

Passed by both Houses



New South Wales

Statute Law (Miscellaneous Provisions) Bill 2016

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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
2016

Clerk of the Parliaments



New South Wales

Statute Law (Miscellaneous Provisions) Bill 2016

Act No , 2016

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

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Statute Law (Miscellaneous Provisions) Act 2016*.

2 Commencement

- (1) This Act commences on 8 July 2016, except as provided by this section.
- (2) The amendments made by Schedule 1 to this Act commence on the day or days specified in that Schedule in relation to the amendments concerned. If a commencement day is not specified, the amendments commence in accordance with subsection (1).
- (3) Clause 2 (a) of Schedule 4 commences on a day to be appointed by proclamation.
- (4) Schedule 5 commences on a day to be appointed by proclamation.
- (5) Schedule 6 commences on the date of assent to this Act.

3 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 Aboriginal Land Rights Act 1983 No 42

[1] Section 63 Board members

Insert after section 63 (2B):

- (2C) Subsection (2B) (c) does not apply if an administrator was appointed to perform all of the functions of the Local Aboriginal Land Council for all or part of the relevant 12-month period.

[2] Section 64 Chairperson and Deputy Chairperson

Omit section 64 (1). Insert instead:

- (1) A Chairperson and Deputy Chairperson of the Board of a Local Aboriginal Land Council are to be elected from among the Board members.
- (1A) An election for the Chairperson and Deputy Chairperson is to be held at the first meeting of the Board after its election.
- (1B) If there is a vacancy in the office of Chairperson or Deputy Chairperson, an election is to be held to fill the vacant office at the first meeting of the Board after the vacancy.
- (1C) The Chairperson and Deputy Chairperson are to hold office for a term of 2 years and are eligible (if otherwise qualified) for re-election.

[3] Section 79 Certain persons must not be employed

Omit “4A or 5” from section 79 (1).

Insert instead “4AA, 4AB, 4AC, 4ACA, 4AD, 4AE, 4A, 4B, 5 or 5A”.

[4] Section 106 Functions of New South Wales Aboriginal Land Council

Omit section 106 (3) (d).

[5] Section 116 Delegation by New South Wales Aboriginal Land Council

Omit section 116 (1) (g).

[6] Section 144 Certain persons must not be employed

Omit “4A or 5” from section 144 (1).

Insert instead “4AA, 4AB, 4AC, 4ACA, 4AD, 4AE, 4A, 4B, 5 or 5A”.

[7] Section 165 Functions of Registrar

Omit “misbehaviour” from section 165 (h). Insert instead “misconduct”.

[8] Section 230 Limitations on certain land dealings by administrator

Omit “for a period of 12 months or more” from section 230 (2) (d).

[9] Schedule 4 Savings, transitional and other provisions

Omit “12 months” from clause 61 (2). Insert instead “2 years”.

Commencement

Item [9] of the amendments to the *Aboriginal Land Rights Act 1983* commences, or is taken to have commenced, on 1 July 2016.

Explanatory note

Item [1] of the proposed amendments provides that the requirement that a person attend 2 meetings of a Local Aboriginal Land Council within a 12-month period before becoming eligible to nominate another person for election as a Board member of the Council does not apply if an administrator has been appointed to exercise the functions of the Council during that period.

Item [2] provides that the terms of office of the Chairperson and Deputy Chairperson of the Board of a Local Aboriginal Land Council are each 2 years. This is consistent with the terms of office of the Chairperson and Deputy Chairperson of the New South Wales Aboriginal Land Council. The amendment also provides for the conduct of elections of the Chairperson and Deputy Chairperson.

Items [3] and [6] update references to provisions of the *Crimes Act 1900* (which have been amended to modernise the law relating to fraud and forgery offences and to create new offences relating to identity crime) for the purposes of providing that a person is disqualified from being employed by an Aboriginal Land Council if the person is convicted of an offence under any of those provisions.

Items [4] and [5] remove references to the approval of the community, land and business plan of a Local Aboriginal Land Council by the New South Wales Aboriginal Land Council. This oversight function of the New South Wales Aboriginal Land Council was removed by the *Aboriginal Land Rights Amendment Act 2014*.

Item [7] changes terminology used in reference to the misconduct of councillors, Board members and members of staff of, and consultants to, Aboriginal Land Councils (to make a provision relating to the investigative functions of the Registrar under the *Aboriginal Land Rights Act 1983* consistent with other provisions of that Act).

Item [8] enables an administrator to deal with the land of a Local Aboriginal Land Council without its consent for the purposes of the operation of a housing scheme if the LALC has operated the scheme for less than 12 months in contravention of a requirement that the scheme be approved by the NSWALC. Currently, an administrator may only deal with the land for those purposes without consent if the contravention has continued for at least 12 months.

Item [9] extends, by 12 months, a transitional arrangement that grants a Local Aboriginal Land Council time within which to take steps (required by regulations) to cease involvement in the operation or management of a corporation that the Local Aboriginal Land Council is not authorised under the Act to establish or acquire.

1.2 Biological Control Act 1985 No 199

[1] Section 3 Definitions

Omit “live” from the definition of *kind* in section 3 (1).

[2] Section 3 (1), definition of “organism”

Omit the definition. Insert instead:

organism means:

- (a) an organism (whether alive or dead and whether or not indigenous to Australia) other than a human, or
- (b) a virus or a sub-viral agent (whether alive or dead and whether or not indigenous to Australia), or
- (c) a part of, or matter discharged from, an organism within the meaning of paragraph (a) or (b).

[3] Section 3 (1), definition of “prescribed live organisms”

Omit the definition. Insert instead:

prescribed organisms means organisms that are:

- (a) live organisms, or
- (b) viruses or sub-viral agents,
other than live vaccines or resistant cultivars.

[4] Section 4 Biological control

Omit “live organisms”. Insert instead “prescribed organisms”.

[5] Sections 19 (1), 20 (1), 24 (1), 28 (1) (b), 29 (1) (a), 32 (2) (a) and 35 (3)

Omit “prescribed live organisms” wherever occurring.

Insert instead “prescribed organisms”.

Explanatory note

Item [2] of the proposed amendments specifically includes viruses and sub-viral agents in the definition of **organism** in the *Biological Control Act 1985*, to avoid any doubt about whether viruses are already part of the definition. (That doubt arises because there is doubt in the current scientific literature about whether viruses are “organisms” and about whether they are “live”.)

Item [1] updates a reference to organisms being “live”, as a consequence of the change made by item [2].

Item [3] changes a defined term from **prescribed live organisms** to **prescribed organisms** to remove any doubt as to whether organisms (which will now include viruses and sub-viral agents), are “live”. This will mean that viruses and sub-viral agents will be included in the national scheme for the release of prescribed organisms to act as agent organisms to control target organisms.

Item [4] narrows a reference to “live organisms”, to ensure that it refers to “prescribed organisms”, which are the only organisms subject to biological control. This is a consequence of the change made by item [3].

Item [5] updates references to “prescribed live organisms”, as a consequence of the change made by item [3].

The amendments are consistent with those made to the Commonwealth Act that is part of the national scheme (see the *Biological Control Amendment Act 2016* of the Commonwealth).

1.3 Biosecurity Act 2015 No 24

[1] Section 7 General definitions

Insert “(whether or not any such stock food is mixed or treated with a stock medicine (within the meaning of the *Stock Medicines Act 1989*)),” after “as stock food,” in the definition of **stock food**.

[2] Section 7, definition of “stock food”

Omit paragraph (a). Insert instead:

- (a) a stock medicine (within the meaning of the *Stock Medicines Act 1989*),
or

[3] Schedule 8 Amendment of other legislation

Omit “stock medicine registered under the *Stock Medicines Act 1989*” from Schedule 8.31.

Insert instead “stock medicine (within the meaning of the *Stock Medicines Act 1989*)”.

Explanatory note

Item [1] of the proposed amendments makes it clear that a stockfood remains a stockfood for the purposes of the *Biosecurity Act 2015* even if it is mixed or treated with a stock medicine.

Items [2] and [3] correct the description of stock medicines by removing redundant references to the registration of those medicines under the *Stock Medicines Act 1989*.

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

[1] Section 231QA

Insert after section 231Q:

231QA Effect of registration

- (1) A child protection order registered in the Children’s Court under this Part is taken for all purposes (except for the purposes of appeal) to be a care order of the relevant type made by the Children’s Court on the day on which it is registered and it may be varied or rescinded, or a breach of it dealt with, under this Act accordingly.

- (2) An interim order registered in the Children's Court under this Part is taken for all purposes to be an interim care order made by the Children's Court under this Act having effect, from the day on which it is registered, for the period specified in the order.
- (3) An interim order registered in the Children's Court under this Part cannot be varied under this Act, but nothing in this subsection prevents an application for a new interim care order being made under this Act and, if the application is granted, the interim order being rescinded.
- (4) Despite subsection (3), a breach of an interim order registered in the Children's Court under this Part may be dealt with under this Act in the same way as a breach of any other interim care order.
- (5) If an order under an interstate law to transfer a child protection proceeding to New South Wales is registered under this Part, the proceeding is taken to have been commenced in the Children's Court on the day on which the order is registered.

[2] Section 245I Commonwealth agencies

Omit "Federal Magistrates Court" from section 245I (b).

Insert instead "Federal Circuit Court".

