

Passed by both Houses



New South Wales

Statute Law (Miscellaneous Provisions) Bill (No 2) 2008

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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, , 2008*



New South Wales

Statute Law (Miscellaneous Provisions) Bill (No 2) 2008

Act No , 2008

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.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Statute Law (Miscellaneous Provisions) Act (No 2) 2008*.

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

- (1) Each Act specified in Part 1 of Schedule 4 is repealed.
- (2) Each Act specified in Part 2 or 3 of Schedule 4 is, to the extent indicated in the Part, repealed.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 provisions of Act

- (1) A subschedule of Schedule 1, 2 or 3 is repealed on the day following the day on which all of the provisions of the subschedule have commenced.
- (2) The repeal of any such subschedule does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by those subschedules.

Schedule 1 Minor amendments

(Section 3)

1.1 Banks and Bank Holidays Act 1912 No 43

Section 23A

Insert after section 23:

23A Delegation

The Director-General may delegate the exercise of any function of the Director-General under Schedule 6 to any member of staff of the Department of Commerce.

Explanatory note

The *Shop Trading Act 2008* transferred provisions from the (now repealed) *Shops and Industries Act 1962* (**the repealed Act**) to the *Banks and Bank Holidays Act 1912* (**the principal Act**) that enable the opening of banks on weekends in accordance with the approval of the Director-General of the Department of Commerce (**the Director-General**). The repealed Act also contained a power for the Director-General to delegate his or her functions in connection with such approvals. The proposed amendment inserts an equivalent power of delegation into the principal Act.

1.2 Building Professionals Act 2005 No 115

[1] Section 19 Definitions

Omit “he or she” wherever occurring from paragraphs (b), (c) and (l) of the definition of *unsatisfactory professional conduct* in section 19 (1).

Insert instead “the accredited certifier”.

[2] Section 60 Record keeping by accreditation holders

Insert after section 60 (3):

- (4) A reference in this section to an accreditation holder includes a reference to a person whose certificate of accreditation has been suspended or cancelled or has lapsed.

[3] Section 63 Accredited certifiers to have required insurance

Omit “himself or herself out as being” from section 63 (1) (b).

Insert instead “out that the accredited certifier is”.

[4] Sections 63 (1) and (2), 66 (1), 70 (1), 84 (1) and 85 (2)

Omit “he or she” wherever occurring. Insert instead “the accredited certifier”.

[5] Section 74 Notice to be given of certain matters

Omit “his, her or its” from section 74 (1) (b). Insert instead “the person’s”.

[6] Section 83 Disclosure and misuse of information

Omit “himself or herself” wherever occurring in section 83 (2) and (3).

Insert instead “the person”.

[7] Section 83 (2) and (3)

Omit “he or she” wherever occurring. Insert instead “the person”.

[8] Section 84 Improper influence with respect to conduct of accredited certifier acting as certifying authority

Omit “his or her” wherever occurring in section 84 (1) and (2).

Insert instead “the accredited certifier’s”.

[9] Section 85 False representations

Omit “he or she” from section 85 (1) (a). Insert instead “the person”.

[10] Section 85 (3)

Omit “he or she”. Insert instead “the person”.

Commencement

The amendments are taken to have commenced on 3 November 2008.

Explanatory note

Section 60 (1) of the *Building Professionals Act 2005* (**the Act**) provides that accredited certifiers must hold certain records in accordance with the regulations.

Section 60 (2) of the Act provides that the Building Professionals Board may require an accredited certifier to provide a copy of any record that is required to be kept under section 60 (1).

Item [2] of the proposed amendments makes it clear that the requirements to keep records, and to provide such records to the Building Professionals Board on request, extend to a person whose certificate of accreditation has been suspended or cancelled, or has lapsed.

Items [1] and [3]–[10] of the proposed amendments update references that are specific to individuals.

1.3 Business Names Act 2002 No 97

Section 34 Authorised officers

Insert at the end of the section:

- (2) An investigator appointed under section 18 of the *Fair Trading Act 1987* is taken to be an authorised officer appointed under subsection (1).

Explanatory note

Section 34 of the *Business Names Act 2002* (**the principal Act**) provides for the Director-General of the Department of Commerce (**the Director-General**) to appoint authorised officers for the purposes of the principal Act.

Section 18 of the *Fair Trading Act 1987* provides for the Director-General to appoint investigators for the purposes of that Act and of any other legislation administered by the Minister for Fair Trading (which includes the principal Act).

The proposed amendment to the principal Act confirms the power of the Director-General under section 18 of the *Fair Trading Act 1987* to appoint investigators for the purposes of the principal Act by expressly providing that investigators appointed under the *Fair Trading Act 1987* are taken to be authorised officers for the purposes of the principal Act. The option of a separate appointment of authorised officers under the principal Act is retained.

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

[1] Section 64 Notification of care applications

Omit “to notify that child or young person of the application” from section 64 (8) (b).

Insert instead “if that child or young person is notified or becomes aware of the application”.

[2] Section 149C Disclosure to parents and significant persons

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

- (a) any parent of the child or young person,

[3] Section 200 Meaning of “children’s service”

Omit section 200 (4).

[4] Section 205 No advertising of unlicensed services

Insert “prescribed” before “children’s service” in section 205 (2).

[5] Section 220A Meaning of “out of school hours care service”

Insert at the end of section 220A (2) (e) (ii):

or

- (iii) youth support programs, or
(iv) respite care, or
(v) residential accommodation (whether or not provided by, or in association with, a school) for children attending a school,

[6] Section 226 Removal of child from place of unlawful employment

Insert “and protection” after “in need of care”.

[7] Sections 231Q Notification by Registrar of Children’s Court

Omit “appropriate Children’s Registrar”.

Insert instead “Registrar of the Children’s Court”.

[8] Sections 231R and 231T

Omit “appropriate Children’s Registrar” wherever occurring.

Insert instead “Registrar of the Children’s Court”.

[9] Section 256A Children’s Court may dispense with service

Omit “physical” from section 256A (1).

Explanatory notes

Item [1] of the proposed amendments to the *Children and Young Persons (Care and Protection) Act 1998 (the Act)* makes it clear that the Children’s Court can make an order that a parent should not be served with a copy of a care application or any supporting documentary evidence if it is of the opinion that knowledge of the application could cause psychological harm to, or be otherwise detrimental to, the safety, welfare or well-being of the relevant child or young person.

