

Passed by both Houses



New South Wales

Statute Law (Miscellaneous Provisions) Bill (No 2) 2017

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

Legislative Council
2017

Clerk of the Parliaments



New South Wales

Statute Law (Miscellaneous Provisions) Bill (No 2) 2017

Act No , 2017

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

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Statute Law (Miscellaneous Provisions) Act (No 2) 2017*.

2 Commencement

- (1) This Act commences 14 days after the date of assent to this Act, except as provided by this section.
- (2) The amendments made by the Schedules to this Act commence on the day or days specified in those Schedules in relation to the amendments concerned. If a commencement day is not specified, the amendments commence in accordance with subsection (1).
- (3) Schedules 2 and 4 commence on 14 January 2018.

3 Explanatory notes

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

Schedule 1 Minor amendments

1.1 Barangaroo Delivery Authority Act 2009 No 2

[1] Section 9 Board of Authority

Omit section 9 (2) (c).

[2] Schedule 1 Members and procedure of Board

Omit clause 8.

Explanatory note

Item [1] of the proposed amendments removes the requirement for a nominee of the City of Sydney Council to be a member of the Board of the Barangaroo Delivery Authority. Item [2] omits a redundant provision, which allowed the City of Sydney Council member to appoint a person to act as his or her alternate.

1.2 Biodiversity Conservation Act 2016 No 63

[1] Section 2.8 Act authorised under other legislation etc

Omit “protected fauna” from section 2.8 (1) (k) (i). Insert instead “protected animals”.

[2] Section 4.30 Termination of provisional listing

Omit “within 2 years” from section 4.30 (b). Insert instead “at the end of 2 years”.

[3] Section 14.4 Delegation of functions by Minister or Environment Agency Head

Insert after section 14.4 (2):

- (3) In this section, a reference to a function under this Act includes a reference to a function under Part 5A of the *Local Land Services Act 2013*.

[4] Schedule 1 Threatened species

Insert after “(Section 4.2)”:

Note. Any species that is listed under the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth is marked with an asterisk.

[5] Schedule 1, Part 2, Division 3

Insert in appropriate order in Division 3 of Part 2 of the Schedule under the heading “Fabaceae”:

Acacia meiantha Tindale & Herscovitch

[6] Schedule 1, Part 2, Division 3

Insert in appropriate order under the heading “Orchidaceae”:

Diuris eborensis D.L. Jones

[7] Schedule 1, Part 2, Division 3

Omit the matter relating to “*Pterostylis bicornis* D.L. Jones & M.A. Clem Horned Greenhood” under the heading “Orchidaceae”.

Insert instead:

Pterostylis bicornis D.L. Jones & M.A. Clem

Horned Greenhood

[8] Schedule 1, Part 2, Division 4

Omit the matter relating to “*Liopholis whitii* (Lacép[egrave]de, 1804)” from the table.

Insert instead:

Liopholis whitii (Lacépède, 1804)

White’s Skink population in the
Broken Hill Complex
Bioregion

[9] Schedule 1, Part 3, Division 3

Omit the matter relating to “*Epacris purpurascens* var. *purpurascens*” from the table.

Insert instead:

Epacris purpurascens Sims var. *purpurascens*

[10] Schedule 2 Threatened ecological communities

Insert after “(Section 4.2)”:

Note. Any ecological community that is listed under the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth is marked with an asterisk.

[11] Schedule 2

Insert “of the TSC Act” after “Division 5 of Part 2” wherever occurring.

[12] Schedule 3 Extinct species, species extinct in the wild and collapsed ecological communities

Insert after “(Section 4.2)”:

Note. Any species or ecological community that is listed under the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth is marked with an asterisk.

[13] Schedule 3, Part 1

Omit “**Animals**”. Insert instead:

Division 1 Animals

[14] Schedule 3, Part 1

Omit “**Plants**”. Insert instead:

Division 2 Plants

Commencement

The amendments to the *Biodiversity Conservation Act 2016* commence on the date of assent to this Act.

Explanatory note

Item [3] of the proposed amendments enables the Minister for the Environment and the Chief Executive of the Office of Environment and Heritage to delegate the exercise of their functions under provisions of the *Local Land Services Act 2013* relating to native vegetation land management in rural areas in the same way as they can delegate the exercise of their functions under the *Biodiversity Conservation Act 2016*.

When the *Threatened Species Conservation Act 1995* (the **TSC Act**) was repealed by the *Biodiversity Conservation Act 2016* (the **BC Act**), the list of threatened species and ecological communities was transferred to the relevant Schedule of the BC Act. Items [4], [10] and [12] insert a note that explains the significance of the asterisk in the Schedules of species and ecological communities (that were originally contained in the TSC Act)—namely in Schedules 1–3 to the BC Act. Species and ecological

communities marked with an asterisk are also nationally listed in the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth.

Items [5] and [6] insert provisions that were in the TSC Act before its repeal. Those provisions were inserted into the TSC Act by Notices of Final Determination made by the Scientific Committee and published in Gazette No 86 of 2 October 2015.

Item [1] corrects a reference so as to refer to the relevant defined expression.

Item [2] corrects a reference to a period of time.

Items [7]–[9] correct typographical errors.

Item [11] clarifies references to the TSC Act.

Items [13] and [14] insert Division headings.

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

[1] Section 73 Order accepting undertakings

Omit “birth mother or birth father” from paragraph (b) of the definition of *responsible person* in section 73 (7).

Insert instead “birth mother, birth father, adoptive mother or adoptive father”.

[2] Section 245I Commonwealth agencies

Omit section 245I (d). Insert instead:

- (d) the Commonwealth Department of Immigration and Border Protection, or any successor of that Department,
- (e) the Indigenous Affairs Group within the Commonwealth Department of the Prime Minister and Cabinet, or any successor of that group or Department that is responsible for indigenous affairs.

[3] Section 260 Evidence of young children

Omit “section 406 of the *Crimes Act 1900*” wherever occurring in section 260 (1) and (2).

Insert instead “section 284 of the *Criminal Procedure Act 1986*”.

Explanatory note

Item [1] of the proposed amendments enables the Children’s Court to make an order accepting undertakings with respect to the care and protection of a child or young person that are given by the adoptive mother or father of the child or young person if, after inquiring into a care application in relation to the child or young person (other than an application for a guardianship order), the Court is satisfied that the child or young person is in need of care and protection. At present, such undertakings may be accepted from the birth mother or birth father of the child or young person who does not have parental responsibility or care responsibility for the child or young person but not from an adoptive parent who does not have such responsibility.

Item [2] updates a reference to the former Commonwealth Department of Immigration and Multicultural and Indigenous Affairs, part of which has been incorporated into the Department of Immigration and Border Protection, to ensure that provisions of the Act dealing with the exchange of information do not impose requirements on that new Department.

Item [3] updates references to a provision of the *Crimes Act 1900* (which has been repealed and superseded by a similar provision of the *Criminal Procedure Act 1986*) to enable an authorised officer to take the deposition of a dangerously ill person in the same way as if a prosecution were pending before a court.

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

Clause 8 Prescribed bodies

Omit clause 8 (1) (i). Insert instead:

- (i) the Commonwealth Department of Immigration and Border Protection, or any successor of that Department,

- (ia) the Indigenous Affairs Group within the Commonwealth Department of the Prime Minister and Cabinet, or any successor of that group or Department that is responsible for indigenous affairs.

Explanatory note

The proposed amendment is related to the amendments to the *Children and Young Persons (Care and Protection) Act 1998* in this Schedule.

1.5 Combat Sports Act 2013 No 96

[1] Section 15 Duration of registration

Insert after section 15 (3):

- (4) If a person who is registered as a combatant of a specified registration class or classes applies to the Authority during the person's term of registration to be registered again as a combatant of the same registration class or classes, the person's term of registration is extended until the Authority registers the person again or refuses to register the person again.

[2] Section 28 Duration of registration

Insert after section 28 (2):

- (3) If a person who is registered as an industry participant or promoter of a specified registration class or classes applies to the Authority during the person's term of registration to be registered again as an industry participant or promoter of the same registration class or classes, the person's term of registration is extended until the Authority registers the person again or refuses to register the person again.

Explanatory note

The proposed amendments provide that if a registered combatant, industry participant or promoter applies to be registered again in the same class of registration, the existing registration remains in force until the application is determined.

