

Passed by both Houses



New South Wales

# Statute Law (Miscellaneous Provisions) Bill 2013

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*I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.*

*Clerk of the Legislative Assembly.  
Legislative Assembly,  
Sydney, , 2013*



New South Wales

## **Statute Law (Miscellaneous Provisions) Bill 2013**

Act No , 2013

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

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

*Assistant Speaker of the Legislative Assembly.*

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Statute Law (Miscellaneous Provisions) Act 2013*.

**2 Commencement**

- (1) This Act commences on 5 July 2013.
- (2) However, 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 in accordance with subsection (1).

**3 Explanatory notes**

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

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## Schedule 1 Minor amendments

### 1.1 Aboriginal Land Rights Act 1983 No 42

#### Section 89 Transfer of assets, rights and liabilities

Insert after section 89 (6):

- (7) An order under this section must, if the Aboriginal Land Council from which the assets, rights or liabilities are to be transferred under this section is a deductible gift recipient, provide for the transfer of the assets, rights or liabilities to an Aboriginal Land Council that is also a deductible gift recipient.
- (8) In this section, an Aboriginal Land Council is a deductible gift recipient if the Council is endorsed as a deductible gift recipient under the *Income Tax Assessment Act 1997* of the Commonwealth.

#### Explanatory note

The proposed amendment to the *Aboriginal Land Rights Act 1983 (the Act)* provides that if the Minister makes an order under section 87 of the Act dissolving or changing the name or area of a Local Aboriginal Land Council (an **LALC**) that is a deductible gift recipient, any assets, rights and liabilities of the LALC that are transferred by a subsequent order under section 89 of the Act must be transferred to another LALC that is also a deductible gift recipient. The proposed amendment ensures that the provisions relating to the transfer of assets, rights and liabilities of an LALC that is endorsed as a deductible gift recipient under the *Income Tax Assessment Act 1997* of the Commonwealth are consistent with the requirements for endorsement as a deductible gift recipient under that Act.

### 1.2 Aboriginal Land Rights Regulation 2002

#### Schedule 2 Model rules for Local Aboriginal Land Councils

Insert after clause 23:

#### 24 Revocation of endorsement as deductible gift recipient

The Council must, if the Council ceases to be endorsed as a deductible gift recipient under the *Income Tax Assessment Act 1997* of the Commonwealth, transfer to another Local Aboriginal Land Council that is endorsed as a deductible gift recipient under that Act any gifts, contributions or other money as required by section 30–125 (6) of that Act.

#### Explanatory note

The proposed amendment to the *Aboriginal Land Rights Regulation 2002* amends the model rules for Local Aboriginal Land Councils to provide that if a Council that is endorsed as a deductible gift recipient under the *Income Tax Assessment Act 1997* of the Commonwealth ceases to be so endorsed, certain gifts, contributions and other money received by the Council must be transferred to another Local Aboriginal Land

Council that is endorsed as a deductible gift recipient. The proposed amendment ensures that the rules of Local Aboriginal Land Councils that are endorsed as deductible gift recipients are consistent with the requirements of the *Income Tax Assessment Act 1997* of the Commonwealth for endorsement as a deductible gift recipient. A related amendment is made to the *Aboriginal Land Rights Act 1983* in Schedule 1.1.

### 1.3 Anatomy Act 1977 No 126

#### Section 4 Definitions

Insert at the end of paragraph (b) of the definition of *forensic institution* in section 4 (1):

or

- (c) an institution that is under the control of the Health Administration Corporation,

#### Explanatory note

The proposed amendment to the *Anatomy Act 1977* extends the definition of *forensic institution* to reflect the change in institutions providing forensic pathology and medicine services. Those services were formerly provided by institutions under the control of a public health organisation but are now provided by institutions under the control of the Health Administration Corporation.

### 1.4 Biofuels Act 2007 No 23

#### Section 24 Expert Panel

Omit section 24 (1) (a2). Insert instead:

- (a2) the Chairperson of the Environment Protection Authority or the Chairperson's nominee,

#### Explanatory note

The object of the proposed amendment to the *Biofuels Act 2007* is to include in the Expert Panel established under that Act the Chairperson of the Environment Protection Authority (or the Chairperson's nominee) in place of the Chief Executive of the Office of Environment and Heritage (or the Chief Executive's nominee). The amendment is consequential on the transfer of certain staff from the Office of Environment and Heritage to the Office of the Environment Protection Authority by the *Public Sector Employment and Management (Office of the Environment Protection Authority) Order 2012*.

### 1.5 Building Professionals Act 2005 No 115

#### [1] Section 97 Review of Act

Omit "as soon as possible after the period of 7 years from the date of assent to this Act" from section 97 (2).

Insert instead "before the beginning of December 2015".

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**[2] Section 97 (3)**

Omit “within 12 months after the end of the period of 7 years”.

Insert instead “before the beginning of December 2016”.

**Explanatory note**

The proposed amendments to the *Building Professionals Act 2005 (the Act)* provide that the statutory review of the Act (being the review to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives) is to be undertaken before the beginning of December 2015, rather than as soon as possible after the period of 7 years after the date of assent to the Act (which occurred on 7 December 2005). The report on the outcome of the review is to be tabled in each House of Parliament before the beginning of December 2016.

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

**[1] Section 30 Seal of University**

Insert at the end of the section:

**Note.** Documents requiring authentication may be sufficiently authenticated without a seal in accordance with section 50 (3) of the *Interpretation Act 1987*.

**[2] Schedule 3 Duties of Council members**

Insert “or the person’s remuneration pursuant to clause 10 of Schedule 1” after “section 24G” in clause 5 (7).

**Explanatory note**

Item [1] of the proposed amendments to the *Charles Sturt University Act 1989 (the Act)* inserts a note to make it clear that documents requiring authentication may be sufficiently authenticated without a seal in accordance with section 50 (3) of the *Interpretation Act 1987*.

Item [2] makes a clarifying amendment to a provision of the Act prohibiting a member of the Council of Charles Sturt University (*the Council*) from taking part in any deliberation or decision of the Council with respect to a matter in which the member has a material interest. The amendment makes it clear that the provision does not prevent the member from taking part in any consideration, discussion or voting with respect to the member’s remuneration pursuant to clause 10 of Schedule 1 to the Act.

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

**Section 109G Annual report of Director-General**

Omit the section.

**Explanatory note**

The proposed amendment to the *Community Land Management Act 1989 (the Act)* removes the requirement for the Commissioner for Fair Trading to prepare an annual report for the Minister for Fair Trading of the operations of the Commissioner under Part 5A of the Act (which sets out the functions of the Commissioner under the Act). The report on the operations of the Commissioner will instead be included in the annual

report of the Department of Finance and Services prepared under the *Annual Reports (Departments) Act 1985*.

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

### [1] Section 4 Definitions

Omit “the Minister for Community Services” from paragraph (f) of the definition of *service provider* in section 4 (1).

Insert instead “a Minister of the State of New South Wales”.

### [2] Section 8 Functions of Official Community Visitors

Omit “provided by the Department of Community Services or the Department of Ageing, Disability and Home Care, or by a funded agency” from paragraph (a) of the definition of *visitable service* in section 8 (6).

### [3] Section 35 Application of Part

Omit “and authorised or funded under the *Disability Services Act 1993*” from section 35 (1) (f).

#### Commencement

The amendments to the *Community Services (Complaints, Reviews and Monitoring) Act 1993* commence on 1 July 2013.

#### Explanatory note

Item [1] of the proposed amendments to the *Community Services (Complaints, Reviews and Monitoring) Act 1993* extends the definition of *service provider* to include a person or organisation that is covered by an arrangement between a Minister of the State of New South Wales and a State or Commonwealth Minister, under which arrangement that State or Commonwealth Minister agrees to the person or organisation being a service provider for the purposes of that Act. This amendment ensures that the intergovernmental agreement for the National Disability Insurance Scheme (made between the Premier of New South Wales and the Prime Minister) is captured by that definition. This amendment will enable the NSW Ombudsman to monitor and review any service provider for people with disability and investigate complaints about a person or organisation who is a service provider.

Item [2] extends the definition of *visitable service* to any accommodation service where a person using the service is in the full-time care of the service provider. Currently, a visitable service is defined to include an accommodation service provided by the Department of Community Services or the Department of Ageing, Disability and Home Care, or by a funded agency where a person using the service is in the full-time care of the service provider. The amendment has the effect of enabling an Official Community Visitor to exercise functions and powers (including powers of entry and inspection) with respect to any accommodation service where a person using the service is in the full-time care of the service provider (whether or not the accommodation service is provided by a Department or funded agency).

Item [3] extends the application of Part 6 (Reviews of deaths of children in care and certain other children and persons with disabilities in care) to a person who was living in, or temporarily absent from, residential care provided by any service provider. Currently, Part 6 applies only to deaths of persons who were living in, or temporarily



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absent from, residential care provided by a service provider if the residential care is authorised or funded under the *Disability Services Act 1993*.

## **1.9 Conveyancers Licensing Act 2003 No 3**

### **Schedule 1 Savings and transitional provisions**

Insert at the end of the Schedule:

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

### **20 Displacement provision**

The declaration of a provision of Part 8 of this Act as a Corporations legislation displacement provision for the purposes of section 5G of the Corporations Act extends to a provision of that Part as amended by the *Statute Law (Miscellaneous Provisions) Act 2008*.