Explanatory note

Item [1] of the proposed amendments inserts a provision to clarify the effect of the registration by the Children's Court of child protection orders and other orders that have been transferred to New South Wales from other jurisdictions. Chapter 14A of the *Children and Young Persons (Care and Protection) Act 1998* forms part of a scheme (along with similar provisions enacted in other Australian jurisdictions and New Zealand) for the transfer of child protection orders and other orders and proceedings for such orders between those jurisdictions. The provisions enacted in each of the jurisdictions are based on a model Bill that was approved by the Community Services Ministers' Council on 5 August 1999. The proposed amendment enacts (with minor amendments to take account of the New South Wales context and to clarify the period during which a transferred interim order has effect) a provision that was contained in that model Bill.

Item [2] updates a reference to the Federal Circuit Court.

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

[1] Section 8 Functions of Official Community Visitors

Omit section 8 (1) (e). Insert instead:

- (e) inform the Minister and the Ombudsman on matters affecting the welfare, interests and conditions of persons using visitable services, and
- (f) encourage the promotion of legal and human rights of persons using visitable services, including the right to privacy, confidentiality, adequate information and consultation in relation to those services and the right to complain, and
- (g) consider matters raised by persons using visitable services, staff of providers of visitable services and people having a genuine concern for the welfare, interests and conditions of persons using visitable services, and
- (h) provide information to persons using visitable services as to the advocacy services available to help them in the presentation of any grievance or matter of concern and, in appropriate cases, to assist such persons to obtain such services, and
- (i) facilitate, wherever it is reasonable and practicable to do so, the early and speedy resolution of grievances or matters of concern affecting

persons using visitable services by referring those grievances or matters to the providers of the relevant services or to other appropriate bodies, and

- (j) exercise such other functions as may be prescribed by the regulations for the purposes of this section.

[2] Section 28 Applications to Tribunal for administrative reviews of decisions

Omit section 28 (1) (c). Insert instead:

- (c) a decision made by a service provider not to take action recommended by the Ombudsman under section 26 of the *Ombudsman Act 1974* as a result of an investigation of a complaint under Part 4 of this Act, or to take part only of the action so recommended,

[3] Section 28 (1A)

Insert after section 28 (1):

- (1A) A right of review relating to a decision of the kind referred to in subsection (1) (c) applies only to the person from whose complaint the recommendation referred to in that paragraph arose. Accordingly, only that person may apply to the Tribunal for a review of that decision.

[4] Section 45 Reasons to be given for certain decisions

Omit section 45 (1). Insert instead:

- (1) A relevant decision maker must record the reasons for the following decisions and give a written copy of the reasons to each person considered by the decision maker to have been directly affected by the decision:
- (a) any decision in respect of which there is a right of review by the Tribunal, other than a decision of a kind referred to in section 28 (1) (c),
 - (b) any decision by a service provider that is likely to have a significant impact on the quality or availability of a community service, and that directly affects one or more persons using the service, being a decision in respect of which a request for reasons is made to the service provider by or on behalf of a person so affected within 28 days after the decision is notified to that person.

Explanatory note

The proposed amendments insert into the *Community Services (Complaints, Reviews and Monitoring) Act 1993* provisions equivalent to the remaining operative provisions of the *Community Services (Complaints, Reviews and Monitoring) Regulation 2004* (which prescribe functions of Official Community Visitors and decisions that are subject to administrative review or for which reasons must be given). That Regulation is proposed to be repealed by Schedule 4.

1.6 Conveyancers Licensing Act 2003 No 3

[1] Whole Act (except Schedule 1 and where otherwise amended by this subschedule)

Omit “Director-General” and “Director-General’s” wherever occurring.

Insert instead “Secretary” and “Secretary’s”, respectively.

[2] Section 3, definitions of “Department” and “Director-General”

Omit the definitions. Insert in alphabetical order:

Department means the Department of Finance, Services and Innovation.

Secretary means:

- (a) the Commissioner for Fair Trading, Department of Finance, Services and Innovation, or
- (b) if there is no person employed as Commissioner for Fair Trading—the Secretary of the Department of Finance, Services and Innovation.

[3] Section 17 Duration

Omit “until the following 30 June”. Insert instead “for 1 year”.

[4] Sections 80 (2) (c) and 144

Omit “officer” wherever occurring. Insert instead “employee”.

[5] Section 145 (1), definition of “authorised officer”

Omit “an officer” from paragraph (a). Insert instead “an employee”.

[6] Section 145 (2)

Omit “any officer”. Insert instead “any employee”.

[7] Section 164 (a)

Omit “member of staff of”. Insert instead “person employed in”.

Explanatory note

Item [3] of the proposed amendments provides that a licence under the *Conveyancers Licensing Act 2003* remains in force for 1 year from the date the licence is granted (rather than only until the following 30 June, as is currently the case).

Items [1], [2] and [4]–[7] update terminology and references as a consequence of the *Government Sector Employment Act 2013* and past administrative changes orders.

1.7 Conveyancers Licensing Regulation 2015

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

Omit the definition.

[2] Clause 5 Fees for licence

Omit clause 5 (4).

[3] Clause 35 (a)

Omit “Director-General”. Insert instead “Secretary”.

Explanatory note

The proposed amendments are consequent on the proposed amendments to the *Conveyancers Licensing Act 2003* in this Schedule.

1.8 Conveyancing Act 1919 No 6

Section 184D Registration of instruments

Insert after section 184D (8):

- (9) The Registrar-General may refuse to register in the General Register of Deeds an instrument that purports to create a prescribed power of attorney for the purposes of the *Powers of Attorney Act 2003* if the Registrar-General is not satisfied that the instrument creates a prescribed power of attorney for the purposes of that Act.

Explanatory note

The proposed amendment allows the Registrar-General to refuse to register in the General Register of Deeds under the *Conveyancing Act 1919* an instrument that purports to create a prescribed power of attorney for the purposes of the *Powers of Attorney Act 2003* if the Registrar-General is not satisfied that the instrument meets the formal requirements for creation of a prescribed power of attorney, namely that the instrument:

- (a) is in or to the effect of a form prescribed by the regulations under the *Powers of Attorney Act 2003* for the purposes of section 8 of that Act, and
- (b) is duly executed.

1.9 Co-operative Housing and Starr-Bowkett Societies Act 1998 No 11

[1] Section 3 Definitions

Omit the definitions of *applicable accounting standard*, *standard* and *Standards Committee* from section 3 (1).

Insert in alphabetical order:

standard means a standard that is continued in force under clause 21 of Schedule 5.

[2] Section 3 (1)

Insert in alphabetical order:

approved form means a form approved by the Registrar.

[3] Section 12 Interpretation—when one entity controls another

Omit section 12 (3).

[4] Section 19 Functions of Registrar

Omit section 19 (e).

[5] Section 30 Inspectors

Omit section 30 (2). Insert instead:

- (2) The Registrar is to cause each inspector to be issued with a certificate of identification in the approved form.

[6] Section 62 Model rules

Omit the section.

[7] Section 78 Fees and charges

Omit section 78 (3).

[8] Sections 118 (10), 137 (5) (e), 138 (3) and 140 (12)

Omit “prescribed form” wherever occurring. Insert instead “approved form”.

[9] Section 132 Requirements applying to accounts and group accounts

Omit “requirements, and” from section 132 (1) (a). Insert instead “requirements.”.

[10] Section 132 (1) (b)

Omit the paragraph.

[11] Section 132 (2) and (3)

Omit the subsections.

- [12] **Section 134 Directors' reports**
Omit "time, or" from section 134 (8) (b) (ii). Insert instead "time."
- [13] **Section 134 (8) (c)**
Omit the paragraph.
- [14] **Section 136 Contravention of Division**
Omit section 136 (2).
- [15] **Section 143 Auditor's report**
Omit section 143 (2) (a) (iii).
- [16] **Section 143 (2) (b)**
Omit the paragraph.
- [17] **Section 143 (2) (e)**
Omit "or (b)".
- [18] **Section 144 Powers and duties of auditor**
Omit section 144 (8) and (9).
- [19] **Part 8 Standards and model rules**
Omit the Part.
- [20] **Schedule 1 General interpretative provisions**
Omit "prescribed or" from clause 11 (1) and (2), wherever occurring.
- [21] **Schedule 4 Provisions relating to the constitution and procedure of the Standards Committee**
Omit the Schedule.
- [22] **Schedule 5 Savings, transitional and other provisions**
Insert at the end of the Schedule:

Part 6 Provisions consequent on enactment of Statute Law (Miscellaneous Provisions) Act 2016

19 Definition

In this Part, *repeal day* means the day on which Part 8 of this Act is repealed by the *Statute Law (Miscellaneous Provisions) Act 2016*.

20 Abolition of Standards Committee

On the repeal day:

- (a) the Standards Committee is abolished, and
- (b) a person holding office as a member of that Committee ceases to hold that office and is not entitled to compensation because of ceasing to hold that office.

21 Existing standards

A standard that was in force under section 192 immediately before the repeal day:

- (a) continues in force under this Act as if Part 8 of this Act had not been repealed, and
- (b) may be amended or repealed by the Minister, by notice published in the Gazette.

Explanatory note

Item [22] of the proposed amendments abolishes the Standards Committee established under the *Co-operative Housing and Starr-Bowkett Societies Act 1998* (the **principal Act**) and provides for the continued operation of standards made by that Committee before its abolition. Items [3], [6], [9]–[18] consequentially repeal provisions relating to model rules made, and applicable accounting standards declared, by the Committee (which are redundant because there are currently no such model rules or declarations in force). Items [1], [4], [7], [19] and [21] make other consequential amendments.

Items [2], [5], [8] and [20] provide that certain documents required to be provided under the principal Act are to be provided in the form approved by the Secretary of the Department of Finance, Services and Innovation (rather than in the form prescribed by the regulations, as is currently the case).

