitlements

Insert after section 183 (8):

(9) **Lodgment of order**

The owners corporation must ensure that a copy of an order made by the Tribunal under this section is lodged in the Registrar-General's office no more than 2 years after the order is made.

Note. Section 209 contains provisions with respect to the lodgment of an order made under this section.

- (10) Nothing in this section prevents a person referred to in subsection (8) from lodging a copy of an order made under this section.

Explanatory note

The proposed amendment to the *Strata Schemes Management Act 1996* requires the owners corporation to ensure that a copy of an order for the reallocation of unit entitlements in respect of a strata scheme is lodged in the Registrar-General's office no more than 2 years after the order is made.

A strata lot owner, the owners corporation, the lessor of a leasehold strata scheme or the local council may apply to the Consumer, Trader and Tenancy Tribunal for an order to reallocate unit entitlements in a strata scheme. Currently, there is no requirement for such an order to be lodged with the Registrar-General once it is made by the Tribunal. The proposed amendment requires the owners corporation to ensure that a copy of the order is lodged so that the Registrar-General can amend the schedule of unit entitlements in the folio of the Register within a reasonable time frame after the making of the order.

1.19 Travel Agents Act 1986 No 5

Section 33 Certain particulars to be displayed

Omit “in the prescribed form that contains the prescribed particulars and”.

Insert instead “in the form approved by the Director-General that”.

Explanatory note

The proposed amendment to the *Travel Agents Act 1986 (the Act)* replaces a requirement for licensed travel agents to display at their business premises a notice in the form, and containing the particulars, prescribed by the regulations with a requirement that they display at those premises a notice in the form approved by the Director-General of the Department administering the Act.

1.20 Water Management Act 2000 No 92

[1] Section 71M Transfer of access licences

Omit “major water utility” from section 71M (3).

Insert instead “major utility”.

[2] Section 323 Definitions

Insert after section 323 (2) (b):

- (b1) a reference to an approval or an access licence includes a reference to an entitlement (within the meaning of clause 2 of Schedule 10) that confers a corresponding authority, and

[3] Sections 329 (4) (a) and 331 (a) (i)

Omit “to which this Part applies” wherever occurring.

[4] Section 367 Evidentiary certificates

Insert after section 367 (5):

- (6) In this section:
 - (a) a reference to a water management work includes a reference to a corresponding kind of work to which Part 2, 5 or 8 of the *Water Act 1912* extends, and
 - (b) a reference to an approval or access licence includes a reference to an entitlement (within the meaning of clause 2 of Schedule 10) that confers a corresponding authority.

[5] Dictionary

Insert “by a person,” after “owned” in the definition of *landholding*.

Explanatory note

Item [1] of the proposed amendments to the *Water Management Act 2000 (the Act)* corrects a reference to a term that is defined in the Act.

Item [2] extends the meaning of **approval** and **access licence** for the purposes of a Part of the Act that enables the Minister to give directions to landholders and other persons for the purpose of enforcing compliance with the requirements of the Act. The meanings of those terms are extended to include corresponding entitlements that are generally held under the *Water Act 1912* (which is to be repealed by the Act).

Item [4] makes a consequential amendment, extending the meaning of those terms in the same way for the purposes of a provision of the Act that allows the Minister to issue evidentiary certificates with respect to various matters concerning access licences and approvals. For consistency, the extended meaning currently given to **water management work** for the purposes of the Part of the Act referred to above is also applied for the purposes of the provision.

Item [3] omits superfluous qualifying words in sections 329 and 331 of the Act. Those sections currently refer to the taking of water from a water source to which Part 1 of Chapter 7 of the Act applies. However, as the Act neither provides that the Part applies to any particular water source nor enables the Part to be applied to any particular water source, the qualifying words have nothing to which to relate.

A **landholding** is defined in the Act to be a holding that is owned or occupied by a person (either alone or together with some other person with whom he or she has an association of a kind prescribed by the regulations). Item [5] clarifies that the qualifying words (in parentheses) relate only to an occupier of a holding. An **owner** of land is already defined in the Act to include joint or several owners.

Schedule 2 Amendments by way of statute law revision

2.1 Baulkham Hills Local Environmental Plan 2005

Schedule 1, Part 2

Omit “Arberdour” from the matter relating to Rouse Hill Cemetery.

Insert instead “Aberdour”.

Explanatory note

The proposed amendment corrects a typographical error.

2.2 Civil Procedure Act 2005 No 28

Section 34 (b)

Omit “having being”. Insert instead “having been”.

Explanatory note

The proposed amendment corrects a typographical error.

2.3 Confiscation of Proceeds of Crime Act 1989 No 90

Section 7, definition of “serious offence”

Omit “*Poisons Act 1966*” from paragraph (b).

Insert instead “*Poisons and Therapeutic Goods Act 1966*”.

Explanatory note

The proposed amendment updates a reference to a renamed Act.

2.4 Consumer, Trader and Tenancy Tribunal Act 2001 No 82

[1] Section 53 (3)

Omit “with regulations”. Insert instead “with the regulations”.

[2] Section 64 (b)

Omit “having being”. Insert instead “having been”.

Explanatory note

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

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

2.5 Consumer, Trader and Tenancy Tribunal Regulation 2009

Clause 3 (2)

Insert “(except in Schedule 1)” after “in this Regulation”.

Explanatory note

The proposed amendment clarifies the status of notes.

2.6 Contaminated Land Management Act 1997 No 140

Section 40 (7)

Insert after section 40 (6):

- (7) The provisions of this section have effect despite anything contained in section 42 of the *Real Property Act 1900*.

Explanatory note

The proposed amendment remakes a provision that was inserted by the *Real Property and Conveyancing Legislation Amendment Act 2009* and was later inadvertently omitted.

2.7 Crimes Act 1900 No 40

Section 428A, definition of “drug”

Omit “*Poisons Act 1966*”.

Insert instead “*Poisons and Therapeutic Goods Act 1966*”.

Explanatory note

The proposed amendment updates a reference to a renamed Act.

2.8 Drug Misuse and Trafficking Act 1985 No 226

Sections 3 (1), definition of “Poisons List”, 8, 10 (2) (a), 11 (2) (c), 13 (2) (a), 24 (4) (a), 25 (4) (a) and 42

Omit “*Poisons Act 1966*” wherever occurring.

Insert instead “*Poisons and Therapeutic Goods Act 1966*”.

Explanatory note

The proposed amendment updates references to a renamed Act.

2.9 Eastern Gas Pipeline (Special Provisions) Act 1996 No 126

Section 5 (2) and (4)

Omit the subsections.

Explanatory note

The proposed amendment omits redundant provisions.

2.10 Electricity Supply Act 1995 No 94

Section 97BE (2)

Omit “and greenhouse”. Insert instead “and a greenhouse”.

Explanatory note

The proposed amendment inserts a missing word.