1.6 Crown Land Legislation Amendment Act 2017 No 17

[1] Schedule 2 Amendment of legislation referring to reserve trusts

Omit "2016)" from Schedule 2.12 [5]. Insert instead "2016)".

[2] Schedule 3 Amendment of legislation relating to Crown roads

Omit "38" from the heading to Schedule 3.2 [5]. Insert instead "38 (1)".

[3] Schedule 3.2 [6A]

Insert after Schedule 3.2 [6]:

[6A] Section 38 (2) (b)

Omit the paragraph.

Explanatory note

Item [3] of the proposed amendments removes a redundant reference to the vesting in a council of non-council public roads from an amending provision that limits the application of certain public road closure provisions of the *Roads Act 1993* to non-council public roads. Item [2] makes a consequential amendment.

Item [1] corrects punctuation.

1.7 Crown Land Management Act 2016 No 58

[1] Section 5.37

Omit the section. Insert instead:

5.37 Transfer of land—enclosure permit

- (1) If an enclosure permit has been granted to a holder of land and the holder of land subsequently transfers the land to another person:
 - (a) the permit remains in force in respect of the land, and
 - (b) the holder for the time being of the land is liable for payment of rent (including arrears of rent and interest) in respect of the enclosure.
- (2) The person to whom the land is transferred must, in the manner and within the period prescribed by the regulations, notify the Secretary of the date of the transfer and the person's name and address.
Maximum penalty (subsection (2)): 50 penalty units.

[2] Section 12.13 Holding cannot be transferred if in arrears

Omit “or enclosure permit” and “or permit” wherever occurring.

Explanatory note

The proposed amendments replace a provision of the Act that deals with the effects of a transfer of an enclosure permit (for the enclosure of a Crown road or watercourse) with a provision that deals with the effects of a transfer of land in respect of which an enclosure permit is in force. The amendments will make the substituted provision consistent with an existing provision of the *Crown Lands Act 1989*, which is to be replaced by the amended Act.

1.8 Energy Services Corporations Act 1995 No 95

Schedule 1 Energy services corporations

Omit “Endeavour Energy” from Part 2.

Explanatory note

The proposed amendment removes a redundant reference to the corporation Endeavour Energy constituted as an energy services corporation by the *Energy Services Corporations Act 1995*. Endeavour Energy has ceased to be an energy services corporation under that Act as a consequence of an order made by the Treasurer under the *Electricity Network Assets (Authorised Transactions) Act 2015* converting the corporation into a Ministerial Holding Corporation. The order was made on 14 June 2017.

1.9 Government Information (Public Access) Act 2009 No 52

[1] Schedule 1 Information for which there is conclusive presumption of overriding public interest against disclosure

Omit “*Biofuel (Ethanol Content) Act 2007*—section 21 (Secrecy)” from clause 1 (1).

Insert instead “*Biofuels Act 2007*—section 25 (Secrecy)”.

[2] Schedule 1, clause 1 (1)

Omit “(Confidentiality guidelines)”. Insert instead “(Confidentiality guideline)”.

[3] Schedule 1, clause 7 (b)

Insert “the State Intelligence Command or” after “document created by”.

Explanatory note

Item [3] of the proposed amendments provides for a conclusive presumption of overriding public interest against disclosure of information contained in documents created by the State Intelligence

Command of the NSW Police Force as a consequence of the restructure of divisions of the NSW Police Force responsible for the collection, analysis and dissemination of intelligence.
Item [1] updates a reference to a renamed Act. Item [2] corrects a cross-reference.

1.10 Home Building Act 1989 No 147

Section 119A Definitions

Omit the definition of *loose-fill asbestos insulation*. Insert instead:

loose-fill asbestos insulation means loose-fill asbestos used as ceiling insulation.

Explanatory note

The proposed amendment will extend provisions of the *Home Building Act 1989* relating to residential premises containing loose-fill asbestos ceiling insulation so that the provisions apply to any type of loose-fill asbestos. The provisions include requirements for the Commissioner for Fair Trading to keep a register of residential premises that contain, or have contained, loose-fill asbestos ceiling insulation and for owners of those premises to display warning signs at the premises. Currently, the provisions are limited to premises containing loose-fill amosite or crocidolite asbestos. The amendment will also have the effect of extending, in a similar way, the application of a duty concession under the *Duties Act 1997* for the purchase of residential property that replaces residential premises (containing loose-fill asbestos insulation) acquired by an authority of the State.

1.11 Industrial Relations Act 1996 No 17

[1] Section 161 Annual report

Insert “, within 6 months after the end of the year to which the annual report relates” after “House of Parliament”.

[2] Dictionary, definition of “public sector industrial agreement”

Omit “section 86”. Insert instead “section 87”.

Explanatory note

Item [1] of the proposed amendments provides that the annual report that is required to be provided to the Minister for Industrial Relations by the Chief Commissioner of the Industrial Relations Commission is to be provided within 6 months after the end of each year to which the report relates. Item [2] corrects a cross-reference.

1.12 Motor Accident Injuries Act 2017 No 10

[1] Section 2.25 Adjustment of premiums and Fund levies in case of excess profits or excess losses

Omit “filed profits” where secondly occurring in section 2.25 (1) (b) and (c).

Insert instead “filed premiums”.

[2] Section 2.25 (9)

Insert in alphabetical order:

filed premium means a premium filed with the Authority under this Division (and not rejected by the Authority).

[3] Section 2.25 (9), definition of “filed profit”

Omit “the premiums filed with the Authority under this Division (and not rejected by the Authority)”.

Insert instead “filed premiums”.

[4] Section 4.5 Limits on economic loss

Insert “statutory benefits or” after “payable on” in section 4.5 (1) (d).

Explanatory note

The *Motor Accident Injuries Act 2017* requires the State Insurance Regulatory Authority to undertake a review of the premium income of insurers licensed under that Act if the realised underwriting profits (or shortfall in profits) of the insurers has exceeded the estimated profits on which the premiums filed under the Act are based. A review is required only where there has been an excess profit for 1 or more years, or an excess loss for 2 or more years, exceeding a specified percentage of the estimated profits.

Item [1] of the proposed amendments changes the manner in which the excess profit or loss is calculated (for the purpose of establishing whether a review is required) by providing that the excess profit or loss must exceed a specified percentage of the premiums filed by insurers under that Act (rather than a percentage of the estimated profits). Items [2] and [3] make consequential amendments.

Item [4] ensures that a provision relating to the award of damages by way of reimbursement for income tax applies to tax paid on statutory benefits under the *Motor Accident Injuries Act 2017* in the same way as it applies to tax paid on workers compensation benefits.

1.13 Ombudsman Act 1974 No 68

[1] Section 8 Deputy Ombudsman and Assistant Ombudsman

Omit “(4) (b)–(d)” from section 8 (2). Insert instead “(4) (b) and (c)”.

[2] Section 8 (4C) (c)

Omit “Minister”. Insert instead “Ombudsman”.

[3] Section 15 Reasons for refusal to conciliate, investigate or continue to investigate

Insert after section 15 (1):

- (2) However, the Ombudsman may inform the complainant orally of his or her decision and the reasons for the decision if:
 - (a) the complaint concerned was made orally, and
 - (b) the complainant consents to being informed orally.

[4] Section 25JA

Insert after section 25J:

25JA Head of agency may delegate functions

The head of an agency may delegate any of the functions of the head of the agency under this Part to a person employed in the agency.

[5] Section 35E

Insert after section 35D:

35E Referral of online complaints about public authorities

- (1) If the Ombudsman receives an online complaint that appears to relate to the conduct of a public authority, the Ombudsman is required to refer the complaint to the public authority.
- (2) The Ombudsman is not required to refer an online complaint under subsection (1) if the Ombudsman is otherwise required to deal with the complaint under this Act or any other Act.
- (3) This section does not apply to:

- (a) a complaint that may be dealt with under a complaint referral arrangement under section 42, or
 - (b) a matter that may be dealt with under an arrangement between the Ombudsman and the President of the Civil and Administrative Tribunal under section 35D.
- (4) In this section, **online complaint** means a complaint (however described) that is made about a public authority through an online system approved by the Minister that enables members of the public to lodge complaints about public authorities online.

[6] Schedule 1 Excluded conduct of public authorities

Omit item 22.