#### **Explanatory note**

The proposed amendment to the *Conveyancers Licensing Act 2003 (the Act)* ensures that a provision of Part 8 of the Act, as amended by the *Statute Law (Miscellaneous Provisions) Act 2008*, is a Corporations legislation displacement provision for the purposes of section 5G of the *Corporations Act 2001* of the Commonwealth (***the Corporations Act***). Section 5G of the Corporations Act provides that if a State law declares a provision of a State law to be a Corporations legislation displacement provision, any provision of the Corporations legislation with which the State provision would otherwise be inconsistent does not apply to the extent necessary to avoid the inconsistency.

## **1.10 Conveyancing Act 1919 No 6**

### **[1] Sections 66V (9) and 66ZE (9)**

Omit “Stamp duty”, “stamp duty” and “*Stamp Duties Act 1920*” wherever occurring.

Insert instead “Duty”, “duty” and “*Duties Act 1997*” respectively.

### **[2] Section 165 Stamping of documents not to give notice of trust or written contract**

Omit “Commissioner or Assistant Commissioner of Stamp Duties”.

Insert instead “Chief Commissioner or Commissioner of State Revenue”.

**[3] Section 195A Lodgment of plans and related documents with Registrar-General**

Omit “The plan must be lodged with a separate document in the approved form relating to the plan.” from section 195A (1).

**[4] Section 195A (4)**

Insert after section 195A (3):

- (4) A plan lodged under this section must be lodged with a separate document in the approved form relating to the plan.

**[5] Section 195E Recording of plans which are not to be registered**

Omit “pursuant to” from section 195E (2). Insert instead “under”.

**Explanatory note**

Items [1] and [2] of the proposed amendments to the *Conveyancing Act 1919 (the Act)* update certain references as a consequence of the repeal of the *Stamp Duties Act 1920*.

Items [3] and [4] make it clear that a separate document in an approved form (known as an administration sheet) must accompany all plans lodged in the office of the Registrar-General for registration or recording under Division 3 of Part 23 of the Act.

Item [5] makes the language of section 195E consistent with that of section 195A.

## **1.11 Electricity Supply Act 1995 No 94**

### **Section 107 Liable acquisitions**

Omit “a person who is” from section 107 (1).

Insert instead “any other person, whether or”.

**Explanatory note**

The proposed amendment to the *Electricity Supply Act 1995 (the Act)* amends a provision relating to the energy savings scheme established under the Act. Under that scheme, a participant in the scheme is required to meet an individual energy savings target by surrendering energy savings certificates (the total value of which must meet or exceed the individual energy savings target). The individual energy savings target is equivalent to a defined percentage (specified in Schedule 5 to the Act) of the scheme participant’s **liable acquisitions**, as defined in Part 9 of the Act. The proposed amendment extends the definition of **liable acquisition** to include a purchase of electricity by a scheme participant from any person, whether or not a registered participant under the *National Electricity (NSW) Law*. Currently, a purchase of electricity by a scheme participant from a person who is a registered participant under the *National Electricity (NSW) Law* is excluded from that definition (and, consequently, from the calculation of the scheme participant’s individual energy savings target).

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## 1.12 Energy and Utilities Administration Act 1987 No 103

### [1] Section 3 Definitions

Insert after paragraph (a) of the definition of *State water agency* in section 3 (1):

- (a1) Gosford City Council, or
- (a2) Wyong Shire Council, or

### [2] Section 3 (1), definition of “water savings area”

Insert after paragraph (a) of the definition:

- (a1) the local government area of Gosford City Council under the *Local Government Act 1993*, or
- (a2) the local government area of Wyong Shire Council under the *Local Government Act 1993*, or

#### Explanatory note

The proposed amendments to the *Energy and Utilities Administration Act 1987 (the Act)* extend the definitions of **State water agency** and **water savings area** to include Gosford City Council and Wyong Shire Council, and their respective local government areas, which are currently prescribed as State water agencies and water savings areas for the purposes of the Act by the *Energy and Utilities Administration Regulation 2006* (which is due to be repealed on 1 September 2013).

## 1.13 Health Administration Act 1982 No 135

### Schedule 2A Health professional councils

Insert in alphabetical order:

Chinese Medicine Council of New South Wales established under the *Health Practitioner Regulation National Law (NSW)*

Medical Radiation Practice Council of New South Wales established under the *Health Practitioner Regulation National Law (NSW)*

Occupational Therapy Council of New South Wales established under the *Health Practitioner Regulation National Law (NSW)*

#### Explanatory note

The proposed amendment to the *Health Administration Act 1982* updates the list of health professional councils for which the Health Administration Corporation is to manage accounts, to make it consistent with the *Health Practitioner Regulation National Law (NSW)*.

## **1.14 Home Care Service Act 1988 No 6**

### **[1] Section 3 Definitions**

Omit “Department of Community Services” from the definition of *Department* in section 3 (1).

Insert instead “Department of Family and Community Services”.

### **[2] Section 3 (1), definition of “Hostel and Care Program”**

Omit the definition.

### **[3] Section 5 The Board**

Omit “General Manager” from section 5 (1) (b).

Insert instead “Executive Director”.

### **[4] Section 5 (1) (c)**

Omit “9”. Insert instead “7”.

### **[5] Section 5 (1A)**

Omit the subsection.

### **[6] Section 5 (2) (b)**

Omit “Director-General, and”. Insert instead “Director-General.”.

### **[7] Section 5 (2) (c)**

Omit the paragraph.

### **[8] Section 6 Objects of the Service**

Omit “who are ill, disabled or” from section 6 (1) (a) (i).

Insert instead “with disability, or who are ill or”.

### **[9] Part 3A Hostel and Care Program**

Omit the Part.

### **[10] Section 11 Power to accept gifts etc**

Omit “*Stamp Duties Act 1920*” from section 11 (3).

Insert instead “*Duties Act 1997*”.

### **[11] Schedule 1 Provisions relating to the constitution and procedure of the Board**

Omit “6 members” from clause 8 (1). Insert instead “5 members”.

**[12] Schedule 1, clause 8 (2)**

Omit the subclause.

**Explanatory note**

Item [9] of the proposed amendments to the *Home Care Service Act 1988* repeals provisions relating to the Hostel and Care Program, which is no longer part of the Home Care Service. Items [2], [4]–[7], [11] and [12] make consequential amendments.

Items [1], [3] and [10] update obsolete references.

Item [8] updates obsolete terminology.

## **1.15 Human Tissue Act 1983 No 164**

**[1] Section 4 Definitions**

Insert at the end of paragraph (b) of the definition of *forensic institution* in section 4 (1):

or

- (c) an institution that is under the control of the Health Administration Corporation,

**[2] Section 4 (1), definition of “governing body”**

Insert at the end of paragraph (b) (ii):

, or

- (iii) in the case of a forensic institution that is controlled by the Health Administration Corporation—the Director-General.

**Explanatory note**

Item [1] of the proposed amendments to the *Human Tissue Act 1983 (the Act)* extends the definition of *forensic institution* to reflect the change in institutions providing forensic pathology and medicine services. Those services were formerly provided by institutions under the control of a public health organisation but are now provided by institutions under the control of the Health Administration Corporation.

Item [2] amends the definition of *governing body* to provide that, for the purposes of the Act, the governing body of a forensic institution that is under the control of the Health Administration Corporation is the Director-General of the Ministry of Health.

## **1.16 Impounding Act 1993 No 31**

**Dictionary**

Insert after the matter relating to the Sydney Harbour Foreshore Authority in the definition of *area of operations*:

- in the case of an impounding officer appointed by the Western Sydney Parklands Trust, Trust land within the meaning of the *Western Sydney Parklands Act 2006*.

**Explanatory note**

The proposed amendment to the *Impounding Act 1993 (the Act)* provides that, for the purposes of the Act, the area of operations of the Western Sydney Parklands Trust (***the Trust***) is land vested in or owned by the Trust. Impounding officers appointed by the Trust may exercise their powers to impound certain animals and articles under the Act in the Trust's area of operations. The amendment is consequent on the enactment of the *Western Sydney Parklands Act 2006*, which made the Trust an impounding authority under the Act.

**1.17 Interpretation Act 1987 No 15**

**[1] Section 21 Meanings of commonly used words and expressions**

Omit the definition of *Gazette* from section 21 (1). Insert instead:

*Gazette* or *Government Gazette* means the New South Wales Government Gazette published in print or on the NSW legislation website.

**[2] Section 23 Commencement of Acts**

Omit “in the Gazette or” from section 23 (8).

**[3] Section 44 Publication of certain miscellaneous statutory instruments on NSW legislation website**

Omit the section.

**[4] Section 45C Publication on NSW legislation website**

Insert after section 45C (1) (a):

(a1) the Gazette (as individual gazette notices or as a collection of gazette notices), and

**[5] Section 45C (2), (3) and (4)**

Insert “, the Gazette” before “or other matter” wherever occurring.

**[6] Section 45C (5)**

Omit the subsection. Insert instead:

(5) The Parliamentary Counsel is to compile and maintain a database of legislation or Gazettes published on the NSW legislation website, and may certify the form of legislation or Gazettes so published that is correct.

