

Passed by both Houses



New South Wales

Statute Law (Miscellaneous Provisions) Bill 2006

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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, , 2006*



New South Wales

Statute Law (Miscellaneous Provisions) Bill 2006

Act No , 2006

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.

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

Chairman of Committees of the Legislative Assembly.

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

This Act is the *Statute Law (Miscellaneous Provisions) Act 2006*.

2 Commencement

- (1) This Act commences on the date of assent, except as provided by this section.
- (2) The amendments made by Schedules 1–3 commence on the day or days specified in those Schedules in relation to the amendments concerned. If a commencement day is not specified, the amendments commence on the date of assent.

3 Amendments

The Acts and instruments specified in Schedules 1–3 are amended as set out in those Schedules.

4 Repeals

Each Act specified in Schedule 4 is, to the extent indicated in that Schedule, repealed.

5 General savings, transitional and other provisions

Schedule 5 has effect.

6 Explanatory notes

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

7 Repeal of Act

- (1) This Act is repealed on the day following the day on which all of the provisions of this Act have commenced.
- (2) The repeal of this Act does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by this Act.

Schedule 1 Minor amendments

(Section 3)

1.1 Agricultural Scientific Collections Trust Act 1983 No 148

[1] Section 7 Principal objects of the Trust

Omit “agricultural science” from section 7 (a).

Insert instead “agriculture, fishing activities, forestry or mining”.

[2] Section 7 (c)

Omit “in fields of agricultural science”.

Insert instead “in relation to agriculture, fishing activities, forestry and mining”.

[3] Section 11 Vesting of certain property

Omit “scientific collection” from section 11 (1). Insert instead “collection”.

[4] Section 11 (1) (b)

Omit “agricultural science”.

Insert instead “agriculture, fishing activities, forestry or mining”.

Explanatory note

Items [1] and [2] of the proposed amendments to the *Agricultural Scientific Collections Trust Act 1983* extend the principal objects of the Trust that is established under that Act to the holding of property relating to the study of fishing activities, forestry and mining and the increasing and dissemination of knowledge in relation to those activities.

Items [3] and [4] are consequential amendments.

1.2 Centenary Institute of Cancer Medicine and Cell Biology Act 1985 No 192

Section 7 Constitution of the Board

Omit “for Health of New South Wales” from section 7 (3) (e).

Insert instead “administering this Act”.

Explanatory note

The *Centenary Institute of Cancer Medicine and Cell Biology Act 1985* (**the Act**) currently provides for 2 of the governors of the Centenary Institute Board to be nominated by the Minister for Health of New South Wales. The proposed amendment replaces the reference to that Minister as nominator with a reference to the Minister administering the Act. (The Minister administering the Act changed in May 2005 from the Minister for Health to the Minister for Science and Medical Research.)

1.3 Coal Mine Health and Safety Act 2002 No 129

[1] Section 149 Functions of Chief Inspector

Omit section 149 (1) (a). Insert instead:

- (a) the control and direction of inspectors and mine safety officers, and

[2] Section 193 Regulations: specific miscellaneous powers

Insert after the last paragraph in the section:

- (cu) regulating tourist activities and the use of coal operations for educational purposes,
- (cv) the lodgment of applications under this Act,
- (cw) the transfer of any permit within the meaning of section 105,
- (cx) the duration of any such permit, which may be indefinite or of specified length,
- (cy) modifying the requirements of Part 5 so that they apply, with the prescribed modifications, to and in respect of persons who conduct tourist activities in or about a mine, or use a mine for educational purposes, under the authority of a permit issued under Part 6.

[3] Section 201 Exemptions

Insert “, or provide for the exemption of,” after “exempt”.

[4] Section 220 Protection from liability

Insert “or the *Occupational Health and Safety Act 2000*” after “Act” in section 220 (1).

[5] Section 220 (2) (m)

Insert after section 220 (2) (l):

- (m) a member of staff of the Department.

Commencement

Item [4] of the amendments to the *Coal Mine Health and Safety Act 2002* commences on the commencement of Schedule 3 [58] to the *Mine Health and Safety Act 2004*.

Explanatory note

Item [1] of the proposed amendments extends the functions of the Chief Inspector under the *Coal Mine Health and Safety Act 2002* to include the control and direction of inspectors and mine safety officers.

Item [2] of the proposed amendments includes additional regulation-making powers in relation to the regulation of tourist and educational activities, the lodgment of applications under the *Coal Mine Health and Safety Act 2002*, permits to conduct tourism activities at a coal operation or to use it for educational purposes and persons who act under the authority of such permits.

Item [3] of the proposed amendments provides for the regulations to provide for the exemption of persons, or persons of a prescribed class, or any act, matter or thing, or any prescribed class of act, matter or thing, from any provision of the regulations. At present, the regulations may exempt persons, or persons of a prescribed class, or any act, matter or thing, or any prescribed class of act, matter or thing, from any provision of the regulations. Item [3] of the proposed amendments extends the power so as to permit the regulations to provide for such exemptions. For instance, the regulations may provide for a specified person (such as the Chief Inspector) to exempt persons from any provision of the regulations.

Item [4] of the proposed amendments extends the protection from personal liability afforded to certain protected persons so that it applies also to any matter or thing done or omitted in good faith for the purpose of executing the *Occupational Health and Safety Act 2000*. The protection is only a protection from personal liability and does not affect an injured party's right to recover from any other person, for instance from the Crown. (The reference to "or any other Act" in section 220 of the *Coal Mine Health and Safety Act 2002* is proposed to be omitted by Schedule 3 [58] to the *Mine Health and Safety Act 2004*.)

Item [5] of the proposed amendments extends the protection from personal liability to members of staff of the Department administering the *Coal Mine Health and Safety Act 2002*.

1.4 Commercial Agents and Private Inquiry Agents Act 2004 No 70

Section 16 Probationary licences

Omit "immediate" from section 16 (2).

Explanatory note

Section 16 of the *Commercial Agents and Private Inquiry Agents Act 2004 (the Act)* provides for supervision of a person during the first year that they hold an operator licence issued under the Act. Currently the Act provides that such a licence is subject to a condition that the licensee only carry out activities under that licence under the immediate supervision of the holder of a master licence under the Act or the holder of an operator licence that is not subject to such a condition. The proposed amendment removes the requirement that the supervision be "immediate".

1.5 Companion Animals Act 1998 No 87

[1] Section 55 Interpretation

Omit "Brasiliero" from section 55 (1) (d). Insert instead "Brasileiro".

[2] Section 55 (1) (d1)

Insert after section 55 (1) (d):

- (d1) any other dog of a breed, kind or description whose importation into Australia is prohibited by or under the *Customs Act 1901* of the Commonwealth,

[3] Section 55 (1), note

Omit the note.

[4] Section 57D Council-declared restricted dogs may be seized and destroyed after transition period

Omit “(a)–(d)” from section 57D (2) (a). Insert instead “(a)–(d1)”.

[5] Section 58A Notice of intention to declare dog to be restricted dog

Omit “(a)–(d)” from section 58A (1) (a). Insert instead “(a)–(d1)”.

[6] Section 58C Council may declare dog to be restricted dog

Omit “(a)–(d)” wherever occurring in section 58C (2) (a) (i) and (b) (i).

Insert instead “(a)–(d1)”.

Explanatory note

Item [1] of the proposed amendments corrects a typographical error.

Currently, section 55 of the *Companion Animals Act 1998* (**the NSW Act**) defines the following dogs as **restricted dogs** for the purposes of the NSW Act:

- (a) American pit bull terrier or pit bull terrier,
- (b) Japanese tosa,
- (c) dogo Argentino,
- (d) fila Brasileiro,
- (e) any dog declared by a council under Division 6 of Part 5 of the NSW Act to be a restricted dog,
- (f) any other dog of a breed, kind or description prescribed by the regulations for the purpose of that section.

Item [2] of the proposed amendments inserts section 55 (1) (d1) in the NSW Act so as to extend the definition of **restricted dog** under the NSW Act to include any other dog of a breed, kind or description that is prohibited from being imported into Australia by or under the *Customs Act 1901* of the Commonwealth. Items [3]–[6] make consequential amendments.

1.6 Conveyancing Act 1919 No 6

[1] Section 202 General rules under this Part as to registration and fees

Omit “and” from section 202 (1) (d).

[2] Section 202 (1) (d1)

Insert after section 202 (1) (d):

- (d1) providing for the refund or waiver of any such fees, and

Explanatory note

Item [2] of the proposed amendments inserts a regulation-making power into the *Conveyancing Act 1919* in relation to the refund or waiver of fees payable under that Act or any other Act (except the *Real Property Act 1900*) under which the office of the Registrar-General takes fees. Item [1] is a consequential amendment.

1.7 Co-operatives Act 1992 No 18

[1] Section 9 Excluded matter

Insert “, or applies in accordance with the provisions of Division 3 of Part 12,” after “section 98 (j)” in section 9 (4).

[2] Section 316 Application for transfer

Insert after section 316 (4):

- (5) For the avoidance of doubt, a co-operative is authorised for the purposes of section 601BC (8) (d) of the Corporations Act to become registered as a company under that Act if the co-operative applies for the transfer in accordance with the provisions of this Division.

[3] Section 321 New body is a continuation of the co-operative

Insert after section 321 (2):

- (3) If the new body is a company under the Corporations Act, subsections (1) and (2) have effect subject to the provisions of section 601BM of that Act.

Note. Section 601BM of the Corporations Act provides that the registration of a body as a company under Part 5B.1 of that Act does not:

- (a) create a new legal entity, or
(b) affect the body’s existing property, rights or obligations (except as against the members of the body in their capacity as members), or
(c) render defective any legal proceedings by or against the body or its members.

Explanatory note

The recent decision of the Full Court of the Federal Court in *Australian Securities and Investments Commission v Medical Defence Association of Western Australia* [2005] FCAFC 173 (25 August 2005) has created uncertainty about the ability of State bodies corporate to register as companies under the *Corporations Act 2001* of the Commonwealth. Section 601BC (8) (d) of the *Corporations Act 2001* requires the transfer of a State body corporate’s incorporation to be authorised. On one view, the

case suggests that express (rather than implied) authorisation by State law is required to satisfy this requirement.

Items [1] and [2] of the proposed amendments confirm that a co-operative is authorised to become registered as a company under the *Corporations Act 2001* if it complies with the provisions of Division 3 (Transfer of incorporation) of Part 12 of the *Co-operatives Act 1992* with respect to the transfer of its incorporation.

Item [3] makes a consequential amendment.

1.8 Crimes (Administration of Sentences) Act 1999 No 93

[1] Section 4 Application of Part

Omit “the Part 16” from section 4 (2). Insert instead “Part 16”.

[2] Section 39 Powers of arrest

Omit “authorised justice” wherever occurring from section 39 (2)–(5).

Insert instead “authorised officer”.

[3] Section 39 (7), definition of “authorised justice”

Omit the definition. Insert instead:

authorised officer has the same meaning as it has in the *Law Enforcement (Powers and Responsibilities) Act 2002*.

[4] Section 106Y Provision of information relating to offenders

Insert “of the Drug Court or the Commissioner” after “registrar” in section 106Y (2) (b).

[5] Section 106Y (5) (a) and (b)

Insert “or the Commissioner” after “Drug Court” wherever occurring.

[6] Section 106Y (5) (c)

Insert “or the Department” after “Drug Court” wherever occurring.

Commencement

Items [4]–[6] of the amendments to the *Crimes (Administration of Sentences) Act 1999* commence, or are taken to have commenced, on the date of commencement of Schedule 3 [4] to the *Compulsory Drug Treatment Correctional Centre Act 2004*.

Explanatory note

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

Items [2] and [3] of the proposed amendments update references to an office.

Section 106Y of the *Crimes (Administration of Sentences) Act 1999* (which is to be inserted into that Act by the *Compulsory Drug Treatment Correctional Centre Act 2004*) mirrors section 31 of the *Drug Court Act 1998*.

Section 106Y (2) of the *Crimes (Administration of Sentences) Act 1999* provides that it is the duty of certain prescribed persons (who may be persons such as psychologists, counsellors or pathologists) to promptly notify the registrar of the Drug Court or the

Commissioner of Corrective Services of any failure by an offender to comply with the offender's compulsory drug treatment personal plan (ie of positive drug test results or other evidence of drug use). The subsection also requires such persons to comply with the requirements of the regulations with respect to the giving of such information to the registrar, but a reference to the giving of information to the Commissioner was inadvertently omitted.

Item [4] of the proposed amendments inserts the missing reference to the Commissioner of Corrective Services into section 106Y (2) (b) to make it clear that prescribed persons must comply with the requirements of the regulations with respect to the giving of information to the Commissioner.

Section 106Y (5) of the *Crimes (Administration of Sentences) Act 1999* provides certain legal protection to the registrar and members of staff of the Drug Court by providing that offenders are taken to have authorised the communication of information in specified situations. The subsection also inadvertently omits references to the Commissioner of Corrective Services or the staff of the Department of Corrective Services.

Items [5] and [6] of the proposed amendments insert the missing references to the Commissioner of Corrective Services and the Department of Corrective Services in section 106Y (5) to give the same legal protection to the Commissioner and the staff of the Department as is given to the registrar and members of staff of the Drug Court.

1.9 Crown Lands Act 1989 No 6

[1] Section 36 Conditions that may be included in contracts of sale

Insert “, or impose in connection with the grant of an application to purchase land that is the subject of a holding within the meaning of the *Crown Lands (Continued Tenures) Act 1989*,” after “Crown land” in section 36 (1).

[2] Section 162 Penalty notices for certain offences

Omit “under this Act prescribed by the regulations” from section 162 (1).

Insert instead “under this Act, the regulations or the by-laws made under section 128, being an offence prescribed by the regulations for the purposes of this section”.

[3] Section 180C

Insert after section 180B:

180C Payments due under the Act

- (1) Any payment due under this Act must be made as a single payment when due.
- (2) However, the Minister may accept a payment by instalments on any basis that the Minister determines is appropriate.

Explanatory note

Under section 36 of the *Crown Lands Act 1989 (the Act)*, the Minister for Lands may include in a contract of sale of Crown land a condition for an option or right for the Minister to repurchase the land on behalf of the Crown. Item [1] of the proposed amendments makes it clear that such a condition may also be imposed in connection

with the grant of an application to purchase land that is the subject of a holding (an incomplete purchase, a perpetual lease, a term lease or a special lease) under the *Crown Lands (Continued Tenures) Act 1989*.

Item [2] of the proposed amendments makes it clear that offences under the regulations and by-laws made under the Act may be dealt with by way of penalty notice.

Item [3] of the proposed amendments provides that any payment due under the Act must be made as a single payment when due, but that the Minister may accept a payment by instalments on any basis that the Minister determines is appropriate.

1.10 Environmental Planning and Assessment Act 1979 No 203

[1] Section 121B Orders that may be given by consent authority or by Minister etc

Insert “or in connection with development for which the Minister or Director-General is or has been the consent authority” after “applies” in section 121B (1) (aa).

[2] Section 122M Search warrants

Omit “authorised justice” wherever occurring from section 122M (1) and (2).

Insert instead “issuing officer”.

[3] Section 122M (3)

Omit the subsection. Insert instead:

(3) Application of Law Enforcement (Powers and Responsibilities) Act 2002

Division 4 of Part 5 of the *Law Enforcement (Powers and Responsibilities) Act 2002* applies to a search warrant issued under this section.

[4] Section 122M (4), definition of “authorised justice”

Omit the definition. Insert instead:

issuing officer means an authorised officer within the meaning of the *Law Enforcement (Powers and Responsibilities) Act 2002*.