1.10 Co-operative Housing and Starr-Bowkett Societies Regulation 2015

[1] Clauses 3 (2), 12, 14 (2) and (3) and Schedule 1

Omit the provisions.

[2] Clause 10 Registration of associations

Omit “form approved by the Registrar” from clause 10 (1) (a).

Insert instead “approved form”.

[3] Clause 14 Annual returns

Insert “in the approved form” after “following returns” in clause 14 (1).

[4] Schedule 4 Prescribed information relating to proposed compromise or arrangement

Omit “the form approved by the Registrar” from clause 2 (3) (a).

Insert instead “the approved form”.

Explanatory note

The proposed amendments are consequent on the proposed amendments to the *Co-operative Housing and Starr-Bowkett Societies Act 1998* in this Schedule.

1.11 Fisheries Management Amendment Act 2015 No 59

Schedule 1 Amendment of Fisheries Management Act 1994 No 38

Omit Schedule 1 [38]. Insert instead:

[38] Section 69 Nomination of commercial fisher by holder of shares

Omit section 69 (2).

Explanatory note

The proposed amendment provides for the repeal of an uncommenced provision that inserts into the *Fisheries Management Act 1994* a provision that is unnecessary (because the effect of the provision is achieved by another provision to be inserted by the *Fisheries Management Amendment Act 2015*).

1.12 Geographical Names Act 1966 No 13

[1] Section 5 Powers and functions of board

Omit “tribal” from section 5 (1) (g).

[2] Section 5 (1) (h)

Omit “dictionary”. Insert instead “register”.

Explanatory note

Items [1] and [2] of the proposed amendments update terminology used in reference to the Geographical Names Board’s functions of compiling and maintaining information relating to geographical names.

1.13 Home Building Act 1989 No 147

Schedule 4 Savings and transitional provisions

Omit “to which the requirement was subject” from clause 143.

Insert instead “which was subject to the requirement”.

Explanatory note

The proposed amendment corrects a transitional provision by providing that an amendment made to the *Home Building Act 1989* by the *Home Building Amendment Act 2014* that imposes a former requirement of the regulations extends to any contract or matter that was formerly subject to that requirement (rather than to any contract or matter to which that requirement was formerly subject, as is currently the case).

1.14 Marine Estate Management Act 2014 No 72

Section 59 General provisions relating to marine park and aquatic reserve notifications

Insert “in the Gazette” after “publication of the notification” in section 59 (1).

Explanatory note

The proposed amendment makes it clear that a marine park or aquatic reserve notification (which prohibits an activity at a marine park or aquatic reserve) takes effect on its publication in the Gazette (rather than on its publication on the internet) or on a later date specified in the notification.

1.15 Mental Health Act 2007 No 8

[1] Section 27 Steps for medical examination requirements for ongoing detention in mental health facility

Omit “in the form prescribed by the regulations” from section 27 (b) and (c) wherever occurring.

[2] Section 27 (2) and (3)

Insert at the end of section 27:

- (2) Any certification under subsection (1) (a) or notification under subsection (1) (b) or (c) of the opinion that a person is, after an examination under this section or section 27A, a mentally ill person or a mentally disordered person, is to be in the form prescribed by the regulations.
- (3) Any form used for the purposes of this section or section 27A (as in force immediately before the commencement of this subsection) is, until such time as a form is prescribed for the purposes of subsection (2), taken to be the form so prescribed.

Explanatory note

Item [2] of the proposed amendments makes it clear that any certification or notification of an opinion as to the mental state of a person that is given after the person is detained in a mental health facility and examined by certain medical practitioners or authorised persons is to be in the form prescribed by the regulations (whether the examination is conducted in person or using an audio visual link).

Item [1] makes a consequential amendment.

1.16 Mining Act 1992 No 29

[1] Section 114A Power of decision-maker in relation to renewal applications for exploration licences

Omit “new” from section 114A (4). Insert instead “renewed”.

[2] Section 240D Effect of direction

Omit “section 126” from the note. Insert instead “Division 3 of Part 7”.

[3] Section 242AA Prior notice of direction under section 240 or 240A not required

Insert “or 240A” after “240”.

[4] Section 282 Liability to pay royalty—publicly owned minerals

Omit “clause 8 (4)” from section 282 (2). Insert instead “clause 7A (3)”.

[5] Schedule 1B Further provisions relating to authorisations generally

Insert after clause 7 (1) (b):

- (b1) in the case of a mining lease—the conditions referred to in clause 7A,
and

[6] Schedule 1B, clause 7A

Insert after clause 7:

7A Additional conditions of mining leases

- (1) A mining lease is subject to a condition that the holder of the lease may suspend mining operations in the mining area only if the operations are suspended in accordance with the written consent of the decision-maker.
- (2) However, a mining lease that is granted in relation to a mining purpose or mining purposes only is not subject to such a condition.
- (3) A mining lease granted on the basis of a tender lodged under section 53 is taken to include a condition in the terms specified in the tender for the purposes of section 53 (3).
- (4) The conditions referred to in this clause apply in addition to the conditions referred to in clause 7.

[7] Schedule 1B, clause 8 (3) and (4)

Omit the subclauses.

Explanatory note

Item [1] of the proposed amendments corrects a reference to a renewed exploration licence to make it clear that the licence is not a new exploration licence.

Item [2] updates a cross-reference in a note relating to the cancellation of authorities.

Item [3] extends to a prohibition notice (which directs a person to discontinue unauthorised mining, prospecting or related activities) a provision that allows certain other directions under the Act to be given without prior notice to any affected person.

Items [6] and [7] transfer provisions creating statutory conditions of mining leases from a provision that applies to mineral claims to a provision that applies only to mining leases. In doing so, a statutory condition requiring consent to the suspension of mining operations is redrafted to clarify its operation. Items [4] and [5] make consequential amendments.

1.17 Mining and Petroleum Legislation Amendment (Land Access Arbitration) Act 2015 No 41

[1] Schedule 2 Amendment of Petroleum (Onshore) Act 1991 No 84

Omit proposed section 19 (6) in Schedule 2 [2].

[2] Schedule 2 [2]

Re-number proposed section 19 (7) as section 19 (6).

[3] Schedule 2 [10]

Insert after proposed section 69G (2):

(3) The Secretary is to appoint a member of the Arbitration Panel as an arbitrator.

Explanatory note

Item [1] of the proposed amendments removes an uncommenced provision that duplicates an existing provision of the *Petroleum (Onshore) Act 1991* (the **Petroleum Act**) relating to the renewal of petroleum titles. Item [2] makes a consequential amendment.

Item [3] changes an uncommenced amendment to a provision of the Petroleum Act that provides for the appointment of an arbitrator (on the application of a title holder or landholder) to make it clear that the Secretary of the Department of Industry, Skills and Regional Development is required to make the appointment, but may do so without consulting the heads of certain Departments. The uncommenced amendment repeals a provision that requires the Secretary to make the appointment after consulting the heads of Departments.

1.18 Motor Dealers and Repairers Act 2013 No 107

[1] Section 4 Definitions

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

Secretary means:

- (a) the Commissioner for Fair Trading, Department of Finance, Services and Innovation, or
- (b) if there is no person employed as Commissioner for Fair Trading—the Secretary of the Department of Finance, Services and Innovation.

[2] Section 4 (1)

Insert in alphabetical order:

towable recreation vehicle means a trailer equipped with living space or sleeping facilities, or both, and includes a caravan, fifth wheeler, pop-top caravan, camper trailer or tent trailer.

[3] Section 5 Motor dealers

Omit “cars” from section 5 (2). Insert instead “motor vehicles”.

[4] Section 63 Sale notices for certain second-hand motor vehicles

Omit section 63 (1). Insert instead:

(1) Application

This section does not apply to any of the following:

- (a) a demonstrator motor vehicle,
- (b) a second-hand motor cycle,
- (c) a second-hand trailer,
- (d) a second-hand towable recreation vehicle.

[5] Section 64 Sale notices for demonstrator motor vehicles and other second-hand vehicles

Omit “second-hand motor cycle or a demonstrator motor vehicle”.

Insert instead “demonstrator motor vehicle, second-hand motor cycle, second-hand trailer or second-hand towable recreation vehicle”.

Explanatory note

Item [1] of the proposed amendments confers on the Commissioner for Fair Trading, who is employed in the Department of Finance, Services and Innovation, functions under the *Motor Dealers and Repairers Act 2013* that are currently conferred on the Secretary of that Department.

Item [4] exempts second-hand trailers and towable recreation vehicles from a provision that requires a dealer’s notice to be attached to certain motor vehicles while they are offered or displayed for sale. Item [5] ensures that the dealer’s notice will still be required to be provided to a purchaser at or before the time of the sale. Item [2] inserts a definition of **towable recreation vehicle**.

Item [3] corrects terminology.

1.19 Motor Dealers and Repairers Regulation 2014

[1] Clause 3 Definitions

Omit the definition of **towable recreation vehicle** from clause 3 (1).

[2] Clause 25 Form of dealer’s notices

Omit clause 25 (2) (a) and (b). Insert instead:

- (a) for the purposes of section 63 of the Act—Motor Dealer’s Notice Form (Form 5),
- (b) for the purposes of section 64 of the Act:
 - (i) if the motor vehicle is a motor cycle—Motor Dealer’s Notice for Motor Cycles Form (Form 7), or
 - (ii) if the motor vehicle is a trailer or towable recreation vehicle—Motor Dealer’s Notice for Trailers and Towable Recreation Vehicles Form (Form 9), or
 - (iii) in any other case—Motor Dealer’s Notice Form (Form 5),

[3] Schedule 2, Forms 5, 6, 7 and 8

Omit “kms” wherever occurring. Insert instead “km”.