**[7] Section 45C (6) (b)**

Insert “or form” after “drafting”.

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**[8] Section 45D Publication of paper reprints of legislation**

Omit the section.

**[9] Section 67 Citation of instruments etc**

Omit “published in the Gazette” from section 67 (1) (b) (i).

Insert instead “published in a printed copy of the Gazette”.

**[10] Section 67 (1) (b) (ia)**

Insert after section 67 (1) (b) (i):

- (ia) in the case of an instrument that has been published on the NSW legislation website—the date of its publication on that website, or

**[11] Section 75 Publication of statutory notices**

Omit “or journals” and “or journal”. Insert instead “or other location”.

**[12] Section 75**

Omit “the number, date and page or pages of the Gazette”.

Insert instead “the date of publication of the Gazette”.

**[13] Schedule 3 Savings and transitional provisions**

Omit clause 10.

**Explanatory note**

The proposed amendments to the *Interpretation Act 1987* authorise the NSW Government Gazette to be published on the NSW legislation website (item [4]) and give official status to the online version of the Gazette (item [6]). The Gazette will be able to be published on that website as individual gazette notices or as a collection of gazette notices (with a facility to search over those gazette notices and any previous editions of the printed Gazette made available on that website). Apart from consequential amendments, the amendments also repeal existing provisions relating to the production of paper reprints of legislation which has now ceased.

## **1.18 Local Government Act 1993 No 30**

### **Section 54L Payment of environmental upgrade charge**

Omit “must” from section 54L (3). Insert instead “may”.

**Explanatory note**

The proposed amendment to the *Local Government Act 1993 (the Act)* will enable a council to hold money paid to it in respect of an environmental upgrade charge, pending its payment to a finance provider, in its consolidated fund in accordance with section 409 of the Act. Currently, such money is required to be held in the council’s trust fund in trust for the finance provider.

## 1.19 Macquarie University Act 1989 No 126

### [1] Section 27 Seal of University

Insert at the end of the section:

**Note.** Documents requiring authentication may be sufficiently authenticated without a seal in accordance with section 50 (3) of the *Interpretation Act 1987*.

### [2] Schedule 2A Duties of Council members

Insert “or the person’s remuneration pursuant to clause 10 of Schedule 1” after “section 21G” in clause 5 (7).

#### **Explanatory note**

Item [1] of the proposed amendments to the *Macquarie University Act 1989 (the Act)* inserts a note to make it clear that documents requiring authentication may be sufficiently authenticated without a seal in accordance with section 50 (3) of the *Interpretation Act 1987*.

Item [2] makes a clarifying amendment to a provision of the Act prohibiting a member of the Council of Macquarie University (***the Council***) from taking part in any deliberation or decision of the Council with respect to a matter in which the member has a material interest. The amendment makes it clear that the provision does not prevent the member from taking part in any consideration, discussion or voting with respect to the member’s remuneration pursuant to clause 10 of Schedule 1 to the Act.

## 1.20 Plumbing and Drainage Act 2011 No 59

### [1] Section 3 Definitions

Insert in alphabetical order in section 3 (1):

***county council*** has the same meaning as in the *Local Government Act 1993*.

### [2] Section 4 Plumbing and drainage work—meaning

Omit “or local council” from section 4 (5) (c).

Insert instead “, local council or county council”.

### [3] Section 16 Supply of plans

Insert “, or county council of the area of operations,” after “local council of the area” where firstly occurring in section 16 (3).

### [4] Section 16 (3)

Omit “the local council of the area”.

Insert instead “that local council or county council”.



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**[5] Section 21 Delegation**

Insert “or county council” after “local council” in section 21 (1) (a).

**[6] Section 21 (2)**

Insert “or county council” after “local council” where firstly occurring.

**[7] Section 21 (2) (b)**

Omit “local”.

**[8] Section 22 Appointment of inspectors**

Insert “or county council” after “local council” in section 22 (2) (b).

**[9] Section 23 Appointment of enforcement officers**

Insert “or county council” after “local council” in section 23 (2) (b).

**[10] Section 47 Certain information may be provided to and by plumbing regulator**

Insert “or county council” after “local council” where firstly occurring in section 47 (1) (a).

**[11] Section 47 (1) (a)**

Omit “local” where secondly and thirdly occurring.

**[12] Section 47 (2)**

Insert “, county council” after “local council”.

**[13] Section 48 Exclusion of liability**

Insert “or county council” after “local council” in paragraph (c) of the definition of *protected person* in section 48 (2).

**[14] Section 52 Regulations**

Insert “or county councils” after “local councils” in section 52 (3).

**Explanatory note**

The proposed amendments to the *Plumbing and Drainage Act 2011 (the Act)* extend certain functions, powers and exclusions under the Act that apply in respect of local councils so that they also apply in respect of county councils established under the *Local Government Act 1993*.

Item [5] enables the Commissioner for Fair Trading to delegate certain functions under the Act to county councils. Items [6] and [7] enable a county council to subdelegate functions to the general manager of the council or to certain contractors engaged by the council. Items [3] and [4] make consequential amendments.

Items [8] and [9] enable the Commissioner for Fair Trading to appoint county council officers or employees as inspectors and enforcement officers for the purposes of the Act.

Items [10]–[12] enable the Commissioner for Fair Trading and county councils to share information that is obtained in connection with the administration of the Act or that is necessary to enable the Commissioner to exercise functions under the Act.

Item [13] provides that county councils are not protected persons for the purpose of a provision that excludes such persons from liability for things done or omitted in the exercise of functions under the Act. This is consistent with the existing position of local councils under the Act.

Item [14] enables regulations to be made providing for the setting of fees, by county councils, for the exercise of functions delegated to the county councils.

Items [1] and [2] make consequential amendments.

## **1.21 Property, Stock and Business Agents Act 2002 No 66**

### **Schedule 1 Savings and transitional provisions**

Insert after Part 3:

### **Part 3A Provision consequent on enactment of Statute Law (Miscellaneous Provisions) Act 2008**

#### **23A Displacement provision**

The declaration of a provision of Part 9 of this Act as a Corporations legislation displacement provision for the purposes of section 5G of the Corporations Act extends to a provision of that Part as amended by the *Statute Law (Miscellaneous Provisions) Act 2008*.

#### **Explanatory note**

The proposed amendment to the *Property, Stock and Business Agents Act 2002 (the Act)* ensures that a provision of Part 9 of the Act, as amended by the *Statute Law (Miscellaneous Provisions) Act 2008*, is a Corporations legislation displacement provision for the purposes of section 5G of the *Corporations Act 2001* of the Commonwealth (*the Corporations Act*). Section 5G of the Corporations Act provides that if a State law declares a provision of a State law to be a Corporations legislation displacement provision, any provision of the Corporations legislation with which the State provision would otherwise be inconsistent does not apply to the extent necessary to avoid the inconsistency.

## **1.22 Public Finance and Audit Act 1983 No 152**

### **[1] Section 28 Appointment etc**

Omit “7 years” from section 28 (1). Insert instead “8 years”.

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**[2] Schedule 4 Savings, transitional and other provisions**

Insert at the end of the Schedule:

**Part 7 Provision consequent on enactment of  
Statute Law (Miscellaneous Provisions)  
Act 2013**

**15 Term of appointment of Auditor-General**

The amendment made to section 28 by the *Statute Law (Miscellaneous Provisions) Act 2013* does not apply in respect of an appointment made before the commencement of that amendment.

**Explanatory note**

Item [1] of the proposed amendments to the *Public Finance and Audit Act 1983* extends, from 7 years to 8 years, the term of appointment of the Auditor-General under that Act. Item [2] provides that the new term of appointment does not apply in respect of an appointment made before the commencement of the amendment.

**1.23 Radiation Control Act 1990 No 13**

**[1] Section 25 Proceedings for offences**

Omit “under this Act” wherever occurring in section 25 (1) and (3).

Insert instead “against this Act”.

**[2] Section 25 (5)**

Omit “under this Act”. Insert instead “against this Act or the regulations”.

**[3] Section 29 Radiation Advisory Council**

Omit section 29 (2) (k). Insert instead:

- (k) a person nominated by the Director-General of the Ministry of Health, and

**[4] Schedule 2 Savings and transitional provisions**

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

**Part Provision consequent on enactment of  
Statute Law (Miscellaneous Provisions)  
Act 2013**

**Ministry of Health member of Radiation Advisory Council**

The member of the Radiation Advisory Council who was appointed under section 29 (2) (k), as in force immediately before its substitution by the *Statute Law (Miscellaneous Provisions) Act 2013*, is taken have been appointed on the same terms under that paragraph as substituted.

**Explanatory note**

Item [2] of the proposed amendments to the *Radiation Control Act 1990 (the Act)* makes it clear that a provision of the Act that specifies the time limit for commencing proceedings for an offence against the Act applies to proceedings for an offence against regulations made under the Act. The time limit for commencing proceedings is 12 months after the date on which the offence is alleged to have been committed or evidence of the alleged offence first came to the attention of an authorised officer.

Item [1] changes the terminology used in reference to proceedings for offences to make it consistent with other provisions of the Act that relate to offences.

Item [3] removes a paragraph that provides that the Minister administering the Act is to appoint an officer of the Ministry of Health to the Radiation Advisory Council and instead provides for the appointment of a person nominated by the Director-General of the Ministry of Health. Item [4] inserts a transitional provision consequent on the amendment made by item [3].