Division 1A of Part 2 of Chapter 8 of the Act makes provision with respect to disclosure to parents and other significant persons of information concerning placement of a child or young person in out-of-home care. Item [2] of the proposed amendments removes a reference to birth parents and adoptive parents to prevent an inconsistency with the definition of **parent** (as defined in section 149B of the Act) for the purposes of the Division.

Item [3] of the proposed amendments omits an obsolete provision.

Currently, section 205 (2) of the Act makes it an offence to knowingly publish any advertisement inviting the attendance of children at a children’s service that is not licensed. Item [4] of the proposed amendments applies section 205 (2) to a prescribed children’s service so that the offence will only be committed with respect to a children’s service that is required to be licensed under the Act.

Item [5] of the proposed amendments excludes respite care, residential accommodation provided for the purpose of enabling a child to attend school and youth support services from the definition of **out of school hours care service** to prevent the regulatory provisions under Chapter 12A of the Act from applying to such services.

Section 226 of the Act currently refers to a child being taken to be in need of “care” in specified circumstances. Item [6] of the proposed amendments amends section 226 to refer instead to a child taken to be “in need of care and protection” to ensure consistency in the use of that term throughout the Act.

Items [7] and [8] of the proposed amendments replace references to the “appropriate Children’s Registrar” with the “Registrar of the Children’s Court” to ensure that the administrative functions contained in the provisions are the responsibility of the Registrar of the Children’s Court.

Section 256A of the Act enables the Children’s Court to make an order to dispense with the service of documents if satisfied that there would be an unacceptable threat to the physical safety, welfare and well-being of a person. Item [9] of the proposed

amendments omits the reference to the word “physical” to empower the Children’s Court to dispense with the service of documents if satisfied that there would be an unacceptable threat to any aspect of a person’s safety, welfare and well-being.

1.5 Commission for Children and Young People Act 1998 No 146

[1] Section 40 Duties of employers to notify Commission of rejected applicant in connection with background checking

Insert after section 40 (3):

- (4) The guidelines under section 35 may provide for follow-up action to be taken by approved screening agencies, after carrying out background checking, for the purpose of ensuring that employers comply with this section.
- (5) **Follow-up action** means:
 - (a) contacting the employer after carrying out background checking to inform the employer of the employer’s obligations under this section, and
 - (b) requesting the employer to provide to the approved screening agency the information the employer is required to notify to the Commission under this section, and
 - (c) providing the information to the Commission.
- (6) An employer who provides to an approved screening agency the information that it is required to notify to the Commission under this section is taken to have complied with this section in relation to that information.
- (7) An approved screening agency is not to use, or give access to, any information obtained from an employer as a result of follow-up action, other than for the purposes of providing the information to the Commission.
- (8) In this section, **approved screening agency** does not include the Commission.

[2] Section 41 Enforcement notices

Insert after section 41 (7):

- (8) Nothing in this section prevents the Commission from contacting employers for the purpose of informing them of their obligations under this Act or requesting any information that employers are required to provide to the Commission under this Act.

Explanatory note

Under the *Commission for Children and Young People Act 1998 (the Act)*, an employer is required to carry out background checking of an applicant for child-related

employment. This background checking can be carried out by the Commission for Children and Young People (***the Commission***) or by an approved screening agency, on behalf of an employer. Section 40 of the Act requires an employer to notify the Commission of the name and details of an applicant for child-related employment who is not employed because of the results of background checking.

Item [1] of the proposed amendments provides that the guidelines applicable to the carrying out of background checking may provide for certain follow-up action to be taken by an approved screening agency after conducting background checking. This will enable an approved screening agency to collect the information required to be provided by an employer under section 40 of the Act and provide it to the Commission.

Item [2] of the proposed amendments makes it clear that the Commission may contact employers to inform them of their obligations under the Act and to request any information that employers are required to provide to the Commission under the Act, without implementing any formal enforcement process.

1.6 Constitution Act 1902 No 32

Section 9C Administration of government by Lieutenant-Governor or Administrator

Omit “the special circumstances” from section 9C (4B).

Insert instead “exceptional circumstances”.

Explanatory note

Section 9C of the *Constitution Act 1902* (***the Act***) makes provision for the Lieutenant-Governor or Administrator to assume administration of the government of the State if the Governor is unavailable. Section 9 of the Act states that the Governor is ***unavailable*** if the Governor has assumed the administration of the government of the Commonwealth, is absent from the State, is physically or mentally incapacitated, or is otherwise unavailable to exercise and perform his or her powers and functions.

Currently, if the Governor is unavailable due to the last such reason, the Lieutenant-Governor and Administrator may assume administration of the government of the State with the concurrence of the Premier or the next most senior Minister of the Crown. The Premier or other Minister is not to give concurrence unless of the opinion that the assumption of administration is authorised by section 9C (4B) of the Act. In addition, if neither the Premier nor any other Minister is able to be contacted to obtain that concurrence, the Lieutenant-Governor or Administrator may assume administration of the government of the State if the Lieutenant-Governor or Administrator is of the opinion that the assumption of administration is authorised under section 9C (4B) of the Act.

Section 9C (4B) of the Act authorises the assumption of administration in such cases if either the powers or functions of the Governor are required to be exercised or performed during such unavailability, or the duration of such unavailability cannot be determined, and if “the special circumstances” require the assumption of administration.

The proposed amendment removes the reference to “the special circumstances” to instead provide that the circumstances requiring the assumption of administration in such cases must be exceptional.

1.7 Co-operatives Act 1992 No 18

Section 134 Repayment of amounts due in respect of cancelled membership

Omit “is less than \$50” from section 134 (5) (b).

Insert instead “does not exceed \$100”.

Explanatory note

The proposed amendment to the *Co-operatives Act 1992 (the Act)* allows a co-operative registered under the Act to retain an amount of \$100 or less (rather than less than \$50, as is currently the case) that is due to a former member of a co-operative in respect of the former member’s cancelled membership of the co-operative, if the co-operative cannot (after using all due diligence) locate the former member.

The proposed amendment resolves a practical inconsistency between the Act and the *Unclaimed Money Act 1995*, the latter of which requires an enterprise that holds unclaimed money at the end of a financial year to lodge a return with the Chief Commissioner of State Revenue only in relation to an amount of unclaimed money that exceeds \$100.