Explanatory note

Item [2] of the proposed amendments provides that a Deputy Ombudsman or an Assistant Ombudsman may resign by writing to the Ombudsman (rather than to the Premier, as is currently the case). Item [1] makes it clear that a Deputy Ombudsman or an Assistant Ombudsman is not required to resign by writing to the Governor.

Item [3] provides that the Ombudsman may advise a complainant orally (rather than in writing, as is currently the case) of a decision to refuse to conciliate or investigate a complaint, or to discontinue an investigation, if the complaint was made orally and the complainant consents to being informed orally.

Item [4] provides that the head of a government or non-government agency who is required to notify the Ombudsman of any child abuse allegations or convictions against an employee of the agency may delegate those functions to a person employed in the agency.

Item [5] enables the Ombudsman to deal with a complaint about a public authority that is made by a member of the public through an online complaints system by referring the complaint to the public authority.

Item [6] removes a redundant reference to conduct by the Hen Quota Committee under the *Egg Industry (Repeal and Deregulation) Act 1989*, which was repealed in 1991.

1.14 Partnership Act 1892 No 12

Section 81 Regulations

Insert after section 81 (2) (d):

- (e) the waiver or refund of the whole or any part of the fees payable under this Act.

Explanatory note

The proposed amendment makes it clear that the regulations under the *Partnership Act 1892* may provide for the waiver or refund of any fees payable under that Act.

1.15 Protection of the Environment Operations Act 1997 No 156

[1] Section 216 Time within which summary proceedings may be commenced

Insert after paragraph (c4) of the definition of **prescribed offence** in section 216 (6):

- (c5) an offence arising under section 169A (Liability of directors etc for offences by corporation—offences attracting executive liability generally) that is in respect of an offence against section 47 (1), 48 (2) or 144AA (1) committed by a corporation, or
- (c6) an offence arising under section 169B (Liability of directors etc for offences by corporation—accessory to the commission of the offences) that is in respect of an offence against section 47 (1), 48 (2) or 144AA (1) committed by a corporation, or

[2] Schedule 5 Savings, transitional and other provisions

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

Part Provisions consequent on enactment of Statute Law (Miscellaneous Provisions) Act (No 2) 2017

Time limits for prosecutions

The amendment to section 216 (6) by the *Statute Law (Miscellaneous Provisions) Act (No 2) 2017* extends to offences arising under section 169A or 169B that are alleged to have been committed before the date of commencement of the amendment, but only if proceedings for the offence could have been commenced on that date.

Commencement

The amendments to the *Protection of the Environment Operations Act 1997* commence on the date of assent to this Act.

Explanatory note

Item [1] of the proposed amendments increases (from 12 months to 3 years) the time limit for commencing proceedings for certain corporate offences against directors of corporations and certain other corporate executives. The amendment makes the limitation period for directors and executives consistent with the limitation period that applies to the corporation that has committed the relevant corporate offence. Item [2] inserts a savings and transitional provision.

1.16 State Owned Corporations Act 1989 No 134

Schedule 5 Statutory SOCs

Omit “Endeavour Energy”.

Explanatory note

The proposed amendment removes a redundant reference to the statutory State owned corporation Endeavour Energy. The corporation has ceased to be a statutory State owned corporation for the purposes of the *State Owned Corporations Act 1989* as a consequence of an order made by the Treasurer under the *Electricity Network Assets (Authorised Transactions) Act 2015* converting the corporation into a Ministerial Holding Corporation. The order was made on 14 June 2017.

1.17 State Records Act 1998 No 17

[1] Section 3 Definitions

Insert “Executive” after “as the” in the definition of *Director* in section 3 (1).

[2] Section 63 Establishment of the Authority

Omit “State Archives, State Archives NSW or State Archives and Records NSW” from section 63 (3).

Insert instead “NSW State Archives or NSW State Archives and Records”.

Explanatory note

Item [1] of the proposed amendments updates a reference to the role of the person carrying out functions as “Director” under the *State Records Act 1998*.

Item [2] changes the alternative names given to the State Archives and Records Authority of New South Wales from State Archives, State Archives NSW or State Archives and Records NSW to NSW State Archives and NSW State Archives and Records.

1.18 Statutory and Other Offices Remuneration Act 1975 (1976 No 4)

Section 24Q Matters to be taken into consideration by Tribunal

Insert “Public Service” before “Commissioner” in section 24Q (1).

Explanatory note

The proposed amendment makes it clear that a reference to the Commissioner in a provision relating to the determination of certain remuneration packages by the Statutory and Other Offices Remuneration Tribunal is a reference to the Public Service Commissioner.

1.19 Sydney Olympic Park Authority Act 2001 No 57

Section 32 Grant of leases, easements and licences

Insert after section 32 (12):

- (12A) Despite subsection (1), the Chief Executive, or a member of staff of the Authority designated in writing by the Chief Executive for the purposes of this subsection, may grant a licence referred to in subsection (1) (c) that is for a term of 5 years or less without having to obtain the Minister’s approval for the grant.

Explanatory note

The proposed amendment to the *Sydney Olympic Park Authority Act 2001* enables the Chief Executive of the Office of Sport (or a member of staff of the Sydney Olympic Park Authority designated by the Chief Executive) to grant licences for a term of 5 years or less for the use of parts of the Millennium Parklands without having to obtain the Minister’s approval for the grant.

1.20 University of Technology Sydney Act 1989 No 69

Section 17 Delegation

Insert at the end of the section:

- (2) If a function of the Council is delegated to the Vice-Chancellor in accordance with subsection (1) and the instrument of delegation authorises the sub-delegation of the function, the Vice-Chancellor may (subject to any condition to which the delegation is subject) sub-delegate the function to any person or body referred to in subsection (1).

Explanatory note

The proposed amendment enables the Vice-Chancellor of the University of Technology Sydney to sub-delegate to certain persons and bodies certain functions delegated to the Vice-Chancellor by the Council of the University. Sub-delegation will only be enabled if the delegation from the Council includes a power to sub-delegate, and is subject to any condition to which the delegation is subject.

Schedule 2 Amendments relating to online publication of notices

2.1 Conveyancers Licensing Act 2003 No 3

Section 35 Advertisements include information about licensee

Insert “, and whether in print or on a publicly accessible website” after “otherwise”.

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

[1] Section 66 Alteration of rules by board of directors

Omit section 66 (3). Insert instead:

- (3) The notice may, with the prior written approval of the Registrar, be given by advertisement published:
 - (a) in a newspaper (whether published in print or on a publicly accessible website) having a circulation generally in the area in which the society operates, or
 - (b) on a publicly accessible website that, in the opinion of the Registrar, is appropriate to cause the notice to come to the attention of persons in the area in which the society operates.

[2] Section 68 Power of Registrar to require modification of rules

Omit section 68 (5). Insert instead:

- (5) The notice may, with the prior written approval of the Registrar, be given by advertisement published:
 - (a) in a newspaper (whether published in print or on a publicly accessible website) having a circulation generally in the area in which the society operates, or
 - (b) on a publicly accessible website that, in the opinion of the Registrar, is appropriate to cause the notice to come to the attention of persons in the area in which the society operates.

[3] Section 69 Power of Registrar to modify rules to facilitate transfer of engagements

Omit section 69 (5). Insert instead:

- (5) The notice may, with the prior written approval of the Registrar, be given by advertisement published:
 - (a) in a newspaper (whether published in print or on a publicly accessible website) having a circulation generally in the area in which the society operates, or
 - (b) on a publicly accessible website that, in the opinion of the Registrar, is appropriate to cause the notice to come to the attention of persons in the area in which the society operates.

[4] Sections 112 (2) and 115 (4)

Omit “circulating” wherever occurring.

Insert instead “(whether published in print or on a publicly accessible website) having a circulation”.

2.3 Electricity (Consumer Safety) Act 2004 No 4

Section 21 Prohibition of the sale of unsafe electrical articles

Insert “(whether published in print or on a publicly accessible website)” after “newspapers” in section 21 (5).

2.4 Funeral Funds Act 1979 No 106

Section 32 Schemes for transfer or amalgamation

Insert “(whether published in print or on a publicly accessible website)” after “newspapers” in section 32 (3) (b).

2.5 Home Building Act 1989 No 147

Section 133 Evidence of publication

Omit “newspaper office reply number” from section 133 (1) (b).