Explanatory note

Prior to the enactment of Part 3A of the *Environmental Planning and Assessment Act 1979 (the Act)*, section 121B (1) (b) of the Act authorised any consent authority other than a council (such as the Minister or the Director-General of the Department of Planning) to give orders under Division 2A of Part 6 for the enforcement of the Act in connection with matters for which they act as the consent authority for development. Such an order can be given, for example, to require a person to comply with the conditions of a development consent. The amending legislation that inserted Part 3A into the Act also amended section 121B (1) to insert paragraph (aa) to give the Minister and the Director-General power to give orders in relation to Part 3A projects. The insertion of that power casts doubt on whether the Minister and Director-General retain the power to give orders in respect of development to which Part 4 applies for which

they are or have been the consent authority. Item [1] of the proposed amendments makes it clear that the Minister and Director-General retain that power.

Items [2] and [4] of the proposed amendments clarify references to an office holder.

Item [3] of the proposed amendments updates a reference to a repealed Act.

1.11 Game and Feral Animal Control Act 2002 No 64

[1] Section 13A

Insert after section 13:

13A Delegation

The Game Council may delegate to the chief executive officer of the Game Council the exercise of the function of issuing identification cards to inspectors under section 35 (1).

[2] Section 17 Exemptions from licensing

Omit section 17 (1) (b). Insert instead:

- (b) a person who is hunting on any land owned or occupied by the person or by a member of the person's household,
- (b1) a person who is hunting on any land owned or occupied by the person's employer or by a corporation of which the person is an officer,

Explanatory note

The *Game and Feral Animal Control Act 2002* establishes the Game Council and confers functions on it, including the administration of the licensing system for game hunters.

Item [1] of the proposed amendments provides for the Game Council to delegate to its chief executive officer the exercise of the function of issuing identification cards to inspectors.

Item [2] of the proposed amendments exempts an employee of a person who owns or occupies land from the need to obtain a game hunting licence to hunt on that land.

1.12 Garvan Institute of Medical Research Act 1984 No 106

Schedule 1 Provisions relating to the directors

Omit "of State for Health of New South Wales" from clause 2 (1) (e).

Insert instead "administering this Act".

Explanatory note

The *Garvan Institute of Medical Research Act 1984* (**the Act**) currently makes provision for 2 directors of the Garvan Institute Board to be nominated by the Minister of State for Health of New South Wales. The proposed amendment replaces the reference to that Minister as nominator with a reference to the Minister administering the Act. (The Minister administering the Act changed in May 2005 from the Minister for Health to the Minister for Science and Medical Research.)

1.13 Gene Technology (GM Crop Moratorium) Act 2003 No 12

[1] Section 13 Advisory Council

Omit “Department of Agriculture” from section 13 (2) (a).

Insert instead “Department of Primary Industries”.

[2] Section 13 (2) (f)

Omit “Australian Wheat Board Pty Ltd”. Insert instead “AWB Limited”.

[3] Section 13 (2) (g)

Omit “the Chief Executive of”.

[4] Section 13 (2) (h)

Omit “the Chair of Avcare Limited”.

Insert instead “CropLife Australia Limited”.

[5] Section 13 (2) (i)

Omit “the Chair of”.

Explanatory note

The *Gene Technology (GM Crop Moratorium) Act 2003* establishes the New South Wales Agricultural Advisory Council on Gene Technology and confers functions on it, including the investigation of matters referred to the Advisory Council by the Minister for Primary Industries and providing advice to the Minister on matters relating to GM technology. The Advisory Council is made up of members nominated by certain persons and organisations.

Items [1] and [2] of the proposed amendments update references to organisations that have changed their names.

Item [3] of the proposed amendments ensures that the Commonwealth Scientific and Industrial Research Organisation nominates a member of the Advisory Council rather than the Chief Executive of that organisation.

Item [4] of the proposed amendments updates a reference to an organisation that has changed its name and ensures that the organisation, rather than the Chair of that organisation, nominates a member of the Advisory Council.

Item [5] of the proposed amendments ensures that the Grains Research and Development Corporation, rather than the Chair of that organisation, nominates a member of the Advisory Council.

1.14 Higher Education (Amalgamation) Act 1989 No 65

Part 8A The Orange Agricultural College

Omit the Part.

Explanatory note

Part 8A of the *Higher Education (Amalgamation) Act 1989* includes provisions that, among other things, vest the control and management of the Orange Agricultural College campus in the University of Sydney. The proposed amendment omits that Part as a consequence of the college having been transferred from the University of Sydney to Charles Sturt University.

1.15 Holiday Parks (Long-term Casual Occupation) Act 2002 No 88

Section 27 What orders can the Tribunal make?

Insert after section 27 (1) (e):

- (f) an order terminating the occupation agreement and an order for possession of the site.

Explanatory note

The *Holiday Parks (Long-term Casual Occupation) Act 2002* (**the Act**) sets out the rights and obligations of long-term casual occupants of holiday parks and the park owners and regulates the making and operation of occupation agreements under which a park owner grants an occupant the right to occupy a site. The Consumer, Trader and Tenancy Tribunal (**the Tribunal**) has jurisdiction over certain matters concerning occupation agreements. Section 26 of the Act provides that a park owner or an occupant may apply to the Tribunal for an order if the park owner or occupant claims that a breach of a term of the occupation agreement has occurred or if a disagreement occurs between a park owner and an occupant concerning a matter that could form the basis of a breach of the occupation agreement.

The object of the proposed amendment is to provide that the Tribunal may, on application under section 26, make an order terminating the occupation agreement and an order for possession of the relevant site.

1.16 Independent Commission Against Corruption Act 1988 No 35

[1] Section 57G

Insert after section 57F:

57G Former officers of the Commission

For the avoidance of doubt, a reference in any other provision of this Part to an officer of the Commission includes a reference to a former officer of the Commission.

[2] Section 111C Relationship with Ombudsman regarding conduct of Commission and Inspector

Insert “or former officer” after “officer”.

[3] Section 111D Complaints by public officials

Insert “or former officer” before “of the Commission” where secondly occurring in section 111D (1).

Explanatory note

The proposed amendments to the *Independent Commission Against Corruption Act 1988* confirm that the Inspector of the Independent Commission Against Corruption may investigate complaints about the conduct of former officers of the Commission as well as the conduct of current officers of the Commission.

1.17 Liquor Act 1982 No 147

[1] Section 4 Definitions

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

authorised officer has the same meaning as it has in the *Law Enforcement (Powers and Responsibilities) Act 2002*.

[2] Section 6B Delegations

Insert after section 6B (4):

(5) The Director-General of the Department of the Arts, Sport and Recreation may delegate any of the Director-General’s functions under this Act in relation to key officials and former key officials (including the granting of approvals and exemptions under sections 105A and 105B):

- (a) to the Commissioner, NSW Office of Liquor, Gaming and Racing, Department of the Arts, Sport and Recreation, or
- (b) if there is no such position in that Department—to a senior executive officer (within the meaning of the *Public Sector Employment and Management Act 2002*) employed in the NSW Office of Liquor, Gaming and Racing, Department of the Arts, Sport and Recreation.

[3] Sections 104A and 104B

Omit “authorised justice” wherever occurring.

Insert instead “authorised officer”.

[4] Section 151 Search warrants

Omit section 151 (1).

Explanatory note

Items [1], [3] and [4] of the proposed amendments update references to an office holder.

Item [2] of the proposed amendments enables the Director-General of the Department of the Arts, Sport and Recreation to delegate his or her functions under the *Liquor Act 1982* in relation to key officials (or former key officials) of that Department to the Commissioner, NSW Office of Liquor, Gaming and Racing or to a senior executive officer employed in that Office if the position of Commissioner does not exist.

1.18 Mine Health and Safety Act 2004 No 74

[1] Section 85 Issue of tourist and educational permits

Insert “or prescribed by the regulations (or both)” after “form” where secondly occurring in section 85 (3).

[2] Section 130 Functions of Chief inspector

Omit section 130 (1) (a). Insert instead:

- (a) the control and direction of inspectors and mine safety officers, and

[3] Section 166 Regulations: specific miscellaneous powers

Omit section 166 (bx). Insert instead:

- (bx) modifying the requirements of Part 5 so that they apply, with the prescribed modifications, to and in respect of persons who conduct tourist activities in or about a mine, or use a mine for educational purposes, under the authority of a permit issued under Part 6.

[4] Section 172 Exemptions

Insert “, or provide for the exemption of,” after “exempt” in section 172 (1).

[5] Section 189 Protection from liability

Insert “or the *Occupational Health and Safety Act 2000*” after “Act” in section 189 (1).

[6] Section 189 (2) (k)

Insert after section 189 (2) (j):

- (k) a member of staff of the Department.

[7] Schedule 3 Amendment of Coal Mine Health and Safety Act 2002

Insert “or prescribed by the regulations (or both)” after “form” where secondly occurring in proposed section 107 (3) in Schedule 3 [29].

Explanatory note

Item [1] of the proposed amendments provides for an application for a tourist or educational permit under the *Mine Health and Safety Act 2004* to be accompanied by the documents prescribed by the regulations (as well as any documents specified in an approved form). Item [7] makes the same provision in respect of an application for such a permit under the *Coal Mine Health and Safety Act 2002*.

Item [2] of the proposed amendments extends the functions of the Chief Inspector under the *Mine Health and Safety Act 2004* to include the control and direction of inspectors and mine safety officers.

Item [3] of the proposed amendments includes an additional regulation-making power in relation to persons who conduct tourist activities in or about a mine, or use a mine for educational purposes, under the authority of a permit issued under Part 6 of the *Mine Health and Safety Act 2004*.

Item [4] of the proposed amendments provides for the regulations to provide for the exemption of persons, or persons of a prescribed class, or any act, matter or thing, or any prescribed class of act, matter or thing, from any provision of the regulations. At present, the regulations may exempt persons, or persons of a prescribed class, or any act, matter or thing, or any prescribed class of act, matter or thing, from any provision of the regulations. Item [4] of the proposed amendments extends the power so as to permit the regulations to provide for such exemptions. For instance, the regulations may provide for a specified person (such as the Chief Inspector) to exempt persons from any provision of the regulations.

Item [5] of the proposed amendments extends the protection from personal liability afforded to certain protected persons so that it applies also to any matter or thing done or omitted in good faith for the purpose of executing the *Occupational Health and Safety Act 2000*. The protection is only a protection from personal liability and does not affect an injured party's right to recover from any other person, for instance from the Crown.

Item [6] of the proposed amendments extends the protection from personal liability to members of staff of the Department of Primary Industries.

1.19 Non-Indigenous Animals Act 1987 No 166

[1] Section 14 Application for licence

Omit “and shall be accompanied by the prescribed fee” from section 14 (1).

[2] Section 14 (1A)

Insert after section 14 (1):

- (1A) An applicant for a licence or the renewal of a licence must pay the prescribed fee at the same time as the application is made or as provided by the regulations.

[3] Section 14 (4)

Insert after section 14 (3):

- (4) The regulations may make provision for or with respect to the following:
 - (a) times for the payment of fees for licences or renewals of licences,
 - (b) the payment of such fees by instalments,
 - (c) the waiver or refund of the whole or any part of such fees.

Explanatory note

The proposed amendments to the *Non-Indigenous Animals Act 1987* enable regulations under that Act to provide for the prescribed fee for a licence or renewal of a licence to be paid by instalments and for the waiving or refunding of the prescribed fee.

1.20 Passenger Transport Act 1990 No 39

[1] Section 3 Definitions

Omit the definition of *regulator* from section 3 (1). Insert instead:

regulator means:

- (a) in relation to a public passenger service carried on by means of a ferry—the Maritime Authority, and
- (b) in relation to a public passenger service carried on otherwise than by means of a ferry—the Director-General.

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

Omit the definition. Insert instead in alphabetical order:

Maritime Authority means the Maritime Authority of NSW constituted under Part 4 of the *Ports Corporatisation and Waterways Management Act 1995*.

[3] Sections 46R (2) (f) (ii), 46W (2), 53C (2) (a) and (c), (3) and (5), 53D (2) (c), (3) and (4), 53E (1) and 66 and Schedule 3, clause 48

Omit “Waterways Authority” wherever occurring.

Insert instead “Maritime Authority”.

Explanatory note

The concept of a *regulator* (and a definition of that term) was introduced into the *Passenger Transport Act 1990* (*the Act*) by the *Transport Legislation Amendment (Waterfall Rail Inquiry Recommendations) Act 2005* (*the amending Act*).

The definition is currently as follows:

regulator means:

- (a) in relation to a public passenger service carried on by means of a bus—the Director-General, and
- (b) in relation to a public passenger service carried on by means of a ferry—the Waterways Authority.

(The Director-General referred to is the Director-General of the Ministry of Transport. **Public passenger service** is defined in the Act.)

Among other things, the regulator is empowered to appoint persons as **authorised officers** for the purposes of the Act (see section 46W). Before the enactment of the amending Act, authorised officers were appointed by the Director-General or the Independent Transport Safety and Reliability Regulator “for the purposes of the provision in which the expression [authorised officer] is used”.

In consequence of these changes, there is some doubt as to whether authorised officers appointed by the Director-General may exercise their functions in relation to public passenger services carried on by means other than the means of a bus or a ferry (such as by means of a taxi or a private hire vehicle).

To remove this doubt, item [1] of the proposed amendments extends the definition of **regulator** so as to provide that the Director-General is the regulator in relation to all public passenger services other than those carried on by means of a ferry.

Items [2] and [3] of the proposed amendments update references to a renamed body.

1.21 Plant Diseases Act 1924 No 38

Section 9 Seizure of plants

Omit “seized shall be destroyed or otherwise dealt with in such manner as the Director-General shall direct” from section 9 (1).

Insert instead:

seized:

- (a) is to be destroyed, or
- (b) is to be dealt with in such other manner as the Director-General directs.

Explanatory note

The proposed amendment clarifies that the power of the Director-General of the Department of Primary Industries under section 9 of the *Plant Diseases Act 1924* is to give directions on the manner in which a thing that has been seized under the section, but not destroyed, is to be dealt with.

1.22 Ports Corporatisation and Waterways Management Act 1995 No 13

[1] Long title

Omit “Waterways Authority”. Insert instead “Maritime Authority of NSW”.

[2] Section 3 Definitions

Insert in alphabetical order in section 3 (1):

the Authority means the Maritime Authority of NSW constituted under Part 4.

[3] Section 3 (1), definition of “Waterways Authority”

Omit the definition.

[4] Sections 17 (1), 26 (2), 27 (3), 33 (2) and (2A), 35 (2), 36 (1), 37, 38, 39 (1)–(4), 40 (1) and (2), 41 (1)–(3), 42 (2)–(4), 43, 44 (1), 46, 58, 59 (4) (b), 64, 103, 107 (2), 108 and 109

Omit “Waterways Authority” wherever occurring. Insert instead “Authority”.

[5] Part 4, heading

Omit “Waterways Authority”.

Insert instead “Maritime Authority of NSW”.

[6] Part 4, Divisions 1, 2 and 3, headings

Omit “Waterways” wherever occurring.

[7] Section 35 Constitution of Authority

Omit “Waterways Authority” from section 35 (1).

Insert instead “Maritime Authority of NSW”.

Explanatory note

Item [7] of the proposed amendments changes the name of the Waterways Authority constituted under section 35 of the *Ports Corporatisation and Waterways Management Act 1995* to the Maritime Authority of NSW.

Items [1]–[6] make consequential amendments.

1.23 Property Legislation Amendment Act 2005 No 68

[1] Schedule 1 Amendment of Real Property Act 1900

Insert “in section 47 (1) (b) and” after “except” in item [8].

[2] Schedule 1

Insert after item [8]:

[8A] Section 47 (1) (b)

Omit the paragraph. Insert instead:

- (b) if the affecting interest is an easement or profit à prendre that benefits land under the provisions of this Act—in the folio of the Register for the land benefited.