**1.24 Radiation Control Amendment Act 2010 No 91**

**[1] Schedule 1 Amendment of Radiation Control Act 1990 No 13**

Omit “An authorised officer may serve a notice under this section on a person if the authorised officer” from proposed section 18 (1) in Schedule 1 [6].

Insert instead “The Authority, or person authorised by the Authority, may serve a notice under this section on a person if the Authority, or person authorised by the Authority.”.

**[2] Schedule 1 [6], proposed section 18 (3)**

Omit “authorised officer issues”. Insert instead “service of”.

**[3] Schedule 1 [6], proposed section 18 (6)**

Omit “of the Authority”. Insert instead “to serve a notice”.

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**Commencement**

The amendments to the *Radiation Control Amendment Act 2010* commence, or are taken to have commenced, immediately before the commencement of Schedule 1 [6] to the *Radiation Control Amendment Act 2010*.

**Explanatory note**

Item [1] of the proposed amendments to the *Radiation Control Amendment Act 2010* (**the amending Act**) amends Schedule 1 [6] to the amending Act (which inserts a proposed new section 18 into the *Radiation Control Act 1990* (the **Principal Act**)) to provide that the Environment Protection Authority (**the Authority**) or a person authorised by the Authority may serve a notice on a person if the Authority or person authorised believes on reasonable grounds that the person is, or is likely to become, responsible for certain contraventions. Currently, only an authorised officer may serve such a notice under that section. Item [2] makes a consequential amendment.

Item [3] makes it clear that a person on whom a notice is served under proposed new section 18 of the Principal Act may appeal to the District Court against the decision to serve the notice, whether the decision is made by the Authority, or a person authorised by the Authority, or by a public body authorised to exercise the functions of the Authority under section 5A of the Principal Act (as inserted by Schedule 1 [4] to the amending Act).

**1.25 Real Property Act 1900 No 25****[1] Section 56C Confirmation of identity of mortgagor**

Omit “the following” from section 56C (3).

**[2] Section 56C (3) (a)**

Insert “or” after “subsection (1),”.

**[3] Section 61 Application for foreclosure order**

Insert after section 61 (1):

(1A) Prior to making an application under subsection (1), and subject to subsection (2A), a notice in writing of the intention of the mortgagee or covenant chargee to make the application must be served in accordance with the provisions of section 170 (1) of the *Conveyancing Act 1919* on:

- (a) the mortgagor or covenant charger, and
- (b) all registered mortgagees, chargees or covenant chargees under registered mortgages, charges or covenant charges which have less priority than that of the applicant, and
- (c) each caveator (if any) who claims as an unregistered mortgagee or chargee to be entitled to an estate or interest in the land mortgaged or charged.

**[4] Section 61 (2) (b)**

Insert “(unless dispensed with under section 58A)” after “notice was given”.

**[5] Section 61 (2) (d)**

Omit the paragraph. Insert instead:

- (d) that notice in writing of the intention of the mortgagee or covenant chargee to make the application has been served in accordance with this section.

**[6] Section 61 (5)**

Omit the subsection.

**[7] Section 74N Service of notices on caveators for purposes of Part**

Omit section 74N (1) (b) (i). Insert instead:

- (i) the address for service of notices specified in the caveat under section 74B (2) (b) (vi) or 74F (5) (b) (viii), or

**Explanatory note**

Items [1] and [2] of the proposed amendments to the *Real Property Act 1900* provide that a mortgagee will satisfy a certain record-keeping requirement if the mortgagee keeps for 7 years from the date of registration of a mortgage either a written record of the steps taken, or a copy of any document obtained, by the mortgagee to confirm the identity of the mortgagor. It amends the current requirement to keep both, in line with the record-keeping requirements of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* of the Commonwealth.

Item [3] makes it clear that a notice of a mortgagee's or covenant chargee's intention to make an application for a foreclosure order must be served on various parties in accordance with the *Conveyancing Act 1919*. Item [5] makes a consequential amendment.

Items [4] and [6] together restate an existing exception relating to the giving of notice of intended foreclosure.

Item [7] clarifies that the correct address for service of a notice on a caveator is an address specified in the caveat lodged with the Registrar-General at which notices may be served on the caveator.

## **1.26 Residential Tenancies Act 2010 No 42**

**[1] Section 126 Application and interpretation**

Insert "(other than section 134 (2A))" after "Division" in section 126 (1).

**[2] Section 134 Orders by Tribunal relating to goods**

Insert after section 134 (2):

- (2A) The Tribunal may, on application by a former co-tenant, make an order requiring a tenant or co-tenant, or a tenant or co-tenant's agent, to deliver goods left behind on residential premises by the former co-tenant after the co-tenant vacated the premises (in circumstances where one or more other tenants or co-tenants

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continue to occupy the premises) into the former co-tenant's possession.

**Explanatory note**

Items [1] and [2] provide that the Tribunal may make an order requiring a tenant or co-tenant, or a tenant or co-tenant's agent, to deliver to a former co-tenant goods left behind on residential premises by the former co-tenant after vacating the premises (in circumstances where one or more other tenants or co-tenants continue to occupy the premises). A similar provision currently exists in relation to goods left by former tenants on abandoned premises.

## **1.27 Retirement Villages Act 1999 No 81**

### **[1] Section 102A**

Insert before section 103:

#### **102A Meaning of "prescribed CPI variation"**

- (1) In relation to a proposed variation in recurrent charges that is the first variation under a village contract, the *prescribed CPI variation* is, for the purposes of this Division, the variation that would result from the recurrent charges being increased in proportion to the difference between:
  - (a) the Consumer Price Index published most recently before the village contract was entered into, and
  - (b) the Consumer Price Index published most recently before the written notice of the proposed variation is given,rounded to the nearest dollar.
- (2) In relation to a proposed variation in recurrent charges that is not the first variation under a village contract, the *prescribed CPI variation* is, for the purposes of this Division, the variation that would result from the recurrent charges being increased in proportion to the difference between:
  - (a) the Consumer Price Index published most recently before those charges were last varied, and
  - (b) the Consumer Price Index published most recently before the written notice of the proposed variation is given,rounded to the nearest dollar.

### **[2] Section 105A Recurrent charges varied otherwise than by a fixed formula—not exceeding variation in CPI**

Omit section 105A (1) (b). Insert instead:

- (b) the variation does not exceed the prescribed CPI variation.

**[3] Section 105A (2)**

Omit the subsection.

**[4] Section 106 Recurrent charges varied otherwise than by a fixed formula—exceeding variation in CPI**

Omit section 106 (1) (b). Insert instead:

- (b) the variation exceeds the prescribed CPI variation.

**[5] Section 106 (1A)**

Omit the subsection.

**[6] Section 106 (2) (c)**

Omit “variation in the Consumer Price Index”.

Insert instead “prescribed CPI variation”.

**[7] Section 180 Payments to former occupants who were registered interest holders**

Insert before section 180 (1):

**Note.** This section deals with payments to such former occupants of residential premises following the sale of the premises. The sale of premises includes:

- (a) in the case where the former occupant was the registered proprietor of land, the owner of a lot in a strata scheme or the proprietor of a lot in a community land scheme and as such had a residence right in respect of residential premises—the sale of that land or interest in that land, and
- (b) in the case where the former occupant was the owner of shares in a company title scheme that gave rise to a residence right in respect of residential premises—the sale of that residence right (see section 4 (3)), and
- (c) in the case where the former occupant’s residence contract was in the form of a registered long term lease that included a provision that entitled the former occupant to at least 50% of any capital gain—the sale of that residence right (see section 150).

**[8] Schedule 1 Consent of residents**

Omit “(including a measure or action that requires a special resolution)” from clause 3 (1).

Insert instead “other than a measure or action that requires a special resolution”.

**Explanatory note**

Items [1]–[6] of the proposed amendments to the *Retirement Villages Act 1999* provide for the calculation of the CPI variation in recurrent charges payable under a village contract in circumstances where there has not previously been a variation. In such



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cases, movements in the Consumer Price Index since the village contract was entered into will be taken into account. (The current provisions only specify how to calculate the CPI variation in cases where there has been a previous variation of recurrent charges.)

Item [7] clarifies the meaning of the expression “sale of the premises” in a provision about payments to former occupants who were registered interest holders. The proposed amendment inserts a note that the sale of premises includes the sale of shares in a company title scheme or the sale of a residence right under a registered long term lease that included a provision that entitled the holder of the residence right to at least 50% of any capital gain.

Item [8] amends a provision that incorrectly provides that a vote in relation to a measure or action that requires a special resolution may be taken by a show of hands. (Clause 5 of Schedule 1 sets out the correct procedure, which is that a special resolution requires a ballot conducted in accordance with the regulations.)

## 1.28 Southern Cross University Act 1993 No 69

### [1] Section 28 Seal of University

Insert at the end of the section:

**Note.** Documents requiring authentication may be sufficiently authenticated without a seal in accordance with section 50 (3) of the *Interpretation Act 1987*.

### [2] Schedule 2A Duties of Council members

Insert “or the person’s remuneration pursuant to clause 10 of Schedule 1” after “section 21G” in clause 5 (7).