Insert instead “email address”.

Schedule 3 Amendments consequent on enactment of Fines Amendment (Electronic Penalty Notices) Act 2016

Explanatory note

The proposed amendments in this Schedule update the provisions of various Acts providing for the issue of penalty notices consequent on the enactment of the *Fines Amendment (Electronic Penalty Notices) Act 2016*. That Act amended the *Fines Act 1996* to consolidate and standardise provisions relating to penalty notices, including by transferring to the *Fines Act 1996* the substance of provisions found in specific sections of other Acts providing for the issue of penalty notices. The proposed amendments remove provisions of those sections of certain other Acts that are now duplicated in the *Fines Act 1996* and consolidate and standardise the remaining provisions of those sections (which provide for matters such as who may issue penalty notices, the offences for which penalty notices may be issued and the amount of penalty payable).

3.1 Casino Control Act 1992 No 15

Section 168A

Omit the section. Insert instead:

168A Penalty notices

- (1) An authorised officer may issue a penalty notice to a person if it appears to the officer that the person has committed a penalty notice offence.
- (2) A penalty notice offence is an offence against this Act or the regulations that is prescribed by the regulations as a penalty notice offence.
- (3) The *Fines Act 1996* applies to a penalty notice issued under this section.
Note. The *Fines Act 1996* provides that, if a person issued with a penalty notice does not wish to have the matter determined by a court, the person may pay the amount specified in the notice and is not liable to any further proceedings for the alleged offence.
- (4) However:
 - (a) section 22A (1) of the *Fines Act 1996* does not apply in relation to disciplinary action under section 23 or 59 of this Act, and
 - (b) despite section 22A (2) of the *Fines Act 1996*, when an amount is paid under this section in respect of a penalty notice issued to a person, the person is:
 - (i) for the purposes of section 23 of this Act—taken to have contravened the provision of this Act to which the penalty notice relates, or
 - (ii) for the purposes of section 59 of this Act—taken to have been convicted of the offence to which the penalty notice relates.
- (5) The amount payable under a penalty notice issued under this section is the amount prescribed for the alleged offence by the regulations (not exceeding the maximum amount of penalty that could be imposed for the offence by a court).
- (6) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.
- (7) In this section, *authorised officer* means a police officer or an inspector.

3.2 Centennial Park and Moore Park Trust Act 1983 No 145

Section 24

Omit the section. Insert instead:

24 Penalty notices

- (1) An authorised officer may issue a penalty notice to a person if it appears to the officer that the person has committed (or is, by virtue of section 23, guilty of) a penalty notice offence.
- (2) A penalty notice offence is an offence against the regulations that is prescribed by the regulations as a penalty notice offence.
- (3) A penalty notice that relates to an offence of which the owner of a vehicle is guilty by virtue of section 23 may be issued to the owner by being addressed to the owner (without naming the owner or stating the owner's address) and being left on, or attached to, the vehicle. This subsection does not limit the manner in which any such penalty notice may be issued under section 21 of the *Fines Act 1996*.
- (4) The *Fines Act 1996* applies to a penalty notice issued under this section.
Note. The *Fines Act 1996* provides that, if a person issued with a penalty notice does not wish to have the matter determined by a court, the person may pay the amount specified in the notice and is not liable to any further proceedings for the alleged offence.
- (5) The amount payable under a penalty notice issued under this section is the amount prescribed for the alleged offence by the regulations (not exceeding the maximum amount of penalty that could be imposed for the offence by a court).
- (6) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.
- (7) In this section, *authorised officer* means a person who is declared by the regulations to be an authorised officer for the purposes of this section or who belongs to a class of persons so declared.

3.3 Combat Sports Act 2013 No 96

Section 105

Omit the section. Insert instead:

105 Penalty notices

- (1) An authorised officer may issue a penalty notice to a person if it appears to the officer that the person has committed a penalty notice offence.
- (2) A penalty notice offence is an offence against this Act or the regulations that is prescribed by the regulations as a penalty notice offence.
- (3) The *Fines Act 1996* applies to a penalty notice issued under this section.
Note. The *Fines Act 1996* provides that, if a person issued with a penalty notice does not wish to have the matter determined by a court, the person may pay the amount specified in the notice and is not liable to any further proceedings for the alleged offence.

- (4) However, section 22A (1) of the *Fines Act 1996* does not apply in relation to disciplinary action under this Act or the making of a prohibition order under Part 4 of this Act.
- (5) The amount payable under a penalty notice issued under this section is the amount prescribed for the alleged offence by the regulations (not exceeding the maximum amount of penalty that could be imposed for the offence by a court).
- (6) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.
- (7) In this section, **authorised officer** means:
 - (a) a police officer, or
 - (b) a member of the Authority, or
 - (c) a person employed in the Office of Sport who is authorised in writing by the Chief Executive of that Office as an authorised officer for the purposes of this section.

3.4 Gaming Machines Act 2001 No 127

Section 203

Omit the section. Insert instead:

203 Penalty notices

- (1) An authorised officer may issue a penalty notice to a person (including a hotelier or club) if it appears to the officer that the person has committed a penalty notice offence.
- (2) A penalty notice offence is an offence against this Act or the regulations that is prescribed by the regulations as a penalty notice offence.
- (3) The *Fines Act 1996* applies to a penalty notice issued under this section.
Note. The *Fines Act 1996* provides that, if a person issued with a penalty notice does not wish to have the matter determined by a court, the person may pay the amount specified in the notice and is not liable to any further proceedings for the alleged offence.
- (4) However:
 - (a) section 22A (1) of the *Fines Act 1996* does not apply in relation to disciplinary action under Part 8 of this Act, and
 - (b) despite section 22A (2) of the *Fines Act 1996*, when an amount is paid under this section in respect of a penalty notice issued to a person, the person is, for the purposes of Part 8 of this Act, taken to have been convicted of the offence to which the penalty notice relates.
- (5) The amount payable under a penalty notice issued under this section is the amount prescribed for the alleged offence by the regulations (not exceeding the maximum amount of penalty that could be imposed for the offence by a court).
- (6) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.
- (7) In this section:
authorised officer means a police officer or an inspector.

3.5 Liquor Act 2007 No 90

Section 150

Omit the section. Insert instead:

150 Penalty notices

- (1) An authorised officer may issue a penalty notice to a person if it appears to the officer that the person has committed a penalty notice offence.
- (2) A penalty notice offence is an offence against this Act or the regulations that is prescribed by the regulations as a penalty notice offence.
- (3) The *Fines Act 1996* applies to a penalty notice issued under this section.
Note. The *Fines Act 1996* provides that, if a person issued with a penalty notice does not wish to have the matter determined by a court, the person may pay the amount specified in the notice and is not liable to any further proceedings for the alleged offence.
- (4) However:
 - (a) section 22A (1) of the *Fines Act 1996* does not apply in relation to disciplinary action under Part 9 or 9A of this Act, and
 - (b) despite section 22A (2) of the *Fines Act 1996*, when an amount is paid under this section in respect of a penalty notice issued to a person, the person is, for the purposes of Part 9 of this Act, taken to have been convicted of the offence to which the penalty notice relates.
- (5) The amount payable under a penalty notice issued under this section is the amount prescribed for the alleged offence by the regulations (not exceeding the maximum amount of penalty that could be imposed for the offence by a court).
- (6) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.
- (7) In this section:
authorised officer means a police officer or an inspector.

3.6 Marine Estate Management Act 2014 No 72

Section 70

Omit the section. Insert instead:

70 Penalty notices

- (1) An authorised officer may issue a penalty notice to a person if it appears to the officer that the person has committed a penalty notice offence (or is, by virtue of section 69, guilty of a parking offence within the meaning of that section).
- (2) A penalty notice offence is an offence against this Act or the regulations that is prescribed by the regulations as a penalty notice offence.
- (3) A penalty notice that relates to an offence of which the owner of a vehicle is guilty by virtue of section 69 may be issued to the owner by being addressed to the owner (without naming the owner or stating the owner's address) and being left on, or attached to, the vehicle. This subsection does not limit the manner in which any such penalty notice may be issued under section 21 of the *Fines Act 1996*.