2.11 Environmental Planning and Assessment Act 1979 No 203

[1] Sections 5B (1), 5C (2) (c), 5D, note, 26 (1B) (a) and (b), 76A (6) (c) (ii), 79B (3), (4) (a), (5) and (6), 110C, 112B (2), 112C–112E and 115N (5)

Omit “Director-General of National Parks and Wildlife” wherever occurring.

Insert instead “Director-General of the Department of Environment, Climate Change and Water”.

[2] Section 5C (2) (c)

Omit “Director of NSW Fisheries”.

Insert instead “Director-General of the Department of Industry and Investment”.

[3] Section 33B (4)

Omit from “The Minister may” to “repeal of an instrument”.

Insert instead “The Minister may, under Division 4, make a local environmental plan to take effect on the repeal of an instrument”.

[4] Section 34A (2), (5) and (7)

Omit “and Climate Change” wherever occurring.

Insert instead “, Climate Change and Water”.

[5] Section 34A (7)

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

[6] Sections 75H (5) (b) and 75JA (3)

Omit “and Conservation” wherever occurring.

Insert instead “, Climate Change and Water”.

[7] Section 75S (3)

Omit “project, but section 109S does not apply.”. Insert instead “project.”.

[8] Section 117A (1) and (2)

Omit “Infrastructure, Planning and Natural Resources” wherever occurring.
Insert instead “Planning”.

[9] Section 117A (1) and (2)

Omit “Department of Local Government” wherever occurring.
Insert instead “Department of Premier and Cabinet”.

Explanatory note

Items [1], [2], [4]–[6], [8] and [9] of the proposed amendments update references to Departments.

Item [3] of the proposed amendments confirms the effect of two separate amendments to the same section which were commenced in a different order to that originally anticipated.

Item [7] of the proposed amendments omits a reference to a repealed provision.

2.12 Environmental Planning and Assessment Amendment Act 2008 No 36

Schedule 3.1 [5]

Omit the item.

Explanatory note

The proposed amendment omits a redundant provision.

2.13 Environmental Planning and Assessment Regulation 2000

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

Omit the definition.

[2] Clauses 8J (8) (a), 8N (3), 245M (1), 277 (a) and 288 (3), definition of “Sydney Opera House”

Omit “*Projects*” wherever occurring. Insert instead “*Development*”.

[3] Schedule 3, clause 38, definition of “saline soil”

Omit “(Ds/m)”. Insert instead “(dS/m)”.

[4] Schedule 4, clause 4

Omit “Public Works”.

Insert instead “Services, Technology and Administration”.

[5] Schedule 4, clause 17 (2)

Omit “37 (1)”. Insert instead “38 (1)”.

Explanatory note

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

Item [2] of the proposed amendments updates references to a renamed instrument.

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

Item [4] of the proposed amendments updates a reference to a Department.

Item [5] of the proposed amendments corrects a cross-reference.

2.14 Fisheries Management (Estuary General Share Management Plan) Regulation 2006

Appendix, Schedule 1

Insert “(*Zoning Plans*)” after “*Marine Parks*” in Column 1 in the matter relating to Port Stephens–Set Mesh Nets.

Explanatory note

The proposed amendment updates a reference to a renamed instrument.

2.15 Lake Macquarie Local Environmental Plan 2004

Schedule 8, item 6

Re-number paragraph “(j)” where secondly occurring in Column 2 as paragraph “(l)”.

Explanatory note

The proposed amendment corrects numbering.

2.16 Law Enforcement (Powers and Responsibilities) Regulation 2005

[1] Clause 3 (3)

Insert “(except in Schedule 1)” after “in this Regulation”.

[2] Schedule 1, Form 20A, item 8

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

[3] Schedule 1, Form 21

Omit “Authorised officer”. Insert instead “Eligible issuing officer”.

Explanatory note

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

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

Item [3] of the proposed amendments updates a reference to an officer.

2.17 Lismore Local Environmental Plan 2000

Schedule 6, Part 3

Omit “113776” from Column 3 of the matter relating to 50 Oliver Avenue, Goonellabah.

Insert instead “1137726”.

Explanatory note

The proposed amendment corrects a typographical error.

2.18 Local Government (General) Regulation 2005

Schedule 1, clause 16 (4)

Omit “residence of place”. Insert instead “residence or place”.

Explanatory note

The proposed amendment corrects a typographical error.

2.19 Maitland Local Environmental Plan 1993

Schedule 2, Column 1

Omit “Hiland Cresent” from under the heading “**East Maitland**”.

Insert instead “Hiland Crescent”.

Explanatory note

The proposed amendment corrects a typographical error.

2.20 Marine Parks (Zoning Plans) Regulation 1999

[1] Clause 2.31 (2)

Omit the subclause.

[2] Clause 3.2

Omit “From point 14A,100” from the matter relating to Bowen Island.

Insert instead “From point 14A, 100”.

[3] Clause 3.11 (1)

Omit “Huskinson”. Insert instead “Huskisson”.

[4] Clause 5.4 (3)

Omit “issued under Part 3A of this Regulation to authorise”.

Insert instead “authorising”.

[5] Clauses 6.7 (1) and 7.5 (1)

Omit “clause 6” wherever occurring. Insert instead “clause 1.7”.

Explanatory note

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

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

Item [4] of the proposed amendments omits a redundant cross-reference.

Item [5] of the proposed amendments updates cross-references.

2.21 Mining Amendment Act 2008 No 19

Schedule 1 [213], proposed section 246W (1) (a)

Insert “by the regulations” after “prescribed”.

Explanatory note

The proposed amendment inserts missing words.

2.22 Motor Accidents (Determination of Non-Economic Loss) Order 2009

Clause 3 (2)

Omit “subclause”. Insert instead “subclause”.

Explanatory note

The proposed amendment corrects a typographical error.

2.23 Motor Dealers Act 1974 No 52

Section 4 (9)

Insert after section 4 (8):

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

Explanatory note

The proposed amendment clarifies the status of notes.

2.24 Motor Sports (World Rally Championship) Act 2009 No 55

Section 17 (1)

Omit “This section applies to the extent that the regulations otherwise provide”.

Insert instead “This section applies except to the extent that the regulations otherwise provide”.

Explanatory note

The proposed amendment inserts a missing word.

2.25 Occupational Health and Safety Regulation 2001

Clause 220B (2) (b)

Omit “certificate”. Insert instead “card”.

Explanatory note

The proposed amendment updates terminology.

2.26 Pesticides Act 1999 No 80

Section 39 (2) (k)

Insert “not” after “may or may”.

Explanatory note

The proposed amendment inserts a missing word.

2.27 Police Integrity Commission Act 1996 No 28

[1] Section 18A (1)

Omit “64 (5)”. Insert instead “71 (3)”.

[2] Section 143 (2) (a)

Omit “*Public Sector Management Act 1988*”.