Explanatory note

Schedule 1 [7]–[11] to the *Property Legislation Amendment Act 2005 (the amending Act)*, which have not yet commenced, amend section 47 of the *Real Property Act 1900* in relation to the recording, variation and release of an easement, profit à prendre or restriction on the use of land. An unintended consequence of the amending Act is that the Registrar-General would be required to record particulars of a dealing creating a restriction in the folio of the Register under the *Real Property Act 1900* for the land benefited, if the restriction benefits land under the provisions of that Act. Item [2] of the proposed amendments removes that requirement. Item [1] is a consequential amendment.

1.24 Protection of the Environment Operations Act 1997 No 156

[1] Section 110 Revocation or variation

Omit “regulatory authority” from section 110 (4).

Insert instead “Minister or by the regulatory authority or public authority”.

[2] Section 146D Littering reports

Omit “(by weight and volume)” from section 146D (2).

[3] Section 207 Power to require articles to be tested or inspected

Insert “or inspected” after “tested” wherever occurring in section 207 (1) and (2).

[4] Section 207 (2) (c)

Insert at the end of section 207 (2) (b):

, or

- (c) to be tested or inspected at a place approved by the EPA by a person approved by the EPA.

[5] Section 207 (4) and (5)

Insert after section 207 (3):

- (4) The regulations may make provision for or with respect to the approval by the EPA of:
 - (a) the places at which articles are to be tested or inspected for the purposes of this section, and
 - (b) the persons who may carry out any such testing or inspection.
- (5) Without limiting subsection (4), the regulations may make provision for or with respect to the following:
 - (a) the issue, transfer, conditions, variation, surrender, review, suspension or revocation of an approval (including applications for the issue, transfer, variation or surrender of approvals) for the purposes of this section,
 - (b) the maximum fee that may be charged with respect to the testing or inspection of an article under subsection (2) (c).

[6] Section 280 Powers of entry by police by warrant

Omit “an *authorised justice* within the meaning of the *Search Warrants Act 1985*” from the definition of *Magistrate* in section 280 (12).

Insert instead “an *authorised officer* within the meaning of the *Law Enforcement (Powers and Responsibilities) Act 2002*”.

[7] Schedule 2 Regulation-making powers

Omit clause 3 (7). Insert instead:

- (7) The testing and inspection of articles, and requiring articles to be tested or inspected, for the purpose of:
 - (a) determining whether they comply with the requirements of this Act or the regulations, and
 - (b) without limiting paragraph (a), determining the level, nature, character or quality of the noise emitted by them or the noise that they are capable of emitting.

[8] Schedule 2, clause 4 (3A)

Insert after clause 4 (3):

- (3A) The testing and inspection of vehicles or vessels, and requiring vehicles or vessels to be tested or inspected, for the purpose of determining whether they comply with the requirements of this Act or the regulations.

[9] Dictionary

Omit “Waterways Authority” from the definition of *marine authority*.

Insert instead “Maritime Authority of NSW”.

Commencement

Items [3]–[5], [7] and [8] of the amendments to the *Protection of the Environment Operations Act 1997* commence on 1 September 2006.

Explanatory note

Item [1] of the proposed amendments makes it clear that a notice issued under Chapter 4 of the *Protection of the Environment Operations Act 1997* (**the Act**) can only be revoked or varied by the Minister or by the regulatory authority or public authority that gave it.

Section 146D of the Act requires the EPA to furnish a litter report to the Minister. Item [2] of the proposed amendments removes the requirement for the quantity of litter in a litter report to be measured by weight and volume.

Items [3]–[5], [7] and [8] of the proposed amendments provide for and clarify various regulation-making and other powers for the inspection and testing of articles, including vehicles and vessels, under the Act.

Section 207 of the Act currently gives an authorised officer the power to require articles to be tested for the purpose of determining whether the articles comply with the requirements of the Act or the regulations under the Act. Item [3] of the proposed amendments makes it clear that this power covers the inspection of articles. Item [4] of the proposed amendments provides that an authorised officer may require an article to be tested or inspected at a place approved by the EPA by a person approved by the EPA.

Item [5] of the proposed amendments provides that the regulations may make provision for:

- (a) the approval by the EPA of places at which articles are to be tested or inspected and the persons who may carry out any such testing or inspection, and
- (b) the issue, transfer, conditions, variation, surrender, review, suspension or revocation of such an approval (including applications for the issue, transfer, variation or surrender of approvals), and
- (c) the maximum fee that may be charged with respect to the testing or inspection of an article.

Item [6] of the proposed amendments updates a reference to an office.

Items [7] and [8] of the proposed amendments clarify the regulation-making powers under Schedule 2 to the Act in relation to noise, and vehicles and vessels.

Item [9] of the proposed amendments updates a reference to a renamed body.

1.25 Public Sector Employment and Management Act 2002 No 43

[1] Schedule 1 Divisions of the Government Service

Insert in Part 2 in alphabetical order of Divisions:

Public Transport Ticketing Corporation Division	Chief Executive Officer of the Public Transport Ticketing Corporation
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[2] Schedule 1, Part 2

Omit the matter relating to the Waterways Authority Division from columns 1 and 2.

Insert instead in alphabetical order of Divisions:

* Maritime Authority of NSW Division Chief Executive of Maritime Authority of NSW

[3] Schedule 2 Executive positions (other than non-statutory SES positions)

Omit “Waterways Authority” from Part 2.

Insert instead “Maritime Authority of NSW”.

Commencement

Item [1] of the amendments to the *Public Sector Employment and Management Act 2002* commences on the commencement of Schedule 1 [3] to the *Transport Administration Amendment (Public Transport Ticketing Corporation) Act 2006*.

Explanatory note

Item [1] of the proposed amendments establishes the Public Transport Ticketing Corporation Division as a Division of the Government Service in which staff are employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* to enable the Public Transport Ticketing Corporation to exercise its functions. The amendment is consequential on the amendments to the *Transport Administration Act 1988* contained elsewhere in this Schedule.

Items [2] and [3] of the proposed amendments update references to a renamed body.

1.26 Real Property Act 1900 No 25

[1] Section 105 Recording of writ in Register

Omit section 105 (2) (b). Insert instead:

- (b) is accompanied by:
 - (i) a sealed copy of the writ, or
 - (ii) a copy of a sealed copy of the writ certified by the Sheriff to be a true copy,

[2] Section 105A Effect of recording writ

Omit “and” from section 105A (4) (b).

[3] Section 105A (4) (c) and (d)

Omit section 105A (4) (c). Insert instead:

- (c) in the case of a transfer, is accompanied by an associated agreement for sale endorsed with the relevant consent under section 113 (6) (b) of the *Civil Procedure Act 2005*, and

- (d) in the case of a mortgage, is endorsed with the relevant consent under section 113 (6) (b) of the *Civil Procedure Act 2005*,

[4] Section 135 Registrar-General may settle claims

Omit section 135 (6). Insert instead:

- (6) The Registrar-General may delegate to a member of staff of the Department of Lands the power of the Registrar-General to settle claims under this section.

[5] Section 138 Court may direct cancellation of folios and other actions related to folios

Insert after section 138 (3) (c):

- (c1) create a new edition of a computer folio,

[6] Section 138 (3A)

Insert after section 138 (3):

- (3A) If a court makes an order under subsection (3) (c), the Registrar-General may require a person to lodge with the Registrar-General a plan (being, where the Registrar-General so specifies, a plan of survey) of the relevant land, together with such number of copies of the plan, if any, as the Registrar-General may specify.

Explanatory note

At present under section 105 of the *Real Property Act 1900 (the Act)*, the Registrar-General may record a writ in the Register under the Act pursuant to an application that, among other things, must be accompanied by a sealed copy of the writ. Item [1] of the proposed amendments provides that either a sealed copy of the writ or a copy of a sealed copy of the writ certified by the Sheriff as being a true copy must accompany such an application.

Item [3] of the proposed amendments makes it clear that a mortgage that is registered by a judgment debtor under section 105A of the Act following the recording of a writ in the Register must be endorsed with the consent of the Sheriff to the mortgage (pursuant to section 113 (6) (b) of the *Civil Procedure Act 2005*). Item [2] is a consequential amendment.

Item [4] of the proposed amendments provides that the Registrar-General may delegate to a member of staff of the Department of Lands the power of the Registrar-General to settle any claim for payment of compensation from the Torrens Assurance Fund under section 135 of the Act.

Item [5] of the proposed amendments makes it clear that a court may, in relation to certain proceedings, order the Registrar-General to create a new edition of a computer folio of the Register.

Item [6] of the proposed amendments provides that where a court in relation to certain proceedings orders the Registrar-General to create a new folio of the Register, the

Registrar-General may require a person to lodge with the Registrar-General a plan (with copies) of the relevant land.

1.27 Registered Clubs Act 1976 No 31

Section 6A Delegations

Insert after section 6A (4):

- (5) The Director-General of the Department of the Arts, Sport and Recreation may delegate any of the Director-General's functions under this Act in relation to key officials and former key officials (including the granting of approvals and exemptions under sections 59A and 59B):
 - (a) to the Commissioner, NSW Office of Liquor, Gaming and Racing, Department of the Arts, Sport and Recreation, or
 - (b) if there is no such position in that Department—to a senior executive officer (within the meaning of the *Public Sector Employment and Management Act 2002*) employed in the NSW Office of Liquor, Gaming and Racing, Department of the Arts, Sport and Recreation.

Explanatory note

The proposed amendment enables the Director-General of the Department of the Arts, Sport and Recreation to delegate his or her functions under the *Registered Clubs Act 1976* in relation to key officials (or former key officials) of that Department to the Commissioner, NSW Office of Liquor, Gaming and Racing or to a senior executive officer employed in that Office if the position of Commissioner does not exist.

1.28 Restricted Premises Act 1943 No 6

Section 17 Application to Land and Environment Court for premises not to be used as a brothel

Omit section 17 (6). Insert instead:

- (6) This section extends to premises within an area that is not a local government area, and in that case a reference to a local council is to be read:
 - (a) in relation to Lord Howe Island—as a reference to the Lord Howe Island Board, and
 - (b) in relation to such part of the land in the Western Division of the State as is not in a local government area—as a reference to the Western Lands Commissioner, and
 - (c) in relation to any other area that is not a local government area—as a reference to the prescribed authority for the area.

Explanatory note

At present, section 17 (6) of the *Restricted Premises Act 1943 (the Act)* provides that section 17 “extends to premises within an area that is not a local government area and in that case a reference to a local council is to be read as a reference to the prescribed authority for the area”.

Currently, there are only 2 such areas—Lord Howe Island and part of the Western Division of the State. The *Disorderly Houses Regulation 2001 (the Regulation)*, which is made under the Act, prescribes the Lord Howe Island Board and the Western Lands Commissioner, respectively, as the authorities for those areas.

As those authorities are unlikely to change, the proposed amendment transfers the relevant provision of the Regulation into the Act. This permits the repeal of the Regulation (which does nothing of substance other than prescribe those authorities) and obviates the necessity of remaking it every 5 years in connection with the staged repeal of statutory rules under section 10 of the *Subordinate Legislation Act 1989*. The Regulation would otherwise be repealed by section 10 (2) of that Act on 1 September 2006.

1.29 Retail Leases Act 1994 No 46

[1] Section 4 Notes

Omit “Schedule 2”. Insert instead “Schedules 2 and 2A”.

[2] Section 63 Interpretation

Insert “, but does not include a dispute of the kind referred to in section 19 (1) (b) or 31 (1) (b) as to the rent payable under a retail shop lease (where the rent is to be current market rent for the shop)” after “security bond” in the definition of *retail tenancy dispute* in section 63 (1).

[3] Schedule 2 Lessor and lessee disclosure statements

Omit “Waste disposal and removal maintenance” from the matter under the heading “**Waste management costs**” in Part 1 of Schedule 2.

Insert instead “Waste disposal and removal”.

Commencement

Item [1] of the amendments to the *Retail Leases Act 1994* is taken to have commenced on 1 January 2006 (the date of commencement of Schedule 1 [91] to the *Retail Leases Amendment Act 2005*).

Explanatory note

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

Sections 19 and 31 of the *Retail Leases Act 1994 (the Act)* make provision for the determination of current market rent (which is relevant to retail shop leases that provide for rent to be changed to current market rent) or that provide for an option for renewal or extension at current market rent. Where parties cannot agree as to the rent payable, those sections provide for the appointment, by the Administrative Decisions Tribunal, of a specialist retail valuer to determine the rent.

Item [2] of the proposed amendments makes it clear that such a disagreement does not constitute a retail tenancy dispute for the purposes of Part 8 of the Act.

Consequently, it will not be necessary for the parties to attempt mediation before applying to the Tribunal for the appointment of a specialist retail valuer.

Item [3] of the proposed amendments omits a redundant word.

1.30 Security Interests in Goods Act 2005 No 69

Section 24 Meaning of “registrable security instrument”

Omit “the parties to it” from section 24 (c). Insert instead “each grantor”.

Explanatory note

At present, section 24 of the *Security Interests in Goods Act 2005* provides that a security instrument is a registrable security instrument for the purposes of that Act if, among other things, the instrument has been duly executed by the parties to it. The proposed amendment clarifies that the instrument need only be executed by each grantor.

1.31 State Records Act 1998 No 17

Section 7 Meaning of public office “responsible” for a record

Insert after section 7 (4):

- (4A) However, if the defunct office whose functions have not devolved on another public office is a Royal Commission or Special Commission of Inquiry, the public office entitled to control of the record is The Cabinet Office.

Explanatory note

The *State Records Act 1998* (**the Act**) sets out the general obligations of public offices of the State with respect to the management and protection of their records (**State records**). The obligations under the Act are imposed on the public offices “responsible” for the records (which section 7 of the Act defines as the public offices that are entitled to control of the records). Under section 10 of the Act, the chief executive of a public office has a duty to ensure that the responsibilities of the public office under the Act are complied with. Special provision is made in section 16 of the Act for the designation of the Director-General of The Cabinet Office as the chief executive of Royal Commissions and Special Commissions of Inquiry.

At present, under section 7 (4) of the Act, the Minister for the Arts has to designate the public office that is entitled to control the State records of a public office that has ceased to exist but whose functions have not devolved on another public office. The proposed amendment provides that if a Royal Commission or Special Commission of Inquiry ceases to exist and its functions have not devolved on another public office, The Cabinet Office is the public office entitled to control of its State records for the purposes of the Act.

1.32 Subordinate Legislation Act 1989 No 146

Section 10 Staged repeal of statutory rules

Insert after section 10 (3):

- (4) Despite the other provisions of this Part, the following regulations remain in force until 1 September 2007, unless sooner repealed:
- (a) the *Day Procedure Centres Regulation 1996*,
 - (b) the *Liquor Regulation 1996*,
 - (c) the *Private Hospitals Regulation 1996*,
 - (d) the *Registered Clubs Regulation 1996*.

Explanatory note

Staged repeal of statutory rules

The *Subordinate Legislation Act 1989 (the Act)* provides for the automatic repeal of statutory rules. The repeal takes effect on the fifth anniversary of the date on which the statutory rule was published (in the case of a statutory rule published on 1 September in any year) or on 1 September following the fifth anniversary of the date on which it was published (in any other case)—see section 10 (2) of the Act. Unless it is intended to allow the statutory rule to lapse, a statutory rule that is due for repeal under the Act is usually remade in advance of the repeal date.

Section 11 of the Act permits the repeal of a statutory rule to be postponed, by order of the Governor, for a period of one year. However, the repeal of a particular statutory rule cannot be postponed on more than 5 occasions.

