



New South Wales

# Statute Law (Miscellaneous Provisions) Bill 2022

## Explanatory note

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

## Overview of Bill

The objects of this Bill are to—

- (a) make minor amendments to the *Public Works and Procurement Act 1912*, the *Subordinate Legislation Act 1989* and the *Western Sydney University Act 1997*, and
- (b) postpone the date on which certain regulations are automatically repealed by the *Subordinate Legislation Act 1989*, and
- (c) amend certain other Acts and instruments for the purpose of effecting statute law revision (Schedule 2), and
- (d) make other provisions of a consequential or ancillary nature (Schedule 3).

## Outline of provisions

**Clause 1** sets out the name, also called the short title, of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on the date of assent to the proposed Act.

## Schedule 1 Minor amendments

**Schedule 1.1** amends the *Public Works and Procurement Act 1912* to enable the Minister and the Constructing Authority under that Act to delegate functions to persons employed in a government agency or other persons authorised by the regulations.

**Schedule 1.2[1]** updates a reference to an Act.

**Schedule 1.2[2]** amends the *Subordinate Legislation Act 1989* to postpone, until 1 September 2023, the date on which certain regulations are automatically repealed by the *Subordinate Legislation Act 1989*. As the automatic repeal of each regulation has been postponed at least 5 times, it cannot be further postponed by order under the *Subordinate Legislation Act 1989*, section 11.

The regulations are currently due to be repealed on 1 September 2022 but they continue to be required. Their repeal is proposed to be further postponed for the following reasons—

- (a) A Bill is being prepared as part of the Government’s response to *Report No 59—Review of the Heritage Act 1977* by the Legislative Council’s Standing Committee on Social Issues. If enacted, the Bill will make substantive amendments to the Act under which the *Heritage Regulation 2012* is made. It is therefore considered premature to remake the Regulation.
- (b) The *Animal Welfare Bill 2022* has been released for public consultation. If enacted, the Bill will repeal and replace the Act under which the *Prevention of Cruelty to Animals Regulation 2012* is made. It is therefore considered premature to remake the Regulation.
- (c) The *Public Interest Disclosures Act 2022*, when commenced, will repeal and replace the Act under which the *Public Interest Disclosures Regulation 2011* is made. It is therefore considered premature to remake the Regulation.

The amendment also re-enacts an existing postponement of the automatic repeal of the *Poisons and Therapeutic Goods Regulation 2008*.

**Schedule 1.3** amends the *Western Sydney University Act 1997* to provide for a member of the Board of Trustees of Western Sydney University to preside at meetings of a committee constituted by the Board, instead of the Deputy Chancellor as is currently the case.

## **Schedule 2 Amendments by way of statute law revision— miscellaneous amendments**

**Schedules 2.1, 2.4, 2.27 and 2.33** correct typographical errors in the following—

- (a) *Bankstown Local Environmental Plan 2015*,
- (b) the *Children (Detention Centres) Act 1987*,
- (c) the *Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020*,
- (d) *Waverley Local Environmental Plan 2012*.

**Schedules 2.2, 2.6[2] and 2.7** remove duplicate punctuation from the following—

- (a) *Camden Local Environmental Plan 2010*,
- (b) the *Children’s Guardian Act 2019*,
- (c) the *Crimes (Administration of Sentences) Act 1999*.

**Schedule 2.3** corrects a reference to an internal provision in the *Casino Control Regulation 2019*.

**Schedule 2.5** relocates a misplaced provision in the *Children (Detention Centres) Regulation 2015*.

**Schedules 2.6[1], 2.10, 2.16, 2.24, 2.30 and 2.32[1]** correct numbering errors in the following—

- (a) the *Children’s Guardian Act 2019*,
- (b) the *Gas Supply Act 1996*,
- (c) the *Liquor Act 2007*,
- (d) the *Pipelines Act 1967*,
- (e) *State Environmental Planning Policy (Housing) 2021*,
- (f) the *Water Industry Competition (General) Regulation 2021*.

**Schedules 2.8, 2.20, 2.21, 2.25 and 2.28** omit redundant words from the following—

- (a) the *Electricity Supply Act 1995*,
- (b) the *Local Land Services Regulation 2014*,
- (c) the *Moratorium Act 1932*,
- (d) *Queanbeyan Local Environmental Plan 1998*,
- (e) *Shoalhaven Local Environmental Plan 2014*.