[4] Schedule 2, Form 5

Omit “5,000kms”. Insert instead “5,000 km”.

- [5] **Schedule 2, Form 6**
Omit “2,000kms”, “20,000kms” and “5,000kms”.
Insert instead “2,000 km”, “20,000 km” and “5,000 km”, respectively.
- [6] **Schedule 2, Form 7**
Omit “sections 62, 64, 65”. Insert instead “sections 62, 64”.
- [7] **Schedule 2, Forms 7 and 8**
Omit “Date on which Notice affixed to Motor Cycle” wherever occurring.
Insert instead “Date of Notice”.
- [8] **Schedule 2, Forms 7 and 8**
Omit “This section must be completed before the notice is affixed to the motor cycle.” wherever occurring.
- [9] **Schedule 2, Form 7**
Omit “3,000kms”. Insert instead “3,000 km”.
- [10] **Schedule 2, Form 8**
Omit “2,000kms”, “10,000kms”, “7,000kms”, “3,000kms”, “30,000kms” and “5,000kms” wherever occurring.
Insert instead “2,000 km”, “10,000 km”, “7,000 km”, “3,000 km”, “30,000 km” and “5,000 km”, respectively.
- [11] **Schedule 2, Form 9**
Omit the heading to the Form.
Insert instead “**Motor Dealer’s Notice for Trailers and Towable Recreation Vehicles**”.
- [12] **Schedule 2, Form 9**
Omit “MOTOR DEALER’S NOTICE FOR TOWABLE RECREATIONAL VEHICLES”.
Insert instead “MOTOR DEALER’S NOTICE FOR TRAILERS AND TOWABLE RECREATION VEHICLES”.
- [13] **Schedule 2, Form 9**
Omit “sections 62, 63, 65”. Insert instead “sections 62, 64”.
- [14] **Schedule 2, Form 9**
Omit “Date on which Notice Affixed to Motor Vehicle”. Insert instead “Date of notice”.
- [15] **Schedule 2, Form 10**
Omit “sections 62, 63”. Insert instead “sections 62, 64”.
- [16] **Schedule 2, Form 10**
Omit “Date on which Notice Affixed to Motor Vehicle”. Insert instead “Date of notice”.
- Explanatory note**
Items [1], [2], [6] and [11]–[16] of the proposed amendments are consequent on the proposed amendments to the *Motor Dealers and Repairers Act 2013* in this Schedule.
Items [3], [4], [5], [9] and [10] correct the use of units.

Items [7] and [8] update Forms for notices to reflect the requirements under the *Motor Dealers and Repairers Act 2013* for those notices.

1.20 National Disability Insurance Scheme (NSW Enabling) Act 2013 No 104

Schedule 3 Savings, transitional and other provisions

Insert after Part 1:

Part 2 Provisions consequent on repeal of Home Care Service Act 1988 by Statute Law (Miscellaneous Provisions) Act 2016

2 Definitions

In this Part:

dissolution day means the day on which the *Home Care Service Act 1988* is repealed by the *Statute Law (Miscellaneous Provisions) Act 2016*.

former authority means the Home Care Service of New South Wales.

3 Dissolution of Home Care Service of New South Wales

The former authority is dissolved on the dissolution day.

4 Transfer of assets, rights and liabilities

- (1) On the dissolution day, any assets, rights and liabilities of the former authority immediately before its dissolution by this Part are transferred to the Crown.
- (2) Clause 3 of Schedule 2 applies in relation to the transfer of assets, rights and liabilities under this clause. For that purpose:
 - (a) a reference in clause 3 of Schedule 2 to the vesting of assets, rights and liabilities by a vesting order is taken to be a reference to the transfer of assets, rights and liabilities by this clause, and
 - (b) a reference in clause 3 of Schedule 2 to the transferee is taken to be a reference to the Crown, and
 - (c) a reference in clause 3 of Schedule 2 to the transferor is taken to be a reference to the former authority.

Explanatory note

The proposed amendment dissolves the Home Care Service of New South Wales and transfers any of its residual assets, rights and liabilities to the Crown. Assets, rights and liabilities of the Home Care Service relating to the exercise of its functions under the *Home Care Service Act 1988* have been transferred to Australian Unity Home Care Service Pty Ltd under the *National Disability Insurance Scheme (NSW Enabling) Act 2013*. The Home Care Service is constituted by the *Home Care Service Act 1988*, which is proposed to be repealed by Schedule 4.

1.21 Pawnbrokers and Second-hand Dealers Act 1996 No 13

[1] Whole Act (other than Schedule 2 and where otherwise amended by this subschedule)

Omit “Director-General” wherever occurring. Insert instead “Secretary”.

[2] Section 3 Definitions

Omit the definition of *Director-General* from section 3 (1). Insert in alphabetical order:

Secretary means:

- (a) the Commissioner for Fair Trading, Department of Finance, Services and Innovation, or
- (b) if there is no person employed as Commissioner for Fair Trading—the Secretary of the Department of Finance, Services and Innovation.

Explanatory note

Item [2] of the proposed amendments confers on the Commissioner for Fair Trading, who is employed in the Department of Finance, Services and Innovation, functions under the *Pawnbrokers and Second-hand Dealers Act 1996* that are currently conferred on the Secretary of that Department. The proposed amendments also update terminology and references as a consequence of the *Government Sector Employment Act 2013* and past administrative changes orders.

1.22 Pawnbrokers and Second-hand Dealers Regulation 2015

Clause 3 Interpretation

Omit the definition of *Secretary* from clause 3 (1).

Explanatory note

The proposed amendment is consequent on the proposed amendments to the *Pawnbrokers and Second-hand Dealers Act 1996* in this Schedule.

1.23 Professional Standards Act 1994 No 81

[1] Section 43B

Insert after section 43A:

43B Delegation of functions

The Council may delegate to any person whose services are used by the Council under section 46 any of the functions of the Council other than the function under section 43 (1) (j) or this power of delegation.

[2] Section 46 Staff of the Council

Insert “, including a person designated as chief executive officer,” after “staff”.

[3] Section 50A

Insert after section 50:

50A Disclosure of information

A person must not disclose any information obtained in connection with the administration or execution of this Act unless that disclosure is made:

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

Maximum penalty: 20 penalty units.

Explanatory note

Item [1] of the proposed amendments gives the NSW Professional Standards Council a power to delegate its functions.

Item [2] makes it clear that the staff whose services the NSW Professional Standards Council uses may include a person designated as chief executive officer.

Item [3] makes it an offence to disclose information obtained in connection with the administration or execution of the *Professional Standards Act 1994* (except in certain circumstances).

1.24 Security Industry Act 1997 No 157

[1] Section 10 Master licences

Omit “corporation holding” from section 10 (3). Insert instead “person holding”.

[2] Section 35 Licence to be produced on demand

Insert after section 35 (2):

- (3) A person, who has been granted the renewal of a licence but has yet to be issued with the renewed licence, complies with this section if the person instead produces the most recent licence issued to the person.

[3] Section 36 Licence to be worn by licensee

Insert after section 36 (3):

- (4) A person, who has been granted the renewal of a licence but has yet to be issued with the renewed licence, complies with this section if the person instead wears (in the manner required by this section) the most recent licence issued to the person.

Explanatory note

A visitor permit under the *Security Industry Act 1997* (the *principal Act*) authorises the holder of the permit to carry out specified security activities during one or more specified events. A visitor permit may be issued to individuals or corporations. If a visitor permit authorises the holder to carry on security activities of a kind authorised by a master licence under the principal Act, the holder of a master licence can enter into an arrangement with the holder of the visitor permit for the provision of persons to carry on security activities. However, this is permitted only if the holder of the visitor permit is a corporation.

Item [1] of the proposed amendments removes this limitation so arrangements can now be entered into regardless of whether the holder of the visitor permit is an individual or a corporation.

Items [2] and [3] provide that a person who has been granted the renewal of a licence under the principal Act but who is yet to receive the renewed licence satisfies a requirement to produce the licence or to wear the licence if the person instead produces or wears the most recent licence issued to the person (even though that licence will have expired).

1.25 Sporting Venues (Invasions) Act 2003 No 44

Section 3 Interpretation

Omit the definition of *designated sporting venue* from section 3 (1). Insert instead:

designated sporting venue means a venue for sporting activities prescribed by the regulations for the purposes of this Act.

Explanatory note

The proposed amendment removes references to certain sporting venues that have been renamed from the definition of *designated sporting venue* in the *Sporting Venues (Invasions) Act 2003* (which also includes sporting venues prescribed by the regulations for the purposes of that Act). The renamed venues will be included instead in the regulations.

1.26 Sporting Venues (Invasions) Regulation 2011

Clause 4

Omit the clause. Insert instead:

4 Designated sporting venues

The following are prescribed as designated sporting venues for the purposes of the Act:

- (a) Central Coast Stadium at Dane Drive, Gosford,
- (b) Wollongong Stadium at Harbour Street, Wollongong,
- (c) Newcastle Stadium at Turton Road, Broadmeadow.

Explanatory note

The proposed amendment is consequent on the proposed amendment to the *Sporting Venues (Invasions) Act 2003* in this Schedule.

1.27 State Emergency and Rescue Management Act 1989 No 165

[1] Section 20A State Emergency Recovery Controller and Deputy

Insert “and a Deputy State Emergency Recovery Controller” after “Controller” in section 20A (1).