1.8 Environmental Planning and Assessment Act 1979 No 203

[1] Sections 75J (5) and 122 (b) (vi)

Omit “referred to in section 93F” wherever occurring.

Insert instead “under Division 4 of Part 5B”.

[2] Section 79C Evaluation

Omit “section 93F” wherever occurring in section 79C (1) (a) (iiia).

Insert instead “Division 4 of Part 5B”.

[3] Section 80A Imposition of conditions

Omit “section 94, 94A, 94EF or 94F” from section 80A (1) (h).

Insert instead “Division 2, 3 or 5 of Part 5B”.

[4] Section 85A Process for obtaining complying development certificates

Omit “Division 6” from section 85A (9).

Insert instead “Part 5B (Division 5 excepted)”.

[5] Section 109ZI Definitions

Omit the definition of *building work*. Insert instead:

building work includes the design or inspection of building work, the issuing of a Part 4A certificate or complying development certificate in respect of building work and the issue of a design certificate under section 109IA.

[6] Section 118 Appointment of planning administrator, planning assessment panel or regional panel

Omit “94E” from paragraph (a) of the definition of *failure to comply with obligations under the planning legislation* in section 118 (12).

Insert instead “116L”.

[7] Section 147 Disclosure of political donations and gifts

Omit “statement of” from section 147 (6) (b). Insert instead “statement to”.

[8] Schedule 5A Special contributions areas

Omit “Schedule 116A”. Insert instead “Section 116A”.

Commencement

Items [1]–[4] and [6] of the amendments commence or are taken to have commenced on the commencement of Schedule 3.1 [6] to the *Environmental Planning and Assessment Amendment Act 2008*.

Item [5] of the amendments commences or is taken to have commenced on the commencement of Schedule 4.1 [17] to the *Environmental Planning and Assessment Amendment Act 2008*.

Item [8] of the amendments commences immediately after the commencement of Schedule 3.1 [8] to the *Environmental Planning and Assessment Amendment Act 2008*.

Explanatory note

Items [1]–[4] and [6] of the proposed amendments to the *Environmental Planning and Assessment Act 1979 (the EP&A Act)* update cross-references.

Currently, section 109ZI of the EP&A Act and section 64 of the *Building Professionals Act 2005* provide that **building work** includes the design, inspection and issuing of a Part 4A certificate or complying development certificate in respect of building work.

On the commencement of Schedule 2 [14] to the *Building Professionals Amendment Act 2008*, building work under the *Building Professionals Act 2005* will include the issue of a design certificate under section 109IA of the EP&A Act. Item [5] of the proposed amendments ensures that the definition of **building work** in section 109ZI of the EP&A Act remains consistent with the definition in section 64 of the *Building Professionals Act 2005*.

Items [7] and [8] of the proposed amendments correct typographical errors.

1.9 Environmental Planning and Assessment Amendment Act 2008 No 36

[1] Schedule 3.1 Amendment of Environmental Planning and Assessment Act 1979

Omit “Department” from proposed section 116ZG (b) in Schedule 3.1 [6].

Insert instead “Secretary of the Treasury”.

[2] Schedule 3.2 Amendment of Growth Centres (Development Corporations) Act 1974 No 49

Omit “Department” from proposed section 25 (7) (b) in Schedule 3.2 [1].

Insert instead “Secretary of the Treasury”.

Explanatory note

The *Environmental Planning and Assessment Amendment Act 2008 (the amending Act)* amends the *Environmental Planning and Assessment Act 1979 (the EP&A Act)* and the *Growth Centres (Development Corporations) Act 1974 (the GC Act)*, to establish the State Infrastructure Fund and the Community Infrastructure Trust Fund, respectively. Both of these funds are to be administered by the Secretary of the Treasury.

Sections 116ZG (b) of the EP&A Act and 25 (7) (b) of the GC Act, to be inserted by the amending Act, provide that, if the *Public Authorities (Financial Arrangements) Act 1987* does not confer power on the relevant Department to invest the money in those Funds, the money may be invested in the manner approved by the Treasurer. As neither Fund is administered by the Department, items [1] and [2] of the proposed amendments replace the references to the Department with references to the Secretary of the Treasury in those provisions.

1.10 Interpretation Act 1987 No 15

[1] Section 30C

Insert after section 30B:

30C Automatic repeal of amending Acts that have commenced

(1) In this section:

amending Act means:

- (a) a whole Act that directly amends or repeals other Acts or instruments and that contains no other provisions apart from ancillary provisions, or
- (b) a section or subsection of an Act, a schedule or subschedule to an Act or an item of any such schedule or subschedule that directly amends or repeals other Acts or instruments and that contains no other provisions.

ancillary provision of an amending Act means the long title of the Act, a preamble to the Act, a provision that specifies the short title or name of the Act, a provision that provides for the commencement of the Act, a provision that declares that notes in the Act do not form part of the Act or a provision that gives effect to or describes a schedule to the Act.

(2) An amending Act is repealed on the day after all of its provisions have commenced (except as provided by subsection (3)).

- (3) If an amending Act commences before the date of assent, the amending Act is repealed on the day after the date of assent.
- (4) The repeal by this section of an amending Act does not, because of the operation of section 30, affect any amendment or repeal made by the amending Act.
- (5) This section does not apply to an amending Act that makes provision for the repeal of the amending Act.
- (6) This section applies only to an amending Act enacted after 1 January 2009.

[2] Section 64A

Insert after section 64:

64A Schedules

A schedule to an Act or instrument has effect according to its tenor when it comes into force, whether or not the Act or instrument declares that the schedule has effect.

Explanatory note

At present a standard provision is inserted into an amending Act to the effect that the amending Act is repealed when it has fully commenced. Where amending provisions of an Act have only partially commenced, the repeal of the commenced amendments is effected by the Statute Law (Miscellaneous Provisions) Act introduced each Session. Under the *Interpretation Act 1987* the repeal of an amending Act or provision does not affect the amendment or any repeal that has been made.

Item [1] of the proposed amendments removes the need to enact the standard repeal clause in each amending Act or to effect repeals by that statute law revision Act. The above provision will only apply to Acts enacted in or after 2009.