#### Explanatory note

Item [1] of the proposed amendments to the *Southern Cross University Act 1993 (the Act)* inserts a note to make it clear that documents requiring authentication may be sufficiently authenticated without a seal in accordance with section 50 (3) of the *Interpretation Act 1987*.

Item [2] makes a clarifying amendment to a provision of the Act prohibiting a member of the Council of Southern Cross University (*the Council*) from taking part in any deliberation or decision of the Council with respect to a matter in which the member has a material interest. The amendment makes it clear that the provision does not prevent the member from taking part in any consideration, discussion or voting with respect to the member’s remuneration pursuant to clause 10 of Schedule 1 to the Act.

## 1.29 Strata Schemes Management Act 1996 No 138

### Section 216 Annual report of Director-General

Omit the section.

#### Explanatory note

The proposed amendment to the *Strata Schemes Management Act 1996* removes the requirement for the Commissioner for Fair Trading to prepare an annual report for the Minister for Fair Trading of the operations of the Commissioner under that Act. The report on the operations of the Commissioner will instead be included in the annual report of the Department of Finance and Services prepared under the *Annual Reports (Departments) Act 1985*.

### **1.30 Subordinate Legislation Act 1989 No 146**

**[1] Section 10A Certain statutory rules to remain in force**

Omit section 10A (1A). Insert instead:

- (1) Despite the other provisions of this Part, unless sooner repealed, a statutory rule listed in Schedule 5 remains in force until the date specified in that Schedule for the rule or, if more than one date is so specified, the later of those dates.

**[2] Section 10A (3)**

Omit the subsection.

**[3] Schedule 5**

Insert after Schedule 4:

### **Schedule 5 Further postponement of repeal of certain statutory rules**

(Section 10A (1))

#### **1 Postponement of statutory rules due for repeal in 2013**

The following statutory rules remain in force until 1 September 2014, unless sooner repealed:

- (a) *Aboriginal Land Rights Regulation 2002*,
- (b) *Adoption Regulation 2003*,
- (c) *Electricity Supply (General) Regulation 2001*,
- (d) *Employment Protection Regulation 2001*,
- (e) *Environmental Planning and Assessment Regulation 2000*,
- (f) *Gas Supply (Natural Gas Retail Competition) Regulation 2001*,
- (g) *Industrial Relations (General) Regulation 2001*,
- (h) *Property, Stock and Business Agents Regulation 2003*,
- (i) *Road Transport (Safety and Traffic Management) Regulation 1999*.

#### **Commencement**

Item [2] of the amendments commences on 2 September 2013.

#### **Explanatory note**

The proposed amendments to the *Subordinate Legislation Act 1989* (**the Act**) have the effect of keeping a number of regulations in force for a further period of one year after

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the date on which they would otherwise be repealed by the Act. However, any of the regulations may be repealed sooner by other legislation.

This is necessary as the regulations have each been postponed on at least 5 occasions and are now due to be repealed by the Act on 1 September 2013.

Each of the regulations continues to be required and the repeal of each of the regulations is to be further postponed until 1 September 2014 for the following reasons:

- (a) The Department of Education and Communities is currently undertaking a review of the *Aboriginal Land Rights Act 1983* that may result in amendments to that Act. It is proposed to await the outcome of that review before remaking the *Aboriginal Land Rights Regulation 2002*.
- (b) The Department of Family and Community Services is undertaking a review of child protection legislation and it is anticipated that consequential amendments to the *Adoption Act 2000* may be required. It is proposed to await the outcome of that review before remaking the *Adoption Regulation 2003*.
- (c) The Ministerial Council on Energy is currently undertaking a national energy market reform program which is expected to result in significant regulatory changes to areas that are dealt with by the *Electricity Supply (General) Regulation 2001* and the *Gas Supply (Natural Gas Retail Competition) Regulation 2001*. It is therefore proposed to await these changes before remaking these regulations.
- (d) The Department of Finance and Services is proposing to undertake a full review of the *Industrial Relations Act 1996* and the *Employment Protection Act 1982* as a consequence of the operation of the *Fair Work Act 2009* of the Commonwealth and the referral of certain matters relating to industrial relations to the Commonwealth. In light of this, it is considered to be premature to remake the *Employment Protection Regulation 2001* and the *Industrial Relations (General) Regulation 2001*.
- (e) The Department of Planning and Infrastructure is currently preparing a new planning bill to repeal and replace the *Environmental Planning and Assessment Act 1979* (and consequently repeal the *Environmental Planning and Assessment Regulation 2000*). It is therefore proposed to postpone the repeal of the *Environmental Planning and Assessment Regulation 2000* under the *Subordinate Legislation Act 1989* pending the replacement regime taking effect.
- (f) Proposed national regulations under the *Occupational Licensing National Law* relating to property occupations are due to be made later in 2013. It is proposed to postpone remaking the *Property, Stock and Business Agents Regulation 2003* until after those national regulations are made.
- (g) The *Road Transport (Safety and Traffic Management) Regulation 1999* is due to be repealed on the commencement of Schedule 1 to the *Road Transport Legislation (Repeal and Amendment) Act 2013*.

The proposed amendments also simplify the structure of the Act by placing these postponements in a new schedule to the Act (rather than in section 10A of the Act, as is currently the case) and by repealing spent provisions.

### **1.31 Sydney Cricket and Sports Ground Act 1978 No 72**

**[1] Schedule 4**

Omit the heading. Insert instead:

**Schedule 4 Savings, transitional and other provisions**

**[2] Schedule 4, Part 4**

Insert after Part 3:

**Part 4 Rugby League Central**

**11 Granting of lease**

The Trust may lease to National Rugby League Limited approximately 1,200 square metres of land, consisting of that part of the designated land described as the “Site” in the licence granted by the Trust to National Rugby League Limited on 31 August 2010, for a total period (including any option for the grant of a further term after an initial term has expired) not exceeding 80 years.

**Explanatory note**

Item [2] of the proposed amendments will enable the Sydney Cricket and Sports Ground Trust to lease land for a total period not exceeding 80 years to National Rugby League Limited in respect of the National Rugby League headquarters at Moore Park. Item [1] is a consequential amendment.

### **1.32 Sydney Water Catchment Management Act 1998 No 171**

**[1] Section 35 Definition**

Omit “Department of Health” from paragraph (a) of the definition of *regulatory agencies*.

Insert instead “Ministry of Health”.

**[2] Section 35, paragraph (b) of the definition of “regulatory agencies”**

Omit “Director-General of the Department of Environment and Climate Change”.

Insert instead “Chief Executive of the Office of Environment and Heritage”.

**[3] Section 35, paragraph (b) of the definition of “regulatory agencies”**

Omit “Department of Industry and Investment”.

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Insert instead “Department of Trade and Investment, Regional Infrastructure and Services”.

**[4] Section 43 Definitions**

Omit “Director-General of the Department of Environment and Climate Change” from the definition of *joint sponsors*.

Insert instead “Chief Executive of the Office of Environment and Heritage”.

**Explanatory note**

Items [1]–[4] update references to Government agencies and heads of agencies as a consequence of departmental restructuring.

**1.33 Tattoo Parlours Act 2012 No 32**

**Section 36A**

Insert after section 36:

**36A Certificate evidence**

- (1) A certificate purporting to have been signed by the Director-General and stating any of the following is admissible in evidence in any proceedings and is evidence of the matters stated:
- (a) that on a specified day, or during a specified period, a specified person was, or was not, the holder of a licence,
  - (b) that on a specified day a licence formerly held by a specified person had been cancelled or surrendered,
  - (c) that on a specified day, or during a specified period, a licence held by a specified person was suspended,
  - (d) that on a specified day, or during a specified period, a licence held by a specified person was subject to specified conditions,
  - (e) that on a specified day, or during a specified period, specified premises were, or were not, licensed premises,
  - (f) that on a specified day, or during a specified period, a specified person was, or was not, the holder of a permit issued under the regulations,
  - (g) that on a specified day a permit issued under the regulations that was formerly held by a specified person had been revoked or had expired,
  - (h) that on a specified day, or during a specified period, a permit issued under the regulations and held by a specified person was subject to specified conditions.

- (2) A certificate purporting to have been signed by the Commissioner and stating that on a specified day, or during a specified period, specified premises were, or were not, subject to an interim closure order, is admissible in evidence in any proceedings and is evidence of the matters stated.

**Explanatory note**

The proposed amendment to the *Tattoo Parlours Act 2012* provides that the Commissioner for Fair Trading or Commissioner of Police may issue certificates (relating to licences, permits and interim closure orders) that are admissible in evidence in any proceedings as evidence of the truth of the statements they contain.

The admission of such certificates into evidence means that those matters will not need to be proven in any court or tribunal proceedings, unless a doubt is raised about a matter stated in the certificate. The proposed amendment is consistent with evidentiary provisions of other Acts that create a licensing or registration regime.

### 1.34 Travel Agents Act 1986 No 5

#### Section 57 Regulations

Insert “(including any substitution of the trust deed)” after “trust deed” in section 57 (2) (c).