**Schedules 2.9, 2.17 and 2.29[2]** insert missing words in the following—

- (a) the *Fair Trading Act 1987*,
- (b) the *Liquor Regulation 2018*,
- (c) *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

**Schedule 2.11** omits an incomplete section from the *Centennial Park and Moore Park Trust Act 1983*, proposed to be inserted by the *Greater Sydney Parklands Trust Act 2022*.

**Schedule 2.12** removes unnecessary references to the *Home Building Act 1989* in the *Home Building Act 1989* and uses language consistent with the Act to refer to work declared by the regulations.

**Schedule 2.13** amends the *Infrastructure NSW Act 2011* to update references from “Premier’s” to “Minister’s” consequent on recent administrative changes.

**Schedules 2.14, 2.22 and 2.32[2]** correct cross-references in the following—

- (a) the *Independent Commission Against Corruption Regulation 2017*,
- (b) the *National Parks and Wildlife Act 1974*,
- (c) the *Water Industry Competition (General) Regulation 2021*.

**Schedule 2.15** omits a redundant cross-reference from the *Land Tax Management Act 1956*.

**Schedule 2.18** inserts column headings in a table in *Liverpool Local Environmental Plan 2008*.

**Schedule 2.19** corrects a reference to the *Modern Slavery Amendment Act 2021*.

**Schedule 2.23[1] and 2.26** insert missing punctuation in—

- (a) *North Sydney Local Environmental Plan 2013*, and
- (b) the *Radiation Control Act 1990*.

**Schedule 2.23[2]** corrects a spelling error in *North Sydney Local Environmental Plan 2013*.

**Schedule 2.29[1]** corrects terminology in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

**Schedule 2.29[3]** correct a reference to an Act in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

**Schedule 2.31[1]** updates a reference to the *Local Government (General) Regulation 2021*.

**Schedule 2.31[2]** updates references from “clause” to “section”, consistent with the terms used in the *Local Government (General) Regulation 2021*.

**Schedule 2.34** updates references to a presidential member in the *Workplace Injury Management and Workers Compensation Act 1998* to align with the definition contained in the *Personal Injury Commission Act 2020*.

## **Schedule 3      General savings, transitional and other provisions**

**Proposed section 1** ensures that an amendment made by the proposed Act to a repealing or amending provision of an Act or instrument will, if the repealing or amending provision

commences before the amendment made by the proposed Act, be taken to have commenced on the date the repealing or amending provision commences.

**Proposed section 2** ensures the amendment or repeal of a provision will not, unless expressly provided, vitiate an act done or decision made under the provision as in force before the amendment or repeal.

**Proposed section 3** ensures that, unless expressly provided, an 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.

**Proposed section 4** enables the Governor, by proclamation, to revoke the repeal of any Act or instrument, or a provision of an Act or instrument, by the proposed Act. The Act or instrument, or provision, the subject of the revocation of repeal is taken not to be, and never to have been, repealed.

**Proposed section 5** enables the making of regulations of a savings or transitional nature relating to incidental matters arising out of the proposed Act.



New South Wales

# Statute Law (Miscellaneous Provisions) Bill 2022

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New South Wales

# Statute Law (Miscellaneous Provisions) Bill 2022

No. , 2022

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## **A Bill for**

An Act to amend the *Public Works and Procurement Act 1912*, the *Subordinate Legislation Act 1989*, the *Western Sydney University Act 1997* and for the purpose of effecting statute law revision; and to make certain savings.

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

1

**1 Name of Act**

2

This Act is the *Statute Law (Miscellaneous Provisions) Act 2022*.

3

**2 Commencement**

4

This Act commences on the date of assent to this Act.