Item [2] of the proposed amendments removes the need for a schedule of amendments to Acts or instruments to be supported by a substantive provision in accordance with current practice that declares that the schedule has effect (the heading to each schedule of amendments will set out the full title and number of the Act being amended). Similarly it will remove the need for a substantive provision that declares that a schedule containing substantive provisions has effect (such as a schedule of savings or transitional provisions or provisions relating to the members of a statutory body). If it is necessary to sign post the schedules concerned, the Act or instrument can state that "Schedule x contains savings and transitional provisions/provisions relating to members etc".

Section 5 (1) of the *Interpretation Act 1987* provides that the proposed amendment will extend to existing Acts and instruments.

1.11 Justices of the Peace Act 2002 No 27

Section 4 Appointment of justices of the peace

Insert after section 4 (4):

- (5) The Director-General of the Attorney General's Department may delegate his or her function under subsection (3) to a senior officer of the Department.

Explanatory note

The proposed amendment to the *Justices of the Peace Act 2002* (**the Act**) enables the Director-General of the Attorney General's Department to delegate to a senior officer of the Department the Attorney General's function under the Act of re-appointing a person as a justice of the peace on the expiration of the person's term of office.

1.12 Local Government Act 1993 No 30

[1] Section 28 Forwarding of planning proposals to Minister for Planning

Omit section 28 (1). Insert instead:

- (1) A council may not forward a planning proposal to the Minister for Planning under section 56 of the *Environmental Planning and Assessment Act 1979* which includes a proposal to classify or reclassify public land that is not owned by the council unless the council has obtained the consent of the owner to the proposed classification or reclassification of public land.

[2] Section 29 Public hearing into reclassification

Omit section 29 (1). Insert instead:

- (1) A council must arrange a public hearing under section 57 of the *Environmental Planning and Assessment Act 1979* in respect of a planning proposal under Part 3 of that Act to reclassify community land as operational land, unless a public hearing has already been held in respect of the same matter as a result of a determination under section 56 (2) (e) of that Act.

[3] Section 32 Reclassification of land dedicated under Division 2 of Part 5B of the Environmental Planning and Assessment Act 1979

Omit "section 94" from section 32 (1) and (5) wherever occurring.

Insert instead "Division 2 of Part 5B".

[4] Section 32 (2)

Omit "public amenities and public services".

Insert instead "community infrastructure".

[5] Section 32 (5)

Omit “that section”. Insert instead “Divisions 1 and 2 of Part 5B of that Act”.

[6] Section 377 General power of the council to delegate

Omit “section 82A” from section 377 (1) (o). Insert instead “section 96D”.

[7] Section 406 Adoption of management plan

Omit “and any other matters it considers relevant” from section 406 (1).

[8] Section 406 (2)

Insert “and any other matters it considers relevant” after “with this Part”.

[9] Schedule 6 Regulations

Omit “*Election Funding Act 1981*” from the examples to item 14.

Insert instead “*Election Funding and Disclosures Act 1981*”.

Commencement

Items [1] and [2] of the amendments commence, or are taken to have commenced, on the commencement of Schedule 1.1 [11] to the *Environmental Planning and Assessment Amendment Act 2008*.

Items [3]–[5] of the amendments commence, or are taken to have commenced, on the commencement of Schedule 3.1 [6] to the *Environmental Planning and Assessment Amendment Act 2008*.

Item [6] of the amendments commences, or is taken to have commenced, on the commencement of section 96D of the *Environmental Planning and Assessment Act 1979* (as inserted by Schedule 2.1 [36] to the *Environmental Planning and Assessment Amendment Act 2008*).

Explanatory note

The proposed amendments to the *Local Government Act 1993* update provisions of that Act as a consequence of amendments to the *Environmental Planning and Assessment Act 1979* made by the *Environmental Planning and Assessment Amendment Act 2008*.

Items [1] and [2] of the proposed amendments update terminology relating to the making of local environmental plans, so that reference is made instead to planning proposals.

Items [3]–[5] of the proposed amendments update terminology and references relating to development contributions. Reference is now made to “community infrastructure” rather than “public amenities and public services”.

Items [6] and [9] of the proposed amendments update cross-references.

Items [7] and [8] of the proposed amendments move incorrectly located words.

1.13 Marine Parks Act 1997 No 64

Schedule 2 Provisions relating to members and procedure of Advisory Council

Omit clause 6. Insert instead:

6 Chairperson

Meetings of the Advisory Council are to be chaired by either the Director-General of the Department of Primary Industries or the Director-General of the Department of Environment and Climate Change, as determined by the Advisory Council from time to time.

Explanatory note

The *Marine Parks Act 1997* provides for the establishment of a Marine Parks Advisory Council, consisting of the Director-General of the Department of Primary Industries, the Director-General of the Department of Environment and Climate Change and 9 other appointed members. At present, meetings of the Advisory Council are chaired alternately by one of the two Directors-General.

The object of the proposed amendment is for the Advisory Council to determine which of the two Directors-General is to chair meetings.

1.14 Motor Vehicle Repairs Act 1980 No 71

Section 4 Definitions

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

inspector means:

- (a) a person:
 - (i) who is employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Authority to exercise its functions, or
 - (ii) whose services the Authority has arranged to make use of,and who is appointed by the Authority as an inspector for the purposes of this Act, or
- (b) an investigator appointed under section 18 of the *Fair Trading Act 1987*.

Explanatory note

The definition of *inspector* in section 4 of the *Motor Vehicle Repairs Act 1980* (**the principal Act**) provides for the Motor Vehicle Repair Industry Authority (**the Authority**) to appoint inspectors for the purposes of the principal Act. (In 2005, all branches of the Authority were added to the Department of Commerce (**the Department**), and the

Department's Commissioner for Fair Trading assumed the functions of the General Manager of the Authority, including the function of appointing inspectors under the principal Act.)

Section 18 of the *Fair Trading Act 1987* provides for the Director-General of the Department to appoint investigators for the purposes of that Act and of any other legislation administered by the Minister for Fair Trading (which includes the principal Act).

The proposed amendment to the principal Act confirms the power of the Director-General under section 18 of the *Fair Trading Act 1987* to appoint investigators for the purposes of the principal Act by expressly providing that investigators appointed under the *Fair Trading Act 1987* are inspectors for the purposes of the principal Act. The option of a separate appointment of inspectors under the principal Act is retained.