The repeals of the 4 Regulations to which the proposed amendment relates (*the Regulations*) have each been postponed on 5 occasions, and the Regulations are now due to be repealed on 1 September 2006. However, proposed legislative reforms involving the repeal and re-enactment of the *Private Hospitals and Day Procedure Centres Act 1988* and the *Liquor Act 1982*, and extensive amendments to the *Registered Clubs Act 1976*, resulting from a National Competition Policy review of those 3 Acts and the NSW Summit on Alcohol Abuse 2003 will have a substantial impact on the matters dealt with by the Regulations. In view of this, there seems little point in remaking them. On the other hand, it is desirable to keep the current regulatory schemes of the Regulations in place until such time as replacement provisions come into force under new or revised legislation.

Accordingly, the proposed amendment has the effect of keeping the Regulations in force for a further period of one year after the date on which they would otherwise be repealed by the Act. However, any of the Regulations may be sooner repealed by other legislation.

1.33 Superannuation Act 1916 No 28

[1] Section 61RB Power of STC to adjust benefits to comply with certain Commonwealth standards relating to superannuation

Omit “pension under section 29” from section 61RB (2) (a).

Insert instead “specified invalidity pension”.

[2] Section 61RB (10) (c)

Insert at the end of section 61RB (10) (b):

, and

- (c) *specified invalidity pension* means a pension under section 29 other than a pension in respect of which the period for payment has been determined, in accordance with section 29 (4A) (b) or (5), to be for the remainder of the relevant person's life.

[3] Schedule 3, Part 1 and Schedule 26, Part 1

Omit "Waterways Authority" wherever occurring.

Insert instead "Maritime Authority of NSW".

Explanatory note

Section 61RB of the *Superannuation Act 1916* provides for contributors or former contributors to elect to receive certain pensions in a form that complies with relevant Commonwealth superannuation standards. Under the current section 61RB (2) (a), pensions under section 29 of that Act are excluded from the pensions that may be the subject of such an election.

Items [1] and [2] of the proposed amendments make certain pensions under section 29 eligible to be the subject of such an election, while other pensions under section 29 remain excluded. A pension is eligible to be the subject of such an election if the period for payment has been determined, in accordance with section 29 (4A) (b) or (5), to be for the remainder of the relevant person's life.

Item [3] of the proposed amendments updates references to a renamed body.

1.34 Surveying Act 2002 No 83

Section 10A

Insert after section 10:

10A Re-registration after removal for non-payment of registration administration fee

- (1) The Board must cause a registered surveyor's name to be removed from the register of surveyors if the surveyor has failed to pay the registration administration fee on or before 31 August in any year.
- (2) A person whose name has been removed from the register of surveyors for failure to pay the registration administration fee is entitled to re-registration if the person pays to the Board any unpaid registration administration fee or fees together with the fee for an application for restoration of registration.

- (3) The entitlement to re-registration is an entitlement to registration on the same terms and subject to the same conditions (if any) as applied to the person's registration immediately before the removal of the person's name from the register of surveyors.
- (4) A person registered pursuant to an entitlement to re-registration under this section is taken to have been so registered on and from the day the person's name was removed from the register of surveyors or on and from such later day as the Board determines and notifies to the person. However, nothing in this subsection affects any proceedings for an offence instituted against the person before the person was entitled to be re-registered.
- (5) Nothing in this section requires the Board to re-register a person if the Board is satisfied that the person would not be entitled to be registered as a registered surveyor but for this section.
- (6) An entitlement to re-registration under this section does not override any other provision of this Act pursuant to which a person's name is authorised or required to be removed from the register of surveyors.

Explanatory note

It is a condition of registration as a registered surveyor under the *Surveying Act 2002* that a registration administration fee be paid by on or before 31 August in each year. The proposed amendment provides for the manner in which a person who has been removed from the register of surveyors for failure to pay such a fee may be re-registered.

1.35 Teaching Service Act 1980 No 23

Section 93 Attachment of salary or wages of officers and temporary employees

Omit the section.

Explanatory note

The proposed amendment omits a provision from the *Teaching Service Act 1980* that deals with the enforcement of judgment debts against officers or temporary employees of the Teaching Service by means of attachment of their salary or wages as such matters are now dealt with under Part 8 of the *Civil Procedure Act 2005* (Enforcement of judgments and orders). The provision proposed to be repealed is similar to that in the *Attachment of Wages Limitation Act 1957* which was repealed by the *Civil Procedure Act 2005*.

1.36 Terrorism (Police Powers) Act 2002 No 115

[1] Section 26ZO Monitoring by Ombudsman

Insert after section 26ZO (7):

- (8) The report may be included with the report prepared by the Ombudsman under section 27ZC so long as the requirements of this section are complied with in relation to the report prepared under this section.

[2] Section 27ZC Monitoring by Ombudsman

Omit “the Minister, the Commissioner of Police and the Crime Commissioner” from section 27ZC (3).

Insert instead “the Attorney General and the Minister for Police”.

[3] Section 27ZC (7)

Insert after section 27ZC (6):

- (7) The report may be included with the report prepared by the Ombudsman under section 26ZO so long as the requirements of this section are complied with in relation to the report prepared under this section.

Explanatory note

Section 26ZO of the *Terrorism (Police Powers) Act 2002* (**the Act**) requires the Ombudsman to prepare reports at certain times on the exercise of police powers under Part 2A of the Act (Preventative detention orders). Section 27ZC of the Act requires the Ombudsman to prepare similar reports at certain times on the exercise of police powers under Part 3 of the Act (Covert search warrants). Reports under section 26ZO are to be provided to the Attorney General and the Minister for Police. Reports under section 27ZC are to be provided to the Attorney General, the Commissioner of Police and the Crime Commissioner.

Items [1] and [3] amend the Act to enable the reports under sections 26ZO and 27ZC to be combined into one document.

Item [2] amends the Act so that a report under section 27ZC is to be provided to the Attorney General and the Minister for Police rather than as is currently the case to the Attorney General, the Commissioner of Police and the Crime Commissioner. The amendment will facilitate the issuing of the report in a combined document. The requirement that both reports under sections 26ZO and 27ZC are to be tabled before Parliament still applies.

1.37 Threatened Species Conservation Act 1995 No 101

[1] Section 36A Minor amendments to Schedules

Omit “without following the procedure set out in Division 3 or 4, if, in the opinion of the Scientific Committee, the amendment” from section 36A (1).

Insert instead “or to omit the description of any species or population from, or insert a description of any species or population into, Schedule 1, 1A, 2 or 3, without following the procedure set out in Division 3 or 4, if, in the opinion of the Scientific Committee, the amendment, omission or insertion”.

[2] Section 36A (1) (a)

Insert “described in Schedule 1, 1A, 2 or 3, or a reclassification of any such species into further species,” after “species”.

[3] Section 36C Revision of Schedule on publication of determination

Insert “or that a description of a species or population be omitted from or inserted into Schedule 1, 1A, 2 or 3” after “be amended”.

[4] Section 36C (a) and (b)

Omit the paragraphs. Insert instead:

- (a) in the case of the amendment of a description—by omitting the description from the Schedule concerned and by inserting instead a description in the manner required by the determination, and
- (b) in the case of the omission or insertion of a description—by omitting the description from, or inserting the description into, the Schedule concerned.

Explanatory note

Section 36A of the *Threatened Species Conservation Act 1995 (the Act)* allows the Scientific Committee constituted under that Act to make minor amendments to listings set out in Schedule 1, 1A, 2 or 3 to the Act without going through the public participation procedure set out in the Act, but only for the purposes of reflecting a change in the name of a species as a result of taxonomic revision, correcting any minor error or omission, or clarifying a description of an ecological community. Presently, the Act allows only the description of species or populations listed in a Schedule to be amended for those purposes. It does not allow species or populations to be added or removed for those purposes.

Item [1] of the proposed amendments makes it clear that Schedule 1, 1A, 2 or 3 to the Act may be amended under section 36A by omitting the description of any species or population from, or by inserting a description of any species or population into, any of those Schedules for the “taxonomic revision” or other purposes permitted by that section. Items [3] and [4] are consequential amendments.

Item [2] of the proposed amendments refines the “taxonomic revision” purpose for which amendments to Schedule 1, 1A, 2 or 3 may presently be made under section 36A by expressly allowing such amendments to be made if the Scientific Committee determines they are necessary or desirable to reflect a reclassification of a species described in Schedule 1, 1A, 2 or 3 into further species or subspecies as a result of taxonomic revision (and not merely to reflect a change of name of a species).

1.38 Transport Administration Act 1988 No 109

[1] Section 35R Establishment of Public Transport Ticketing Corporation

Insert after section 35R (2) (as inserted by the *Transport Administration Amendment (Public Transport Ticketing Corporation) Act 2006*):

- (3) The Public Transport Ticketing Corporation cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Public Transport Ticketing Corporation to exercise its functions.

[2] Section 35T Functions of Public Transport Ticketing Corporation

Insert at the end of section 35T (2) (as inserted by the *Transport Administration Amendment (Public Transport Ticketing Corporation) Act 2006*):

Note. References in this Act to the staff or employees of the Public Transport Ticketing Corporation are required to be construed in accordance with section 4K of the *Public Sector Employment and Management Act 2002*.

[3] Section 35ZI Staff

Omit the section (as inserted by the *Transport Administration Amendment (Public Transport Ticketing Corporation) Act 2006*).

[4] Sections 42A, definition of “transport authority”, 42I (1), (2), (4) and (5) (a) and 42J (d)

Omit “Waterways Authority” wherever occurring.

Insert instead “Maritime Authority of NSW”.

[5] Section 56 Application of Division

Insert “, the Public Transport Ticketing Corporation” after “an Authority”.

[6] Schedule 5 Extended leave for certain staff

Insert “and the Public Transport Ticketing Corporation” after “Regulator” in the definition of *Authority* in clause 2.

[7] Schedule 11 Conversion of Public Transport Ticketing Corporation to a SOC

Insert after item [1] (as inserted by the *Transport Administration Amendment (Public Transport Ticketing Corporation) Act 2006*):

[1A] Section 56 Application of Division

Omit “, the Public Transport Ticketing Corporation”.

[8] Schedule 11, item [2A]

Insert after item [2] (as inserted by the *Transport Administration Amendment (Public Transport Ticketing Corporation) Act 2006*):

[2A] Schedule 5 Extended leave for certain staff

Omit “and the Public Transport Ticketing Corporation” from the definition of *Authority* in clause 2.

[9] Schedule 11, item [3] (as inserted by the Transport Administration Amendment (Public Transport Ticketing Corporation) Act 2006)

Omit the clause headed “**Staff**” from the provisions to be inserted in Schedule 7 (Savings, transitional and other provisions) to the *Transport Administration Act 1988*.

Insert instead:

Staff

A person who, immediately before the commencement of this clause, was employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in a Division of the Government Service to enable the Public Transport Ticketing Corporation to exercise its functions is, on that commencement, taken to be employed by the Corporation under section 20M of the *State Owned Corporations Act 1989* on the same terms and conditions as applied to the person before that commencement.

[10] Schedule 11, item [3] (as inserted by the Transport Administration Amendment (Public Transport Ticketing Corporation) Act 2006)

Insert after the clause headed “**Amendment of Public Finance and Audit Act 1983 No 152**” to be inserted in Schedule 7 to the *Transport Administration Act 1988*:

Amendment of Public Sector Employment and Management Act 2002 No 43

The *Public Sector Employment and Management Act 2002* is amended by omitting from Part 2 of Schedule 1 the matter relating to the Public Transport Ticketing Corporation Division.

Commencement

Items [1]–[3] and [5]–[10] of the amendments to the *Transport Administration Act 1988* commence on the commencement of Schedule 1 [3] to the *Transport Administration Amendment (Public Transport Ticketing Corporation) Act 2006*.

Explanatory note

Items [1]–[3] and [5]–[10] of the proposed amendments remove the employment functions of the Public Transport Ticketing Corporation, expressly prevent the Corporation from employing staff and make consequential amendments. The amendments are consistent with the amendments made to various Acts by the *Public Sector Employment Legislation Amendment Act 2006*. That Act, among other things, removed the employment functions of certain statutory corporations that employed their own staff (such as the RTA and the STA) and created the Government Service of New South Wales to facilitate the employment of staff in the public sector.

Item [4] of the proposed amendments updates references to a renamed body.

1.39 University of Sydney Act 1989 No 124

Section 27 Establishment of academic colleges

Omit “Orange Agricultural College” from section 27 (1).

Explanatory note

The proposed amendment to the *University of Sydney Act 1989* removes a reference to the Orange Agricultural College as an academic college of the University of Sydney as a consequence of the college having been transferred from the University of Sydney to Charles Sturt University.

1.40 Water Management Act 2000 No 92

[1] Section 322 Regulations

Omit “reduction and deferral” from section 322 (1) (i).

Insert instead “reduction, deferral and refund”.

[2] Schedule 5 Constitution and procedure of water supply authorities

Omit clause 22. Insert instead:

22 Members of the Cobar Water Board

- (1) The Cobar Water Board is to consist of 7 part-time members appointed by the Governor.
- (2) Of the members:
 - (a) one is to be selected by the Minister and is, in and by the instrument by which the person is appointed, to be appointed as President of the Board, and
 - (b) one is to be nominated by:
 - (i) Goldcorp Asia Pacific Pty Ltd, or
 - (ii) if another mining company is prescribed by the regulations for the purposes of this subparagraph, that company, and
 - (c) one is to be nominated by:
 - (i) CBH Resources Limited, or
 - (ii) if another mining company is prescribed by the regulations for the purposes of this subparagraph, that company, and
 - (d) one is to be nominated by:
 - (i) Cobar Management Pty Ltd, or
 - (ii) if another mining company is prescribed by the regulations for the purposes of this subparagraph, that company, and
 - (e) 3 are to be nominated by the Cobar Shire Council.
- (3) If a nomination under subclause (2) (b), (c), (d) or (e) is not made within a time notified by the Minister, a person nominated by the Minister is to be appointed.
- (4) A person who, immediately before the substitution of this clause by Schedule 1 to the *Statute Law (Miscellaneous Provisions) Act 2006*, held office as a member of the Cobar Water Board ceases to hold office on that substitution.
- (5) A person who ceases to hold office because of subclause (4) is not entitled to any remuneration or compensation because of so ceasing to hold office.

[3] Schedule 5, clause 23

Omit the clause.

Commencement

Items [2] and [3] of the amendments to the *Water Management Act 2000* commence on a day to be appointed by proclamation.

Explanatory note

Section 322 of the *Water Management Act 2000* (**the Act**) enables the making of regulations for or with respect to (among other matters) "the waiver, reduction and deferral of fees, service charges and other charges" charged or levied under that Act (section 322 (1) (i)).

Item [1] of the proposed amendments enables the making of regulations for or with respect to the refund of those fees and charges.

Clause 22 of Schedule 5 to the Act provides for the constitution of the Cobar Water Board. Currently, that Board comprises 5 part-time members appointed by the Governor of whom:

- (a) one is a member of the Public Service who is also appointed as President of the Board, and
- (b) 2 are selected by the Minister administering the relevant parts of that Act (currently the Minister for Water Utilities) of whom one is from a panel nominated by Peak Gold Mines Pty Limited (and such other mining companies as the Minister determines) and one from a panel nominated by Pasminco Australia Limited (and such other mining companies as the Minister determines), and
- (c) 2 are nominated by the Cobar Shire Council.

The 2 mining companies specified operated the 2 mines in the Cobar area at the time the clause was enacted.

Item [2] of the proposed amendments restructures the Cobar Water Board as follows:

- (a) to provide that the Board has 7 part-time members instead of 5 part-time members,
- (b) to provide that the person appointed as President of the Board by the Minister for Water Utilities is not required to be a public servant,
- (c) to take account of the fact that 3 mines now operate in the Cobar area,
- (d) to update the references to the names of the mining companies operating those mines and provide a mechanism to allow the relevant nominating mining companies to be altered by regulation in the future,
- (e) to provide that Cobar Shire Council may nominate 3 instead of 2 members,
- (f) to deal with the transition from the old Board composition to the new composition.