- (4) The *Fines Act 1996* applies to a penalty notice issued under this section.
Note. The *Fines Act 1996* provides that, if a person issued with a penalty notice does not wish to have the matter determined by a court, the person may pay the amount specified in the notice and is not liable to any further proceedings for the alleged offence.
- (5) The amount payable under a penalty notice issued under this section is the amount prescribed for the alleged offence by the regulations (not exceeding the maximum amount of penalty that could be imposed for the offence by a court).
- (6) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.

3.7 Parramatta Park Trust Act 2001 No 17

Section 30

Omit the section. Insert instead:

30 Penalty notices

- (1) An authorised officer may issue a penalty notice to a person if it appears to the officer that the person has committed (or is, by virtue of section 29, guilty of) a penalty notice offence.
- (2) A penalty notice offence is an offence against this Act or the regulations that is prescribed by the regulations as a penalty notice offence.
- (3) A penalty notice that relates to an offence of which the owner of a vehicle is guilty by virtue of section 29 may be issued to the owner by being addressed to the owner (without naming the owner or stating the owner's address) and being left on, or attached to, the vehicle. This subsection does not limit the manner in which any such penalty notice may be issued under section 21 of the *Fines Act 1996*.
- (4) The *Fines Act 1996* applies to a penalty notice issued under this section.
Note. The *Fines Act 1996* provides that, if a person issued with a penalty notice does not wish to have the matter determined by a court, the person may pay the amount specified in the notice and is not liable to any further proceedings for the alleged offence.
- (5) The amount payable under a penalty notice issued under this section is the amount prescribed for the alleged offence by the regulations (not exceeding the maximum amount of penalty that could be imposed for the offence by a court).
- (6) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.

3.8 Radiation Control Act 1990 No 13

Section 25A

Omit the section. Insert instead:

25A Penalty notices

- (1) An authorised officer or a police officer may issue a penalty notice to a person if it appears to the officer that the person has committed a penalty notice offence.
- (2) A penalty notice offence is an offence against this Act or the regulations that is prescribed by the regulations as a penalty notice offence.
- (3) The *Fines Act 1996* applies to a penalty notice issued under this section.
Note. The *Fines Act 1996* provides that, if a person issued with a penalty notice does not wish to have the matter determined by a court, the person may pay the amount specified in the notice and is not liable to any further proceedings for the alleged offence.
- (4) The amount payable under a penalty notice issued under this section is the amount prescribed for the alleged offence by the regulations (not exceeding the maximum amount of penalty that could be imposed for the offence by a court).
- (5) The regulations may authorise a penalty notice to be issued by being left on, or attached to, a vehicle or premises in respect of which the offence was allegedly committed.
- (6) A penalty notice issued under this section by an authorised officer may be withdrawn by an authorised officer within 28 days after the penalty notice was issued.
- (7) A penalty notice issued under this section by a police officer may be withdrawn by a police officer within 28 days after the penalty notice was issued.
- (8) An authorised officer or a police officer must withdraw a penalty notice immediately if directed to do so by the Authority.
- (9) If a penalty notice is withdrawn under this section:
 - (a) the amount payable under the penalty notice ceases to be payable, and
 - (b) any amount paid under the penalty notice is repayable to the person by whom it was paid, and
 - (c) further proceedings in respect of the alleged offence may be taken against any person (including against the person to whom the notice was issued) as if the notice had never been issued.
- (10) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.

3.9 Registered Clubs Act 1976 No 31

Section 66

Omit the section. Insert instead:

66 Penalty notices

- (1) A police officer or an inspector may issue a penalty notice to a person (including a registered club) if it appears to the police officer or inspector that the person has committed a penalty notice offence.
- (2) A penalty notice offence is an offence against this Act or the regulations that is prescribed by the regulations as a penalty notice offence.
- (3) The *Fines Act 1996* applies to a penalty notice issued under this section.
Note. The *Fines Act 1996* provides that, if a person issued with a penalty notice does not wish to have the matter determined by a court, the person may pay the amount specified in the notice and is not liable to any further proceedings for the alleged offence.
- (4) However:
 - (a) section 22A (1) of the *Fines Act 1996* does not apply in relation to disciplinary action under Part 6A of this Act, and
 - (b) despite section 22A (2) of the *Fines Act 1996*, when an amount is paid under this section in respect of a penalty notice issued to a person, the person is, for the purposes of Part 6A of this Act, taken to have been convicted of the offence to which the penalty notice relates.
- (5) The amount payable under a penalty notice issued under this section is the amount prescribed for the alleged offence by the regulations (not exceeding the maximum amount of penalty that could be imposed for the offence by a court).
- (6) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.

3.10 Royal Botanic Gardens and Domain Trust Act 1980 No 19

Section 22B

Omit the section. Insert instead:

22B Penalty notices

- (1) An officer prescribed by the regulations may issue a penalty notice to a person if it appears to the officer that the person has committed (or is, by virtue of section 22A, guilty of) an offence against the regulations.
- (2) A penalty notice that relates to an offence of which the owner of a vehicle is guilty by virtue of section 22A may be issued to the owner by being addressed to the owner (without naming the owner or stating the owner's address) and being left on, or attached to, the vehicle. This subsection does not limit the manner in which any such penalty notice may be issued under section 21 of the *Fines Act 1996*.
- (3) The *Fines Act 1996* applies to a penalty notice issued under this section.
Note. The *Fines Act 1996* provides that, if a person issued with a penalty notice does not wish to have the matter determined by a court, the person may pay the amount specified in the notice and is not liable to any further proceedings for the alleged offence.

- (4) The amount payable under a penalty notice issued under this section is the amount prescribed for the alleged offence by the regulations (not exceeding the maximum amount of penalty that could be imposed for the offence by a court).
- (5) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.

3.11 Water Management Act 2000 No 92

Section 365

Omit the section. Insert instead:

365 Penalty notices

- (1) An authorised officer may issue a penalty notice to a person if it appears to the authorised officer that the person has committed a penalty notice offence.
- (2) A penalty notice offence is an offence against this Act or the regulations that is prescribed by the regulations as a penalty notice offence.
- (3) The *Fines Act 1996* applies to a penalty notice issued under this section.
Note. The *Fines Act 1996* provides that, if a person issued with a penalty notice does not wish to have the matter determined by a court, the person may pay the amount specified in the notice and is not liable to any further proceedings for the alleged offence.
- (4) The amount payable under a penalty notice issued under this section is the amount prescribed for the alleged offence by the regulations (not exceeding the maximum amount of penalty that could be imposed for the offence by a court).
- (5) The Ministerial Corporation may withdraw a penalty notice within 28 days after the date on which the penalty notice is issued.
- (6) If the penalty notice is withdrawn:
 - (a) the amount payable under the penalty notice ceases to be payable, and
 - (b) any amount paid under the penalty notice is repayable to the person by whom it was paid, and
 - (c) further proceedings in respect of the alleged offence may be taken against any person (including against the person to whom the notice was issued) as if the notice had never been issued.
- (7) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.

Schedule 4 Amendments by way of statute law revision

4.1 Administrative Decisions Review Regulation 2014

Clause 5, Table

Omit “Roads and Maritime Services”.

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

Explanatory note

The proposed amendment updates a reference as a consequence of the transfer of functions under the *Tow Truck Industry Act 1998* from Roads and Maritime Services to the Secretary of the Department of Finance, Services and Innovation.

4.2 Anti-Discrimination Act 1977 No 48

[1] Section 4 (1), paragraph (a) of definition of “private educational authority”

Omit “*Education Reform Act 1990*”. Insert instead “*Education Act 1990*”.

[2] Section 49ZYL (4)

Omit “*Education Reform Act 1990*”. Insert instead “*Education Act 1990*”.

Explanatory note

The proposed amendments update references to a renamed Act.

4.3 Betting and Racing Regulation 2012

Clause 15 (1) (b) (iii)

Omit “the Australian Racing Board”. Insert instead “Racing Australia Limited”.

Explanatory note

The proposed amendment updates a reference to a body consequent on a corporate merger.

4.4 Biofuels Act 2007 No 23

Section 24 (1) (a3)

Omit “Department of Industry, Skills and Regional Development”.

Insert instead “Department of Industry”.

Explanatory note

The proposed amendment updates the name of a Department.

4.5 Biosecurity Regulation 2017

Clauses 55 (2) and 61 (2) (a), notes

Omit “**Note 2**” wherever occurring. Insert instead “**Note**”.