**Explanatory note**

The proposed amendment to the *Travel Agents Act 1986 (the Act)* clarifies a regulation-making power relating to the amendment of the trust deed that establishes a scheme for compensation under the Act. The scheme, which is set out in Schedule 1 to the *Travel Agents Regulation 2011*, compensates persons who suffer pecuniary loss as a result of the acts or omissions of travel agents. The amendment makes it clear that the amendments of the trust deed which may be incorporated from time to time (by regulations amending that Schedule) include any substitution of the trust deed.

### 1.35 University of New England Act 1993 No 68

#### [1] Section 27 Seal of University

Insert at the end of the section:

**Note.** Documents requiring authentication may be sufficiently authenticated without a seal in accordance with section 50 (3) of the *Interpretation Act 1987*.

#### [2] Schedule 2A Duties of Council members

Insert “or the person’s remuneration pursuant to clause 10 of Schedule 1” after “section 21G” in clause 5 (7).

**Explanatory note**

Item [1] of the proposed amendments to the *University of New England Act 1993 (the Act)* inserts a note to make it clear that documents requiring authentication may be sufficiently authenticated without a seal in accordance with section 50 (3) of the *Interpretation Act 1987*.

Item [2] makes a clarifying amendment to a provision of the Act prohibiting a member of the Council of the University of New England (*the Council*) from taking part in any

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deliberation or decision of the Council with respect to a matter in which the member has a material interest. The amendment makes it clear that the provision does not prevent the member from taking part in any consideration, discussion or voting with respect to the member's remuneration pursuant to clause 10 of Schedule 1 to the Act.

### 1.36 University of New South Wales Act 1989 No 125

#### [1] Section 26 Seal of University

Insert at the end of the section:

**Note.** Documents requiring authentication may be sufficiently authenticated without a seal in accordance with section 50 (3) of the *Interpretation Act 1987*.

#### [2] Schedule 2A Duties of Council members

Insert “or the person’s remuneration pursuant to clause 10 of Schedule 1” after “section 20G” in clause 5 (7).

##### **Explanatory note**

Item [1] of the proposed amendments to the *University of New South Wales Act 1989 (the Act)* inserts a note to make it clear that documents requiring authentication may be sufficiently authenticated without a seal in accordance with section 50 (3) of the *Interpretation Act 1987*.

Item [2] makes a clarifying amendment to a provision of the Act prohibiting a member of the Council of the University of New South Wales (***the Council***) from taking part in any deliberation or decision of the Council with respect to a matter in which the member has a material interest. The amendment makes it clear that the provision does not prevent the member from taking part in any consideration, discussion or voting with respect to the member's remuneration pursuant to clause 10 of Schedule 1 to the Act.

### 1.37 University of Newcastle Act 1989 No 68

#### [1] Section 27 Seal of University

Insert at the end of the section:

**Note.** Documents requiring authentication may be sufficiently authenticated without a seal in accordance with section 50 (3) of the *Interpretation Act 1987*.

#### [2] Schedule 2A Duties of Council members

Insert “or the person’s remuneration pursuant to clause 10 of Schedule 1” after “section 21G” in clause 5 (7).

##### **Explanatory note**

Item [1] of the proposed amendments to the *University of Newcastle Act 1989 (the Act)* inserts a note to make it clear that documents requiring authentication may be sufficiently authenticated without a seal in accordance with section 50 (3) of the *Interpretation Act 1987*.

Item [2] makes a clarifying amendment to a provision of the Act prohibiting a member of the Council of the University of Newcastle (***the Council***) from taking part in any deliberation or decision of the Council with respect to a matter in which the member has

a material interest. The amendment makes it clear that the provision does not prevent the member from taking part in any consideration, discussion or voting with respect to the member's remuneration pursuant to clause 10 of Schedule 1 to the Act.

### 1.38 University of Sydney Act 1989 No 124

#### [1] Section 35 Seal of University

Insert at the end of the section:

**Note.** Documents requiring authentication may be sufficiently authenticated without a seal in accordance with section 50 (3) of the *Interpretation Act 1987*.

#### [2] Schedule 2A Duties of Fellows

Insert “or the person’s remuneration pursuant to clause 10 of Schedule 1” after “section 26G” in clause 5 (7).

##### **Explanatory note**

Item [1] of the proposed amendments to the *University of Sydney Act 1989 (the Act)* inserts a note to make it clear that documents requiring authentication may be sufficiently authenticated without a seal in accordance with section 50 (3) of the *Interpretation Act 1987*.

Item [2] makes a clarifying amendment to a provision of the Act prohibiting a member of the Senate of the University of Sydney (*the Senate*) from taking part in any deliberation or decision of the Senate with respect to a matter in which the member has a material interest. The amendment makes it clear that the provision does not prevent the member from taking part in any consideration, discussion or voting with respect to the member's remuneration pursuant to clause 10 of Schedule 1 to the Act.

### 1.39 University of Technology, Sydney, Act 1989 No 69

#### [1] Section 27 Seal of University

Insert at the end of the section:

**Note.** Documents requiring authentication may be sufficiently authenticated without a seal in accordance with section 50 (3) of the *Interpretation Act 1987*.

#### [2] Schedule 2A Duties of Council members

Insert “or the person’s remuneration pursuant to clause 10 of Schedule 1” after “section 21G” in clause 5 (7).

##### **Explanatory note**

Item [1] of the proposed amendments to the *University of Technology, Sydney, Act 1989 (the Act)* inserts a note to make it clear that documents requiring authentication may be sufficiently authenticated without a seal in accordance with section 50 (3) of the *Interpretation Act 1987*.

Item [2] makes a clarifying amendment to a provision of the Act prohibiting a member of the Council of the University of Technology, Sydney (*the Council*) from taking part in any deliberation or decision of the Council with respect to a matter in which the member has a material interest. The amendment makes it clear that the provision does



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not prevent the member from taking part in any consideration, discussion or voting with respect to the member's remuneration pursuant to clause 10 of Schedule 1 to the Act.

#### **1.40 University of Western Sydney Act 1997 No 116**

**[1] Section 39 Seal of University**

Insert at the end of the section:

**Note.** Documents requiring authentication may be sufficiently authenticated without a seal in accordance with section 50 (3) of the *Interpretation Act 1987*.

**[2] Schedule 2A Duties of Board members**

Insert “or the person’s remuneration pursuant to clause 11 of Schedule 1” after “section 32G” in clause 5 (7).

**Explanatory note**

Item [1] of the proposed amendments to the *University of Western Sydney Act 1997 (the Act)* inserts a note to make it clear that documents requiring authentication may be sufficiently authenticated without a seal in accordance with section 50 (3) of the *Interpretation Act 1987*.

Item [2] makes a clarifying amendment to a provision of the Act prohibiting a member of the Board of Trustees of the University of Western Sydney (**the Board**) from taking part in any deliberation or decision of the Board with respect to a matter in which the member has a material interest. The amendment makes it clear that the provision does not prevent the member from taking part in any consideration, discussion or voting with respect to the member's remuneration pursuant to clause 11 of Schedule 1 to the Act.

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

**[1] Section 27 Seal of University**

Insert at the end of the section:

**Note.** Documents requiring authentication may be sufficiently authenticated without a seal in accordance with section 50 (3) of the *Interpretation Act 1987*.

**[2] Schedule 2A Duties of Council members**

Insert “or the person’s remuneration pursuant to clause 10 of Schedule 1” after “section 21G” in clause 5 (7).

**Explanatory note**

Item [1] of the proposed amendments to the *University of Wollongong Act 1989 (the Act)* inserts a note to make it clear that documents requiring authentication may be sufficiently authenticated without a seal in accordance with section 50 (3) of the *Interpretation Act 1987*.

Item [2] makes a clarifying amendment to a provision of the Act prohibiting a member of the Council of the University of Wollongong (**the Council**) from taking part in any deliberation or decision of the Council with respect to a matter in which the member has a material interest. The amendment makes it clear that the provision does not prevent

the member from taking part in any consideration, discussion or voting with respect to the member's remuneration pursuant to clause 10 of Schedule 1 to the Act.

## **1.42 Water Efficiency Labelling and Standards (New South Wales) Act 2005 No 12**

### **Section 10 Object of this Part**

Insert at the end of the section:

- (3) For the purposes of this Part, offences include contraventions for which a civil penalty may be imposed.

#### **Explanatory note**

The proposed amendment to the *Water Efficiency Labelling and Standards (New South Wales) Act 2005* (**the Act**) provides, for the purposes of Part 4 of the Act, that an offence includes a contravention for which a civil penalty may be imposed. Part 4 of the Act provides for an offence against the provisions of the *Water Efficiency Labelling and Standards Act 2005* of the Commonwealth (**the Commonwealth Act**), which is applied by the Act as a law of New South Wales, to be treated as if it were an offence against a law of the Commonwealth. Since the enactment of the Commonwealth Act, the Commonwealth has enacted the *Water Efficiency Labelling and Standards Amendment (Scheme Enhancements) Act 2012*, which introduces civil penalties as an alternative to criminal offences.

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

### **2.1 Adoption Act 2000 No 75**

**[1] Section 124A (3), definition of “Guardian Ad Litem Panel”**

Omit “Department of Justice and Attorney General”.

Insert instead “Department of Attorney General and Justice”.

**[2] Dictionary, definitions of “Department”, “designated person” and “information source”**

Omit “Department of Community Services” wherever occurring.

Insert instead “Department of Family and Community Services”.