Clause 23 (Vacation of office by President) of Schedule 5 to the Act currently provides that the President ceases to be a member of the Cobar Water Board if he or she ceases to be a member of the Public Service. Item [3] of the proposed amendments repeals that clause as a consequence of the amendment specified above removing the requirement that the President of the Board be a public servant.

Schedule 2 Amendments by way of statute law revision

(Section 3)

2.1 Albury Local Environmental Plan 2000

Clause 64A

Renumber clause 64A (as inserted by *Albury Local Environmental Plan 2000 (Amendment No 7)*) as clause 64B.

Explanatory note

The proposed amendment corrects duplicate clause numbering.

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

[1] Sections 45, note and 237 (1) and (2)

Omit “authorised justice” wherever occurring.

Insert instead “authorised officer”.

[2] Section 260 (1)

Omit “the justice”. Insert instead “the officer”.

Explanatory note

The proposed amendments update references to an office.

2.3 Community Land Development Act 1989 No 201

[1] Section 3 (1), definition of “Residential Tribunal”

Omit the definition. Insert instead in alphabetical order:

Tribunal means the Consumer, Trader and Tenancy Tribunal established by the *Consumer, Trader and Tenancy Tribunal Act 2001*.

[2] Sections 22 (3) (d), 40 (1) and (5), definition of “certified” and Schedules 7, clause 4 (b) and 10, clause 3 (b)

Omit “Residential Tribunal” wherever occurring.

Insert instead “Tribunal”.

Explanatory note

The proposed amendments update references to a tribunal.

2.4 Constitution Further Amendment (Referendum) Act 1930 No 2

Section 30

Omit “as on open court”. Insert instead “as in open court”.

Explanatory note

The proposed amendment corrects a typographical error.

2.5 Consumer Claims Regulation 1999

Clause 8

Omit “*Property, Stock and Business Agents Act 1941*”.

Insert instead “*Property, Stock and Business Agents Act 2002*”.

Explanatory note

The proposed amendment updates a cross-reference.

2.6 Consumer Credit Administration Act 1995 No 69

Section 9

Re-number section 9 (5) as section 9 (4).

Explanatory note

The proposed amendment corrects numbering.

2.7 Consumer, Trader and Tenancy Tribunal Act 2001 No 82

[1] Section 36 (4)

Insert “has” after “party”.

[2] Section 52 (2) (b)

Insert “or” at the end of the paragraph.

Explanatory note

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

Item [2] of the proposed amendments inserts a missing conjunction.

2.8 Consumer, Trader and Tenancy Tribunal Regulation 2002

Part 6, note

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

Explanatory note

The proposed amendment corrects duplicate numbering in a note.

2.9 Crimes Act 1900 No 40

Section 562H (16), definition of “authorised justice”

Omit paragraph (c). Insert instead:

- (c) an employee of the Attorney General’s Department authorised by the Attorney General as an authorised officer for the purposes of the *Law Enforcement (Powers and Responsibilities) Act 2002* either personally or as the holder of a specified office.

Explanatory note

The proposed amendment updates the description of an office.

2.10 Crimes (Forensic Procedures) Act 2000 No 59

[1] Section 5

Omit “authorised justice” wherever occurring.

Insert instead “authorised officer”.

[2] Section 36A (3) (c)

Omit “authorised justice’s name”.

Insert instead “authorised officer’s name”.

Explanatory note

The proposed amendments update references to an office.

2.11 Dungog Local Environmental Plan 2006

Schedule 3, Part 2

Omit “676896]” from the matter relating to item 131 under the heading “Street address”.

Insert instead “676896]”.

Explanatory note

The proposed amendment removes unnecessary punctuation.

2.12 Energy Savings Order 2005

[1] Schedule 1, Part A

Omit “Manildra Flour Mills”. Insert instead “Manildra Flour Mills”.

[2] Schedule 1, Part A

Omit “Onesteel Rod, Bar & Wire”.

Insert instead “OneSteel Rod, Bar & Wire”.

[3] Schedule 1, Part B

Omit “Casino Abbotoir”. Insert instead “Casino Abattoir”.

Explanatory note

The proposed amendments correct typographical errors.

2.13 Environmentally Hazardous Chemicals Act 1985 No 14

[1] Section 46 (2) and (3)

Omit “authorised officer within the meaning of the *Law Enforcement (Powers and Responsibilities) Act 2002*” wherever occurring.

Insert instead “issuing officer”.

[2] Section 46 (5)

Insert after section 46 (4):

(5) In this section:

issuing officer means an authorised officer within the meaning of the *Law Enforcement (Powers and Responsibilities) Act 2002*.

Explanatory note

The proposed amendments clarify references to an office holder.

2.14 First State Superannuation Act 1992 No 100

Schedule 1

Omit “Waterways Authority”.

Insert instead “Maritime Authority of NSW”.

Explanatory note

The proposed amendment updates a reference to a renamed body.

2.15 Fisheries Management Act 1994 No 38

Part 2, Division 4C, heading

Omit “Acquisition of fishing businesses”.

Insert instead “Fishing businesses”.

Explanatory note

The proposed amendment updates a heading.

2.16 Fisheries Management (Aquatic Reserves) Regulation 2002

Clause 18 (a)

Omit “Resrve”. Insert instead “Reserve”.

Explanatory note

The proposed amendment corrects a typographical error.

2.17 Fitness Services (Pre-paid Fees) Act 2000 No 95

Section 12 (5), definition of “premises”

Omit “*Search Warrants Act 1985*”.

Insert instead “*Law Enforcement (Powers and Responsibilities) Act 2002*”.

Explanatory note

The proposed amendment updates a cross-reference.

2.18 Gosford City Centre Local Environmental Plan 2005

[1] Clause 24 (2) (d)

Omit “accessability”. Insert instead “accessibility”.

[2] Schedule 3

Omit “Waterways Authority” from Column 2 of the matter relating to Navigational aids.

Insert instead “Maritime Authority of NSW”.

[3] Dictionary, definitions of “mooring” and “navigation aid”

Omit “Waterways Authority” wherever occurring.

Insert instead “Maritime Authority of NSW”.

Explanatory note

Item [1] of the proposed amendments corrects a typographical error.

Items [2] and [3] of the proposed amendments update references to a renamed body.

2.19 Government and Related Employees Appeal Tribunal Act 1980 No 39

Schedule 4

Omit “Waterways Authority”.

Insert instead in alphabetical order “Maritime Authority of NSW”.

Explanatory note

The proposed amendment updates a reference to a renamed body.

2.20 Great Lakes Local Environmental Plan 1996

[1] Clause 8, Development Control Table

Omit “with” wherever occurring in item 1 (d) and (e) of the matter relating to Zone No 7 (a1) (Environmental Protection Zone).

Insert instead “will”.

[2] Clause 32, Table

Omit “satisfied” from item 2 (6). Insert instead “satisfied”.

Explanatory note

The proposed amendments correct typographical errors.

2.21 Health Records and Information Privacy Act 2002 No 71

Schedule 1, clause 11 (1) (k)

Omit “use”. Insert instead “disclosure”.

Explanatory note

The proposed amendment corrects a typographical error.

2.22 Home Building Act 1989 No 147

[1] Section 61A (1) (a)

Omit “in”. Insert instead “on”.

[2] Section 90 (1), definition of “insurance industry deed”

Omit “section 103A (7)”. Insert instead “section 103A (5)”.

[3] Section 103A (3)–(5)

Re-number section 103A (5), (6) and (7) as section 103A (3), (4) and (5), respectively.

Explanatory note

Item [1] of the proposed amendments corrects a typographical error.

Item [2] of the proposed amendments is consequential on the amendment proposed to be made by item [3].

Item [3] of the proposed amendments renumbers provisions.

2.23 Hurstville Local Environmental Plan 1994

Clause 11AA (5) (b) (iii)

Omit “the the”. Insert instead “the”.

Explanatory note

The proposed amendment omits a duplicated word.

2.24 Impounding Act 1993 No 31

Dictionary, definition of “area of operations”

Omit “Waterways Authority”.

Insert instead “Maritime Authority of NSW”.

Explanatory note

The proposed amendment updates a reference to a renamed body.

2.25 Interpretation Act 1987 No 15

Section 35 (1) (a)

Insert “Chapters,” before “Parts”.

Explanatory note

The proposed amendment clarifies the status of Chapter headings.

2.26 Lake Macquarie Local Environmental Plan 2004

[1] Clause 15, Land use table

Omit “Waterways Authority” wherever occurring in item 2 of the matter under the heading **Zone 11 Lakes and Waterways Zone**.

Insert instead “Maritime Authority of NSW”.

[2] Dictionary, definition of “commercial mooring”

Omit “Waterways Authority”.

Insert instead “Maritime Authority of NSW”.

Explanatory note

The proposed amendments update references to a renamed body.

2.27 Land Tax Management Act 1956 No 26

Section 66

Omit the section.

Explanatory note

The proposed amendment omits a spent amendment.

2.28 Law Enforcement (Powers and Responsibilities) Act 2002 No 103

[1] Schedule 4.11 [3]

Omit “(5)” wherever occurring. Insert instead “(7)”.

[2] Schedule 4.46 [3]

Omit the item.

[3] Schedule 4.47 [2]

Omit “(3)”. Insert instead “(4)”.

Commencement

The amendments to the *Law Enforcement (Powers and Responsibilities) Act 2002* are taken to have commenced on 1 December 2005.

Explanatory note

Items [1] and [3] of the proposed amendments correct incorporation directions.

Item [2] of the proposed amendments omits an unnecessary amendment.

2.29 Local Government Act 1993 No 30

Section 600 (9), definition of “public body”

Omit “Waterways Authority”.

Insert instead “Maritime Authority of NSW”.

Explanatory note

The proposed amendment updates a reference to a renamed body.

2.30 Local Government (General) Regulation 2005

Clause 180, definition of “gift”

Omit “dispostion”. Insert instead “disposition”.

Explanatory note

The proposed amendment corrects a typographical error.

2.31 Lord Howe Island Regional Environmental Plan 2005

Dictionary, definition of “allotment”

Omit “occupany” from paragraph (b) (iii). Insert instead “occupancy”.

Explanatory note

The proposed amendment corrects a typographical error.

2.32 Maclean Local Environmental Plan 2001

Clause 7 (1), definition of “maintenance dredging”

Omit “Waterways Authority”.

Insert instead “Maritime Authority of NSW”.

Explanatory note

The proposed amendment updates a reference to a renamed body.

2.33 Marine Safety Act 1998 No 121

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

Omit the definition. Insert instead in alphabetical order:

Maritime Authority means the Maritime Authority of NSW constituted under Part 4 of the *Ports Corporatisation and Waterways Management Act 1995*.

[2] Sections 85 (6) (b), 96 (1), 111 (2) (h), 127, note and 133 (2) (h) and (i)

Omit “Waterways Authority” wherever occurring.

Insert instead “Maritime Authority”.

Explanatory note

The proposed amendments update references to a renamed body.

2.34 Marine Safety Legislation (Lakes Hume and Mulwala) Act 2001 No 78

Section 11 (2)

Omit “Waterways Authority of New South Wales”.

Insert instead “Maritime Authority of NSW”.

Explanatory note

The proposed amendment updates a reference to a renamed body.

2.35 Marketing of Primary Products Act 1983 No 176

Section 156 (1)

Omit “constituted by a Magistrate sitting alone”.

Explanatory note

The proposed amendment updates a reference to the constitution of a court.

2.36 Mudgee Local Environmental Plan 1998

Schedule 1

Omit “northeast” from the matter relating to item 356.

Insert instead “northeast”.

Explanatory note

The proposed amendment corrects a typographical error.

2.37 Murray Regional Environmental Plan No 2—Riverine Land

Dictionary, definition of “MSB”

Omit “Waterways Authority”.

Insert instead “Maritime Authority of NSW”.

Explanatory note

The proposed amendment updates a reference to a renamed body.

2.38 National Parks and Wildlife Act 1974 No 80

[1] Section 164 (5)

Omit “to an authorised officer”. Insert instead “to an issuing officer”.

[2] Section 164 (6)

Omit “An authorised officer”. Insert instead “An issuing officer”.

[3] Section 164 (9), definition of “authorised officer”

Omit the definition. Insert instead:

issuing officer means an authorised officer within the meaning of the *Law Enforcement (Powers and Responsibilities) Act 2002*.

Explanatory note

The proposed amendments clarify references to an office.

2.39 Non-Indigenous Animals Regulation 1997

Schedule 1, Part 2 (Reptiles)

Omit the matter relating to “*Chameleo calyptratus*” from Columns 1, 2 and 3 under the heading “ORDER SQUAMATA” and the subheadings “[SUB-ORDER LACERTILIA: lizards]” and “Family Chamaeleonidae”.

Insert instead in appropriate order:

<i>Chamaeleo calyptratus</i>	Veiled Chameleon	2
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Explanatory note

The proposed amendment corrects a typographical error.

2.40 Police Integrity Commission Act 1996 No 28

[1] Section 18A (1)

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

[2] Section 57 (3)

Omit “sections 166 (Certain information to be confidential) and 169 (Ombudsman or officer as witness)”.

Insert instead “sections 163 (Ombudsman not to publish certain information) and 165 (Ombudsman and officers of Ombudsman not competent or compellable witnesses in respect of certain matters)”.

[3] Section 57 (4)

Omit “section 169”. Insert instead “section 165”.

[4] Section 62 (2)

Omit “section 172A”. Insert instead “section 170”.

[5] Section 71 (3)

Omit “Section 141 (6)”. Insert instead “Section 140 (4)”.

Explanatory note

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

Items [2]–[5] of the proposed amendments update cross-references.

2.41 Public Finance and Audit Act 1983 No 152

Schedule 2

Omit “Waterways Authority”.

Insert instead in alphabetical order “Maritime Authority of NSW”.

Explanatory note

The proposed amendment updates a reference to a renamed body.

2.42 Residential Parks Act 1998 No 142

Section 136B (3)

Omit “or under the authority of a search warrant under this Division”.

Explanatory note

The proposed amendment omits redundant words.

2.43 Residential Parks Regulation 1999

[1] Schedule 1, Part 1

Omit “ACKNOWLEDMENT”.

Insert instead “ACKNOWLEDGMENT”.

[2] Schedules 3 and 4A

Omit “or” from item 13.8A wherever lastly occurring.

Explanatory note

Item [1] of the proposed amendments corrects a typographical error.

Item [2] of the proposed amendments omits a redundant word.

2.44 Residential Tenancies Act 1987 No 26

Schedule 1

Omit the Schedule.

Explanatory note

The proposed amendment omits a redundant Schedule.

2.45 Rivers and Foreshores Improvement Act 1948 No 20

Section 22A, definition of “Constructing Authority”

Omit “Waterways Authority” from paragraph (a).

Insert instead “Maritime Authority of NSW”.

Explanatory note

The proposed amendment updates a reference to a renamed body.

2.46 Road and Rail Transport (Dangerous Goods) Act 1997 No 113

Sections 25 and 26

Omit “*Search Warrants Act 1985*” wherever occurring in the notes to the sections.

Insert instead “*Law Enforcement (Powers and Responsibilities) Act 2002*”.

Explanatory note

The proposed amendment updates a cross-reference.

2.47 Royal Commission (Police Service) Act 1994 No 60

[1] Section 23 (2)

Omit “authorised justice”. Insert instead “authorised officer”.

[2] Sections 31 (1) (a), 33 (1), 37A, 37B (3), 37D (2) (b) and (c), (4) and (5), 37F (2), 37G (4), 37H (2) and 37K (1) and (5)

Omit “*Police Service Act 1990*” wherever occurring.

Insert instead “*Police Act 1990*”.

[3] Section 31 (3)

Omit “sections 166 (Certain information to be confidential) and 169 (Ombudsman or officer as witness) of the *Police Service Act 1990*”.