1.15 National Parks and Wildlife Act 1974 No 80

Section 21 Delegation

Insert after section 21 (2):

- (3) The power to delegate under subsection (1) or (2) extends to the following functions of the Minister or the Director-General, as the case may be:
 - (a) functions conferred or imposed by Acts that substantially provide for the reservation of land under this Act, or the vesting of land in the Minister for the purposes of Part 11 (for example, the *Brigalow and Nandewar Community Conservation Area Act 2005*, the *National Park Estate (Reservations) Act 2002* and the *National Park Estate (Southern Region Reservations) Act 2000*),
 - (b) functions conferred or imposed by Acts, that are exercisable:
 - (i) by the Minister as owner or occupier of land, being land acquired, or the subject of other dealings, by the Minister (whether on behalf of Her Majesty or on the Minister's own behalf) under Part 11, or
 - (ii) by the Director-General as an occupier of land, being land of which the Director-General has care, control and management under this Act,
 - (c) functions conferred or imposed:
 - (i) on the Minister by clause 9 (2) or 10 (2) of Schedule 7A to the *Crown Lands (Continued Tenures) Act 1989*, or
 - (ii) on the Director-General by section 14 (1A) of the *Dividing Fences Act 1991*, or

-
- (iii) on the Director-General (as an impounding authority) by the *Impounding Act 1993* (other than by section 26 (1)), or
 - (iv) on the Director-General by section 36A (3) (d) (ii), 36B (4) (d) (ii) or 36D (3) (d) (ii) of the *Local Government Act 1993*, or
 - (v) on the Director-General by section 15 (4) or (5) of the *Plantations and Reafforestation Act 1999*, or
 - (vi) on the Director-General under the *Public Health Act 1991* in relation to burials on land reserved or acquired under this Act, or
 - (vii) on the Director-General by section 47 (1) (d) or 100K (1) (b) of the *Rural Fires Act 1997*, or
 - (viii) on the Director-General by section 25 (2) of the *State Records Act 1998*.

Explanatory note

Section 21 of the *National Parks and Wildlife Act 1974 (the NPW Act)* provides for the delegation of the functions of the Minister for Climate Change and the Environment (**the Minister**) and the Director-General of the Department of Environment and Climate Change (**the Director-General**) under the NPW Act. Under section 21, the Minister's functions may be delegated to the Director-General, and both the Minister's and the Director-General's functions may be delegated to a member of staff of the Department of Environment and Climate Change, a board of management established for Aboriginal land under Part 4A of the NPW Act, or a person or class of persons authorised by the regulations made under the NPW Act.

The proposed amendment to the NPW Act extends the delegation power in section 21 to functions of the Minister or the Director-General that are conferred or imposed by or under particular Acts or categories of Acts that are relevant to the NPW Act either because they deal with the reservation of land or because they deal with functions exercisable by an owner or occupier of land.

1.16 Noxious Weeds Act 1993 No 11**Section 76 Review of Act**

Omit "each period of 5 years thereafter" from section 76 (2).

Insert instead "each further period of 5 years (starting with the 5-year period commencing on 1 June 2005)".

Explanatory note

On its enactment, section 76 of the *Noxious Weeds Act 1993* required a review of the Act after 5 years. This requirement was extended with effect from 1 June 2005 to require a further review of the Act at the end of each period of 5 years thereafter.

The object of the proposed amendment is to make it clear that the first 5-year period to which the further requirement applies is the period starting on 1 June 2005.

1.17 Pesticides Act 1999 No 80

Section 119 Regulations

Insert after section 119 (3):

- (4) The regulations may apply, adopt or incorporate any publication as in force at a particular time or from time to time.

Explanatory note

The proposed amendment to the *Pesticides Act 1999 (the Act)* allows regulations to be made under the Act that apply, adopt or incorporate any publication as in force from time to time (in addition to the existing power that allows regulations to apply, adopt or incorporate a publication as in force at a particular time).

1.18 Police Regulation (Superannuation) Act 1906 No 28

Section 14P Payment splits

Omit section 14P (5). Insert instead:

- (5) STC must transfer a family law superannuation payment to FTC for crediting to the First State Superannuation Fund if:
 - (a) the payment is payable under subsection (3) (a) and the non-contributor spouse fails, within the period prescribed by the regulations, to provide details as to the required manner of payment of the family law superannuation payment, or
 - (b) the payment is not payable under subsection (3) (a) and the non-contributor spouse fails, within the period prescribed by the regulations, to make a nomination for the purposes of subsection (3) (b) or a nominated fund or RSA does not accept the nomination.

Commencement

The amendment commences, or is taken to have commenced, on the commencement of section 14P of the *Police Regulation (Superannuation) Act 1906*, as inserted by Schedule 7 [5] to the *Superannuation Legislation Amendment (Family Law) Act 2003*.

Explanatory note

Section 14P of the *Police Regulation (Superannuation) Act 1906* provides for the circumstances when, and the way in which, payments are to be made to spouses of contributors to the Police Superannuation Fund when superannuation entitlements are to be split following an order or agreement under the *Family Law Act 1975* of the Commonwealth. The proposed amendment enables the SAS Trustee Corporation to pay an amount immediately payable to the spouse of a contributor to that Fund to the First State Superannuation Fund if the spouse fails to provide details as to the manner of payment of the amount within the period prescribed by the regulations. This default arrangement for payment is consistent with the circumstances in which other amounts that are not immediately payable in respect of the spouse may be paid to the First State Superannuation Fund.

1.19 Public Sector Employment and Management Act 2002 No 43

Schedule 4 Savings, transitional and other provisions

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

Part Provision consequent on enactment of World Youth Day Act 2006

Transitional provision consequent on dissolution of World Youth Day Co-ordination Authority

The regulations may make provision for or with respect to any matter that is consequent on the dissolution of the World Youth Day Co-ordination Authority constituted by the *World Youth Day Act 2006*.