**[3] Dictionary, paragraph (d) of definition of “designated person” and paragraph (b) of definition of “information source”**

Omit “Department of Health” and “of the Department” wherever occurring.

Insert instead “Ministry of Health” and “of the Ministry”, respectively.

**[4] Dictionary, definition of “Director-General”**

Omit “of Community Services”.

**Explanatory note**

The proposed amendments update references to Government Departments.

### **2.2 Baptist Churches of New South Wales Property Trust Act 1984 No 4**

**Section 4 (1), definition of “deacon”**

Omit “by the Baptist Union” wherever occurring.

**Commencement**

The amendment to the *Baptist Churches of New South Wales Property Trust Act 1984* commences on the date of assent to the *Baptist Churches of New South Wales Property Trust Amendment Act 2013* or 5 July 2013, whichever is the later.

**Explanatory note**

The proposed amendment corrects inconsistent terminology.

## **2.3 Blayney Local Environmental Plan 2012**

### **Schedule 5, Part 2**

Omit “**heritage map**” from the heading to the second column.

Insert instead “**Heritage Map**”.

#### **Explanatory note**

The proposed amendment corrects a reference to a defined map.

## **2.4 Boarding Houses Act 2012 No 74**

### **Schedule 2, clause 5 (4) (a)**

Omit “the YSC Act”. Insert instead “the YCS Act”.

#### **Explanatory note**

The proposed amendment corrects a typographical error.

## **2.5 Children and Young Persons (Care and Protection) Act 1998 No 157**

### **[1] Section 3, definition of “Department”**

Omit “Department of Community Services”.

Insert instead “Department of Family and Community Services”.

### **[2] Section 27A (1), paragraph (d) of the definition of “relevant agency” and (11)**

Omit “Department of Health” wherever occurring.

Insert instead “Ministry of Health”.

### **[3] Section 27A, paragraph (g) of the definition of “relevant agency”**

Omit “Department of Human Services”.

Insert instead “Department of Family and Community Services”.

### **[4] Section 78A (4) (e)**

Omit “Minister for Community Services”.

Insert instead “Minister for Family and Community Services”.

### **[5] Section 101A (3), definition of “Guardian Ad Litem Panel”**

Omit “Department of Justice and Attorney General”.

Insert instead “Department of Attorney General and Justice”.

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**Explanatory note**

The proposed amendments update references to Government Departments and a Minister.

**2.6 Clarence Valley Local Environmental Plan 2011**

**Schedule 5, matter relating to item I412**

Omit “Calypso”. Insert instead “Calypso”.

**Explanatory note**

The proposed amendment corrects a typographical error.

**2.7 Consumer, Trader and Tenancy Tribunal Act 2001 No 82**

**[1] Section 5 (2), note**

Insert in alphabetical order:

*Boarding Houses Act 2012*

**[2] Schedule 1 Divisions of the Tribunal**

Insert after clause 1 (a) (iA):

(iB) occupancy principles disputes under the *Boarding Houses Act 2012*, and

**Explanatory note**

The proposed amendments make changes consequential on the enactment of the *Boarding Houses Act 2012*. Item [1] of the proposed amendments updates a note listing the Acts that confer jurisdiction on the Consumer, Trader and Tenancy Tribunal (*the Tribunal*), to include the *Boarding Houses Act 2012* (which confers jurisdiction on the Tribunal).

Item [2] makes it clear that the Tribunal’s jurisdiction in respect of disputes under the *Boarding Houses Act 2012* is to be exercised in the General Division of the Tribunal.

**2.8 Coonabarabran Local Environmental Plan 1990**

**Clause 17 (2) (b)**

Omit “reasonbly”. Insert instead “reasonably”.

**Explanatory note**

The proposed amendment corrects a spelling error.

**2.9 Crime Commission Act 2012 No 66**

**Section 25 Failure of witnesses to attend and answer questions etc**

Insert at the end of the section:

Maximum penalty: 20 penalty units or imprisonment for 2 years, or both.

**Explanatory note**

The proposed amendment specifies the penalty for an existing offence. The penalty is the penalty that applied to the same offence under section 18 of the *New South Wales Crime Commission Act 1985* (when that Act was in force). When that Act was replaced by the *Crime Commission Act 2012*, section 18 was divided into 2 provisions (sections 25 and 37). Due to a drafting oversight, the penalty was moved to section 37 and not replicated in section 25.

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

### **Schedule 1, matter relating to Horningsea Park Detention Basin**

Omit “Tributory”. Insert instead “Tributary”.

**Explanatory note**

The proposed amendment corrects a spelling error.

## **2.11 Environmental Planning and Assessment Regulation 2000**

### **Clause 136E (1) (a)**

Omit “clause 318 of the *Occupational Health and Safety Regulation 2001*”.

Insert instead “clause 458 of the *Work Health and Safety Regulation 2011*”.

**Explanatory note**

The proposed amendment updates a cross-reference.

## **2.12 Government Property NSW Act 2006 No 40**

### **Schedule 1, matter relating to 79 George Street under the heading Leases**

Omit “Parrarnatta”. Insert instead “Parramatta”.

**Explanatory note**

The proposed amendment corrects a spelling error.

## **2.13 Guyra Local Environmental Plan 2012**

### **Schedule 2, clause relating to Signage—business identification signs in industrial zones**

Omit “centerline” from paragraph (d). Insert instead “centreline”.

**Explanatory note**

The proposed amendment corrects a typographical error.

## **2.14 Holroyd Local Environmental Plan 2013**

### **Clause 4.4 (2B)**

Omit “where:”. Insert “where:” after the formula.

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**Explanatory note**

The proposed amendment inserts a missing word.

**2.15 Hurstville Local Environmental Plan 2012**

**Schedule 2, clause relating to Signage—all signs**

Omit “*Codes 2008*” from paragraph (d). Insert instead “*Codes) 2008*”.

**Explanatory note**

The proposed amendment corrects a typographical error.

**2.16 Interpretation Act 1987 No 15**

**Section 21 (1), definition of “ASIC Regulations”**

Insert “of the Commonwealth” after “*2001*” in paragraph (b).

**Explanatory note**

The proposed amendment clarifies a reference to a Commonwealth Act.

**2.17 Kogarah Local Environmental Plan 2012**

**Schedule 5, matter relating to item I55**

Insert “Local” in the column headed “Significance”.

**Explanatory note**

The proposed amendment inserts a missing word.

**2.18 Land and Environment Court Act 1979 No 204**

**[1] Section 20 (1) (cg)**

Omit “section 176A”. Insert instead “section 193”.

**[2] Section 20 (1) (ck)**

Omit “section 147”. Insert instead “section 141F”.

**Explanatory note**

The proposed amendments update references to sections that have been renumbered.

**2.19 Manly Local Environmental Plan 2013**

**Schedule 5, Part 2**

Omit “**heritage map**” from the heading to the second column.

Insert instead “**Heritage Map**”.

**Explanatory note**

The proposed amendment corrects a reference to a defined map.

## **2.20 Newcastle Local Environmental Plan 2012**

**[1] Clause 7.10**

Renumber clause 7.10 (3)–(7) as clause 7.10 (2)–(6).

**[2] Clause 7.10 (2) (a) (as renumbered by item [1])**

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

**[3] Clause 7.10 (2) (c) (as renumbered by item [1])**

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

**[4] Clause 7.10 (5) (as renumbered by item [1])**

Omit “subclauses (2)–(5)”. Insert instead “subclauses (1)–(4)”.

**Explanatory note**

The proposed amendments correct numbering and related cross-references.

## **2.21 Queanbeyan Local Environmental Plan 2012**

**[1] Clause 4.2B, note**

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

**[2] Schedule 5, Part 1, matter relating to item I18**

Omit “Steet”. Insert instead “Street”.

**Explanatory note**

The proposed amendments correct typographical errors.

## **2.22 Security Industry Act 1997 No 157**

**[1] Section 12 (3), note**

Omit “*Firearms (General) Regulation 1997*”.

Insert instead “*Firearms Regulation 2006*”.

**[2] Section 39C (1)**

Omit “Security Industry Registry”.

Insert instead “Security Licensing and Enforcement Directorate”.

**Explanatory note**

Item [1] of the proposed amendments updates a reference to a Regulation.

Item [2] updates a reference to a body.



## **2.23 Shellharbour Local Environmental Plan 2013**

### **Dictionary, definition of “Additional Permitted Uses Map”**

Omit “uses”. Insert instead “Uses”.

#### **Explanatory note**

The proposed amendment corrects a typographical error.

## **2.24 State Environmental Planning Policy (Exempt and Complying Development Codes) 2008**

### **Clause 7.6 (2)**

Omit “*Occupational Health and Safety Regulation 2001*”.

Insert instead “*Work Health and Safety Regulation 2011*”.

#### **Explanatory note**

The proposed amendment updates a cross-reference.

## **2.25 State Environmental Planning Policy (Infrastructure) 2007**

### **Clause 129 (2) (c), note**

Omit “Emergency”. Insert instead “Temporary”.

#### **Explanatory note**

The proposed amendment updates a reference relating to the *Coastal Protection Act 1979*.

## **2.26 State Environmental Planning Policy (Sydney Region Growth Centres) 2006**

### **Clause 21 (4)**

Renumber paragraph (g) (as inserted by *State Environmental Planning Policy (Sydney Region Growth Centres) Amendment (The Hills Growth Centre Precincts) 2013*) as paragraph (j).