5

<b>Schedule 1</b>	<b>Minor amendments</b>	1
<b>1.1</b>	<b>Public Works and Procurement Act 1912 No 45</b>	2
	<b>Section 5B</b>	3
	Insert after section 5A—	4
	<b>5B Delegation by Minister or Constructing Authority</b>	5
	(1) The Minister may delegate any of the Minister’s functions under this Act, other than this power of delegation, to—	6
	(a) a government agency, or a government agency employee, or	7
	(b) a person, or a class of persons, authorised for the purposes of this subsection by the regulations.	8
	(2) The Constructing Authority may delegate any of the Constructing Authority’s functions under this Act, other than this power of delegation, to—	9
	(a) a government agency, or a government agency employee, or	10
	(b) a person, or a class of persons, authorised for the purposes of this subsection by the regulations.	11
	(3) In this section—	12
	<i>government agency</i> has the same meaning as in Part 11.	13
	<i>government agency employee</i> has the same meaning as in Part 11.	14
		15
<b>1.2</b>	<b>Subordinate Legislation Act 1989 No 146</b>	16
<b>[1]</b>	<b>Schedule 3 Matters not requiring regulatory impact statements</b>	17
	Omit “ <i>Homebush Motor Racing (Sydney 400) Act 2008</i> ”.	18
	Insert instead “ <i>Motor Sports Events Act 2022</i> ”.	19
<b>[2]</b>	<b>Schedule 5</b>	20
	Omit the Schedule. Insert instead—	21
	<b>Schedule 5 Further postponement of repeal of statutory rules</b>	22
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<b>1.3 Western Sydney University Act 1997 No 116</b>	1
<b>Schedule 1 Provisions relating to members and procedure of Board</b>	2
Omit clause 7(2A). Insert instead—	3
(2A) At a meeting of a committee constituted by the Board, the following committee member is to preside—	4 5
(a) a member of the Board appointed by the Board, or	6
(b) if no member is appointed or in the absence of the appointed member— a Board member elected by and from the committee members present.	7 8

<b>Schedule 2</b>	<b>Amendments by way of statute law revision— miscellaneous amendments</b>	1 2
<b>2.1</b>	<b>Bankstown Local Environmental Plan 2015</b>	3
	<b>Clause 6.15, heading</b>	4
	Omit “ratio—”. Insert instead “ratio”.	5
<b>2.2</b>	<b>Camden Local Environmental Plan 2010</b>	6
<b>[1]</b>	<b>Land Use Table</b>	7
	Omit “Correctional centres;” from Zone RU1 Primary Production, item 4.	8
	Insert instead “Correctional centres;”.	9
<b>[2]</b>	<b>Land Use Table, Zone RU2 Rural Landscape, item 4</b>	10
	Omit “Crematoria;”. Insert instead “Crematoria;”.	11
<b>2.3</b>	<b>Casino Control Regulation 2019</b>	12
	<b>Clause 45 Casino precincts—the Act, s 81(4)</b>	13
	Omit “this section” from clause 45(2). Insert instead “this clause”.	14
<b>2.4</b>	<b>Children (Detention Centres) Act 1987 No 57</b>	15
	<b>Section 53 Conditions of parole generally</b>	16
	Omit “Parts” from section 53(5). Insert instead “Part”.	17
<b>2.5</b>	<b>Children (Detention Centres) Regulation 2015</b>	18
	<b>Clause 148A Exchange of information with Commissioner of Fines Administration</b>	19
	Relocate the clause to after clause 148AC in Part 12A.	20
<b>2.6</b>	<b>Children’s Guardian Act 2019 No 25</b>	21
<b>[1]</b>	<b>Section 8G Meaning of “prescribed agency”</b>	22
	Renumber paragraphs (f)–(i) as (e)–(h).	23
<b>[2]</b>	<b>Section 27 Who must give report of reportable allegation or conviction</b>	24
	Omit “employer,,” from section 27(3). Insert instead “employer,”.	25
<b>2.7</b>	<b>Crimes (Administration of Sentences) Act 1999 No 93</b>	26
	<b>Section 40 Certain unlawful absences not to affect length of sentence</b>	27
	Omit “,, and” from section 40(1)(c). Insert instead “, and”.	28
<b>2.8</b>	<b>Electricity Supply Act 1995 No 94</b>	29
	<b>Schedule 4A Energy security safeguard schemes</b>	30
	Omit “a a” from clause 144A(2)(b). Insert instead “a”.	31