Insert instead “sections 163 (Ombudsman not to publish certain information) and 165 (Ombudsman and officers of Ombudsman not competent or compellable witnesses in respect of certain matters) of the *Police Act 1990*”.

[4] Section 31 (4)

Omit “section 169 of the *Police Service Act 1990*”.

Insert instead “section 165 of the *Police Act 1990*”.

[5] Section 33 (2)

Omit “section 172A (Certain documents privileged) of the *Police Service Act 1990*”.

Insert instead “section 170 (Certain documents privileged) of the *Police Act 1990*”.

[6] Section 37E (3)

Omit “Section 141 (6) of the *Police Service Act 1990*”.

Insert instead “Section 140 (4) of the *Police Act 1990*”.

Explanatory note

Item [1] of the proposed amendments clarifies a reference to an office.

Items [2]–[6] of the proposed amendments update cross-references.

2.48 Scone Local Environmental Plan 1986

Clause 8, Table

Omit “preceeding” from item 1 (e) of the matter relating to Zone No 1 (e).

Insert instead “preceding”.

Explanatory note.

The proposed amendment corrects a typographical error.

2.49 Security Industry Act 1997 No 157

Section 29 (1) (a)

Omit “section 24 (3)”. Insert instead “section 24 (3)”.

Explanatory note

The proposed amendment corrects a typographical error.

2.50 Security Industry Amendment Act 2005 No 63

Schedule 1 [1]

Omit “section 4 (c)”. Insert instead “section 4 (1) (c)”.

Explanatory note

The proposed amendment corrects an incorporation direction.

2.51 Shellharbour Local Environmental Plan 2000

Clause 37 (3)

Omit “NSW Waterways Authority”.

Insert instead “Maritime Authority of NSW”.

Explanatory note

The proposed amendment updates a reference to a renamed body.

2.52 State Authorities Non-contributory Superannuation Act 1987 No 212

Schedule 1, Part 1

Omit “Waterways Authority”.

Insert instead “Maritime Authority of NSW”.

Explanatory note

The proposed amendment updates a reference to a renamed body.

2.53 State Authorities Superannuation Act 1987 No 211

Schedule 1, Part 1

Omit “Waterways Authority”.

Insert instead “Maritime Authority of NSW”.

Explanatory note

The proposed amendment updates a reference to a renamed body.

2.54 State Emergency and Rescue Management Act 1989 No 165

Section 53 (3) (b)

Omit “Waterways Authority”.

Insert instead “Maritime Authority of NSW”.

Explanatory note

The proposed amendment updates a reference to a renamed body.

2.55 State Environmental Planning Policy No 64—Advertising and Signage

Clause 12 (1) (b)

Omit “Waterways Authority”.

Insert instead “Maritime Authority of NSW”.

Explanatory note

The proposed amendment updates a reference to a renamed body.

2.56 State Environmental Planning Policy (Major Projects) 2005

[1] Schedule 1

Omit:

Part 5 Residential, commercial or retail projects

Insert instead:

Group 5 Residential, commercial or retail projects

[2] Schedule 5

Omit the note at the end of the Schedule.

Explanatory note

Item [1] of the proposed amendments corrects a typographical error.

Item [2] of the proposed amendments removes a redundant note.

2.57 State Environmental Planning Policy (Sydney Metropolitan Water Supply) 2004

Clause 3 (2)

Insert at the end of clause 3:

(2) Notes included in this Policy do not form part of this Policy.

Explanatory note

The proposed amendment clarifies the status of notes.

2.58 State Sports Centre Trust Act 1984 No 68

Schedule 3, clause 5 (3)

Omit “designated”. Insert instead “appointed”.

Explanatory note

The proposed amendment updates terminology.

2.59 Strata Schemes (Freehold Development) Act 1973 No 68

[1] Section 5 (1), definition of “Residential Tribunal”

Omit the definition. Insert instead in alphabetical order:

Tribunal means the Consumer, Trader and Tenancy Tribunal established by the *Consumer, Trader and Tenancy Tribunal Act 2001*.

[2] Schedule 1C, clause 2 (1) (d) and (6)

Omit “Residential Tribunal” wherever occurring. Insert instead “Tribunal”.

Explanatory note

The proposed amendments update references to a tribunal.

2.60 Strata Schemes (Leasehold Development) Act 1986 No 219

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

Omit the definition. Insert instead in alphabetical order:

Tribunal means the Consumer, Trader and Tenancy Tribunal established by the *Consumer, Trader and Tenancy Tribunal Act 2001*.

[2] Section 196 (1) (g) and Schedule 2A, clause 2 (1) (d) and (6)

Omit “Residential Tribunal” wherever occurring.

Insert instead “Tribunal”.

Explanatory note

The proposed amendments update references to a tribunal.

2.61 Summary Offences Act 1988 No 25

[1] Section 27F (7)

Omit “authorised justice”.

Insert instead “authorised officer (within the meaning of the *Law Enforcement (Powers and Responsibilities) Act 2002*)”.

[2] Part 5A, heading

Insert “**Part 5A Hunting**” before section 28J.

[3] Section 29A (1) and (3)

Omit “10C, 11C” wherever occurring. Insert instead “10C or 11C”.

Explanatory note

Items [1] and [3] of the proposed amendments clarify cross-references.

Item [2] of the proposed amendments inserts a Part heading that was inadvertently omitted when section 28J was inserted into the *Summary Offences Act 1988* by the *Pastoral and Agricultural Crimes Legislation Amendment Act 2002*.

2.62 Sutherland Shire Local Environmental Plan 2000

Clause 70, Development control table

Omit “Waterways Authority” wherever occurring in item 2 of the matter relating to Zone 7 (a).

Insert instead “Maritime Authority of NSW”.

Explanatory note

The proposed amendment updates references to a renamed body.

2.63 Sydney Harbour Foreshore Authority Act 1998 No 170

Section 18 (5), definition of “public authority”

Omit “Waterways Authority” from paragraph (b).

Insert instead “Maritime Authority of NSW”.

Explanatory note

The proposed amendment updates a reference to a renamed body.

2.64 Sydney Local Environmental Plan 2005

[1] Clause 65 (2)

Omit “Table”. Insert instead “formula”.

[2] Clause 122

Omit “for no other purpose”.

[3] Schedule 2

Insert above each diagram in the Sun access planes table, respectively, the following headings:

Diagram A Belmore Park

Diagram B Hyde Park North

Diagram C Hyde Park West

Diagram D Macquarie Place

Diagram E Martin Place

Diagram F Pitt Street Mall

Diagram G The Domain

Diagram H Royal Botanic Gardens

Diagram I Wynyard Park

[4] Schedule 8, Part 1

Omit “5101*” from column 2 of the matter relating to item number 372.

Insert instead “5101”.

Explanatory note

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

Items [2] and [4] of the proposed amendments correct typographical errors.

Item [3] of the proposed amendments inserts headings to diagrams.

2.65 Sydney Regional Environmental Plan No 26—City West

Clause 52

Omit “Waterways Authority”.

Insert instead “Maritime Authority of NSW”.

Explanatory note

The proposed amendment updates a reference to a renamed body.

2.66 Sydney Regional Environmental Plan No 28—Parramatta

Clause 69 (6) (i)

Omit “Waterways Authority”.

Insert instead “Maritime Authority of NSW”.

Explanatory note

The proposed amendment updates a reference to a renamed body.

2.67 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

Clauses 28 (3) (a), 36 (6) and 62 (4)

Omit “Waterways Authority” wherever occurring.

Insert instead “Maritime Authority of NSW”.

Explanatory note

The proposed amendment updates references to a renamed body.

2.68 Trustee Companies Act 1964 No 6

[1] Sections 25 (b), 36 (2) and (3) and 36A (1) and Third Schedule, First Part

Omit “Perpetual Trustees Australia Limited” wherever occurring

Insert instead “Perpetual Limited”.

[2] Section 36A (1)

Omit “Guardian Trust Australia Limited”.

Insert instead “J.P. Morgan Trust Australia Limited”.

[3] Second Schedule

Omit “Perpetual Trustees Australia Limited”.

Insert instead “Perpetual Limited”.

Explanatory note

The proposed amendments are consequential on the change of names of companies.

2.69 Trustee Companies Regulation 2005

[1] Clause 7 (2) (a)

Omit “Perpetual Trustees Australia Limited”.

Insert instead “Perpetual Limited”.

[2] Clause 7 (2) (e)

Omit “Guardian Trust Australia Limited”.

Insert instead “J.P. Morgan Trust Australia Limited”.

Explanatory note

The proposed amendments are consequential on the change of names of companies.

2.70 Warringah Local Environmental Plan 2000

Schedule 2

Omit “Waterways Authority” from column 2 of the matter relating to MAINTENANCE DREDGING.

Insert instead “Maritime Authority of NSW”.

Explanatory note

The proposed amendment updates a reference to a renamed body.

2.71 Water Sharing Plan for the Apsley River Water Source 2003

Appendix 3

Omit “hange in low flows.”. Insert instead “Change in low flows.”.

Explanatory note

The proposed amendment corrects a typographical error.

2.72 Water Sharing Plan for the Commissioners Waters Water Source 2003

[1] Clause 21, first note at end of clause

Omit “tem”. Insert instead “term”.

[2] Appendix 3

Omit “hange in low flows to moderate flows.”.

Insert instead “Change in low flows to moderate flows.”.

Explanatory note

The proposed amendments correct typographical errors.

2.73 Water Sharing Plan for the Coopers Creek Water Source 2003

[1] Schedule 5

Omit “Fart North Coast” from the matter relating to Target 14.

Insert instead “Far North Coast”.

[2] Appendix 3

Omit “hange in low flows.”. Insert instead “Change in low flows.”.

Explanatory note

The proposed amendments correct typographical errors.

2.74 Water Sharing Plan for the Kangaroo River Water Source 2003

[1] Clause 8 (1)

Omit “hereafter”. Insert instead “hereafter”.

[2] Appendix 3

Omit “hange in low flows.”. Insert instead “Change in low flows.”.

Explanatory note

The proposed amendments correct typographical errors.

2.75 Water Sharing Plan for the Karuah River Water Source 2003

[1] Schedule 1, definition of “flow classes”

Omit “class” from paragraph (a). Insert instead “class”.

[2] Appendix 3

Omit “hange in low flows.”. Insert instead “Change in low flows.”.

Explanatory note

The proposed amendments correct typographical errors.

2.76 Water Sharing Plan for the Kulnura Mangrove Mountain Groundwater Sources 2003

Clause 22, note (before subclause (1))

Omit “flouride”. Insert instead “fluoride”.

Explanatory note

The proposed amendment corrects a typographical error.

2.77 Water Sharing Plan for the Lower Macquarie Groundwater Sources 2003

Clause 49 (3)

Omit “Notwitstanding”. Insert instead “Notwithstanding”.

Explanatory note

The proposed amendment corrects a typographical error.

2.78 Water Sharing Plan for the Macquarie and Cudgegong Regulated Rivers Water Source 2003

[1] Clause 15 (22) (b)

Omit “subclauses”. Insert instead “subclauses”.

[2] Clause 20 (2) (c)

Omit “identitified”. Insert instead “identified”.

Explanatory note

The proposed amendments correct typographical errors.

2.79 Water Sharing Plan for the Murrumbidgee Regulated River Water Source 2003

Clause 57 (5)

Omit “likelyhood”. Insert instead “likelihood”.

Explanatory note

The proposed amendment corrects a typographical error.

2.80 Water Sharing Plan for the Ourimbah Creek Water Source 2003

[1] Clause 21 (2) (a) (iii)

Omit “6up”. Insert instead “up”.

[2] Appendix 3

Omit “hange in low flows.”. Insert instead “Change in low flows.”.

Explanatory note

The proposed amendments correct typographical errors.

2.81 Water Sharing Plan for the Phillips Creek, Mooki River, Quirindi Creek and Warrah Creek Water Sources 2003

Schedule 4

Omit “percentile” from column 3 of the matter relating to Target 4b.

Insert instead “percentile”.

Explanatory note

The proposed amendment corrects a typographical error.

2.82 Water Sharing Plan for the Rocky Creek, Cobbadah, Upper Horton and Lower Horton Water Source 2003

Schedule 4

Omit “MLday” from column 3 of the matter relating to Target 12.

Insert instead “ML/day”.

Explanatory note

The proposed amendment corrects a typographical error.

2.83 Water Sharing Plan for the Stuarts Point Groundwater Source 2003

Clause 52 (h) (ii)

Omit “aspecified”. Insert instead “specified”.

Explanatory note

The proposed amendment corrects a typographical error.

2.84 Water Sharing Plan for the Toorumbree Creek Water Source 2003

Appendix 3

Omit “hange in low flows.”. Insert instead “Change in low flows.”.

Explanatory note

The proposed amendment corrects a typographical error.

2.85 Water Sharing Plan for the Upper Billabong Water Source 2003

[1] Clause 49 (1) (c)

Omit “proveded”. Insert instead “provided”.

[2] Appendix 3

Omit “hange in low flows.”. Insert instead “Change in low flows.”.

Explanatory note

The proposed amendments correct typographical errors.

2.86 Water Sharing Plan for the Upper Brunswick River Water Source 2003

Appendix 3

Omit “hange in low flows.”. Insert instead “Change in low flows.”.

Explanatory note

The proposed amendment corrects a typographical error.

2.87 Water Sharing Plan for the Wandella Creek Water Source 2003

Clause 17 (a) (ii)

Omit “loacted”. Insert instead “located”.

Explanatory note

The proposed amendment corrects a typographical error.

2.88 Water Sharing Plan for the Wybong Creek Water Source 2003

[1] Clause 8 (1)

Omit “hereafer”. Insert instead “hereafter”.

[2] Clause 22 (3) (a) (iii)

Omit “excercising”. Insert instead “exercising”.

[3] Clause 70 (o)

Omit “contaminatd”. Insert instead “contaminated”.

Explanatory note

The proposed amendments correct typographical errors.

Schedule 3 Amendments consequential on the enactment of the Legal Profession Act 2004 No 112

(Section 3)

Explanatory note

The *Legal Profession Act 2004* introduced new terms to distinguish between different types of lawyers. In particular, the Act introduced the concept of an **Australian lawyer** (a person who is admitted to the legal profession under the Act or a corresponding law) and an **Australian legal practitioner** (an Australian lawyer who holds a current local practising certificate or a current interstate practising certificate). The proposed amendments in this Schedule replace references in various Acts to a legal practitioner, solicitor, barrister, lawyer, counsel, attorney or proctor with the appropriate term for these positions following the enactment of the *Legal Profession Act 2004*. The proposed amendments also replace references to the *Legal Profession Act 1987* (now repealed) with references to the *Legal Profession Act 2004*. Currently, the meanings of **Australian legal practitioner** and **Australian lawyer** are contained in the *Interpretation Act 1987* for ease of reference in other Acts.

3.1 Consumer, Trader and Tenancy Tribunal Act 2001 No 82

[1] Section 36 Representation of parties

Omit “a legal practitioner” wherever occurring in section 36 (3)–(5).

Insert instead “an Australian legal practitioner”.

[2] Section 44 Protection of Australian legal practitioners, witnesses and others

Omit “A practising legal practitioner” from section 44 (1).

Insert instead “An Australian legal practitioner”.

[3] Section 44 (3)

Insert after section 44 (2):

- (3) In this section, **barrister** has the same meaning as in the *Legal Profession Act 2004*.

[4] Section 53 Costs

Omit “Division 6 of Part 11 of the *Legal Profession Act 1987*” from section 53 (3) (b).

Insert instead “Division 11 of Part 3.2 of the *Legal Profession Act 2004*”.