Explanatory note

The *World Youth Day Act 2006* (**the WYD Act**) is to be automatically repealed on 1 January 2009. The World Youth Day Co-ordination Authority (**the WYDC Authority**) constituted by the WYD Act is due to be dissolved by that date. The proposed amendment to the *Public Sector Employment and Management Act 2002* enables regulations to be made under that Act for or with respect to any matter that is consequent on the dissolution of the WYDC Authority. (This would include, for example, regulations to ensure that the Auditor-General is able to furnish an opinion in relation to the accounts of the WYDC Authority for that part of the financial year that occurs before it is dissolved.)

1.20 Road Transport (Safety and Traffic Management) Act 1999 No 20

[1] Section 46 Certificates concerning use of approved speed measuring devices

Omit paragraph (b) of the definition of *appropriate officer* in section 46 (3).

Insert instead:

- (b) in the case of any other kind of approved speed measuring device—a police officer, or a person authorised by the Commissioner of Police to test a device of that kind.

[2] Section 56 Approved camera detection device

Omit “the Commissioner of Police”. Insert instead “the Authority”.

[3] Section 57 Photographic evidence of traffic light offences

Omit “a police officer” from section 57 (3). Insert instead “a person”.

[4] Section 57 (3) (a)

Omit “the officer is authorised by the Commissioner of Police”.

Insert instead “the person is authorised by the Authority”.

[5] Section 57 (3) (b)

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

[6] Schedule 2 Savings, transitional and other provisions

Insert at the end of the Schedule:

**Part 9 Provisions consequent on enactment of
Statute Law (Miscellaneous Provisions)
Act (No 2) 2008**

16 Definition

In this Part, *amending Act* means the *Statute Law (Miscellaneous Provisions) Act (No 2) 2008*.

17 Previously approved camera detection devices

A camera detection device that was a duly approved camera detection device immediately before the commencement of the amendments to this Act made by the amending Act continues to be a duly approved camera detection device for the purposes of this Act as amended.

18 Certificate evidence preserved

Any certificate issued under section 57 before the commencement of the amendments to this Act made by the amending Act continues to be as effectual as it was before that commencement (including for the purposes of evidence in any proceedings).

[7] Dictionary, clause 1, definition of “provisional P1 licence”

Omit “15 (1)” from paragraph (a). Insert instead “20 (1)”.

[8] Dictionary, clause 1, definitions of “provisional P1 licence” and “provisional P2 licence”

Omit “1999” wherever occurring. Insert instead “2008”.

[9] Dictionary, clause 1, definition of “provisional P2 licence”

Omit “15A (1)” from paragraph (a). Insert instead “27 (1)”.

Explanatory note

Section 46 of the *Road Transport (Safety and Traffic Management) Act 1999 (the Act)* enables an appropriate officer to give certificate evidence concerning the accuracy of a particular approved speed measuring device in proceedings for an offence in which evidence is given of the measurement of speed obtained by use of the device.

Currently, **appropriate officer** is defined to mean, in the case of an approved speed measuring device that is used in conjunction with, or forms part of, an approved digital camera recording device, a person authorised by the Roads and Traffic Authority (**the RTA**) to install or inspect such devices and, in the case of an approved speed measuring device that is not used in conjunction with, and does not form part of, an approved digital camera recording device, a police officer.

Item [1] of the proposed amendments broadens the latter category of appropriate officer to include (in addition to police officers) persons authorised by the Commissioner of Police to test the kind of approved speed measuring device that is to be the subject of the certificate.

The effect of items [2]–[5] of the proposed amendments is:

- (a) to make the functions under the Act of approving camera detection devices and authorising officers to install and inspect such devices, functions of the RTA rather than the Commissioner of Police, and
- (b) to enable persons authorised by the RTA to install and inspect approved camera detection devices (rather than police officers authorised by the Commissioner of Police to install and inspect such devices) to give certificate evidence as to their authorisation and other matters relating to the inspection of such devices, in proceedings for a traffic light offence in which a photograph taken by such a device is tendered in evidence.

Item [6] of the proposed amendments inserts savings provisions into the Act consequential on the amendments proposed to be made by items [2]–[5].

Items [2]–[6] of the proposed amendments are consequential on the transfer of the management of the red-light camera program from the NSW Police Force to the RTA on and from 1 July 2008.

Items [7]–[9] of the proposed amendments update cross-references.

1.21 State Authorities Non-contributory Superannuation Act 1987 No 212

Section 27AJ Payment splits

Omit section 27AJ (5). Insert instead:

- (5) STC must transfer a family law superannuation payment to FTC for crediting to the First State Superannuation Fund if:
 - (a) the payment is payable under subsection (3) (a) and the non-employee spouse fails, within the period prescribed by the regulations, to provide details as to the required manner of payment of the family law superannuation payment, or

- (b) the payment is not payable under subsection (3) (a) and the non-employee spouse fails, within the period prescribed by the regulations, to make a nomination for the purposes of subsection (3) (b) or a nominated fund or RSA does not accept the nomination.

Commencement

The amendment commences, or is taken to have commenced, on the commencement of section 27AJ of the *State Authorities Non-contributory Superannuation Act 1987*, as inserted by Schedule 10 [7] to the *Superannuation Legislation Amendment (Family Law) Act 2003*.

Explanatory note

Section 27AJ of *State Authorities Non-contributory Superannuation Act 1987 (the Act)* provides for the circumstances when, and the way in which, payments are to be made to spouses of employees for whom contributions are made to the funds established under the Act when superannuation entitlements are to be split following an order or agreement under the *Family Law Act 1975* of the Commonwealth. The proposed amendment enables the SAS Trustee Corporation to pay an amount immediately payable to the spouse of an employee to the First State Superannuation Fund if the spouse fails to provide details as to the manner of payment of the amount within the period prescribed by the regulations. This default arrangement for payment is consistent with the circumstances in which other amounts that are not immediately payable in respect of the spouse may be paid to the First State Superannuation Fund.

1.22 State Authorities Superannuation Act 1987 No 211

Section 45I Payment splits

Omit section 45I (5). Insert instead:

- (5) STC must transfer a family law superannuation payment to FTC for crediting to the First State Superannuation Fund if:
 - (a) the payment is payable under subsection (3) (a) and the non-contributor spouse fails, within the period prescribed by the regulations, to provide details as to the required manner of payment of the family law superannuation payment, or
 - (b) the payment is not payable under subsection (3) (a) and the non-contributor spouse fails, within the period prescribed by the regulations, to make a nomination for the purposes of subsection (3) (b) or a nominated fund or RSA does not accept the nomination.