<b>2.9 Fair Trading Act 1987 No 68</b>	1
<b>Section 47A Disclosure of prejudicial terms relating to supply of goods or services</b>	2
Omit “supply or goods” from section 47A(3)(d).	3
Insert instead “supply of goods or services”.	4
<b>2.10 Gas Supply Act 1996 No 38</b>	5
<b>[1] Section 50AA Responsibility to pay for removing obstruction of gas works</b>	6
Renumber section 50AA(3)(b)(a) and (b) as (i) and (ii), respectively.	7
<b>[2] Section 50AB Responsibility to pay for repairs to gas works</b>	8
Renumber section 50AB(3)(b)(a) and (b) as (i) and (ii), respectively.	9
<b>2.11 Greater Sydney Parklands Trust Act 2022 No 9</b>	10
<b>Schedule 5 Amendment of other legislation</b>	11
Omit proposed section 18AA from Schedule 5.2[7].	12
<b>2.12 Home Building Act 1989 No 147</b>	13
<b>[1] Section 15A Unqualified mechanical services and medical gas work</b>	14
Omit “work declared to be refrigeration work or air-conditioning work by the regulations under the <i>Home Building Act 1989</i> ” from section 15A(5)(b).	15 16
Insert instead “work declared by the regulations to be refrigeration work or air-conditioning work”.	17 18
<b>[2] Section 15A(5)(c)</b>	19
Omit “within the meaning of the <i>Home Building Act 1989</i> ”.	20
<b>2.13 Infrastructure NSW Act 2011 No 23</b>	21
<b>Sections 18(2), 21(2) and 25(2)</b>	22
Omit “Premier’s” wherever occurring. Insert instead “Minister’s”.	23
<b>2.14 Independent Commission Against Corruption Regulation 2017</b>	24
<b>Appendix NSW Ministerial Code of Conduct</b>	25
Omit “Part 2, Division 7” from the Schedule to the NSW Ministerial Code of Conduct, clause 16A(2), definition of <i>property developer</i> .	26 27
Insert instead “Part 3, Division 7”.	28
<b>2.15 Land Tax Management Act 1956 No 26</b>	29
<b>Section 10 Land exempted from tax</b>	30
Omit “, 10G” from section 10(1).	31

<b>2.16 Liquor Act 2007 No 90</b>	1
<b>Section 159 Regulations</b>	2
Renumber section 159(2)(f4) and (f4) as section 159(2)(f4) and (f5), respectively.	3
<b>2.17 Liquor Regulation 2018</b>	4
<b>Clause 48D Conditions of pop-up licences</b>	5
Omit “Authority,” from clause 48D(2)(b). Insert instead “Authority, or”.	6
<b>2.18 Liverpool Local Environmental Plan 2008</b>	7
<b>Schedule 5 Environmental heritage</b>	8
Insert “ <b>Significance</b> ” and “ <b>Item no</b> ” as headings to Part 3, columns 5 and 6, respectively.	9
<b>2.19 Local Government Act 1993 No 30</b>	10
<b>Schedule 8 Savings, transitional and other provisions consequent on the enactment of other Acts</b>	11
Omit “ <b>Modern Slavery Amendment Bill 2021</b> ” from the heading to Part 42.	12
Insert instead “ <b>Modern Slavery Amendment Act 2021</b> ”.	13
<b>2.20 Local Land Services Regulation 2014</b>	14
<b>Schedule 1 Elections for members of local boards</b>	15
Omit “or or” from clause 45. Insert instead “or”.	16
<b>2.21 Moratorium Act 1932 No 57</b>	17
<b>Section 14 Consent by mortgagor to exercise of rights, powers, and remedies by mortgagee</b>	18
Omit “or or” from section 14(4)(a). Insert instead “or”.	19
<b>2.22 National Parks and Wildlife Act 1974 No 80</b>	20
<b>Schedule 3 Savings, transitional and other provisions</b>	21
Omit “section 73(7)” from clause 77(2). Insert instead “section 73B(7)”.	22
<b>2.23 North Sydney Local Environmental Plan 2013</b>	23
<b>[1] Land Use Table</b>	24
Omit “Take away food and drink premises” from Zone B1 Neighbourhood Centre, item 3.	25
Insert instead “Take away food and drink premises;”.	26
<b>[2] Schedule 5 Environmental heritage</b>	27
Omit “Whitely” from Part 1, item I0360. Insert instead “Whiteley”.	28