Insert instead “*Public Sector Employment and Management Act 2002*”.

Explanatory note

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

Item [2] of the proposed amendments updates a reference to an Act.

2.28 Protection of the Environment Operations (General) Regulation 2009

[1] Schedule 6

Omit “confectionary” from Column 1 of the matter relating to section 145 of the *Protection of the Environment Operations Act 1997*.

Insert instead “confectionery”.

[2] Schedule 8, clause 7

Insert “*the*” after “*Protection of*”.

Explanatory note

Items [1] and [2] of the proposed amendments correct typographical errors.

2.29 Public Finance and Audit Act 1983 No 152

Schedule 3, Column 2

Omit “General Manager of the Office” from the matter relating to Office of the Board of Studies.

Insert instead “Chief Executive of the Office”.

Explanatory note

The proposed amendment updates a reference to an office.

2.30 Public Health (Tobacco) Regulation 2009

Clause 3 (4)

Insert at the end of clause 3:

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

Explanatory note

The proposed amendment clarifies the status of notes.

2.31 Public Lotteries Regulation 2007

Clause 12 (4) (a)

Omit “Minister”. Insert instead “Authority”.

Explanatory note

The proposed amendment corrects a cross-reference.

2.32 Real Property Act 1900 No 25

Section 45B (1)

Omit the definition of *ordinary folio of the Register*.

Explanatory note

The proposed amendment omits a redundant definition.

2.33 Rice Marketing Regulation 2005

Schedule 2

Omit “Marketing of Primary Products Regulation 2005” and “*Marketing of Primary Products Regulation 2005*” wherever occurring.

Insert instead “Rice Marketing Regulation 2005” and “*Rice Marketing Regulation 2005*”, respectively.

Explanatory note

The proposed amendment updates references to a renamed instrument.

2.34 Road Transport (Safety and Traffic Management) Regulation 1999

Schedule 3

Omit “Mt Druit” wherever occurring in Column 2 of the matter relating to the Western Sydney Area Health Service.

Insert instead “Mt Druitt”.

Explanatory note

The proposed amendment corrects typographical errors.

2.35 South Sydney Local Environmental Plan 1998

Schedule 2, item 91

Omit “Capel” from the Column headed ‘**Description**’.

Insert instead “Chapel”.

Explanatory note

The proposed amendment corrects a typographical error.

2.36 Sporting Venues Authorities Act 2008 No 65

[1] Section 22, definition of “relevant authority”

Omit “table”. Insert instead “Schedule”.

[2] Section 22, definition of “transfer date”

Omit “property” from paragraph (a). Insert instead “land”.

Explanatory note

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

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

2.37 Sporting Venues (Invasions) Regulation 2006

Clause 3

Omit “Energy Australia”. Insert instead “EnergyAustralia”.

Explanatory note

The proposed amendment corrects a typographical error.

2.38 Standard Instrument (Local Environmental Plans) Amendment (Entertainment Venues) Order 2009

Schedule 1 [2] and [3]

Omit “Department of Services, Technology and Administration” wherever occurring.

Insert instead “Land and Property Management Authority”.

Explanatory note

The proposed amendment updates references to a Department.

2.39 State Environmental Planning Policy (Affordable Rental Housing) 2009

[1] Clause 4 (3)

Insert “and examples” after “Notes”.

[2] Clause 9 (2) (d)

Omit “trust”. Insert instead “Trust”.

Explanatory note

Item [1] of the proposed amendments clarifies the status of examples in the Policy.

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

2.40 State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Commercial and Industrial) 2009

Schedule 1 [86]

Omit “up to 3.8m”. Insert instead “more than 3.8m”.

Explanatory note

The proposed amendment corrects an incorporation direction.

2.41 State Environmental Planning Policy No 59—Central Western Sydney Regional Open Space and Residential

Part 3, Division 2, heading

Omit “sec 94B”. Insert instead “sec 94EA”.

Explanatory note

The proposed amendment corrects a cross-reference.

2.42 Sydney Regional Environmental Plan No 24—Homebush Bay Area

Clause 6 (3)

Insert at the end of clause 6:

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

Explanatory note

The proposed amendment clarifies the status of notes.

2.43 Telecommunications (Interception and Access) (New South Wales) Act 1987 No 290

Section 3 (1), definitions of “record” and “restricted record”

Omit “section 11 or 11A of the Commonwealth Act or Part IV of that Act” wherever occurring in paragraph (c) of the definition of *record* and paragraph (b) of the definition of *restricted record*.

Insert instead “section 11A of the Commonwealth Act”.

Explanatory note

The proposed amendment omits references to repealed provisions.

2.44 Threatened Species Conservation Act 1995 No 101

Schedule 1, Part 2

Omit “*Petameles*” from the matter relating to “Peramelidae” under the heading “**Mammals**”.

Insert instead “*Perameles*”.

Explanatory note

The proposed amendment corrects a typographical error.

2.45 Water Sharing Plan for the Central Coast Unregulated Water Sources 2009

[1] Clauses 15 (3) (c) and (d) and 35 (2) (a) (iii) and (iv)

Omit “*Water Sharing Plan for*” wherever occurring.

Insert instead “*Water Sharing Plan for the*”.

[2] Clause 17 (4), note

Omit “with the levels”. Insert instead “within the levels”.

[3] Clause 21

Omit “section and 20”. Insert instead “section 20”.

[4] Clause 35 (3) and (4)

Omit “2003” wherever occurring in the second note to subclause (3) and the first note to subclause (4).

Insert instead “2009”.

[5] Clauses 40 (2), 41 and 42

Omit “and should, be” wherever occurring. Insert instead “should be”.

[6] Clause 47 (11)

Omit “may this Plan to amend clause 47”.

Insert instead “may amend this Plan”.

[7] Clause 60 (2)

Omit “to of from”. Insert instead “to or from”.

[8] Clause 63 (3)

Renumber paragraph (e) as paragraph (d).

[9] Clause 75 (1) (d)

Omit “clauses 72”. Insert instead “clause 72”.

Explanatory note

Items [1] and [4] of the proposed amendments correct cross-references.

Items [2], [3], [5]–[7] and [9] of the proposed amendments correct typographical errors.

Item [8] of the proposed amendments corrects numbering.

2.46 Water Sharing Plan for the Coffs Harbour Area Unregulated and Alluvial Water Sources 2009

[1] Clause 33 (2)

Insert “**Note.**” before “Section 61 (b)”.

[2] Clause 56, note

Omit “subclauses (4) and (5)”. Insert instead “subclauses (2) and (3)”.

[3] Clause 78 (d)

Omit “subclause”. Insert instead “paragraph”.

Explanatory note

Item [1] of the proposed amendments clarifies the status of a note.

Items [2] and [3] of the proposed amendments correct cross-references.