3.2 Dental Practice Act 2001 No 64

[1] Sections 62 (2), 65 (6) and 121 (1), clause 13 (1) of Schedule 1, clause 6 (1) (k) of Schedule 2 and clause 9 (2) of Schedule 5

Omit “a legal practitioner” wherever occurring.

Insert instead “an Australian lawyer”.

[2] Section 108 Membership of the Board

Omit “legal practitioner” from section 108 (2) (f).

Insert instead “Australian lawyer”.

[3] Section 121 Chairperson and Deputy Chairpersons of the Tribunal

Omit “legal practitioners” from section 121 (1).

Insert instead “Australian lawyers”.

[4] Section 133 Representation before the Tribunal

Omit “a legal practitioner” wherever occurring.

Insert instead “an Australian legal practitioner”.

3.3 Dental Technicians Registration Act 1975 No 40

[1] Section 6 Constitution of Dental Technicians Registration Board

Omit “a barrister-at-law admitted by, or a solicitor of, the Supreme Court,” from section 6 (1) (g).

Insert instead “an Australian lawyer”.

[2] Section 20 Inquiry by board or delegate

Omit “solicitor or counsel” from section 20 (3).

Insert instead “Australian legal practitioner”.

Commencement

Item [1] of the amendments to the *Dental Technicians Registration Act 1975* is taken to have commenced on 1 October 2005 (the date of commencement of the *Legal Profession Act 2004*).

3.4 District Court Act 1973 No 9

[1] Section 51 Consent jurisdiction

Omit “solicitor” from section 51 (7).

Insert instead “Australian legal practitioner”.

[2] Section 129 Agreement not to appeal

Omit “solicitors”. Insert instead “Australian legal practitioner”.

[3] Section 138 Rules

Omit “Part 11 of the *Legal Profession Act 1987*” from section 138 (2).

Insert instead “Part 3.2 of the *Legal Profession Act 2004*”.

[4] Section 142 Rules

Omit “Part 11 of the *Legal Profession Act 1987*” from section 142 (2).

Insert instead “Part 3.2 of the *Legal Profession Act 2004*”.

[5] Section 142F Rules in relation to hearing etc of proceedings in the Court in its special civil jurisdiction

Omit “Part 11 of the *Legal Profession Act 1987*” from section 142F (2).

Insert instead “Part 3.2 of the *Legal Profession Act 2004*”.

[6] Section 196 Privilege

Omit “barrister, solicitor” wherever occurring.

Insert instead “Australian legal practitioner”.

3.5 Dust Diseases Tribunal Act 1989 No 63

[1] Section 19 Right of appearance and representation before the Tribunal

Omit “a barrister or solicitor” wherever occurring.

Insert instead “an Australian legal practitioner”.

[2] Section 25A Material already obtained

Omit “solicitors” from section 25A (1) (b) (i).

Insert instead “Australian legal practitioner”.

3.6 Local Courts Act 1982 No 164

[1] Section 4 Definitions

Omit “a barrister or solicitor” wherever occurring in the definitions of *applicant* and *respondent* in section 4 (1).

Insert instead “an Australian legal practitioner”.

- [2] Section 23 Employment of Magistrates in other offices etc**
Omit “a barrister or solicitor” from section 23 (3).
Insert instead “an Australian legal practitioner”.
- [3] Section 50 Right of representation**
Omit “a barrister or solicitor” from section 50 (1).
Insert instead “an Australian legal practitioner”.
- [4] Section 51 Conduct of case**
Omit “barrister or solicitor” wherever occurring.
Insert instead “Australian legal practitioner”.
- [5] Section 58 Arrest of respondent during proceedings**
Omit “a barrister or solicitor” from section 58 (1).
Insert instead “an Australian legal practitioner”.
- [6] Section 62 Costs**
Omit “Division 6 of Part 11 of the *Legal Profession Act 1987*” from section 62 (2).
Insert instead “Division 11 of Part 3.2 of the *Legal Profession Act 2004*”.
- [7] Section 63 Rules**
Omit “Part 11 of the *Legal Profession Act 1987*” from section 63 (3).
Insert instead “Part 3.2 of the *Legal Profession Act 2004*”.
- 3.7 Nurses and Midwives Act 1991 No 9**
- [1] Sections 9 (2) (j) and 60 (1A) (b) and clause 5 (1) of Schedule 1B**
Omit “a legal practitioner” wherever occurring.
Insert instead “an Australian lawyer”.
- [2] Section 53 and clause 9 (2) of Schedule 2**
Omit “a barrister or solicitor” wherever occurring.
Insert instead “an Australian lawyer”.
- [3] Section 53 (1)**
Omit “the barrister or solicitor”. Insert instead “the Australian lawyer”.

[4] Section 62 Representation before the Tribunal

Omit “a barrister or solicitor” wherever occurring.

Insert instead “an Australian legal practitioner”.

Commencement

Items [2] and [3] of the amendments to the *Nurses and Midwives Act 1991* are taken to have commenced on 1 October 2005 (the date of commencement of the *Legal Profession Act 2004*).

3.8 Optometrists Act 2002 No 30

[1] Sections 48 (2), 51 (6) and 104 (1), clause 13 (1) of Schedule 1, clause 5 (1) (k) of Schedule 2 and clause 9 (2) of Schedule 5

Omit “a legal practitioner” wherever occurring.

Insert instead “an Australian lawyer”.

[2] Section 91 Membership of the Board

Omit “legal practitioner” from section 91 (2) (f).

Insert instead “Australian lawyer”.

[3] Section 104 Chairperson and Deputy Chairpersons of the Tribunal

Omit “legal practitioners” from section 104 (1).

Insert instead “Australian lawyers”.

[4] Section 116 Representation before the Tribunal

Omit “a legal practitioner” wherever occurring.

Insert instead “an Australian legal practitioner”.

3.9 Osteopaths Act 2001 No 16

[1] Sections 44 (2), 47 (6) and 100 (1), clause 13 (1) of Schedule 1 and clause 9 (2) of Schedule 5

Omit “a legal practitioner” wherever occurring.

Insert instead “an Australian lawyer”.

[2] Section 87 Membership of the Board

Omit “legal practitioner” from section 87 (2) (f).

Insert instead “Australian lawyer”.

[3] Section 100 Chairperson and Deputy Chairpersons of the Tribunal

Omit “legal practitioners” from section 100 (1).

Insert instead “Australian lawyers”.

[4] Section 112 Representation before the Tribunal

Omit “a legal practitioner” wherever occurring.

Insert instead “an Australian legal practitioner”.

3.10 Pharmacy Act 1964 No 48

Sections 6 (2) (b) (ii), 19C (3) (a) and 19H (1) and (2), clause 5 (2) (a) of Schedule 1 and clause 9 (b) of Schedule 2

Omit “a barrister or solicitor” wherever occurring.

Insert instead “an Australian lawyer”.

Commencement

The amendment to the *Pharmacy Act 1964* is taken to have commenced on 1 October 2005 (the date of commencement of the *Legal Profession Act 2004*).

3.11 Physiotherapists Act 2001 No 67

[1] Sections 45 (2), 48 (6) and 101 (1), clause 13 (1) of Schedule 1, clause 7 (1) (k) of Schedule 2 and clause 9 (2) of Schedule 5

Omit “a legal practitioner” wherever occurring.

Insert instead “an Australian lawyer”.

[2] Section 88 Membership of the Board

Omit “legal practitioner” from section 88 (2) (f).

Insert instead “Australian lawyer”.

[3] Section 101 Chairperson and Deputy Chairpersons of the Tribunal

Omit “legal practitioners” from section 101 (1).

Insert instead “Australian lawyers”.

[4] Section 113 Representation before the Tribunal

Omit “a legal practitioner” wherever occurring.

Insert instead “an Australian legal practitioner”.

3.12 Podiatrists Act 2003 No 69

[1] Sections 44 (2), 47 (6) and 100 (1), clause 13 (1) of Schedule 1, clause 5 (1) (k) of Schedule 2 and clause 9 (2) of Schedule 5

Omit “a legal practitioner” wherever occurring.

Insert instead “an Australian lawyer”.

[2] Section 87 Membership of the Board

Omit “legal practitioner” from section 87 (2) (f).

Insert instead “Australian lawyer”.

[3] Section 100 Chairperson and Deputy Chairpersons of the Tribunal

Omit “legal practitioners” from section 100 (1).

Insert instead “Australian lawyers”.

[4] Section 112 Representation before the Tribunal

Omit “a legal practitioner” wherever occurring.

Insert instead “an Australian legal practitioner”.

3.13 Psychologists Act 2001 No 69

[1] Sections 44 (2), 47 (6), 87 (2) (f) and 100 (1), clause 13 (1) of Schedule 1, clause 5 (1) (k) of Schedule 2 and clause 9 (2) of Schedule 5

Omit “a legal practitioner” wherever occurring.

Insert instead “an Australian lawyer”.

[2] Section 100 Chairperson and Deputy Chairpersons of the Tribunal

Omit “legal practitioners” from section 100 (1).

Insert instead “Australian lawyers”.

[3] Section 112 Representation before the Tribunal

Omit “a legal practitioner” wherever occurring.

Insert instead “an Australian legal practitioner”.

3.14 Sydney Harbour Foreshore Authority Act 1998 No 170

Section 38 Misuse of information

Omit “solicitor” from section 38 (6) (e).

Insert instead “Australian legal practitioner”.

3.15 Sydney Olympic Park Authority Act 2001 No 57

Section 71 Misuse of information

Omit “solicitor” from section 71 (6) (d).

Insert instead “Australian legal practitioner”.

3.16 Taxation Administration Act 1996 No 97

Section 82 Permitted disclosures—to particular persons

Omit “or a trust account inspector, or investigator, appointed under section 55 of the *Legal Profession Act 1987*” from section 82 (k) (viii).

Insert instead “, an investigator appointed under section 267 of the *Legal Profession Act 2004* or an external examiner appointed under Division 4 of Part 3.1 of that Act”.

3.17 Tow Truck Industry Act 1998 No 111

Section 80 Inquiries by TTA

Omit “a lawyer” from section 80 (4) (b).

Insert instead “an Australian legal practitioner”.

3.18 Transport Appeal Boards Act 1980 No 104

Section 11D Provisions relating to formal sittings

Omit “a legal practitioner” wherever occurring in section 11D (4).

Insert instead “an Australian lawyer”.

3.19 Trustee Act 1925 No 14

[1] Section 53 Employment of agents

Omit “a solicitor” from section 53 (1).

Insert instead “an Australian legal practitioner,”.

[2] Section 53 (4)

Omit “solicitor”. Insert instead “Australian legal practitioner”.

[3] Sections 63 (3) and 88

Omit “counsel or solicitor” wherever occurring.

Insert instead “Australian legal practitioner”.

3.20 Valuation of Land Act 1916 No 2

[1] Section 78 Certificate in lieu of valuation of land

Omit “solicitor”. Insert instead “Australian legal practitioner”.

[2] Section 79 Right to appear

Omit “counsel, or solicitor,”. Insert instead “Australian legal practitioner”.

[3] Section 79

Omit “counsel, solicitor,”. Insert instead “Australian legal practitioner”.

3.21 Victims Support and Rehabilitation Act 1996 No 115

Section 35 (4) and clause 12 (3) of Schedule 2

Omit “a legal practitioner” wherever occurring.

Insert instead “an Australian legal practitioner”.

3.22 Wills, Probate and Administration Act 1898 No 13

[1] Section 86 Executors etc may be allowed commission

Omit “solicitor’s” from section 86 (3).

Insert instead “Australian legal practitioner’s”.

[2] Section 106 Registrar not bound to grant probate in certain cases

Omit “attorney, solicitor, or proctor”.

Insert instead “attorney or Australian legal practitioner”.

[3] Section 151 Oaths

Omit “solicitors of the Court”.

Insert instead “Australian legal practitioners”.

3.23 Witness Protection Act 1995 No 87

Section 31E Court may grant leave to disclose relevant information

Omit “a legal practitioner” from section 31E (2) (d).

Insert instead “an Australian legal practitioner”.

3.24 Workplace Injury Management and Workers Compensation Act 1998 No 86

Section 369 Qualifications for appointment

Omit “a legal practitioner” wherever occurring in section 369 (2) (b), (3) (a) and (4).

Insert instead “an Australian lawyer”.

3.25 Workplace Surveillance Act 2005 No 47

Section 29 Duration and conditions of covert surveillance authority

Omit “his or her lawyers” wherever occurring in section 29 (2) (d).

Insert instead “his or her Australian legal practitioner”.

3.26 Young Offenders Act 1997 No 54

Sections 10 (d), 22 (2) (d), 39 (2) (d), 47 (1) (f) and 50

Omit “a legal practitioner” wherever occurring.

Insert instead “an Australian legal practitioner”.

Schedule 4 Repeals

(Section 4)

Name of Act	Extent of repeal
<i>Brigalow and Nandewar Community Conservation Area Act 2005</i> No 56	Section 39 and Schedule 12 ²
<i>Building Legislation Amendment (Smoke Alarms) Act 2005</i> No 57	Whole Act ¹
<i>Cancer Institute (NSW) Act 2003</i> No 14	Section 28 and Schedule 3 ²
<i>Child Protection (Offenders Prohibition Orders) Act 2004</i> No 46	Section 22 and Schedule 1 ²
<i>Children and Young Persons (Care and Protection) Amendment Act 2005</i> No 93	Section 4, Schedule 1 [2], [3] and [9]–[19] and Schedule 2 ²
<i>Children and Young Persons Legislation (Repeal and Amendment) Act 1998</i> No 158	Section 4, Schedule 1 and Schedule 2.1–2.5, 2.6 [2]–[5], 2.7, 2.8, 2.11, 2.12, 2.15, 2.16, 2.18, 2.20, 2.21, 2.23, 2.25 and 2.27 ²
<i>Civil Liability Amendment (Offender Damages Trust Fund) Act 2005</i> No 76	Whole Act ¹
<i>Classification (Publications, Films and Computer Games) Enforcement Amendment (Uniform Classification) Act 2004</i> No 82	Section 4, Schedule 1 [1]–[26] and [29]–[34] and Schedule 2 ²
<i>Commercial Agents and Private Inquiry Agents Act 2004</i> No 70	Section 41 and Schedule 3 ²
<i>Companion Animals Amendment Act 2005</i> No 101	Whole Act ¹

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Schedule 4 Repeals

Name of Act	Extent of repeal
<i>Confiscation of Proceeds of Crime Amendment Act 2005</i> No 73	Sections 4–6, Schedule 1 [5], [7], [9]–[15], [17]–[19], [24], [31]–[33], [35], [36], [73]–[76], [79]–[83], [85]–[96], [104] and [106]–[108] and Schedules 2–4 ²
<i>Consumer Credit (New South Wales) Amendment (Maximum Annual Percentage Rate) Act 2005</i> No 86	Whole Act ¹
<i>Crimes (Administration of Sentences) Amendment (Parole) Act 2004</i> No 94	Schedule 1 [1]–[7], [10]–[16] and [19]–[75] and Schedule 2.1, 2.2 and 2.4–2.7 ²
<i>Crimes Amendment (Animal Cruelty) Act 2005</i> No 94	Whole Act ¹
<i>Crimes Amendment (Road Accidents) (Brendan’s Law) Act 2005</i> No 74	Whole Act ¹
<i>Crimes and Courts Legislation Amendment Act 2005</i> No 103	Schedules 1, 2 and 4–7 ²
<i>Crimes Legislation Amendment Act 2002</i> No 130	Whole Act ¹
<i>Crimes Legislation Further Amendment Act 2003</i> No 85	Whole Act ¹
<i>Criminal Procedure Amendment (Pre-trial Disclosure) Act 2001</i> No 7	Whole Act ¹
<i>Criminal Procedure Amendment (Prosecutions) Act 2005</i> No 75	Whole Act ¹
<i>Criminal Procedure Amendment (Sexual Offence Case Management) Act 2005</i> No 102	Whole Act ¹
<i>Criminal Procedure Further Amendment (Evidence) Act 2005</i> No 25	Whole Act ¹
<i>Defamation Act 2005</i> No 77	Section 48 and Schedules 5 and 6 ²
<i>Dried Fruits (Repeal) Act 1997</i> No 124	Part 5, section 21 and Schedules 1 and 2 ²
<i>Electricity Supply Act 1995</i> No 94	Section 108 and Schedule 5 ²