Explanatory note

The proposed amendment corrects numbering.

4.6 Commercial Agents and Private Inquiry Agents Regulation 2017

Clause 17 (3), note

Omit “in such”. Insert instead “In such”.

Explanatory note

The proposed amendment corrects a grammatical error.

4.7 Commercial Arbitration Act 2010 No 61

Section 27H (1) (a)

Omit “and”. Insert instead “or”.

Explanatory note

The proposed amendment makes a correction to bring the text into line with the decision of the Supreme Court of Queensland in *Wilmar Sugar Pty Ltd v Burdekin District Cane Growers Ltd* [2017] QSC 003.

4.8 Community Land Development Act 1989 No 201

Section 37 (7)

Omit “Chief Commissioner of Land Tax”.

Insert instead “Chief Commissioner of State Revenue”.

Explanatory note

The proposed amendment updates a reference to a tax officer responsible for the administration of taxation laws.

4.9 Community Land Management Act 1989 No 202

Section 78 (6)

Omit “Commissioner for Land Tax”.

Insert instead “Chief Commissioner of State Revenue”.

Explanatory note

The proposed amendment updates a reference to a tax officer responsible for the administration of taxation laws.

4.10 Contract Cleaning Industry (Portable Long Service Leave Scheme) Act 2010 No 122

Section 82 (1)

Omit “refuse”. Insert instead “refuses”.

Explanatory note

The proposed amendment corrects a typographical error.

4.11 Conveyancers Licensing Act 2003 No 3

Section 64 (3)

Omit “email, or by post”. Insert instead “email or by post”.

Explanatory note

The proposed amendment corrects punctuation.

4.12 Criminal Procedure Regulation 2017

[1] Schedule 3

Insert after paragraph (ad) in the matter relating to the Department of Finance, Services and Innovation:

(ad1) the *Tow Truck Industry Act 1998*,

[2] Schedule 3

Omit paragraph (c) from the matter relating to Roads and Maritime Services.

Explanatory note

Items [1] and [2] update references as a consequence of the transfer of functions under the *Tow Truck Industry Act 1998* from Roads and Maritime Services to the Secretary of the Department of Finance, Services and Innovation.

4.13 Dangerous Goods (Road and Rail Transport) Regulation 2014

Clause 204, paragraph (b) of definition of “vehicle”

Omit “*Road Transport (Vehicle Registration) Regulation 2007*”.

Insert instead “*Road Transport (Vehicle Registration) Regulation 2017*”.

Explanatory note

The proposed amendment updates a reference to a repealed regulation.

4.14 Driving Instructors Regulation 2016

Clause 11 (2) (e)

Omit “*Road Transport (Vehicle Registration) Regulation 2007*”.

Insert instead “*Road Transport (Vehicle Registration) Regulation 2017*”.

Explanatory note

The proposed amendment updates a reference to a repealed regulation.

4.15 Electricity (Consumer Safety) Regulation 2015

Clause 32 (3), note

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

Insert instead “Department of Planning and Environment”.

Explanatory note

The proposed amendment updates a reference to a Department.

4.16 Employment Protection Regulation 2017

Clause 3 (2)

Insert “(except in Schedule 2)” after “in this Regulation”.

Explanatory note

The proposed amendment clarifies the status of notes.

4.17 Environmental Planning and Assessment Act 1979 No 203

Section 91 (1)

Omit the matter relating to the *Mine Subsidence Compensation Act 1961*.

Insert in alphabetical order of Acts:

Coal Mine Subsidence Compensation Act 2017 s 22 approval to alter or erect improvements, or to subdivide land, within a mine subsidence district

Commencement

The amendment to the *Environmental Planning and Assessment Act 1979* commences on the day on which section 22 of the *Coal Mine Subsidence Compensation Act 2017* commences.

Explanatory note

The proposed amendment updates a reference to a provision of the *Mine Subsidence Compensation Act 1961* that is repealed and replaced by the *Coal Mine Subsidence Compensation Act 2017*.

4.18 Fines Act 1996 No 99

[1] Section 19 (1) (b1)

Omit “and issue”. Insert instead “and serve”.

[2] Section 19 (1) (c)

Omit “issued”. Insert instead “served”.

[3] Section 37

Omit “or penalty reminder notice had not been issued”.

Insert instead “had not been issued or penalty reminder notice had not been served”.

[4] Section 49 (8)

Omit “issue and”.

Explanatory note

The proposed amendments standardise terminology consequent on the enactment of the *Fines Amendment (Electronic Penalty Notices) Act 2016*.

4.19 Floodplain Management Plan for the Barwon-Darling Valley Floodplain 2017

[1] Clause 48 (2)

Renumber paragraphs (d) (where secondly occurring) and (e) as paragraphs (e) and (f), respectively.

[2] Schedule 1, clause 2 (1) (b)

Omit “Sate”. Insert instead “State”.

[3] Appendix 3

Insert “the” before “Floodway Network Map”.

Explanatory note

Item [1] of the proposed amendments corrects numbering. Items [2] and [3] correct typographical errors.

4.20 Graffiti Control Act 2008 No 100

[1] Section 9B (5) (b)

Omit “State Debt Recovery Office”.

Insert instead “Commissioner of Fines Administration”.

[2] Section 13A, definition of “Authority”

Omit “the Roads and Traffic Authority”.

Insert instead “Roads and Maritime Services”.

[3] Section 13A, note to definition of “provisional licence period”

Omit “*Road Transport (Driver Licensing) Regulation 2008*”.

Insert instead “*Road Transport (Driver Licensing) Regulation 2017*”.

Explanatory note

Item [1] of the proposed amendments updates a reference consequent on the enactment of the *Fines Amendment Act 2013*. Item [2] updates a reference to a body consequent on the enactment of the *Transport Legislation Amendment Act 2011*. Item [3] updates a reference to a repealed regulation.

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

[1] Schedule 1.1 [3], note to inserted definition of “Australian registration law”

Omit “*Road Transport (Vehicle Registration) Regulation 2007*”.

Insert instead “*Road Transport (Vehicle Registration) Regulation 2017*”.

[2] Schedule 2.1 [2], inserted section 79 (7A)

Omit “clause 124 of Schedule 2 to the *Road Transport (Vehicle Registration) Regulation 2007* of New South Wales”.

Insert instead “rule 114 of the Light Vehicle Standards Rules (within the meaning of the *Road Transport (Vehicle Registration) Regulation 2017* of New South Wales)”.

Explanatory note

The proposed amendments update references to a repealed regulation.

4.22 Heritage Act 1977 No 136

Section 123, paragraph (f) of definition of “rating or taxing authority”

Omit “Commissioner of Land Tax”.

Insert instead “Chief Commissioner of State Revenue”.

Explanatory note

The proposed amendment updates a reference to a tax officer responsible for the administration of taxation laws.

4.23 Inclosed Lands Protection Act 1901 No 33

Section 3 (1), paragraph (a) of definition of “prescribed premises”

Omit “*Education Reform Act 1990*”. Insert instead “*Education Act 1990*”.

Explanatory note

The proposed amendment updates a reference to a renamed Act.

4.24 Independent Commission Against Corruption Regulation 2017

Clause 20 (2)

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

Explanatory note

The proposed amendment corrects numbering.

4.25 Independent Pricing and Regulatory Tribunal Act 1992 No 39

[1] Part 3, Division 1, heading

Omit “and electricity costs determinations”.

[2] Part 3, Division 5, heading

Omit “and electricity costs determinations”.

[3] Section 14B

Omit the section.

[4] Section 17 (1)

Omit “or for the purposes of section 11 (3)”.

Explanatory note

The proposed amendments are consequent on the repeal of a redundant provision by the *Statute Law (Miscellaneous Provisions) Act 2017*.

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

Schedule 2

Omit “*Royal Commission (Police Service) Act 1994*, section 15”.

Explanatory note

The proposed amendment removes a reference to a repealed Act.

4.27 Local Government Act 1993 No 30

Section 555 (1) (f)

Omit “*Education Reform Act 1990*”. Insert instead “*Education Act 1990*”.

Explanatory note

The proposed amendment updates a reference to a renamed Act.

4.28 Marine Estate Management (Management Rules) Regulation 1999

[1] Clause 1.3 (1), definition of “permit”

Omit “*Marine Estate Management Regulation 2009*”.