Commencement

The amendment commences, or is taken to have commenced, on the commencement of section 45I of the *State Authorities Superannuation Act 1987*, as inserted by Schedule 11 [9] to the *Superannuation Legislation Amendment (Family Law) Act 2003*.

Explanatory note

Section 45I of the *State Authorities Superannuation Act 1987* provides for the circumstances when, and the way in which, payments are to be made to spouses of contributors to the State Authorities Superannuation Fund when superannuation entitlements are to be split following an order or agreement under the *Family Law Act 1975* of the Commonwealth. The proposed amendment enables the SAS Trustee Corporation to pay an amount immediately payable to the spouse of a contributor to that Fund to the First State Superannuation Fund if the spouse fails to provide details as to the manner of payment of the amount within the period prescribed by the regulations. This default arrangement for payment is consistent with the circumstances in which other amounts that are not immediately payable in respect of the spouse may be paid to the First State Superannuation Fund.

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

[1] Section 6 Statutory and Other Offices Remuneration Tribunal

Insert “, or as the deputy of the person appointed as the Tribunal,” after “Tribunal” in section 6 (4).

[2] Section 6A

Insert after section 6:

6A Deputy of the person holding office as Tribunal

- (1) The Governor may, subject to section 6 (4), appoint a person to be the deputy of the person holding office as the Tribunal.
- (2) During any illness or absence of the person holding office as the Tribunal, the deputy has, and may exercise and perform, all of the powers, authorities, duties and functions of the Tribunal.
- (3) The Governor may, at any time, revoke the appointment of the deputy.
- (4) The deputy is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the deputy.

[3] Section 7 Assessors

Omit section 7 (1). Insert instead:

- (1) For the purposes of this Act, there are to be the following 2 assessors:
 - (a) the Director-General of the Department of Premier and Cabinet,

- (b) an individual appointed by the Governor on the nomination of the Minister, being:
 - (i) an individual who has, in the opinion of the Minister, special knowledge relating to salaries payable to persons engaged in commercial, banking, insurance, industrial or other activities at executive or management level, and
 - (ii) is not, except as provided by subsection (1A), in the service of the State.
- (1A) An individual in the service of the State may be appointed as an assessor under subsection (1) (b) (ii) if the individual is in the service of the State only:
 - (a) under this Act, or
 - (b) as a member of a board, tribunal, council, committee, authority or similar body.

[4] Section 7 (2A)

Insert after section 7 (2):

- (2A) Despite any other provision of this Act, the assessor appointed under subsection (1) (b), must not assist, or make a recommendation to, the Tribunal with respect to the exercise or performance of the Tribunal's powers, authorities, duties or functions in relation to any office held by that assessor.

[5] Section 7 (4)

Omit "An assessor referred to in subsection (1) (a) or (a1)".

Insert instead "The assessor referred to in subsection (1) (a)".

[6] Schedule 6 Savings, transitional and other provisions

Insert before clause 1:

Part 1 Preliminary

[7] Schedule 6, Part 2, heading

Insert before clause 2:

Part 2 Provision consequent on enactment of Statutory and Other Offices Remuneration Amendment Act 2001

[8] **Schedule 6**

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

**Part Provision consequent on enactment of
Statute Law (Miscellaneous Provisions)
Act (No 2) 2008**

Appointment of assessors

- (1) An assessor whose appointment under section 7 (1) (b) is in force immediately before the substitution of section 7 (1) by the *Statute Law (Miscellaneous Provisions) Act (No 2) 2008 (the amending Act)*, is taken to have been appointed under that subsection as so substituted for the remainder of the term specified in the assessor's instrument of appointment.
- (2) Any such assessor, if eligible for re-appointment, may be reappointed.
- (3) Section 7 (2A), as inserted by the amending Act, extends to an assessor whose appointment under section 7 (1) (b) is in force immediately before the insertion of that subsection.

Explanatory note

Section 6 of the *Statutory and Other Offices Remuneration Act 1975 (the SOORT Act)* provides that the Governor may appoint a person to hold office as the Statutory and Other Offices Remuneration Tribunal (*the Tribunal*). Item [2] of the proposed amendments inserts proposed section 6A to allow the Governor to appoint a person as the deputy of the person holding office as the Tribunal. The deputy will be able to exercise and perform the powers, authorities, duties and functions of the Tribunal during the absence or illness of the person holding office as the Tribunal. Item [1] of the proposed amendments makes a consequential amendment.

Section 7 (1) of the SOORT Act currently provides that there are to be 3 assessors being:

- (a) the Secretary of the Department of Industrial Relations and Employment (which is to be read as the Director-General of the Department of Commerce by virtue of administrative changes orders), and
- (b) the Director-General of the Premier's Department (which is to be read as the Director-General of the Department of Premier and Cabinet by virtue of an administrative changes order), and
- (c) a person appointed by the Governor on the nomination of the Minister.

The Director-General of the Department of Commerce no longer has a role in advising on the remuneration of public offices. Item [3] of the proposed amendments will amend that subsection to remove the designation of the Director-General of the Department of Commerce as an assessor.

Section 7 (1) (b) (ii) of the SOORT Act provides that the person appointed by the Governor, on the recommendation of the Minister, is not to be in the service of the State (except under the SOORT Act). Item [3] of the proposed amendments inserts proposed section 7 (1A) which will also allow the Governor to appoint, as an assessor, a person

who is in the service of the State only by virtue of the person being a member of a board, tribunal, council, committee, authority or similar body. As a consequence, item [4] of the proposed amendments inserts proposed section 7 (2A) which provides that an assessor who is so appointed must not advise, or make a recommendation to, the Tribunal in relation to any office held by that assessor. Item [8] of the proposed amendments inserts a transitional provision. Items [5]–[7] of the proposed amendments make consequential amendments.

1.24 Superannuation Act 1916 No 28

Section 61WB Payment splits

Omit section 61WB (5). Insert instead:

- (5) STC must transfer a family law superannuation payment to FTC for crediting to the First State Superannuation Fund if:
 - (a) the payment is payable under subsection (3) (a) and the non-contributor spouse fails, within the period prescribed by the regulations, to provide details as to the required manner of payment of the family law superannuation payment, or
 - (b) the payment is not payable under subsection (3) (a) and the non-contributor spouse fails, within the period prescribed by the regulations, to make a nomination for the purposes of subsection (3) (b) or a nominated fund or RSA does not accept the nomination.