[2] Section 20A (3) and (4)

Insert after section 20A (2):

- (3) The office of the Deputy State Emergency Recovery Controller is to be held by an employee of the Department of Justice who is designated by the Secretary as the Deputy State Emergency Recovery Controller.
- (4) If the State Emergency Recovery Controller is unavailable for any reason, the Deputy State Emergency Recovery Controller has, during the period of unavailability, all the functions of the State Emergency Recovery Controller.

Explanatory note

The proposed amendments provide for the office of Deputy State Emergency Recovery Controller and for the holder of that office to have the functions of the State Emergency Recovery Controller during any period in which the State Emergency Recovery Controller is unavailable.

1.28 Subordinate Legislation Act 1989 No 146

Schedule 5 Further postponement of repeal of certain statutory rules

Insert after clause 5:

6 Postponement of repeal of other statutory rules due for repeal in 2016

The following statutory rules remain in force until 1 September 2017, unless sooner repealed:

- (a) *Commercial Agents and Private Inquiry Agents Regulation 2006*,
- (b) *Commons Management Regulation 2006*,
- (c) *Crown Lands (Continued Tenures) Regulation 2006*,
- (d) *Crown Lands (General Reserves) By-law 2006*,
- (e) *Crown Lands Regulation 2006*,
- (f) *Employment Protection Regulation 2001*,
- (g) *Environmental Planning and Assessment Regulation 2000*,

- (h) *Firearms Regulation 2006*,
- (i) *Local Government (General) Regulation 2005*,
- (j) *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005*.

Explanatory note

The proposed amendment keeps a number of statutory rules in force for a further period of 1 year after the date on which they would otherwise be repealed by the *Subordinate Legislation Act 1989*. However, any of the statutory rules may be repealed sooner by other legislation.

The proposed amendment is necessary as the statutory rules have each been postponed on at least 5 occasions and are due to be repealed by the *Subordinate Legislation Act 1989* on 1 September 2016.

Each of the statutory rules continues to be required and the repeal of each of the statutory rules is to be further postponed until 1 September 2017 for the following reasons:

- (a) Legislation governing commercial agents and private inquiry agents is currently being reviewed. As changes to the *Commercial Agents and Private Inquiry Agents Act 2004* and its regulations are likely, it is considered that it would be premature to remake the *Commercial Agents and Private Inquiry Agents Regulation 2006* before the conclusion of that review.
- (b) The comprehensive review of NSW Crown Lands Management has proposed new legislation replace the principal Acts under which the *Commons Management Regulation 2006*, the *Crown Lands (Continued Tenures) Regulation 2006*, the *Crown Lands (General Reserves) By-law 2006* and the *Crown Lands Regulation 2006* are made. It is therefore proposed to postpone the repeal of these regulations and the by-law pending the enactment of that legislation.
- (c) NSW Industrial Relations is to undertake a review of the *Employment Protection Act 1982* and other industrial legislation in light of recent government sector reforms and various changes to Commonwealth workplace relations laws. It is considered that it would be premature to remake the *Employment Protection Regulation 2001* before the conclusion of that review.
- (d) The *Environmental Planning and Assessment Act 1979* and its related legislation is under ongoing review. It is considered that it would be premature to remake the *Environmental Planning and Assessment Regulation 2000* until the results of the review are clear.
- (e) The legislation governing firearms and prohibited weapons is under ongoing review. It is considered that it would be premature to remake the *Firearms Regulation 2006* at this time.
- (f) The *Local Government Act 1993* is currently under comprehensive review. It is considered that it would be premature to remake the *Local Government (General) Regulation 2005* before the conclusion of that review.
- (g) A review is being undertaken to determine whether the *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005* should be remade or replaced and whether to align it with the outcome of the current review of the *Local Government Act 1993*. It is considered that it would be premature to remake the Regulation before the conclusion of that review.

1.29 Surveying and Spatial Information Act 2002 No 83

Section 27 Constitution of Board

Omit “Department” from section 27 (2) (b). Insert instead “Public Service”.

Explanatory note

The proposed amendment extends a provision relating to the appointment of members to the Board of Surveying and Spatial Information to provide that the registered surveyor appointed to the Board (who is currently required to be a person employed in the Department) may be any person employed in the Public Service.

1.30 University of Technology Sydney Act 1989 No 69

[1] Section 3 Definitions

Insert in alphabetical order in section 3 (1):

professional staff of the University means the staff of the University that is not the academic staff.

[2] Sections 8 (definition of “external person”), 8D and 28 (1) (k)

Omit “non-academic” wherever occurring. Insert instead “professional”.

Explanatory note

Item [2] of the proposed amendments changes terminology used in reference to staff of the University of Technology Sydney other than academic staff. Item [1] makes a consequential amendment.

1.31 University of Technology Sydney By-law 2005

[1] Clause 3 Definitions

Omit the definition of *elected (non-academic staff) member* from clause 3 (1).

Insert in alphabetical order:

elected (professional staff) member means a member of the Council referred to in section 8D (1) (b) of the Act.

[2] Clauses 3 (2), 6, 8, 11 (1) (a), 14 (1) (b), 16 (1), 20 (1) and 38

Omit “non-academic” and “Non-Academic” wherever occurring.

Insert instead “professional” and “Professional”, respectively.

Explanatory note

The proposed amendments are consequent on the proposed amendments to the *University of Technology Sydney Act 1989* in this Schedule.

1.32 University of Western Sydney Act 1997 No 116

[1] Long title

Omit “University of Western Sydney”. Insert instead “Western Sydney University”.

[2] Section 1 Name of Act

Omit “*University of Western Sydney Act 1997*”.

Insert instead “*Western Sydney University Act 1997*”.

[3] Section 3 Definitions

Omit “University of Western Sydney” from the definition of *University* in section 3 (1).

Insert instead “Western Sydney University”.

[4] Section 6 Incorporation of University

Omit “University of Western Sydney”. Insert instead “Western Sydney University”.

Explanatory note

Item [4] of the proposed amendments changes the name of the University of Western Sydney to the Western Sydney University.

Items [1]–[3] make consequential amendments. Consequential amendments to other Acts and instruments are contained in Schedule 3.

1.33 Water Management Act 2000 No 92

[1] Section 5 Water management principles

Omit “indigenous” from section 5 (2) (e). Insert instead “Aboriginal”.

[2] Section 6 State Water Management Outcomes Plan

Omit “referred to in the *Murray-Darling Basin Act 1992*” from section 6 (3) (a).

Insert instead “set out in Schedule 1 to the *Water Act 2007* of the Commonwealth”.

[3] Section 104 Duration of approval

Omit “a statutory declaration” from section 104 (5) (b). Insert instead “a written statement”.

[4] Section 389A Conferral of water management functions on public authorities

Omit “Local Land Services” from section 389A (1). Insert instead “a public authority”.

[5] Section 389A (2)

Omit “Local Land Services”. Insert instead “A public authority”.

Explanatory note

Item [1] of the proposed amendments changes terminology used in a provision setting out the water management principles of the *Water Management Act 2000* (**the Act**) by replacing the term “indigenous” with “Aboriginal” (which will make the terminology consistent with other provisions of the Act).

Item [2] updates a reference to the Murray-Darling Basin Agreement (which, in its current form, is set out in Schedule 1 to the *Water Act 2007* of the Commonwealth).

Item [3] enables the holder of an expired approval, when applying for an extension of the period for which the approval has effect, to give the reasons for the delay in applying by way of written statement (rather than by statutory declaration).

Items [4] and [5] enable the Minister for Lands and Water to confer certain water management functions on a **public authority** (within the meaning of the Act) rather than only on Local Land Services. These functions relate to assisting the Minister in the development or implementation of management plans, managing licensed environmental water under access licences and monitoring water quality and other environmental health objectives. (The section under which the Minister may confer these functions does not limit the Minister’s general power under the Act to delegate any of the Minister’s functions under the Act to any person.)

Schedule 2 Amendments by way of statute law revision

2.1 Agricultural and Veterinary Chemicals (New South Wales) Act 1994 No 53

[1] Section 3 (1)

Omit the definition of *NRA*. Insert in alphabetical order:

APVMA means the Australian Pesticides and Veterinary Medicines Authority continued in existence by the Agricultural and Veterinary Chemicals (Administration) Act.

[2] Sections 16 (2), 21–24, 28 (1), 30 and 31 (1) (c)–(g) and (2)

Omit “NRA” wherever occurring. Insert instead “APVMA”.

Explanatory note

The proposed amendments update references to a renamed Commonwealth authority.

2.2 Bathurst Regional Local Environmental Plan 2014

Schedule 3, Part 2, clause 4.4 (4)

Omit “*Regulations*”. Insert instead “*Regulation*”.

Explanatory note

The proposed amendment corrects a citation.

2.3 Bega Valley Local Environmental Plan 2002

Clause 51 (3)

Omit “*Service*” where secondly occurring.

Explanatory note

The proposed amendment corrects a citation.

2.4 Boarding Houses Act 2012 No 74

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

Omit “Department within the meaning of the *Public Sector Employment and Management Act 2002*”.

Insert instead “Public Service agency within the meaning of the *Government Sector Employment Act 2013*”.

Explanatory note

The proposed amendment updates terminology.

2.5 Broken Hill Local Environmental Plan 2013

Schedule 1

Omit “**Use of certain land that**”. Insert instead “**1 Use of certain land that**”.

Explanatory note

The proposed amendment inserts a missing number.

2.6 Children and Young Persons (Care and Protection) Regulation 2012

[1] Clause 8 (1) (g)

Omit “Federal Magistrates Court”. Insert instead “Federal Circuit Court”.