2.47 Water Sharing Plan for the Hunter Unregulated and Alluvial Water Sources 2009

[1] Clause 4 (4) (f)

Omit “2004”. Insert instead “2003”.

[2] Clause 4 (4) (g)

Omit “2008”. Insert instead “2007”.

[3] Clause 17 (1) (v), note

Omit “95thth”. Insert instead “95th”.

[4] Clause 39 (4)

Omit “amened”. Insert instead “amended”.

[5] Clause 45

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

[6] Clause 70 (2) (h) (ii), note

Omit “2002”. Insert instead “2004”.

[7] Schedule 1, definition of “stream order”

Omit “Gazette no 37” from the second note.

Insert instead “Gazette No 37”.

Explanatory note

Items [1], [2] and [6] of the proposed amendments correct cross-references.

Items [3], [4] and [7] of the proposed amendments correct typographical errors.

Item [5] of the proposed amendments corrects numbering.

2.48 Water Sharing Plan for the Lower North Coast Unregulated and Alluvial Water Sources 2009

[1] Clause 16 (2)

Omit “subclause 17 (2) of this Plan”. Insert instead “clause 17 (2)”.

[2] Clause 16 (3)

Omit “subclause 17 (2) (h) of this Plan”. Insert instead “clause 17 (2) (h)”.

[3] Clause 19 (5)

Omit “subclause 19 (3)”. Insert instead “subclause (3)”.

[4] Clause 28

Renumber paragraph (d), where secondly occurring, as paragraph (f).

[5] Clause 34 (2) (b)

Insert “**Note.**” before “Section 61 (b)”.

[6] Clauses 40 (1) (b), 84 (1) (c) and (d), 87 (3) (b) and 88 (4) (b)

Omit “subclause (a)” wherever occurring. Insert instead “paragraph (a)”.

[7] Clause 71 (3)

Omit “subclauses 2 (a), 2 (b) and 2 (c)”.

Insert instead “subclause (2) (a), (b) and (c)”.

[8] Clause 71 (4)

Omit “subclauses 2 (a) and 2 (b)”. Insert instead “subclause (2) (a) and (b)”.

[9] Clause 71 (5) and (6)

Omit “subclause 2 (c)” wherever occurring. Insert instead “subclause (2) (c)”.

[10] Clause 82 (d)

Omit “subclause (c)”. Insert instead “paragraph (c)”.

[11] Clause 87 (3) (b)

Renumber subparagraphs (iii)–(vii) as subparagraphs (ii)–(vi), respectively.

[12] Clause 87 (3) (b) (ii) (as renumbered by item [11])

Omit “clause 10 (a) and 9 (b)”. Insert instead “clause 10 (a) and (b)”.

Explanatory note

Items [1]–[3], [6]–[10] and [12] of the proposed amendments correct cross-references.

Items [4] and [11] of the proposed amendments correct numbering.

Item [5] of the proposed amendments clarifies the status of a note.

2.49 Wingecarribee Local Environmental Plan 1989

Clause 9, Table

Omit “Item 4” from Item 3 of the matter relating to Zone No 4 (a).

Insert instead “this Item”.

Explanatory note

The proposed amendment corrects a cross-reference.

2.50 Woollahra Local Environmental Plan 1995

Schedule 3

Omit “Americian” from the matter relating to Loftus Rd, Darling Point, within road reserve.

Insert instead “American”.

Explanatory note

The proposed amendment corrects a typographical error.

Schedule 3 On-line publication of making of statutory instruments

Explanatory note This Schedule contains amendments to legislation to extend the requirement for publication on the NSW legislation website to additional categories of statutory instruments (as part of a staged program for the publication on the website of statutory instruments of a legislative nature). Apart from the publication of instruments, the website also provides public access to up-to-date in force versions of Acts, regulations and other statutory instruments.

Schedule 3.5, 3.19, 3.22, 3.23, 3.31 and 3.38 also remove redundant provisions relating to the making of regulations (already provided for in Part 6 of the *Interpretation Act 1987*) and Schedule 3.21 clarifies that certain orders are required to be published in the Gazette.

3.1 Anti-Discrimination Act 1977 No 48

Section 49ZYI (3)

Insert “published on the NSW legislation website” after “proclamation”.

3.2 Architects Act 2003 No 89

Schedule 3, clause 3 (3)

Insert “published on the NSW legislation website” after “proclamation”.

3.3 Australian Jockey Club Act 2008 No 52

Section 12 (3), note

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

3.4 Business Names Act 2002 No 97

Schedule 2, clause 3 (3)

Insert “published on the NSW legislation website” after “proclamation”.

3.5 Charcoal (Producer Gas) Act 1941 No 60

Section 3 (4)

Omit the subsection.

3.6 Choice of Law (Limitation Periods) Act 1993 No 94

Section 7 (1)

Insert “published on the NSW legislation website” after “proclamation” where firstly occurring.

3.7 City Tattersall’s Club Act of 1912

Section 13 (1)

Insert “published on the NSW legislation website” after “proclamation”.

3.8 Commercial Agents and Private Inquiry Agents Act 2004 No 70

Schedule 4, clause 3 (3)

Insert “published on the NSW legislation website” after “proclamation”.

3.9 Commonwealth Powers (De Facto Relationships) Act 2003 No 49

Section 5 (1) and (3)

Omit “in the Gazette” wherever occurring.

Insert instead “on the NSW legislation website”.

3.10 Commonwealth Powers (Family Law—Children) Act 1986 No 182

Section 4

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

3.11 Commonwealth Powers (State Banking) Act 1992 No 104

Section 7

Insert “published on the NSW legislation website” after “proclamation”.

3.12 Consumer Credit (New South Wales) Act 1995 No 7

Section 10B (6)

Insert “published on the NSW legislation website” after “proclamation”.

3.13 Corporations (Commonwealth Powers) Act 2001 No 1

Sections 6 (1) and 7 (1) and (3)

Omit “in the Gazette” wherever occurring.

Insert instead “on the NSW legislation website”.

3.14 Environmental Planning and Assessment Amendment Act 2008 No 36

[1] Schedule 3.1 [7], proposed clause 20 (1) and (4)

Omit “in the Gazette” wherever occurring.

Insert instead “on the NSW legislation website”.

[2] Schedule 3.2 [1], proposed section 26 (1) and (3)

Omit “in the Gazette” wherever occurring.

Insert instead “on the NSW legislation website”.

3.15 Explosives Act 2003 No 39

Schedule 1, clause 6 (3)

Insert “published on the NSW legislation website” after “proclamation”.

3.16 Financial Agreement Ratification Act 1928 No 14

Section 5

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

3.17 HomeFund Commissioner Act 1993 No 9

Section 46 (1)

Insert “published on the NSW legislation website” after “proclamation”.

3.18 Industrial Arbitration (Special Provisions) Act 1984 No 121

Section 4

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

3.19 Interest Reduction Act 1931 No 44

Section 14 (2) and (3)

Omit the subsections.