Name of Act	Extent of repeal
<i>Energy Administration Amendment (Water and Energy Savings) Act 2005</i> No 18	Whole Act ¹
<i>Environmental Planning and Assessment Amendment (Infrastructure and Other Planning Reform) Act 2005</i> No 43	Whole Act ¹
<i>Farm Debt Mediation Amendment (Water Access Licences) Act 2005</i> No 95	Whole Act ¹
<i>First State Superannuation Legislation Amendment (Conversion) Act 2005</i> No 91	Sections 3 and 6 and Schedules 1, 2 and 4 ²
<i>Fiscal Responsibility Act 2005</i> No 41	Section 24 and Schedule 1 ²
<i>Gaming Machines Amendment Act 2005</i> No 78	Whole Act ¹
<i>Gene Technology (GM Crop Moratorium) Act 2003</i> No 12	Section 41 and Schedule 2 ²
<i>Gene Technology (GM Crop Moratorium) Amendment (Postponement of Expiry) Act 2005</i> No 81	Whole Act ¹
<i>Health Legislation Amendment Act 2005</i> No 82	Whole Act ¹
<i>Home Building Amendment Act 2004</i> No 101	Section 4 and Schedules 1–4, 5 [1], [2] and [4], 6–8, 9.1–9.3 and 9.5–9.9 ²
<i>Human Tissue and Anatomy Legislation Amendment Act 2003</i> No 18	Whole Act ¹
<i>Industrial Relations Amendment Act 2005</i> No 104	Whole Act ¹
<i>Institute of Teachers Act 2004</i> No 65	Section 54 and Schedule 4 ²
<i>James Hardie Former Subsidiaries (Special Provisions) Act 2005</i> No 45	Section 44 and Schedule 2 ²
<i>Law Enforcement Legislation Amendment (Public Safety) Act 2005</i> No 119	Whole Act ¹
<i>Legal Profession Act 2004</i> No 112	Sections 735 and 736 and Schedules 1 and 6 ²
<i>Licensing and Registration (Uniform Procedures) Amendment (Photo ID) Act 2004</i> No 105	Section 4, Schedule 1 [1]–[4] and [6] and Schedule 2 ²

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Schedule 4 Repeals

Name of Act	Extent of repeal
<i>Local Government Amendment Act 2005</i> No 59	Whole Act ¹
<i>Luna Park Site Amendment (Noise Control) Act 2005</i> No 72	Whole Act ¹
<i>Mental Health (Criminal Procedure) Amendment Act 2005</i> No 109	Whole Act ¹
<i>Mines Inspection Amendment Act 1998</i> No 69	Sections 4 and 5, Schedule 1 [1]–[19] and [21]–[87] and Schedules 2 and 3 ²
<i>Mining Amendment (Miscellaneous Provisions) Act 2004</i> No 75	Schedule 1 [2]–[5], [16], [18], [19], [21]–[25], [28], [29], [31]–[33], [35], [36], [42] and [43] ²
<i>National Competition Policy Health and Other Amendments (Commonwealth Financial Penalties) Act 2004</i> No 52	Whole Act ¹
<i>National Competition Policy Liquor Amendments (Commonwealth Financial Penalties) Act 2004</i> No 53	Whole Act ¹
<i>Native Vegetation Act 2003</i> No 103	Section 53 and Schedule 2 ²
<i>Noxious Weeds Amendment Act 2005</i> No 29	Whole Act ¹
<i>NSW Self Insurance Corporation Act 2004</i> No 106	Section 17 and Schedule 2 ²
<i>Nurses Amendment Act 2003</i> No 45	Whole Act ¹
<i>Pacific Power (Dissolution) Act 2003</i> No 17	Section 19 and Schedule 3 ²
<i>Parliamentary Superannuation Legislation Amendment Act 2005</i> No 110	Whole Act ¹
<i>Plantations and Reafforestation Act 1999</i> No 97	Section 72 and Schedule 2 ²
<i>Podiatrists Act 2003</i> No 69	Section 133 and Schedule 6 ²
<i>Police Amendment (Death and Disability) Act 2005</i> No 112	Whole Act ¹
<i>Police Integrity Commission Amendment Act 2005</i> No 5	Section 3, Schedule 1 and Schedule 2.1 and 2.2 [2] ²

Name of Act	Extent of repeal
<i>Poultry Meat Industry Amendment (Prevention of National Competition Policy Penalties) Act 2005</i> No 48	Schedule 1 [1]–[9] and [11]–[29] ²
<i>Prevention of Cruelty to Animals Amendment Act 2005</i> No 50	Section 3, Schedule 1 and Schedule 2.1 and 2.2 ²
<i>Property Legislation Amendment Act 2005</i> No 68	Sections 4–7, Schedule 1 [1]–[6] and [12]–[14] and Schedules 2–5 ²
<i>Public Sector Employment and Management Amendment (Extended Leave) Act 2005</i> No 85	Whole Act ¹
<i>Redfern–Waterloo Authority Act 2004</i> No 107	Section 50 and Schedule 3 ²
<i>Regulatory Reduction Act 1996</i> No 107	Whole Act ¹
<i>Residential Tenancies Amendment (Public Housing) Act 2004</i> No 66	Schedule 1 [1], [3]–[5] and [9] ²
<i>Residential Tenancies Amendment (Social Housing) Act 2005</i> No 79	Whole Act ¹
<i>Retail Leases Amendment Act 2005</i> No 90	Whole Act ¹
<i>Road Transport (General) Act 2005</i> No 11	Section 247 and Schedule 3 ²
<i>Road Transport Legislation (Speed Limiters) Amendment Act 2005</i> No 36	Whole Act ¹
<i>Security Interests in Goods Act 2005</i> No 69	Section 38 and Schedule 5 ²
<i>Shops and Industries Amendment (Special Shop Closures) Act 2005</i> No 92	Whole Act ¹
<i>Sporting Venues (Offenders Banning Orders) Act 2005</i> No 67	Section 11 and Schedule 2 ²
<i>Standard Time Amendment (Daylight Saving) Act 2005</i> No 71	Whole Act ¹
<i>State Emergency and Rescue Management Amendment Act 2005</i> No 80	Whole Act ¹
<i>State Emergency Service Amendment Act 2005</i> No 88	Whole Act ¹

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Schedule 4 Repeals

Name of Act	Extent of repeal
<i>State Revenue Legislation Further Amendment Act 2005</i> No 111	Schedules 1–4, Schedule 5 [3] and [5] and Schedules 6–8 ²
<i>State Water Corporation Act 2004</i> No 40	Section 38 and Schedule 3 ²
<i>Statute Law (Miscellaneous Provisions) Act 2000</i> No 53	Whole Act ¹
<i>Statute Law (Miscellaneous Provisions) Act (No 2) 2000</i> No 93	Whole Act ¹
<i>Statute Law (Miscellaneous Provisions) Act 2001</i> No 56	Whole Act ¹
<i>Statute Law (Miscellaneous Provisions) Act (No 2) 2001</i> No 112	Whole Act ¹
<i>Statute Law (Miscellaneous Provisions) Act 2002</i> No 53	Whole Act ¹
<i>Statute Law (Miscellaneous Provisions) Act (No 2) 2002</i> No 112	Whole Act ¹
<i>Statute Law (Miscellaneous Provisions) Act 2003</i> No 40	Whole Act ¹
<i>Statute Law (Miscellaneous Provisions) Act (No 2) 2003</i> No 82	Whole Act ¹
<i>Statute Law (Miscellaneous Provisions) Act 2004</i> No 55	Whole Act ¹
<i>Statute Law (Miscellaneous Provisions) Act (No 2) 2004</i> No 91	Schedule 1, Schedule 2.1–2.18 and 2.20–2.127 and Schedule 3 ²
<i>Stock Medicines Amendment Act 2004</i> No 89	Schedule 1 [1]–[20] and [22]–[43] and Schedule 2.1 and 2.3 ²
<i>Superannuation Legislation Amendment Act 2005</i> No 52	Whole Act ¹
<i>Sydney Olympic Park Authority Act 2001</i> No 57	Sections 86 (1) and 87, Part 1 of Schedule 6 and Schedule 7 ²
<i>Technical and Further Education Commission Amendment (Staff) Act 2005</i> No 99	Whole Act ¹
<i>Terrorism Legislation Amendment (Warrants) Act 2005</i> No 54	Sections 3–5 and Schedules 1–4 ²
<i>Terrorism (Police Powers) Amendment (Preventative Detention) Act 2005</i> No 114	Whole Act ¹

Name of Act	Extent of repeal
<i>Threatened Species Conservation Amendment Act 2002</i> No 78	Whole Act ¹
<i>Threatened Species Legislation Amendment Act 2004</i> No 88	Schedule 1, Schedule 2 [1], [15], [16], [18], [27]–[31], [33]–[40], [42], [43], [45], [46] and [50] and Schedule 3 ²
<i>Transport Legislation Amendment (Waterfall Rail Inquiry Recommendations) Act 2005</i> No 55	Schedule 1, Schedule 2 [1]–[31], [33]–[57] and [59]–[61] and Schedules 3 and 4 ²
<i>Valuers Act 2003</i> No 4	Section 46 and Schedule 1 ²
<i>Water Management Amendment Act 2005</i> No 118	Whole Act ¹
<i>Workers Compensation Amendment (Insurance Reform) Act 2003</i> No 81	Schedule 1, Schedule 2 [1], [2] and [28]–[73] and Schedule 3.1–3.3 and 3.4 [2], [3] and [6]–[15] ²
<i>Workers Compensation Legislation Amendment Act 2003</i> No 29	Whole Act ¹
<i>Workers Compensation Legislation Amendment (Miscellaneous Provisions) Act 2005</i> No 113	Section 6, Schedules 2.1, 2.2 [1]–[6], 3.2 [1] and 4 ²

Key

- 1 indicates repeal of a whole Act that contains only amendments, or amendments and repeals, that have commenced and provisions that are redundant
- 2 indicates repeal of those provisions of an Act that contain only amendments, or amendments and repeals, that have commenced or are redundant

Explanatory note

The repeals are explained in detail in the Explanatory note relating to this Act. In relation to the repeal of amending Acts, it should be noted that the Acts are repealed simply to rationalise the legislation in force and that the repeals have no substantive effect on the amendments made by the Acts or any associated provisions. The Acts that were amended by the Acts being repealed are up-to-date on the Legislation Database maintained by the Parliamentary Counsel's Office and are available electronically.

Section 30 (2) of the *Interpretation Act 1987* ensures that, when an Act is amended or repealed, no amendment made by the Act is affected. Section 30 (2) also ensures that the following matters are not affected:

- (a) the proof of any past act or thing,
- (b) any right, privilege, obligation or liability saved by the operation of the Act,
- (c) any amendment or validation made by the Act,
- (d) the operation of any savings or transitional provision contained in the Act.

Schedule 5 General savings, transitional and other provisions

(Section 5)

1 Effect of amendment of amending provisions

- (1) An amendment made by Schedule 1 or 2 to an amending provision contained in an Act is, if the amending provision has commenced before the date of assent to this Act, taken to have effect as from the commencement of the amending provision.
- (2) In this clause:
amending provision means a provision of an Act that makes a direct amendment to an Act by:
 - (a) the repeal or omission of matter contained in the amended Act without the insertion of any matter instead of the repealed or omitted matter, or
 - (b) the omission of matter contained in the amended Act and the insertion of matter instead of the omitted matter, or
 - (c) the insertion into the amended Act of matter, not being matter inserted instead of matter omitted from the Act,whether the provision was enacted before or after the commencement of the *Reprints Act 1972*.

Explanatory note

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

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

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

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

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

Explanatory note

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

3 Application of Interpretation Act 1987 to amendments to statutory rules

Sections 39, 40 and 41 of the *Interpretation Act 1987* do not apply to any amendments to statutory rules made by this Act.

Explanatory note

This clause makes it clear that certain provisions concerning the making, tabling and disallowance of statutory rules do not apply to amendments to statutory rules made by the proposed Act.

4 Effect of amendment on regulations

Except where expressly provided to the contrary, any regulation 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 regulation made under an Act amended by the proposed Act, and in force immediately before the commencement of the amendment, will be taken to have been made under the amended Act.

5 Effect of amendment on environmental planning instruments

The amendment of an environmental planning instrument by this Act does not prevent its later amendment or repeal by another environmental planning instrument.

Explanatory note

This clause ensures that the amendment of a local environmental plan or other environmental planning instrument does not prevent its amendment or repeal by an environmental planning instrument.

6 Effect of amendment on water sharing plan

The amendment by this Act of a water sharing plan made under section 50 of the *Water Management Act 2000* does not prevent its later amendment or repeal by another such water sharing plan or other instrument.

Explanatory note

This clause ensures that the amendment of a water sharing plan does not prevent its amendment or repeal by another water sharing plan or other instrument.

7 Effect of amendment on order

The amendment by this Act of an order made under the *Energy and Utilities Administration Act 1987* does not prevent its later amendment or repeal by another such order or other instrument.

Explanatory note

This clause ensures that the amendment of the *Energy Savings Order 2005* by Schedule 2 does not prevent its amendment or repeal by another order or other instrument.

8 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 in the Gazette, 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 Act.

Notes

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- Albury Local Environmental Plan 2000*—Schedule 2
- Centenary Institute of Cancer Medicine and Cell Biology Act 1985* No 192—Schedule 1
- Children and Young Persons (Care and Protection) Act 1998* No 157—Schedule 2
- Coal Mine Health and Safety Act 2002* No 129—Schedule 1
- Commercial Agents and Private Inquiry Agents Act 2004* No 70—Schedule 1
- Community Land Development Act 1989* No 201—Schedule 2
- Companion Animals Act 1998* No 87—Schedule 1
- Constitution Further Amendment (Referendum) Act 1930* No 2—Schedule 2
- Consumer Claims Regulation 1999*—Schedule 2
- Consumer Credit Administration Act 1995* No 69—Schedule 2
- Consumer, Trader and Tenancy Tribunal Act 2001* No 82—Schedules 2 and 3
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- Conveyancing Act 1919* No 6—Schedule 1
- Co-operatives Act 1992* No 18—Schedule 1
- Crimes Act 1900* No 40—Schedule 2
- Crimes (Administration of Sentences) Act 1999* No 93—Schedule 1
- Crimes (Forensic Procedures) Act 2000* No 59—Schedule 2
- Crown Lands Act 1989* No 6—Schedule 1
- Dental Practice Act 2001* No 64—Schedule 3
- Dental Technicians Registration Act 1975* No 40—Schedule 3
- District Court Act 1973* No 9—Schedule 3
- Dungog Local Environmental Plan 2006*—Schedule 2
- Dust Diseases Tribunal Act 1989* No 63—Schedule 3
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- Environmentally Hazardous Chemicals Act 1985* No 14—Schedule 2
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Government and Related Employees Appeal Tribunal Act 1980 No 39—Schedule 2
Great Lakes Local Environmental Plan 1996—Schedule 2
Health Records and Information Privacy Act 2002 No 71—Schedule 2
Higher Education (Amalgamation) Act 1989 No 65—Schedule 1
Holiday Parks (Long-term Casual Occupation) Act 2002 No 88—Schedule 1
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Hurstville Local Environmental Plan 1994—Schedule 2
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Independent Commission Against Corruption Act 1988 No 35—Schedule 1
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