#### **Explanatory note**

The proposed amendment corrects duplicated provision numbering.

## **2.27 State Environmental Planning Policy (Western Sydney Parklands) 2009**

### **Clause 14A (4)**

Omit “clause” where lastly occurring. Insert instead “Policy”.

#### **Explanatory note**

The proposed amendment corrects a cross-reference.

## **2.28 Strathfield Local Environmental Plan 2012**

### **Clause 4.4C, table**

Omit “> 1,000”. Insert instead “≥ 1,000”.

#### **Explanatory note**

The proposed amendment corrects a typographical error.

## **2.29 Sydney Local Environmental Plan 2012**

### **Schedule 5, matter relating to Dawes Point**

Omit “Street)” including” wherever occurring in the matters relating to 82–86 and 82–88 Windmill Street.

Insert instead “Street) including”.

#### **Explanatory note**

The proposed amendment corrects typographical errors.

## **2.30 Tenterfield Local Environmental Plan 2013**

### **Schedule 2, matter relating to Signage—signs on business or industrial premises**

Omit “and” from subclause (2) (d).

#### **Explanatory note**

The proposed amendment removes an unnecessary word.

## **2.31 The Hills Local Environmental Plan 2012**

### **[1] Clause 7.7 (1)**

Omit “architectual”. Insert instead “architectural”.

### **[2] Schedule 5, Part 3, heading**

Omit “Archaeological”. Insert instead “Archaeological”.

#### **Explanatory note**

The proposed amendments correct spelling errors.

## **2.32 Transport Administration Act 1988 No 109**

### **Schedule 7, clauses 188 (4) and 189 (4)**

Omit “Transport for New South Wales” wherever occurring.

Insert instead “Transport for NSW”.

#### **Explanatory note**

The proposed amendment corrects a reference to a Government agency.

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### 2.33 Transport Administration (General) Regulation 2005

**[1] Clause 35**

Omit “the RTA” wherever occurring. Insert instead “RMS”.

**[2] Clause 35 (1) (f)**

Omit “ANVIS agreement”. Insert instead “DVRS agreement”.

**[3] Clause 35 (2)**

Omit “*ANVIS agreement*” and “Authorised New Vehicle Inspection Scheme”.

Insert instead “*DVRS agreement*” and “Dealer Vehicle Registration Scheme”, respectively.

**Explanatory note**

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

Items [2] and [3] update the name of an agreement authorising the performance of functions relating to vehicle registration.

### 2.34 Walcha Local Environmental Plan 2012

**Schedule 5, Parts 2 and 4**

Omit “**heritage map**” wherever occurring in the headings to the second columns.

Insert instead “**Heritage Map**”.

**Explanatory note**

The proposed amendment corrects references to a defined map.

### 2.35 Water Sharing Plan for the Barwon-Darling Unregulated and Alluvial Water Sources 2012

**Clause 73 (2) (c) (ii)**

Omit “, 2003”.

**Explanatory note**

The proposed amendment removes redundant matter.

### 2.36 Water Sharing Plan for the Bellinger River Area Unregulated and Alluvial Water Sources 2008

**Clause 76 (2)**

Omit “Part 11 of Division 4”. Insert instead “Division 4 of Part 11”.

**Explanatory note**

The proposed amendment corrects a cross-reference.

**2.37 Water Sharing Plan for the Central Coast Unregulated Water Sources 2009**

**[1] Clause 47 (11)**

Omit “amend”.

**[2] Clause 78 (1) (e)**

Omit “add an”. Insert instead “add a”.

**Explanatory note**

Item [1] of the proposed amendments removes a redundant word.

Item [2] corrects a typographical error.

**2.38 Water Sharing Plan for the Gwydir Unregulated and Alluvial Water Sources 2012**

**Appendix 5**

Omit “Pox”. Insert instead “Box”.

**Explanatory note**

The proposed amendment corrects a typographical error.

**2.39 Water Sharing Plan for the Hunter Unregulated and Alluvial Water Sources 2009**

**[1] Clause 38, note**

Omit “applying a minimum”. Insert instead “applying minimum”.

**[2] Clause 68 (2)**

Omit “shall be subject to the same mandatory condition(s) imposed under clause 76 of this Plan on an unregulated river access licence in the same water source or management zone as the aquifer access licence.”

Insert instead “shall, from year six of this Plan, be subject to the same access rules as unregulated river access licences for the corresponding water source or management zone specified in clause 19 of this Plan.”

**Explanatory note**

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

Item [2] corrects an error in the form in which a previous amendment was made.

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## **2.40 Water Sharing Plan for the Lachlan Unregulated and Alluvial Water Sources 2012**

**[1] Clause 4 (5) (d)**

Omit “*Murray-Darling*”. Insert instead “*Murray Darling*”.

**[2] Clause 49 (3) (b) and (f)**

Omit “and” wherever occurring.

**[3] Clause 53 (2), note**

Omit “clauses”. Insert instead “clause”.

**[4] Clause 57 (1) (c)**

Omit “meters”. Insert instead “metres”.

**[5] Clause 63 (k)**

Omit “access that”. Insert instead “access licence that”.

**[6] Clause 66 (1) (d), (h) and (i)**

Omit “or” wherever lastly occurring.

**[7] Clause 66 (1) (j)**

Omit “nominates” where firstly occurring. Insert instead “nominate”.

**[8] Clause 72 (2) (c) (ii)**

Omit “, 2003”.

**[9] Dictionary, definition of “Aboriginal person”**

Omit “*Lands Rights*”. Insert instead “*Land Rights*”.

**Explanatory note**

The proposed amendments correct spelling and grammar, correct the citations of instruments, remove redundant words and insert missing words.

## **2.41 Water Sharing Plan for the Murrumbidgee Unregulated and Alluvial Water Sources 2012**

**Clause 37 (6) (a)**

Omit “Country”. Insert instead “County”.

**Explanatory note**

The proposed amendment corrects a typographical error.

## **2.42 Water Sharing Plan for the NSW Murray Darling Basin Fractured Rock Groundwater Sources 2011**

### **Clause 4 (13) (j)**

Omit “*Water Sharing Plan for the Murray Darling Basin Porous Rock Groundwater Sources 2011*”.

Insert instead “*Water Sharing Plan for the NSW Murray Darling Basin Porous Rock Groundwater Sources 2011*”.

#### **Explanatory note**

The proposed amendment corrects the citation of an instrument.

## **2.43 Wellington Local Environmental Plan 2012**

### **Land Use Table, Zone RU5, item 4**

Omit “gounds”. Insert instead “grounds”.

#### **Explanatory note**

The proposed amendment corrects a typographical error.

## **2.44 Workers Compensation Act 1987 No 70**

### **[1] Sections 163A (3) and 163B (1)–(3)**

Omit “authorised officer” wherever occurring.

Insert instead “inspector”.

### **[2] Section 163B (5)**

Omit “*authorised officer*”. Insert instead “*inspector*”.

#### **Explanatory note**

The proposed amendments update references to persons authorised as inspectors.

## **2.45 Workplace Injury Management and Workers Compensation Act 1998 No 86**

### **[1] Section 49 (2)**

Omit “section 43A”. Insert instead “section 32A”.

### **[2] Section 54 (4) (a)**

Omit “section 152 (Recovery of excess from employer)”.

Insert instead “section 160 (Recovery of excess from employer) of the 1987 Act”.

**[3] Sections 273 and 277**

Omit “and section 152 of this Act apply” wherever occurring.

Insert instead “applies”.

**[4] Sections 273 and 277**

Omit “those sections” wherever occurring. Insert instead “that section”.

**Explanatory note**

Items [1] and [2] of the proposed amendments update cross-references.

Items [3] and [4] remove references to a repealed section.

## **2.46 Young Offenders Act 1997 No 54**

### **Schedule 3**

Re-number Part 4 and clause 7 (as inserted by the *Crimes Legislation Amendment Act 2012*) as Part 5 and clause 8, respectively.

**Explanatory note**

The proposed amendment corrects duplicated numbering.

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## Schedule 3 Repeals

### 1 Repeal of redundant Acts and provision of instrument

The following Acts and provision of an instrument are repealed:

<b>Act or instrument</b>	<b>Provisions repealed</b>
<i>Road Transport (Vehicle Registration) Regulation 2007</i>	Clause 95
<i>Statute Law (Miscellaneous Provisions) Act (No 2) 2009</i> No 106	Whole Act
<i>Statute Law (Miscellaneous Provisions) Act (No 2) 2012</i> No 95	Whole Act

### 2 Repeal of amending instrument that has commenced

The following instrument is repealed:

<b>Instrument</b>	<b>Provisions repealed</b>
<i>State Environmental Planning Policy (Affordable Rental Housing) Amendment (Group Homes) 2012</i>	Whole instrument

### 3 Repeal of provision of instrument that amends instrument that has since been repealed

The following provision of an instrument is repealed:

<b>Instrument</b>	<b>Provisions repealed</b>
<i>State Environmental Planning Policy (Affordable Rental Housing) 2009</i>	Schedule 3.14



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## **Schedule 4    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 on 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 by the proposed Act of any Act or instrument or any provision of an Act or instrument. The Act, instrument 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.