[2] Clause 43 (1) (b)

Omit “Federal Magistrates Court”. Insert instead “Federal Circuit Court of Australia”.

Explanatory note

The proposed amendments update references to a renamed court.

2.7 Civil and Administrative Tribunal Act 2013 No 2

Section 17 (5) (b) and clause 2 (2) of Schedule 4

Omit “Fair Trading” wherever occurring.

Insert instead “Innovation and Better Regulation”.

Explanatory note

The proposed amendment updates references to a Minister.

2.8 Conargo Local Environmental Plan 2013

Clause 6.5 (2)

Re-number paragraphs (b) and (c) as paragraphs (a) and (b), respectively.

Explanatory note

The proposed amendment corrects numbering.

2.9 Co-operative Schemes (Administrative Actions) Act 2001 No 45

Section 3, definition of “Commonwealth authority”

Omit “Federal Magistrates Court”. Insert instead “Federal Circuit Court of Australia”.

Explanatory note

The proposed amendment updates a reference to a renamed court.

2.10 Corporations (Administrative Actions) Act 2001 No 33

Section 3, definition of “Commonwealth authority”

Omit “Federal Magistrates Court”. Insert instead “Federal Circuit Court of Australia”.

Explanatory note

The proposed amendment updates a reference to a renamed court.

2.11 Crimes (Administration of Sentences) Act 1999 No 93

Section 77 (5), definition of “court”

Omit “Federal Magistrates Court” from paragraph (d).

Insert instead “Federal Circuit Court”.

Explanatory note

The proposed amendment updates a reference to a renamed court.

2.12 Dangerous Goods (Road and Rail Transport) Regulation 2014

[1] Schedule 1

Omit “clause” wherever occurring. Insert instead “Clause”.

[2] Schedule 1

Number all lines commencing with “in the case of” and “in any other” as paragraphs (a) and (b), respectively.

Explanatory note

Item [1] of the proposed amendments corrects capitalisation. Item [2] applies numbering to paragraphs previously unnumbered.

2.13 Drug Misuse and Trafficking Act 1985 No 226

Section 3 (3)

Insert after section 3 (2):

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

Explanatory note

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

2.14 Electricity Network Assets (Authorised Transactions) Act 2015 No 5

Section 38 (1)

Omit “licence under”. Insert instead “licence referred to in”.

Explanatory note

The proposed amendment clarifies a cross-reference.

2.15 Electricity Supply Act 1995 No 94

Section 191 (4)

Omit “Fair Trading”. Insert instead “Innovation and Better Regulation”.

Explanatory note

The proposed amendment updates a reference to a Minister.

2.16 Fair Trading Act 1987 No 68

Sections 9A (3) (c), 25F (1) (b) (ii), 25I (1) (b) (i) and 25L (1) (b) (ii)

Omit “for Fair Trading” wherever occurring.

Explanatory note

The proposed amendment omits unnecessary references to a Ministerial portfolio.

2.17 Fisheries Management (General) Regulation 2010

Clause 11, Table 1

Omit “*armatuss*” from Part 4. Insert instead “*armatus*”.

Explanatory note

The proposed amendment corrects a spelling error.

2.18 Gas Supply Act 1996 No 38

Sections 55 (2A), 77 (note) and 83 (4)

Omit “Minister for Fair Trading” wherever occurring.

Insert instead “Minister for Innovation and Better Regulation”.

Explanatory note

The proposed amendment updates references to a Minister.

2.19 Greater Sydney Commission Act 2015 No 57

Section 9 (g)

Omit “Regions”. Insert instead “Region”.

Explanatory note

The proposed amendment corrects a typographical error.

2.20 Heavy Vehicle (Adoption of National Law) Act 2013 No 42

Schedule 1.2 [6]

Omit “(5)” wherever occurring. Insert instead “(6)”.

Explanatory note

The proposed amendment corrects a numbering conflict between the Heavy Vehicle National Law and a NSW modification.

2.21 Hemp Industry Act 2008 No 58

[1] Whole Act (except Schedule 1 and where otherwise amended by this subschedule)

Omit “Director-General” and “Director-General’s” wherever occurring.

Insert instead “Secretary” and “Secretary’s”, respectively.

[2] Section 3 (1), definitions of “Department” and “Director-General”

Omit the definitions. Insert in alphabetical order:

Department means the Department of Industry, Skills and Regional Development.

Secretary means the Secretary of the Department.

Explanatory note

The proposed amendments update terminology and references as a consequence of the *Government Sector Employment Act 2013* and past administrative changes orders.

2.22 Home Building Regulation 2014

[1] Whole Regulation (except clause 75 (3))

Omit “Chief Executive” wherever occurring. Insert instead “Secretary”.

[2] Clauses 72 (1) and 73

Omit “Office of Finance and Services” wherever occurring.

Insert instead “Department of Finance, Services and Innovation”.

Explanatory note

The proposed amendments update terminology and references as a consequence of the *Government Sector Employment Act 2013* and past administrative changes orders.

2.23 Lake Macquarie Local Environmental Plan 2014

Clause 7.18 (5) (e)

Omit “subclause”. Insert instead “clause”.

Explanatory note

The proposed amendment corrects a cross-reference.

2.24 Land Tax Management Act 1956 No 26

Schedule 1A, clause 6 (1)

Omit “residence, if”. Insert instead “residence if”.

Explanatory note

The proposed amendment corrects punctuation.

2.25 Landlord and Tenant (Amendment) Act 1948 No 25

[1] Whole Act (except where otherwise amended by this subschedule)

Omit “Director-General” and “Director-General’s” wherever occurring.

Insert instead “Secretary” and “Secretary’s”, respectively.

[2] Section 8 (1), definitions of “Department” and “Director-General”

Omit the definitions. Insert in alphabetical order:

clerk of a Fair Rents Board means:

- (a) the person employed in the Public Service as the clerk of the Board, or
- (b) if there is no person employed as the clerk of the Board—the registrar of the Local Court for the place at which the Board is constituted.

Department means the Department of Finance, Services and Innovation.

Secretary means:

- (a) the Commissioner for Fair Trading, Department of Finance, Services and Innovation, or
- (b) if there is no person employed as Commissioner for Fair Trading—the Secretary of the Department of Finance, Services and Innovation.

[3] Sections 13 and 14

Omit the sections.

Explanatory note

The proposed amendments update terminology and references as a consequence of the *Government Sector Employment Act 2013* and past administrative changes orders.

2.26 Mid-Western Regional Local Environmental Plan 2012

[1] Clause 4.1F

Re-number clause 4.1BB as clause 4.1F and relocate it after clause 4.1E.

[2] Dictionary, definition of “Visually Sensitive Land Map”

Omit “Mid-Western Local”. Insert instead “Mid-Western Regional Local”.

Explanatory note

Item [1] of the proposed amendments corrects clause numbering. Item [2] corrects a reference to a map.

2.27 Mine and Petroleum Site Safety (Cost Recovery) Act 2005 No 116

[1] Long title

Omit “mine safety”. Insert instead “safety at mines and petroleum sites”.

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

Omit “Trade and Investment, Regional Infrastructure and Services”.

Insert instead “Industry, Skills and Regional Development”.

Explanatory note

Item [1] of the proposed amendments is consequent on amendments made by the *Work Health and Safety (Mines and Petroleum) Legislation Amendment (Harmonisation) Act 2015*.

Item [2] updates a reference to a Department.

2.28 Newcastle Local Environmental Plan 2012

Schedule 5, Part 1

Omit “Fort Scratchely” from item I480. Insert instead “Fort Scratchley”.

Explanatory note

The proposed amendment corrects a typographical error.

2.29 Oberon Local Environmental Plan 2013

Clause 6.3 (2)

Renumber paragraphs (b) and (c) as paragraphs (a) and (b), respectively.

Explanatory note

The proposed amendment corrects numbering.

2.30 Parramatta Local Environmental Plan 2011

Clause 7.2 (2)

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

Explanatory note

The proposed amendment corrects a cross-reference.

2.31 Passenger Transport Regulation 2007

[1] Clause 16 (2)

Omit “*Motor Vehicle Repairs Act 1980*”.

Insert instead “*Motor Dealers and Repairers Act 2013*”.

[2] Clause 16 (3)

Omit “under section 5 of the *Motor Vehicle Repairs Act 1980*”.

Insert instead “under the *Motor Dealers and Repairers Act 2013*”.

Explanatory note

The proposed amendments update references to a repealed Act.

2.32 Petroleum (Onshore) Act 1991 No 84

[1] Section 19B (4)

Omit “new”. Insert instead “renewed”.

[2] Section 28B Land over which exploration licence granted (as inserted by the Mining and Petroleum Legislation Amendment (Grant of Coal and Petroleum Prospecting Titles) Act 2015)

Renumber the section as section 28C.

[3] Section 78B (note)

Omit “section 22A on a ground specified in section 22”.

Insert instead “Division 1 of Part 3”.

Explanatory note

Item [1] of the proposed amendments corrects a reference to a renewed licence. Item [2] corrects duplicate numbering. Item [3] corrects a cross-reference.

2.33 Port Macquarie-Hastings Local Environmental Plan 2011

Clause 4.2B (3), note

Omit “*Development) Codes 2008*”. Insert instead “*Development Codes) 2008*”.

Explanatory note

The proposed amendment corrects a cross-reference.

2.34 Port Stephens Local Environmental Plan 2013

Clause 4.1C

Renumber clause 4.1C (3) (where secondly occurring) and (4) as subclauses (4) and (5), respectively.

Explanatory note

The proposed amendment corrects numbering.