3.20 Jurisdiction of Courts (Cross-vesting) Act 1987 No 125

Section 16 (1) and (3)–(6)

Omit “in the Gazette” wherever occurring.

Insert instead “on the NSW legislation website”.

3.21 Marine Pollution Act 1987 No 299

Section 62 (1)

Omit the subsection. Insert instead:

- (1) An order made in pursuance of the regulations must be published in the Gazette.
- (1A) Sections 30, 40 and 41 of the *Interpretation Act 1987* apply to an order made in pursuance of the regulations in the same way as they apply to a statutory rule.

3.22 Moratorium Act 1932 No 57

Section 47 (3)

Omit the subsection.

3.23 Moree and District War Memorial Educational Centre Act 1962 No 15

Section 10 (2)

Omit the subsection.

3.24 Motor Accidents Act 1988 No 102

Section 80 (1)

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

3.25 Motor Accidents Compensation Act 1999 No 41

Section 146 (1)

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

3.26 Mutual Recognition (New South Wales) Act 1992 No 61

Section 4 (4)

Insert “published on the NSW legislation website” after “proclamation”.

3.27 National Rail Corporation (Agreement) Act 1991 No 82

Section 6 (2)

Insert “published on the NSW legislation website” after “proclamation”.

3.28 Personal Property Securities (Commonwealth Powers) Act 2009 No 35

Section 7 (1) and (3)

Omit “in the Gazette” wherever occurring.

Insert instead “on the NSW legislation website”.

3.29 Pharmacy Practice Act 2006 No 59

Schedule 8, clause 11 (3)

Insert “published on the NSW legislation website” after “proclamation”.

3.30 Roads Act 1993 No 33

Schedule 2, clauses 5 (2) and 6 (4)

Insert “published on the NSW legislation website” after “proclamation” wherever occurring.

3.31 Sir Joseph Banks Memorial Act 1945 No 30

Section 6 (2)

Omit the subsection.

3.32 Snowy Hydro Corporatisation Act 1997 No 99

Section 7 (2)

Insert “published on the NSW legislation website” after “proclamation”.

**3.33 Statute Law (Miscellaneous Provisions) Act (No 2) 2008
No 114**

Schedule 5, clause 4 (1) and (3) (a)

Omit “in the Gazette” wherever occurring.

Insert instead “on the NSW legislation website”.

3.34 Subordinate Legislation (Repeal) Act 1985 No 232

Section 4 (1) and (3) (a)

Omit “in the Gazette” wherever occurring.

Insert instead “on the NSW legislation website”.

3.35 Surveying Act 2002 No 83

Schedule 3, clause 3 (3)

Insert “published on the NSW legislation website” after “proclamation”.

3.36 Teaching Service Act 1980 No 23

Section 100 (2)

Omit “in the Government Gazette under section 39 of the *Interpretation Act 1987*”.

Insert instead “on the NSW legislation website”.

3.37 Terrorism (Commonwealth Powers) Act 2002 No 114

Section 5 (1) and (3)

Omit “in the Gazette” wherever occurring.

Insert instead “on the NSW legislation website”.

**3.38 The Standard Insurance Company Limited and Certain Other
Insurance Companies Act 1963 No 18**

Section 9 (2) and (3)

Omit the subsections.

3.39 Totalizator Agency Board Privatisation Act 1997 No 43

Section 20 (2)

Insert “published on the NSW legislation website” after “proclamation”.

3.40 Trans-Tasman Mutual Recognition (New South Wales) Act 1996 No 102

Section 4 (3)

Insert “published on the NSW legislation website” after “proclamation”.

3.41 University of New South Wales (St George Campus) Act 1999 No 45

Sections 6 (2) and 7 (7)

Insert “published on the NSW legislation website” after “proclamation” wherever occurring.

3.42 Valuation of Land Act 1916 No 2

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

Omit the definition.

[2] Schedule 2, clause 7 (2)

Insert “published on the NSW legislation website” after “proclamation”.

3.43 Veterinary Practice Act 2003 No 87

Schedule 4, clause 19 (4)

Insert “published on the NSW legislation website” after “proclamation”.

3.44 Water (Commonwealth Powers) Act 2008 No 69

Section 5 (1) and (2)

Omit “in the Gazette” wherever occurring.

Insert instead “on the NSW legislation website”.

3.45 Western Sydney Parklands Act 2006 No 92

Schedule 4, clause 3 (2)

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

Schedule 4 Amendments consequential on enactment of Local Court Act 2007

Explanatory note

The proposed amendments are consequential on the enactment of the *Local Court Act 2007*. That Act repealed the *Local Courts Act 1982* and replaced the Local Courts throughout New South Wales with the Local Court (which sits at various places throughout New South Wales). Accordingly, references in other Acts and instruments to the 1982 Act are replaced with references to the 2007 Act and references to “a Local Court” are replaced with references to “the Local Court”.

4.1 Assisted Reproductive Technology Act 2007 No 69

Sections 54 (1) and 63 (1) (a) and (2)

Omit “a Local Court” wherever occurring. Insert instead “the Local Court”.

4.2 Associations Incorporation Act 2009 No 7

Section 94 (1)

Omit “a Local Court”. Insert instead “the Local Court”.

4.3 Bail Regulation 2008

Clauses 3 (1), paragraph (e) of the definition of “registrar of a court”, 4 (c) (i) and (d) (i), 8, 23 (1) (a) (ii) and (c) (ii) and 25 (1)

Omit “a Local Court” wherever occurring. Insert instead “the Local Court”.

4.4 Banana Industry Regulation 2008

Clauses 10 (4) and 35 (4)

Omit “a Local Court” wherever occurring. Insert instead “the Local Court”.

4.5 Barangaroo Delivery Authority Act 2009 No 2

Section 44

Omit “a Local Court”. Insert instead “the Local Court”.

4.6 Child Protection (Offenders Prohibition Orders) Regulation 2007

Clauses 4 (1) (a) and 6 (1)

Omit “a Local Court” wherever occurring. Insert instead “the Local Court”.

4.7 Civil Procedure Regulation 2005

[1] Schedule 1, Part 4, heading

Omit “Local Courts”. Insert instead “Local Court”.

[2] Schedule 1, Part 4

Omit “Part 7” and “Part 6” wherever occurring.

Insert instead “Part 3” and “Part 4”, respectively.

[3] Schedule 1, Part 4

Omit “*Local Courts Act 1982*” wherever occurring.

Insert instead “*Local Court Act 2007*”.

[4] Schedule 1, Part 4

Omit “a Local Court” wherever occurring. Insert instead “the Local Court”.

4.8 Confiscation of Proceeds of Crime Act 1989 No 90

[1] Section 87 (3A), (6) and (7)

Omit “*Local Courts Act 1982*” wherever occurring.