Insert instead “*Marine Estate Management Regulation 2017*”.

[2] Clauses 1.16 (3), 1.19 (3), 1.22 (3) and 1.25 (3A), notes

Omit “clause 29 of the *Marine Estate Management Regulation 2009*” wherever occurring.

Insert instead “clause 27 of the *Marine Estate Management Regulation 2017*”.

Explanatory note

The proposed amendments update references to a repealed regulation.

4.29 Motor Accidents Compensation Regulation 2015

Clause 20 (i) (ii)

Omit “clause 76J (2) of the *Road Transport (Vehicle Registration) Regulation 2007*”.

Insert instead “clause 10 (2) of Schedule 4 to the *Road Transport (Vehicle Registration) Regulation 2017*”.

Explanatory note

The proposed amendment updates a reference to a repealed regulation.

4.30 Motor Dealers and Repairers Regulation 2014

Clause 35 (e)

Omit “*Road Transport (Vehicle Registration) Regulation 2007*”.

Insert instead “*Road Transport (Vehicle Registration) Regulation 2017*”.

Explanatory note

The proposed amendment updates a reference to a repealed regulation.

4.31 Motor Vehicles Taxation Act 1988 No 111

Section 3 (1), definition of “station wagon”

Omit “*Road Transport (Vehicle Registration) Regulation 2007*”.

Insert instead “*Road Transport (Vehicle Registration) Regulation 2017*”.

Explanatory note

The proposed amendment updates a reference to a repealed regulation.

4.32 Passenger Transport Regulation 2014

Clause 10 (4)

Omit “Opal Card”. Insert instead “Opal card”.

Explanatory note

The proposed amendment corrects a typographical error.

4.33 Pawnbrokers and Second-hand Dealers Regulation 2015

Clause 36 (1)

Omit “of in Part 1”. Insert instead “in Part 1”.

Explanatory note

The proposed amendment corrects a typographical error.

4.34 Petroleum (Onshore) Act 1991 No 84

Section 83D (1)

Omit “by the Minister”.

Explanatory note

The proposed amendment omits redundant matter.

4.35 Powers of Attorney Act 2003 No 53

Section 19 (2), paragraph (b) of definition of “prescribed witness”

Omit the paragraph. Insert instead:

(b) an Australian legal practitioner, or

Explanatory note

The proposed amendment updates terminology consequent on the enactment of the *Legal Profession Uniform Law Application Act 2014*.

4.36 Private Health Facilities Act 2007 No 9

Section 61 (1) (b) (ii)

Omit “corporate,”. Insert instead “corporate, or”.

Explanatory note

The proposed amendment inserts a missing conjunction.

4.37 Property, Stock and Business Agents Regulation 2014

[1] Schedule 14, clause 2 (a) and (b)

Omit “section 162 of the *Strata Schemes Management Act 1996*” wherever occurring.
Insert instead “section 237 of the *Strata Schemes Management Act 2015*”.

[2] Schedule 14, clause 5

Omit “30” and “*Strata Schemes Management Act 1996*” wherever occurring.
Insert instead “57 (1)” and “*Strata Schemes Management Act 2015*”, respectively.

Explanatory note

The proposed amendments update references to a repealed Act.

4.38 Public Authorities (Financial Arrangements) Regulation 2013

Schedule 2

Insert in alphabetical order:

NSW Trains
Residual Transport Corporation
Sydney Trains

Explanatory note

The proposed amendment updates the *Public Authorities (Financial Arrangements) Regulation 2013* to expressly include the names of certain transport entities that are deemed, by clause 1 of Schedule 2 to the *Transport Administration (General) Regulation 2013*, to be included in that Regulation.

4.39 Residential Tenancies Regulation 2010

[1] Schedule 1, clause 35

Omit “*Strata Schemes Management Act 1996*, the *Strata Schemes (Leasehold Development) Act 1986*”.

Insert instead “*Strata Schemes Management Act 2015*, the *Strata Schemes Development Act 2015*”.

[2] Schedule 1, clause 40

Omit “*Strata Schemes Management Act 1996*”.

Insert instead “*Strata Schemes Management Act 2015*”.

Explanatory note

The proposed amendments update references to repealed Acts.

4.40 Retail Leases Act 1994 No 46

Schedule 2 Lessor and lessee disclosure statements

Omit “*first 12 months of the lease or, if the lease is for less than 12 months, for the term of the lease.*”

Insert instead “*accounting period of the lessor that is current when this disclosure statement is given or (if this disclosure statement is given less than 1 month before the start of the next accounting period of the lessor) for that next accounting period.*”

Commencement

The amendment to the *Retail Leases Act 1994* commences on the date of assent to this Act.

Explanatory note

The proposed amendment makes a correction to a form in the *Retail Leases Act 1994* to bring the form into line with another provision of that Act.

4.41 Retail Trading Act 2008 No 49

[1] **Sections 3 (1) (definition of “Departmental website”) and 20 (a)**

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

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

[2] **Section 3 (1), definition of “Director-General”**

Omit the definition. Insert in alphabetical order:

Secretary means the Secretary of the Department of Finance, Services and Innovation.

[3] **Whole Act (except Schedule 2 and where otherwise amended by this Subschedule)**

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

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

Explanatory note

The proposed amendments update references as a consequence of past administrative changes orders.

4.42 Roads Regulation 2008

Clause 83 (h)

Insert after clause 83 (g):

(h) Sydney Trains.

Explanatory note

The proposed amendment updates the *Roads Regulation 2008* to expressly include the name of a transport entity that is deemed, by clause 1 of Schedule 2 to the *Transport Administration (General) Regulation 2013*, to be included in that Regulation.

4.43 Rural Fires Act 1997 No 65

Section 101, paragraph (b) of definition of “rural fire brigade expenditure”

Omit “and”.

Explanatory note

The proposed amendment omits a redundant word.

4.44 Southern Cross University Act 1993 No 69

Section 22 (1)

Omit “*Education Reform Act 1990*”. Insert instead “*Education Act 1990*”.

Explanatory note

The proposed amendment updates a reference to a renamed Act.

4.45 Sporting Injuries Insurance Act 1978 No 141

Section 4 (1), definition of “school”

Omit “*Education Reform Act 1990*”. Insert instead “*Education Act 1990*”.

Explanatory note

The proposed amendment updates a reference to a renamed Act.

4.46 State Authorities Superannuation (Transport Officers’ Gratuity Scheme Transfer) (Savings and Transitional) Regulation 1989

Clause 9 (1) (i) and (j)

Insert after clause 9 (1) (h):

- (i) NSW Trains,
- (j) Sydney Trains.

Explanatory note

The proposed amendment updates the *State Authorities Superannuation (Transport Officers’ Gratuity Scheme Transfer) (Savings and Transitional) Regulation 1989* to expressly include the names of certain transport entities that are deemed, by clause 1 of Schedule 2 to the *Transport Administration (General) Regulation 2013*, to be included in that Regulation.

4.47 State Environmental Planning Policy No 64—Advertising and Signage

[1] Clause 4 (1)

Insert in alphabetical order:

NSW Trains means NSW Trains constituted under the *Transport Administration Act 1988*.

Sydney Trains means Sydney Trains constituted under the *Transport Administration Act 1988*.

TfNSW means Transport for NSW constituted under the *Transport Administration Act 1988*.

[2] Clauses 12 (c) and 16 (1) (a)

Insert “, NSW Trains, Sydney Trains or TfNSW” after “RailCorp” wherever occurring.

[3] Clause 33 (1)

Omit “or RailCorp”. Insert instead “, RailCorp, NSW Trains, Sydney Trains or TfNSW”.

Explanatory note

The proposed amendments update *State Environmental Planning Policy No 64—Advertising and Signage* to expressly include the names of certain transport entities that are deemed, by clause 1 of Schedule 2 to the *Transport Administration (General) Regulation 2013*, to be included in that Policy.

4.48 State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

Clause 5 (2)

Omit “that this”. Insert instead “that is”.

Explanatory note

The proposed amendment corrects a typographical error.

4.49 Strata Schemes Management Act 2015 No 50

[1] Section 128 (1)

Omit “in the office of the Registrar-General”. Insert instead “with the Registrar-General”.