2.35 Property, Stock and Business Agents Act 2002 No 66

[1] Whole Act (except Schedule 1 and where otherwise amended by this subschedule)

Omit “Director-General” and “Director-General’s” wherever occurring.

Insert instead “Secretary” and “Secretary’s”, respectively.

[2] Section 3 (1), definitions of “Department” and “Director-General”

Omit the definitions. Insert in alphabetical order:

Department means the Department of Finance, Services and Innovation.

Secretary means:

- (a) the Commissioner for Fair Trading, Department of Finance, Services and Innovation, or
- (b) if there is no person employed as Commissioner for Fair Trading—the Secretary of the Department of Finance, Services and Innovation.

[3] Section 5 (1) (j) and (k)

Omit the paragraphs.

[4] Sections 116 (2) (c) and 203

Omit “officer” wherever occurring. Insert instead “employee”.

[5] Section 204 (1), definition of “authorised officer”

Omit “an officer” from paragraph (a). Insert instead “an employee”.

[6] Section 204 (2)

Omit “any officer”. Insert instead “any employee”.

[7] Section 222 (a)

Omit the paragraph. Insert instead:

(a) any person employed in the Department, or

Explanatory note

The proposed amendments update terminology and references as a consequence of the *Government Sector Employment Act 2013* and past administrative changes orders.

2.36 Property, Stock and Business Agents Regulation 2014

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

Omit the definition.

[2] Clauses 19 and 30

Omit “Office of Finance and Services” wherever occurring. Insert instead “Department”.

[3] Clause 30 (a)

Omit “member of the staff of”. Insert instead “person employed in”.

[4] Clause 30 (b)

Omit “a member of staff”. Insert instead “an employee”.

[5] Clauses 30, 39, 49, 50 and 53 (3) and clause 12 (1) of Schedule 2, clause 10 (1) of Schedule 3 and clause 3 (1) of Schedule 6

Omit “Chief Executive” wherever occurring. Insert instead “Secretary”.

[6] Clause 47 (1) (b)

Omit “Director-General”. Insert instead “Secretary”.

Explanatory note

The proposed amendments update terminology and references as a consequence of the *Government Sector Employment Act 2013* and past administrative changes orders.

2.37 Public Health Act 2010 No 127

Section 56 (3) (b)

Omit “is”. Insert instead “has”.

Explanatory note

The proposed amendment corrects a grammatical error.

2.38 Public Works and Procurement Act 1912 No 45

Fifth Schedule

Omit “(Section 138)”. Insert instead “(Section 165)”.

Explanatory note

The proposed amendment corrects a cross-reference.

2.39 Residential (Land Lease) Communities Act 2013 No 97

Section 93 (3)

Omit “30-day period”. Insert instead “period specified in the notice”.

Explanatory note

The proposed amendment corrects a reference.

2.40 Residential Tenancies Act 2010 No 42

[1] Whole Act (except where otherwise amended by this subschedule)

Omit “Director-General” and “Director-General’s” wherever occurring.

Insert instead “Secretary” and “Secretary’s”, respectively.

[2] Section 3 (1), definitions of “Department” and “Director-General”

Omit the definitions. Insert in alphabetical order:

Department means the Department of Finance, Services and Innovation.

Secretary means:

- (a) the Commissioner for Fair Trading, Department of Finance, Services and Innovation, or
- (b) if there is no person employed as Commissioner for Fair Trading—the Secretary of the Department of Finance, Services and Innovation.

[3] Section 178

Omit “Director-General of the Department of Finance and Services” wherever occurring.

Insert instead “Secretary of the Department of Finance, Services and Innovation”.

[4] Section 179 (3), definition of “authorised person”

Omit “member of staff of” from paragraph (a). Insert instead “person employed in”.

Explanatory note

The proposed amendments update terminology and references as a consequence of the *Government Sector Employment Act 2013* and past administrative changes orders.

2.41 Residential Tenancies Regulation 2010

Clause 25 (1)

Omit “Director-General”. Insert instead “Secretary”.

Explanatory note

The proposed amendment updates terminology as a consequence of the *Government Sector Employment Act 2013*.

2.42 Retirement Villages Act 1999 No 81

[1] Whole Act (except Schedule 4 and where otherwise amended by this subschedule)

Omit “Director-General” and “Director-General’s” wherever occurring.

Insert instead “Secretary” and “Secretary’s”, respectively.

[2] Section 4 (1), definition of “Director-General”

Omit the definition. Insert in alphabetical order:

Secretary means:

- (a) the Commissioner for Fair Trading, Department of Finance, Services and Innovation, or
- (b) if there is no person employed as Commissioner for Fair Trading—the Secretary of the Department of Finance, Services and Innovation.

[3] Section 133 (5) (a)

Omit “Department”. Insert instead “Ministry”.

Explanatory note

The proposed amendments update terminology and references as a consequence of the *Government Sector Employment Act 2013* and past administrative changes orders.

2.43 Retirement Villages Regulation 2009

Clause 53 (2)

Omit “Director-General” wherever occurring. Insert instead “Secretary”.

Explanatory note

The proposed amendment updates terminology as a consequence of the *Government Sector Employment Act 2013*.

2.44 Shoalhaven Local Environmental Plan 2014

Land Use Table

Omit “Home-based childcare” wherever occurring in item 4 of the matter relating to Zone B7 Business Park and Zone IN1 General Industrial.

Insert instead “Home-based child care”.

Explanatory note

The proposed amendment corrects a typographical error.

2.45 Smoke-free Environment Act 2000 No 69

Section 6A (1) (i) and (j), notes

Omit the notes.

Explanatory note

The proposed amendment omits redundant matter.

2.46 State Environmental Planning Policy (Infrastructure) 2007

Clause 26 (d) and (e)

Omit “and” wherever occurring.

Explanatory note

The proposed amendment corrects use of conjunctions in a list.

2.47 State Owned Corporations Act 1989 No 134

[1] Schedule 4, clause 5 (2)

Omit “the employment”. Insert instead “the application”.

[2] Schedule 4, clause 5 (3)

Omit “by” wherever occurring. Insert instead “of”.

Explanatory note

Item [1] of the proposed amendments ensures consistency of terminology. Item [2] corrects a grammatical error.

2.48 Sutherland Shire Local Environmental Plan 2015

[1] Schedule 3, Part 1

Omit “(When this Plan was made this Part was blank)”.

[2] Schedule 3, clause 4 (1), note

Omit “*Code* 2008”. Insert instead “*Codes* 2008”.

[3] Schedule 3, Part 2

Omit clause numbering wherever occurring.

Explanatory note

Item [1] of the proposed amendments omits a statement that is no longer relevant to the Plan. Item [2] corrects a citation. Item [3] corrects a numbering error.

2.49 Sydney Local Environmental Plan 2012

Schedule 5, Part 1

Relocate item no I2214 to appropriate order in the Part.

Explanatory note

The proposed amendment corrects item sequencing.

2.50 Tattoo Parlours Act 2012 No 32

[1] Whole Act (except where otherwise amended by this subschedule)

Omit “Chief Executive” and “Chief Executive’s” wherever occurring.

Insert instead “Secretary” and “Secretary’s”, respectively.

[2] Section 3 (1), definition “Chief Executive”

Omit the definition. Insert in alphabetical order:

Secretary means:

- (a) the Commissioner for Fair Trading, Department of Finance, Services and Innovation, or
- (b) if there is no person employed as Commissioner for Fair Trading—the Secretary of the Department of Finance, Services and Innovation.

[3] Section 36 (4), definition of “relevant agency”

Omit paragraph (b). Insert instead:

- (b) any Public Service agency within the meaning of the *Government Sector Employment Act 2013*,

[4] Section 38 (4), definition of “authorised delegate”

Omit paragraph (b). Insert instead:

- (b) a person employed in a Public Service agency within the meaning of the *Government Sector Employment Act 2013*, or

Explanatory note

The proposed amendments update terminology and references as a consequence of the *Government Sector Employment Act 2013* and past administrative changes orders.

2.51 Tattoo Parlours Regulation 2013

[1] Whole Regulation (except clause 29)

Omit “Chief Executive” wherever occurring. Insert instead “Secretary”.

[2] Clauses 13 (3) and 21 (2)

Omit “Fair Trading” wherever occurring.

Insert instead “Innovation and Better Regulation”.

Explanatory note

The proposed amendments update references, including as a consequence of the *Government Sector Employment Act 2013*.

2.52 The Hills Local Environmental Plan 2012

Clause 7.10 (as inserted by The Hills Local Environmental Plan 2012 (Amendment No 32))

Re-number the clause as clause 7.11.

Explanatory note

The proposed amendment corrects duplicate clause numbering.

2.53 Water Sharing Plan for the Greater Metropolitan Region Unregulated River Water Sources 2011

Clause 32 (7) (b) (ii) and (8) (b) (ii)

Omit “the Water NSW” wherever occurring. Insert instead “Water NSW”.

Explanatory note

The proposed amendment corrects grammatical errors.

2.54 Water Sharing Plan for the Gwydir Regulated River Water Source 2016

[1] Clause 3, note 1

Omit “2003”. Insert instead “2002”.

[2] Clause 18 (2), note

Omit “Titles”. Insert instead “Title”.

[3] Clause 27 (2)

Re-number paragraph (d) as paragraph (b).

[4] Clause 46 (2)

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

Explanatory note

Items [1] and [2] of the proposed amendments correct citations. Items [3] and [4] correct numbering.

2.55 Water Sharing Plan for the Macquarie and Cudgegong Regulated Rivers Water Source 2016

[1] Clause 3

Omit “*River Water*”. Insert instead “*Rivers Water*”.