Insert instead “*Local Court Act 2007*”.

[2] Section 87 (6) and (7)

Omit “a Local Court” wherever occurring. Insert instead “the Local Court”.

4.9 Crimes (Administration of Sentences) Regulation 2008

Clause 194 (2) (d)

Omit “a Local Court”. Insert instead “the Local Court”.

4.10 Crimes (Criminal Organisations Control) Act 2009 No 6

Section 36 (1) and (3)

Omit “a Local Court” wherever occurring. Insert instead “the Local Court”.

4.11 Crimes (Domestic and Personal Violence) Act 2007 No 80

[1] Section 84 (1A) and (5A)

Omit “a Local Court” wherever occurring. Insert instead “the Local Court”.

[2] Section 84 (1B)

Omit “A Local Court”. Insert instead “The Local Court”.

4.12 Criminal Case Conferencing Trial Act 2008 No 10

Sections 6 (2) (c), 9 (3) and (5) and 12 (4)

Omit “a Local Court” wherever occurring. Insert instead “the Local Court”.

4.13 Dangerous Goods (Road and Rail Transport) Act 2008 No 95

[1] Sections 47 (2) (a), (4), (5) (a) and (6) and 51 (4), definition of “the court”

Omit “a Local Court” wherever occurring. Insert instead “the Local Court”.

[2] Section 56 (3)

Omit “A Local Court”. Insert instead “The Local Court”.

4.14 Dangerous Goods (Road and Rail Transport) Regulation 2009

Clause 236 (1) (b)

Omit “a Local Court”. Insert instead “the Local Court”.

4.15 District Court Act 1973 No 9

[1] Section 18L (1)

Omit “The registrar of a Local Court”.

Insert instead “A registrar of the Local Court”.

[2] Section 18L (2)

Omit “The deputy registrar of a Local Court”.

Insert instead “A deputy registrar of the Local Court”.

[3] Section 18L (3)

Omit “a Local Court”. Insert instead “the Local Court”.

4.16 Fines Act 1996 No 99

Section 49 (3B)

Omit “a Local Court”. Insert instead “the Local Court”.

4.17 Government Information (Information Commissioner) Act 2009 No 53

Section 46

Omit “a Local Court” wherever occurring. Insert instead “the Local Court”.

4.18 Government Information (Public Access) Act 2009 No 52

Section 128 (1)

Omit “a Local Court”. Insert instead “the Local Court”.

4.19 Homebush Motor Racing (Sydney 400) Act 2008 No 106

Section 42 (1) (a) and (2)

Omit “a Local Court” wherever occurring. Insert instead “the Local Court”.

4.20 Mental Health (Forensic Provisions) Act 1990 No 10

Section 77B (1)

Omit “a Local Court”. Insert instead “the Local Court”.

4.21 Moratorium Act 1932 No 57

Section 31 (4)

Omit “a Local Court”. Insert instead “the Local Court”.

4.22 Motor Sports (World Rally Championship) Act 2009 No 55

Section 22 (1) (a) and (2)

Omit “a Local Court” wherever occurring. Insert instead “the Local Court”.

4.23 NSW Trustee and Guardian Act 2009 No 49

[1] Section 20 (2)

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

[2] Section 105 (3) (e)

Omit “a Local Court”. Insert instead “the Local Court”.

4.24 Public Health (Tobacco) Act 2008 No 94

Sections 49 (1) and 54

Omit “a Local Court” wherever occurring. Insert instead “the Local Court”.

4.25 Road Transport (Driver Licensing) Regulation 2008

Clause 57 (6)

Omit “a Local Court”. Insert instead “the Local Court”.

4.26 Road Transport (General) Regulation 2005

[1] Clauses 29A (1) and 29B (3)

Omit “a Local Court” wherever occurring. Insert instead “the Local Court”.

[2] Clause 29B (1)

Omit “A Local Court”. Insert instead “The Local Court”.

4.27 Road Transport (Safety and Traffic Management) Regulation 1999

Clause 126P (2) (b1)

Omit “a Local Court”. Insert instead “the Local Court”.

4.28 Sporting Venues Authorities Act 2008 No 65

Section 39

Omit “a Local Court”. Insert instead “the Local Court”.

4.29 Surveillance Devices Act 2007 No 64

Section 5 (5)

Omit “a Local Court”. Insert instead “the Local Court”.

4.30 Water Act 1912 No 44

Section 4G (3)

Omit “a Local Court”. Insert instead “the Local Court”.

4.31 Water Management Act 2000 No 92

[1] Sections 353C (2) and 353G (2)

Omit “A Local Court” wherever occurring. Insert instead “The Local Court”.

[2] Sections 353C (2), 353F (3), definition of “the court” and 364 (1) (a) and (6)

Omit “a Local Court” wherever occurring. Insert instead “the Local Court”.

Schedule 5 Amendments updating references to liquor, registered clubs and casino legislation

Explanatory note

The proposed amendments update certain references to liquor, registered clubs and casino legislation consequent on the enactment of the *Liquor Act 2007* and the *Casino, Liquor and Gaming Control Authority Act 2007*, including as follows:

- (a) by updating references to the repealed *Liquor Act 1982*,
- (b) by replacing references to registration under the *Registered Clubs Act 1976* with references to the holding of a club licence under the *Liquor Act 2007*,
- (c) by updating references to the types of licences that may be held under the *Liquor Act 2007*,
- (d) by updating references to provisions of the *Registered Clubs Act 1976*, the *Liquor Act 1982*, and the *Casino Control Act 1992* about matters now dealt with in the *Casino, Liquor and Gaming Control Authority Act 2007*.

5.1 Australian Jockey Club Act 2008 No 52

[1] Section 15 (1), definition of “AJC’s regulatory authorisations”

Omit “*Liquor Act 1982* or the” from paragraph (a) of the definition.

[2] Section 15 (1), definition of “AJC’s regulatory authorisations”

Omit paragraph (d) of the definition.

5.2 Combat Sports Act 2008 No 116

Section 53 (3), definition of “public entertainment”

Omit “or registered under the *Registered Clubs Act 1976*” from paragraph (b) (i) of the definition.

5.3 Conveyancing Act 1919 No 6

Section 129 (3) and (6) (c) (iii)

Omit “*Liquor Act 1982*” wherever occurring.

Insert instead “*Liquor Act 2007*”.

5.4 Co-operatives Act 1992 No 18

Section 177 (3) (a)

Omit “registered under the *Registered Clubs Act 1976*”.

Insert instead “that holds a club licence under the *Liquor Act 2007*”.

5.5 Innkeepers Act 1968 No 24

Section 9

Omit “*Liquor Act 1982*”. Insert instead “*Liquor Act 2007*”.

5.6 Landlord and Tenant Act 1899 No 18

Section 2AA (1) (a)

Omit “or permit is in force under the *Liquor Act 1982*”.