[2] Section 236 (5)

Omit “a a”. Insert instead “a”.

[3] Section 236 (7)

Omit “in the Registrar-General’s office”. Insert instead “with the Registrar-General”.

Explanatory note

Items [1] and [3] of the proposed amendments update terminology consequent on the enactment of the *Land and Property Information NSW (Authorised Transaction) Act 2016*. Item [2] omits a redundant word.

4.50 Summary Offences Act 1988 No 25

Section 3 (1), paragraph (a) of definition of “school”

Omit “*Education Reform Act 1990*”. Insert instead “*Education Act 1990*”.

Explanatory note

The proposed amendment updates a reference to a renamed Act.

4.51 Surveying and Spatial Information Act 2002 No 83

Section 9B (1) (a)

Omit “in the office of the Registrar-General”. Insert instead “with the Registrar-General”.

Explanatory note

The proposed amendment updates terminology consequent on the enactment of the *Land and Property Information NSW (Authorised Transaction) Act 2016*.

4.52 Sydney Water Act 1994 No 88

Schedule 2, Part 1, item 11

Omit “*Education Reform Act 1990*”. Insert instead “*Education Act 1990*”.

Explanatory note

The proposed amendment updates a reference to a renamed Act.

4.53 Thoroughbred Racing Act 1996 No 37

Section 13 (2)

Omit “the Australian Racing Board”. Insert instead “Racing Australia Limited”.

Explanatory note

The proposed amendment updates a reference to a body consequent on a corporate merger.

4.54 Valuation of Land Act 1916 No 2

Section 14E (1) (b)

Omit “Chief Commissioner for Land Tax”.

Insert instead “Chief Commissioner of State Revenue”.

Explanatory note

The proposed amendment updates a reference to a tax officer responsible for the administration of taxation laws.

4.55 Water Management Act 2000 No 92

Schedule 1

Omit “*Coleambally Irrigation Limited*”.

Insert instead “*Coleambally Irrigation Co-operative Limited*”.

Explanatory note

The proposed amendment corrects a reference to the name of a corporation.

4.56 Water (Part 2—General) Regulation 1997

Clause 27

Insert after “Rail Corporation New South Wales”:

NSW Trains

Sydney Trains

Residual Transport Corporation

Explanatory note

The proposed amendment updates the *Water (Part 2—General) Regulation 1997* to expressly include the names of certain transport entities that are deemed, by clause 1 of Schedule 2 to the *Transport Administration (General) Regulation 2013*, to be included in that Regulation.

4.57 Water (Part 5—Bore Licences) Regulation 1995

Clause 8

Insert after “Rail Corporation New South Wales”:

NSW Trains

Sydney Trains

Residual Transport Corporation

Explanatory note

The proposed amendment updates the *Water (Part 5—Bore Licences) Regulation 1995* to expressly include the names of certain transport entities that are deemed, by clause 1 of Schedule 2 to the *Transport Administration (General) Regulation 2013*, to be included in that Regulation.

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

Clause 56 (5A)

Omit “Table B” wherever occurring. Insert instead “Table C”.

Explanatory note

The proposed amendment corrects a cross-reference.

4.59 Water Sharing Plan for the Hunter Regulated River Water Source 2016

Clause 62

Renumber subclause (3) as subclause (2).

Explanatory note

The proposed amendment corrects numbering.

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

[1] Clauses 27, 30 and 32, notes

Omit “licenced” wherever occurring. Insert instead “licensed”.

[2] Clause 31

Omit “that,”. Insert instead “that”.

[3] Clauses 39 (6) (a) and 70 (3)

Omit “licenced” wherever occurring. Insert instead “licensed”.

[4] Clause 44 (6)

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

Explanatory note

Items [1] and [3] of the proposed amendments correct a spelling error. Items [2] and [4] correct typographical errors.

4.61 Water Sharing Plan for the Nambucca Unregulated and Alluvial Water Sources 2016

[1] Clause 43 (10)

Omit “does”. Insert instead “do”.

[2] Schedule 1

Omit “be from”. Insert instead “be taken from”.

Explanatory note

Item [1] of the proposed amendments correct a grammatical error. Item [2] inserts a missing word.

Schedule 5 Repeals

1 Repeal of redundant Acts and provisions

The following Acts, and provisions of an Act and an instrument, are repealed:

Act or instrument	Provisions repealed
<i>Appropriation Act 2016</i> No 30	Whole Act
<i>Appropriation (Parliament) Act 2016</i> No 31	Whole Act
<i>Finances Adjustment Act 1932</i> No 27	Whole Act
<i>National Parks and Wildlife Amendment (Jenolan Caves Reserves) Act 2005</i> No 83	Whole Act
<i>Road Transport (Vehicle Registration) Regulation 2017</i>	Schedule 5
<i>Snowy Hydro Corporatisation Amendment (Snowy Advisory Committee) Act 2014</i> No 47	Schedule 2
<i>Statute Law (Miscellaneous Provisions) Act 2016</i> No 27	Whole Act
<i>Statute Law (Miscellaneous Provisions) Act 2017</i> No 22	Whole Act

2 Repeal of redundant provision of Aboriginal Land Rights Act 1983 No 42

Section 165AA (2) (c) of the *Aboriginal Land Rights Act 1983* is repealed.

Explanatory note

Clause 2 repeals a redundant provision of the *Aboriginal Land Rights Act 1983*. The provision was inserted by the *Aboriginal Land Rights Amendment Act 2014* and depended for its operation on other amendments by that Act that were repealed, without being commenced, by the *Aboriginal Land Rights Amendment (Local Aboriginal Land Councils) Act 2017*.

3 Repeal of Regulation and consequential amendment of Act

(1) Repeal of Government Insurance Office (Privatisation) (Savings and Transitional) Regulation (No 2) 1992

The *Government Insurance Office (Privatisation) (Savings and Transitional) Regulation (No 2) 1992* is repealed.

(2) Amendment of Motor Vehicles (Third Party Insurance) Act 1942 No 15

Insert after section 45:

46 Construction of certain references to GIO

(1) A reference in section 14, 14A, 14C, 14D, 14E, 17, 18, 25, 26, 27 or 32 to the Government Insurance Office is taken to be a reference to the NSW Self Insurance Corporation.

(2) Subsection (1) re-enacts (with minor modifications) clause 3 of the *Government Insurance Office (Privatisation) (Savings and Transitional) Regulation (No 2) 1992* and is a transferred provision to which section 30A of the *Interpretation Act 1987* applies.

Explanatory note

Clause 4 repeals the *Government Insurance Office (Privatisation) (Savings and Transitional) Regulation (No 2) 1992* and transfers the substance of a provision of that Regulation having possible ongoing effect into the *Motor Vehicles (Third Party Insurance) Act 1942*.

Schedule 6 General savings, transitional and other provisions

1 Effect of amendment of amending provisions

- (1) An amendment made by Schedule 1 or 4 to an amending provision contained in an Act or instrument is, if the amending provision has commenced before the Schedule 1 or 4 amendment concerned, taken to have effect as from the commencement of the amending provision (whether or not the amending provision has been repealed).
- (2) In this clause:
amending provision means a provision of an Act or instrument that makes a direct amendment to an Act or instrument by:
 - (a) the repeal or omission of matter contained in the amended Act or instrument without the insertion of any matter instead of the repealed or omitted matter, or
 - (b) the omission of matter contained in the amended Act or instrument and the insertion of matter instead of the omitted matter, or
 - (c) the insertion into the amended Act or instrument of matter, not being matter inserted instead of matter omitted from the Act or instrument.

Explanatory note

This clause ensures that an amendment made by the proposed Act to a repealing or amending provision of an Act or instrument will (if the repealing or amending provision commences before the amendment made by the proposed Act) be taken to have commenced on the date the repealing or amending provision commences.

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

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

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

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

Explanatory note

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

3 Effect of amendment on instruments

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

Explanatory note

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

4 Revocation of repeal

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

Explanatory note

The effect of this clause is to enable the Governor, by proclamation, to revoke the repeal of any Act or instrument, or any provision of any Act or instrument, by the proposed Act. The Act or provision the subject of the revocation of repeal is taken not to be, and never to have been, repealed.

5 Regulations

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

Explanatory note

This clause enables the making of regulations of a savings or transitional nature relating to incidental matters arising out of the proposed Act.