[2] Clause 49 (6), note

Omit “subclause (5)”. Insert instead “subclause (6)”.

Explanatory note

The proposed amendments correct references.

2.56 Water Sharing Plan for the Macquarie Bogan Unregulated and Alluvial Water Sources 2012

Clause 83 (b)

Omit “satisfisfaction”. Insert instead “satisfaction”.

Explanatory note

The proposed amendment corrects a spelling error.

2.57 Willoughby Local Environmental Plan 2012

Clause 6.20 (1) (b) and Schedule 1, clause 21 (1) (b)

Omit “Chatwood” wherever occurring. Insert instead “Chatswood”.

Explanatory note

The proposed amendment corrects typographical errors.

2.58 Wollongong Local Environmental Plan 2009

Clause 4.2B (3), note

Omit “*Development) Codes 2008*”. Insert instead “*Development Codes) 2008*”.

Explanatory note

The proposed amendment corrects a citation.

2.59 Work Health and Safety (Mines and Petroleum) Amendment (Harmonisation) Regulation 2016

Schedule 1 [15]

Insert “or in clauses 14 (1) (c) (iii), 31 (2) (c), 32 (2) (f) (vii), 33 (3) and 38 (b)” after ““underground mine””.

Explanatory note

The proposed amendment clarifies an amendment instruction.

2.60 Work Health and Safety (Mines and Petroleum Sites) Act 2013 No 54

Section 17 (4)

Omit “Government” wherever occurring. Insert instead “government”.

Explanatory note

The proposed amendment corrects capitalisation.

2.61 Work Health and Safety (Mines and Petroleum Sites) Regulation 2014

[1] Clause 101 (2) (c)

Omit “at the way”. Insert instead “in the way”.

[2] Schedule 2, clause 4 (2) (f)

Omit “licenced”. Insert instead “licensed”.

Explanatory note

The proposed amendments correct grammatical and spelling errors.

2.62 Work Health and Safety Regulation 2011

Clause 702 (t)

Omit “*Workers*”. Insert instead “*Workers’*”.

Explanatory note

The proposed amendment corrects a citation.

Schedule 3 Amendments consequent on renaming of University of Western Sydney

Explanatory note

The proposed amendments in this Schedule update references to a university consequent on the amendments made to the *University of Western Sydney Act 1997* by Schedule 1.

Each Act and instrument specified in Column 1 of the following Table of amendments is amended:

- (a) by omitting “University of Western Sydney” and “*University of Western Sydney*” wherever occurring in the provision of the Act or instrument concerned specified in Column 2 of the Table, and
- (b) by inserting instead “Western Sydney University” and “*Western Sydney University*”, respectively.

Table of amendments

Column 1	Column 2
<i>Environmental Planning and Assessment Regulation 2000</i>	Clause 277 (4) (i)
<i>Government Sector Employment Regulation 2014</i>	Clause 34 (i)
<i>Higher Education Act 2001</i> No 102	Schedule 1, Part 1
<i>Parramatta Local Environmental Plan 2011</i>	Land Use Table, Zone B5, item 1 and Schedule 5, Part 1
<i>Penrith Local Environmental Plan 1998 (Urban Land)</i>	Clause 38 (5) (c)
<i>Public Finance and Audit Act 1983</i> No 152	Schedule 2
<i>Road Transport (General) Regulation 2013</i>	Schedule 2
<i>State Authorities Non-contributory Superannuation Act 1987</i> No 212	Schedule 1, Part 1
<i>State Authorities Superannuation Act 1987</i> No 211	Schedule 1, Part 1
<i>Superannuation Act 1916</i> No 28	Schedule 3, Part 1 and Schedule 26, Part 2
<i>Universities Governing Bodies Act 2011</i> No 51	Section 3 (1)
<i>University of Western Sydney By-law 2005</i>	Clauses 1 and 2 (1) (definition of <i>the Act</i>)

Schedule 4 Repeals

1 Repeal of Mining and Petroleum Legislation Amendment (Grant of Coal and Petroleum Prospecting Titles) Act 2015 No 39

The *Mining and Petroleum Legislation Amendment (Grant of Coal and Petroleum Prospecting Titles) Act 2015 No 39* is repealed.

Explanatory note

The *Mining and Petroleum Legislation Amendment (Grant of Coal and Petroleum Prospecting Titles) Act 2015 (the Amendment Act)* contains an uncommenced amendment to the *Mining Act 1992* that was mistakenly included in the Amendment Act and relates to controlled release areas. If the amendment were commenced, land forming part of a controlled release area for minerals could not be constituted as, or added to, an opal prospecting area. As the whole of the State is a controlled release area for coal under section 368A of the *Mining Act 1992*, the effect of the amendment would be that no land could be constituted as, or added to, an opal prospecting area. The purpose of constituting land as a controlled release area for minerals is not to limit the land on which prospecting and mining may be carried out, but to ensure that exploration licences and assessment leases relating to minerals can generally only be granted following a competitive selection process.

2 Repeals of Act and instrument enabled by amendments in Schedule 1

The following Act and instrument are repealed:

- (a) *Home Care Service Act 1988 No 6*,
- (b) *Community Services (Complaints, Reviews and Monitoring) Regulation 2004*.

Explanatory note

The repeal of the *Home Care Service Act 1988* is enabled by the dissolution of the Home Care Service (constituted under that Act) by proposed amendments to the *National Disability Insurance Scheme (NSW Enabling) Act 2013* in Schedule 1. Proposed amendments to other Acts and an instrument that are consequent on the repeal of the *Home Care Service Act 1988* are set out in Schedule 5.

The repeal of the *Community Services (Complaints, Reviews and Monitoring) Regulation 2004* is enabled by the proposed amendments to the *Community Services (Complaints, Reviews and Monitoring) Act 1993* in Schedule 1, which insert the remaining operative provisions of the Regulation into that Act.

3 Repeal of redundant Act and provisions

The following Act and provisions of an Act are repealed:

Act	Provisions repealed
<i>Statute Law (Miscellaneous Provisions) Act (No 2) 2015 No 58</i>	Whole Act
<i>Subordinate Legislation Act 1989 No 146</i>	Items 22 (b) and 32 of Schedule 4

4 Repeal of amending provisions that have commenced

The following provisions of instruments are repealed:

Instrument	Provisions repealed
<i>Bathurst Regional Local Environmental Plan 2014</i>	Clause 1.9B
<i>Child Protection (Offenders Registration) Regulation 2015</i>	Clause 23
<i>Native Vegetation Regulation 2013</i>	Schedule 2

5 Repeal of amending Act and provisions that have been superseded

The following Act and provision of an Act are repealed:

Act	Provisions repealed
<i>National Parks and Wildlife Amendment (Jenolan Caves Reserves) Act 2005</i> No 83	Schedule 2
<i>State Revenue and Other Legislation Amendment (Budget Measures) Act 2012</i> No 46	Whole Act

Schedule 5 Amendments consequent on repeal of Home Care Service Act 1988

Explanatory note

The proposed amendments in this Schedule are consequent on the repeal of the *Home Care Service Act 1988* by Schedule 4. The repeal is enabled by the dissolution of the Home Care Service of New South Wales (constituted under that Act) by proposed amendments to the *National Disability Insurance Scheme (NSW Enabling) Act 2013* in Schedule 1.

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

[1] Section 4 Definitions

Omit paragraph (g) of the definition of *community welfare legislation* in section 4 (1).

[2] Section 4 (1), definition of “relevant Minister”

Omit paragraph (c).

[3] Section 4 (1), definition of “service provider”

Omit paragraph (e).

5.2 Duties Act 1997 No 123

Section 65 Exemptions from duty

Omit section 65 (16) (b).

5.3 First State Superannuation Act 1992 No 100

Schedule 1 Employers

Omit “Home Care Service of New South Wales”.

5.4 Government Guarantees Act 1934 No 57

Section 3 Authority for Treasurer to guarantee overdraft accounts etc

Omit clause 3 (5K).

5.5 Government Sector Employment Act 2013 No 40

Schedule 1 Public Service agencies

Omit the matter relating to the Home Care Service Staff Agency from Part 2.

5.6 Payroll Tax Act 2007 No 21

Schedule 2 NSW specific provisions

Omit clause 9.

5.7 Privacy Code of Practice (General) 2003

Clause 17 Interpretation

Omit “, the Home Care Service Staff Agency” from paragraph (a) of the definition of *community care agency* in clause 17 (1).

5.8 Public Finance and Audit Act 1983 No 152

Schedule 2 Statutory bodies

Omit “Home Care Service of New South Wales”.

5.9 State Authorities Non-contributory Superannuation Act 1987 No 212

Schedule 1 Employers

Omit “Home Care Service of New South Wales” from Part 1.

5.10 State Authorities Superannuation Act 1987 No 211

Schedule 1 Employers

Omit “Home Care Service of New South Wales” from Part 1.

5.11 Superannuation Act 1916 No 28

Schedule 3 List of employers

Omit “Home Care Service of New South Wales” from Part 1.

Schedule 6 **General savings, transitional and other provisions**

1 **Effect of amendment of amending provisions**

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

Explanatory note

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

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

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

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

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

Explanatory note

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

3 **Effect of amendment on instruments**

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

Explanatory note

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

4 Revocation of repeal

Section 29A of the *Interpretation Act 1987* applies to the repeal of Acts or instruments, or provisions of Acts or instruments, by this Act.

Explanatory note

The effect of this clause is to enable the Governor, by proclamation, to revoke the repeal of any Act or instrument, or any provision of any Act or instrument, by the proposed Act. The Act or provision 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.