Insert instead “is in force under the *Liquor Act 2007*”.

5.7 Local Government Act 1993 No 30

[1] Section 644A (2) (b)

Omit “*Liquor Act 1982*”. Insert instead “*Liquor Act 2007*”.

[2] Section 644A (2) (c)

Omit the paragraph.

[3] Dictionary, definition of “alcohol”

Omit “*Liquor Act 1982*”. Insert instead “*Liquor Act 2007*”.

5.8 Lord Howe Island Regulation 2004

Clause 103 (6), definition of “alcohol”

Omit “*Liquor Act 1982*”. Insert instead “*Liquor Act 2007*”.

5.9 Lotteries and Art Unions Act 1901 No 34

[1] Sections 4B (7) and 4C (2) (a)

Omit “registered under the *Registered Clubs Act 1976*” wherever occurring.

Insert instead “that holds a club licence under the *Liquor Act 2007*”.

[2] Section 4E (2) (a)

Omit “*Liquor Act 1982* or on the premises of a club registered under the *Registered Clubs Act 1976*”.

Insert instead “*Liquor Act 2007*”.

[3] Section 18B (2)

Omit “*Liquor Act 1982*”. Insert instead “*Liquor Act 2007*”.

5.10 Luna Park Site Act 1990 No 59

Section 19A (5), definition of “noise abatement action”

Omit “section 104 of the *Liquor Act 1982* or section 17AA of the *Registered Clubs Act 1976*” from paragraph (c) of the definition.

Insert instead “Division 3 of Part 5 of the *Liquor Act 2007*”.

5.11 Moratorium Act 1932 No 57

Section 9 (1) (d)

Omit “*Liquor Act 1982*”. Insert instead “*Liquor Act 2007*”.

5.12 Parramatta Stadium Trust By-law 2005

Clause 8

Omit the clause. Insert instead:

8 Liquor

A person must not bring liquor onto the trust land except for the purpose of supply to premises that are the subject of a licence under the *Liquor Act 2007*.

Maximum penalty: 5 penalty units.

5.13 Photo Card Act 2005 No 20

Section 22 (4) (d)

Insert “, under clause 18 of Schedule 1 to the *Liquor Act 2007*” after “this section”.

5.14 Police Integrity Commission Act 1996 No 28

Section 61 (1) (a), (b), (d) and (e)

Omit the paragraphs. Insert instead:

- (a) section 17 of the *Casino, Liquor and Gaming Control Authority Act 2007*,

5.15 Private Health Facilities Act 2007 No 9

Schedule 5.18

Omit the Subschedule. Insert instead:

5.18 Liquor Act 2007 No 90

Section 6 Exemptions from Act

Omit section 6 (1) (k) (ii). Insert instead:

- (ii) is an overnight patient of a private health facility within the meaning of the *Private Health Facilities Act 2007*, or

5.16 Public Lotteries Regulation 2007

Clause 16 (2)

Omit “*Liquor Act 1982*”. Insert instead “*Liquor Act 2007*”.

5.17 Public Sector Employment and Management Act 2002 No 43

Section 91, note

Omit “*Liquor Act 1982*”.

Insert instead “*Casino, Liquor and Gaming Control Authority Act 2007*”.

5.18 Restricted Premises Act 1943 No 6

Section 2, definitions of “Licensed premises” and “Liquor”

Omit “*Liquor Act 1982*” wherever occurring.

Insert instead “*Liquor Act 2007*”.

5.19 Royal Commission (Police Service) Act 1994 No 60

Section 32 (1)

Omit the subsection. Insert instead:

- (1) Section 17 of the *Casino, Liquor and Gaming Control Authority Act 2007* does not apply to the divulging of information, or the production of any document or other thing, pursuant to a requirement made by or under this Act or the 1923 Act.

5.20 Security Industry Regulation 2007

[1] Schedule 1, item 5

Omit “section 106 of the *Casino Control Act 1992*”.

Insert instead “section 20 of the *Casino, Liquor and Gaming Control Authority Act 2007*”.

[2] Schedule 1, item 8

Omit “*Liquor Act 1982*”. Insert instead “*Liquor Act 2007*”.

[3] Schedule 1, item 9

Omit the item.

5.21 Smoke-free Environment Act 2000 No 69

[1] Section 10A (1), definition of “hotel”

Omit “hotelier’s licence in force under the *Liquor Act 1982*”.

Insert instead “hotel licence in force under the *Liquor Act 2007*”.

[2] Section 10A (1), definition of “nightclub”

Omit “a nightclub licence in force under the *Liquor Act 1982*”.

Insert instead “an on-premises licence in force under the *Liquor Act 2007* that relates to a public entertainment venue (other than a cinema or theatre)”.

5.22 Summary Offences Act 1988 No 25

Sections 11 (7), definition of “liquor” and 21B (2) (b)

Omit “*Liquor Act 1982*” wherever occurring.

Insert instead “*Liquor Act 2007*”.

5.23 Sydney Harbour Foreshore Authority Regulation 2006

Clause 3 (1), definition of “liquor”

Omit “*Liquor Act 1982*”. Insert instead “*Liquor Act 2007*”.

5.24 Sydney Olympic Park Authority Regulation 2007

Clauses 3 (1), definition of “liquor” and 6 (3)

Omit “*Liquor Act 1982*” wherever occurring.

Insert instead “*Liquor Act 2007*”.

5.25 Trustee Act 1925 No 14

Section 36 (5)

Omit “*Liquor Act 1982*” from the proviso. Insert instead “*Liquor Act 2007*”.

5.26 Workplace Injury Management and Workers Compensation Act 1998 No 86

Schedule 1, clause 15 (1) (b) and (d)

Omit “the premises of a club registered under the *Registered Clubs Act 1976*” wherever occurring.

Insert instead “premises subject to a club licence under the *Liquor Act 2007*”.

Schedule 6 Repeals

1 Repeal of Acts that are redundant

The following Acts are repealed:

Appropriation Act 2008 No 45

Appropriation (Budget Variations) Act 2008 No 25

Appropriation (Parliament) Act 2008 No 46

Appropriation (Special Offices) Act 2008 No 47

Companies (Receiver and Manager) Act 1959 No 8

Matrimonial Causes Act 1899 No 14

Wollongong Sportsground and Old Roman Catholic Cemetery Legislation Amendment (Transfer of Land) Act 2001 No 103

2 Repeal of Act that contains only amendments that have commenced

The *Fisheries Management Amendment Act 2006* No 18 is repealed.