<b>2.24 Pipelines Act 1967 No 90</b>	1
<b>Section 5A Minister may require certain pipelines to be licensed</b>	2
Renumber section 5A(3)(i) and (ii) as (a) and (b), respectively.	3
<b>2.25 Queanbeyan Local Environmental Plan 1998</b>	4
<b>Clause 25 Multi dwelling housing—matters for consideration</b>	5
Omit “and, and” from clause 25(c). Insert instead “and”.	6
<b>2.26 Radiation Control Act 1990 No 13</b>	7
<b>Section 28J Liability of Authority, State and others</b>	8
Omit “Authority any members” from section 28J(2).	9
Insert instead “Authority, any members”.	10
<b>2.27 Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020 No 9</b>	11
<b>Section 51 Compliance cost notices</b>	12
Omit “lead” from section 51(2)(c). Insert instead “led”.	13
<b>2.28 Shoalhaven Local Environmental Plan 2014</b>	14
<b>Schedule 5 Environmental heritage</b>	15
Omit “including and” from Part 1, Item 9. Insert instead “including”.	16
<b>2.29 State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</b>	17
<b>[1] Clause 2.30AD, heading</b>	18
Omit the heading. Insert instead—	19
<b>2.30AD Development standards</b>	20
<b>[2] Clause 2.30AD(1)(b)</b>	21
Insert “and” after “premises,”.	22
<b>[3] Clause 2.30AD(2)</b>	23
Omit “ <i>Liquor Act 2017</i> ” from the definition of <i>existing relevant condition</i> , paragraph (c).	24
Insert instead “ <i>Liquor Act 2007</i> ”.	25
<b>2.30 State Environmental Planning Policy (Housing) 2021</b>	26
<b>Section 45 Interpretation</b>	27
Omit “(1)”.	28
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<b>2.31 Water Industry Competition Amendment Act 2021 No 26</b>	1
<b>[1] Schedule 2 Consequential amendments to other legislation</b>	2
Omit “ <b>Local Government (General) Regulation 2005</b> ” from the heading to Schedule 2.10.	3 4
Insert instead “ <b>Local Government (General) Regulation 2021</b> ”.	5
<b>[2] Schedule 2.10</b>	6
Omit “Clause” and “clause” wherever occurring.	7
Insert instead “Section” and “section”, respectively.	8
<b>2.32 Water Industry Competition (General) Regulation 2021</b>	9
<b>[1] Schedule 2 Conditions for retail suppliers’ licences</b>	10
Omit “(1)” from section 9.	11
<b>[2] Schedule 2, section 14(4)</b>	12
Omit “section 9(1)(a)(i)”. Insert instead “section 9(a)(i)”.	13
<b>2.33 Waverley Local Environmental Plan 2012</b>	14
<b>Clause 6.13 Development of the War Memorial Hospital Campus at Edina Estate, Waverley</b>	15 16
Omit “ <i>NatHERS</i> means” from clause 6.13(6), definition of <i>NatHERS</i> .	17
Insert instead “ <i>NatHERS</i> means”.	18
<b>2.34 Workplace Injury Management and Workers Compensation Act 1998 No 86</b>	19 20
<b>Section 353 Appeal against decision of Commission constituted by presidential member</b>	21 22
Omit “Presidential member” wherever occurring in section 353(1) and (2).	23
Insert instead “presidential member”.	24

<b>Schedule 3</b>	<b>General savings, transitional and other provisions</b>	1
		2
<b>1</b>	<b>Effect of amendment of amending provisions</b>	3
(1)	An amendment made by Schedule 1 to an amending provision contained in an Act or instrument is, if the amending provision has commenced before the Schedule 1 amendment, taken to have effect as from the commencement of the amending provision, whether or not the amending provision has been repealed.	4 5 6 7
(2)	In this section—	8
	<b>amending provision</b> means a provision of an Act or instrument that makes a direct amendment to an Act or instrument by—	9 10
(a)	the repeal or omission of matter contained in the amended Act or instrument without the insertion of matter instead of the repealed or omitted matter, or	11 12
(b)	the omission of matter contained in the amended Act or instrument and the insertion of matter instead of the omitted matter, or	13 14
(c)	the insertion into the amended Act or instrument of matter, not being matter inserted instead of matter omitted from the Act or instrument.	15 16
<b>2</b>	<b>Effect of amendment or repeal on acts done or decisions made</b>	17
	Unless expressly provided to the contrary, if this Act—	18
(a)	amends a provision of an Act or an instrument, or	19
(b)	repeals and re-enacts, with or without modification, a provision of an Act or an instrument,	20 21
	an 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 amended or repealed.	22 23 24
<b>3</b>	<b>Effect of amendment on instruments</b>	25
	Unless expressly provided to the contrary, an 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.	26 27 28
<b>4</b>	<b>Revocation of repeal</b>	29
	The <i>Interpretation Act 1987</i> , section 29A applies to the repeal of Acts or instruments, or provisions of Acts or instruments, by this Act.	30 31
<b>5</b>	<b>Regulations</b>	32
(1)	The Governor may make regulations containing provisions of a savings or transitional nature consequent on the enactment of this Act.	33 34
(2)	The provisions may, if the regulations so provide, take effect from the date of assent to this Act or a later date.	35 36
(3)	To the extent to which the provisions take effect from a date that is earlier than the date of its publication on the NSW legislation website, the provision does not operate—	37 38 39
(a)	to affect, in a way prejudicial to a person, other than the State or an authority of the State, the rights of the person existing before the date of its publication, or	40 41 42

- |     |   |   |
|-----|---|---|
| (b) | to impose liabilities on a 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. | 1 |
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