3 Repeal of Acts that contain only amendments that have commenced or cannot be incorporated because of subsequent changes

The following Acts are repealed:

Biofuel (Ethanol Content) Amendment Act 2009 No 11

Miscellaneous Acts (Local Court) Amendment Act 2007 No 94

Road Transport (Driver Licensing) Amendment (Demerit Points System) Act 2008 No 82

4 Repeal of provisions of Acts that contain only amendments that have commenced or cannot be incorporated because of subsequent changes

The following provisions of the following Acts are repealed:

Act	Provisions repealed
<i>Building Professionals Amendment Act 2008</i> No 37	Schedules 1 [4], [6], [9], [12], [13], [15], [16], [19], [21], [33], [34], [36], [37], [39], [42], [47] and [48] and 2 [8], [12], [15] and [16]
<i>Community Justice Centres Amendment Act 2007</i> No 70	Schedule 1 [20], [30] and [32] and Schedule 2
<i>Courts and Crimes Legislation Amendment Act 2008</i> No 53	Schedules 1 and 22
<i>Crimes and Courts Legislation Amendment Act 2006</i> No 107	Schedule 1.12

Statute Law (Miscellaneous Provisions) Bill (No 2) 2009

Schedule 6 Repeals

Act	Provisions repealed
<i>Environmental Planning and Assessment Amendment Act 2008</i> No 36	Schedules 1.1 [1]–[10] and [12]–[15], 1.2, 1.3, 1.4, 1.5, 1.6, 1.7, 1.8, 2.1 [1], [2], [6]–[12], [15], [21]–[25], [39]–[56], 2.2 [1]–[15], [19], [27], [33], [39] and [46]–[74], 2.3, 2.4, 2.6–2.9, 2.10 [10] and [11], 4.1 [1], [6], [9], [15], [23], [27] and [29], 4.2 [1], [3] and [8]–[10], 5.1 [1], [3]–[6], [8] and [11] and 5.7
<i>Fines Further Amendment Act 2008</i> No 110	Schedule 1 [21], [22] and [29]–[33]
<i>First State Superannuation Legislation Amendment (Conversion) Act 2005</i> No 91	Schedule 3.6 and 3.11–3.13
<i>Marine Safety Amendment Act 2008</i> No 59	Schedule 1 [13], [15], [17]–[19], [23], [24], [29] and [34]–[39]
<i>Photo Card Act 2005</i> No 20	Schedule 2.3
<i>Security Industry Amendment Act 2008</i> No 113	Schedule 1 [5] and [12]
<i>Water Management Amendment Act 2008</i> No 73	Schedule 4 [1]–[3], [8] and [9]

Explanatory note

Clause 1 repeals Acts that are redundant.

Clause 2 repeals an Act that contains only amendments that have commenced.

Clause 3 repeals Acts that contain only amendments that have commenced and amendments that cannot be incorporated, because the Acts they amend have been amended or repealed.

Clause 4 repeals provisions of Acts that contain only amendments that have commenced and amendments that cannot be incorporated, because the Acts they amend have been amended or repealed.

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

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 7 General savings, transitional and other provisions

1 Effect of amendment of amending provisions

- (1) An amendment made by Schedule 1, 2, 3 or 5 to an amending provision contained in an Act or instrument is, if the amending provision has commenced before the Schedule 1, 2, 3 or 5 amendment concerned, taken to have effect as from the commencement of the amending provision (whether or not the amending provision has been repealed).
- (2) In this clause:
amending provision means a provision of an Act or instrument that makes a direct amendment to an Act or instrument by:
 - (a) the repeal or omission of matter contained in the amended Act or instrument without the insertion of any matter instead of the repealed or omitted matter, or
 - (b) the omission of matter contained in the amended Act or instrument and the insertion of matter instead of the omitted matter, or
 - (c) the insertion into the amended Act or instrument of matter, not being matter inserted instead of matter omitted from the Act or instrument.

Explanatory note

This clause ensures that certain amendments, including amendments correcting errors in technical provisions (for example, headings indicating the section to be amended or directions as to where a new section is to be inserted) and rectifying minor drafting errors (for example, corrections in numbering of provisions, correction or insertion of cross-references, omission of unnecessary matter or insertion of omitted matter), will be taken to have commenced on the date the amendments to which they relate commenced.

2 Effect of amendment or repeal on acts done or decisions made

Except where it is expressly provided to the contrary, if this Act:

- (a) amends a provision of an Act or an instrument, or
- (b) repeals and re-enacts (with or without modification) a provision of an Act or an instrument,

any act done or decision made under the provision amended or repealed has effect after the amendment or repeal as if it had been done or made under the provision as so amended or repealed.

Explanatory note

This clause ensures that the amendment or repeal of a provision will not, unless expressly provided, vitiate any act done or decision made under the provision as in force before the amendment or repeal.

3 Effect of amendment on instruments

Except where expressly provided to the contrary, any instrument made under an Act amended by this Act, that is in force immediately before the commencement of the amendment, is taken to have been made under the Act as amended.

Explanatory note

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

4 Revocation of repeal

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

this Act

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

Statute Law (Miscellaneous Provisions) Act 2008

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

Explanatory note

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

5 Regulations

- (1) The Governor may make regulations containing provisions of a savings or transitional nature consequent on the enactment of this Act.
- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to this Act or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication on the NSW legislation website, the provision does not operate so as:
 - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

Explanatory note

This clause enables the making of regulations of a savings or transitional nature having a short term effect and relating to incidental matters arising out of the proposed Act with regard to which no specific, or sufficient, provision has been made in the proposed Act.

Notes

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Anti-Discrimination Act 1977 No 48—Schedule 3
Architects Act 2003 No 89—Schedule 3
Assisted Reproductive Technology Act 2007 No 69—Schedule 4
Associations Incorporation Act 2009 No 7—Schedules 1 and 4
Australian Jockey Club Act 2008 No 52—Schedules 3 and 5
Bail Regulation 2008—Schedule 4
Banana Industry Regulation 2008—Schedule 4
Barangaroo Delivery Authority Act 2009 No 2—Schedule 4
Baulkham Hills Local Environmental Plan 2005—Schedule 2
Building Professionals Act 2005 No 115—Schedule 1
Building Professionals Amendment Act 2008 No 37—Schedule 1
Business Names Act 2002 No 97—Schedule 3
Charcoal (Producer Gas) Act 1941 No 60—Schedule 3
Child Protection (Offenders Prohibition Orders) Regulation 2007—Schedule 4
Choice of Law (Limitation Periods) Act 1993 No 94—Schedule 3
City Tattersall’s Club Act of 1912—Schedule 3
Civil Procedure Act 2005 No 28—Schedule 2
Civil Procedure Regulation 2005—Schedule 4
Combat Sports Act 2008 No 116—Schedule 5
Commercial Agents and Private Inquiry Agents Act 2004 No 70—Schedule 3
Commission for Children and Young People Act 1998 No 146—Schedule 1
Commonwealth Powers (De Facto Relationships) Act 2003 No 49—Schedule 3
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Commonwealth Powers (State Banking) Act 1992 No 104—Schedule 3
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Environmental Planning and Assessment Amendment Act 2008 No 36—Schedules 1, 2 and 3
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