Commencement

The amendment commences, or is taken to have commenced, on the commencement of section 61WB of the *Superannuation Act 1916*, as inserted by Schedule 12 [11] to the *Superannuation Legislation Amendment (Family Law) Act 2003*.

Explanatory note

Section 61WB of the *Superannuation Act 1916* provides for the circumstances when, and the way in which, payments are to be made to spouses of contributors to the State Superannuation Fund when superannuation entitlements are to be split following an order or agreement under the *Family Law Act 1975* of the Commonwealth. The proposed amendment enables the SAS Trustee Corporation to pay an amount immediately payable to the spouse of a contributor to that Fund to the First State Superannuation Fund if the spouse fails to provide details as to the manner of payment of the amount within the period prescribed by the regulations. This default arrangement for payment is consistent with the circumstances in which other amounts that are not immediately payable in respect of the spouse may be paid to the First State Superannuation Fund.

Schedule 2 Amendments by way of statute law revision

(Section 3)

2.1 Administrative Decisions Tribunal Amendment Act 2008 No 77

Schedule 2.3 [3]

Omit “from section 108 (2) (a)”.

Insert instead “wherever occurring in section 108 (2) (a), (6) and (7)”.

Explanatory note

The proposed amendment corrects an amending provision.

2.2 Anti-Discrimination Act 1977 No 48

Section 49ZYA (3), definition of “relative”

Insert “, or the de facto partner of the person” after “adoption” in paragraph (a).

Explanatory note

The proposed amendment makes a definition consistent.

2.3 Building Professionals Amendment Act 2008 No 37

Schedule 1 [46], proposed section 85 (1) (a)

Omit “he or she”. Insert instead “the person”.

Explanatory note

The proposed amendment updates a reference that is specific to individuals.

2.4 Canada Bay Local Environmental Plan 2008

Schedule 5, Part 2

Omit the Part. Insert instead:

Part 2 Heritage conservation areas

Description	Identification on heritage map	Significance
Bourketown Conservation Area	Shown by red hatching and labelled “A”	Local
Parklands Estate Conservation Area	Shown by red hatching and labelled “B”	Local

Statute Law (Miscellaneous Provisions) Bill (No 2) 2008

Schedule 2 Amendments by way of statute law revision

Description	Identification on heritage map	Significance
Drummoyne Park Conservation Area	Shown by red hatching and labelled "C"	Local
Drummoyne Avenue East Conservation Area	Shown by red hatching and labelled "D"	Local
Drummoyne Avenue West Conservation Area	Shown by red hatching and labelled "E"	Local
Victoria Road Retail Conservation Area	Shown by red hatching and labelled "F"	Local
Gears Avenue Conservation Area	Shown by red hatching and labelled "G"	Local
Hampden Road Conservation Area	Shown by red hatching and labelled "H"	Local
Thompson Street Conservation Area	Shown by red hatching and labelled "I"	Local
Gipps Street Conservation Area	Shown by red hatching and labelled "J"	Local
Marlborough and Tavistock Streets Conservation Area	Shown by red hatching and labelled "K"	Local
Birkenhead and Dawson Estates Conservation Area	Shown by red hatching and labelled "L"	Local
Mons Street and Boronia Avenue Conservation Area	Shown by red hatching and labelled "M"	Local
Moore Street Conservation Area	Shown by red hatching and labelled "N"	Local
Yaralla Estate Conservation Area	Shown by red hatching and labelled "O"	Local
Park Avenue Conservation Area	Shown by red hatching and labelled "Q"	Local
Lindfield Avenue Conservation Area	Shown by red hatching and labelled "R"	Local
Creewood Street Conservation Area	Shown by red hatching and labelled "S"	Local
Powell's Estate Conservation Area	Shown by red hatching and labelled "T"	Local

Description	Identification on heritage map	Significance
Majors Bay Road Conservation Area	Shown by red hatching and labelled "U"	Local

Commencement

The amendment is taken to have commenced on 7 March 2008.

Explanatory note

The proposed amendment corrects references to a map.

2.5 City of Sydney Act 1988 No 48**Section 39 (1) and (2)**

Omit "draft environmental planning instrument" wherever occurring.

Insert instead "planning proposal".

Commencement

The amendment commences on the commencement of Schedule 1.1 [11] to the *Environmental Planning and Assessment Amendment Act 2008*.

Explanatory note

The proposed amendment updates terminology.

2.6 Constitution (Disclosures by Members) Regulation 1983**Clause 10 (2) (b)**

Omit "*Election Funding Act 1981*".

Insert instead "*Election Funding and Disclosures Act 1981*".

Explanatory note

The proposed amendment updates a cross-reference.

2.7 Conveyancing Act 1919 No 6**Schedule 6**

Omit "(Section 129 (8))". Insert instead "(Section 129 (9))".

Explanatory note

The proposed amendment corrects a cross-reference.

2.8 Criminal Procedure Act 1986 No 209**[1] Sections 180 (3) and 306S (2)**

Omit "Part 15A of the *Crimes Act 1900*" wherever occurring.

Insert instead "the *Crimes (Domestic and Personal Violence) Act 2007*".

[2] Section 180 (3)

Omit “that Part”. Insert instead “that Act”.

[3] Section 283 (1) (b)

Omit “clause 15, 16 or 17”. Insert instead “27 or 29”.

[4] Section 295 (1), definition of “criminal proceedings”

Omit “Part 15A (Apprehended violence) of the *Crimes Act 1900*”.

Insert instead “the *Crimes (Domestic and Personal Violence) Act 2007*”.

Commencement

Item [3] of the amendments is taken to have commenced on 1 August 2008.

Explanatory note

The proposed amendments update cross-references.

2.9 Electronic Transactions Regulation 2007

Clause 4 (1)

Omit “*Election Funding Act 1981*”.

Insert instead “*Election Funding and Disclosures Act 1981*”.

Explanatory note

The proposed amendment updates a cross-reference.

2.10 Growth Centres (Development Corporations) Act 1974 No 49

Section 23 (2) (e)

Omit “Divisions 6 and 6A of Part 4”. Insert instead “Part 5B”.

Commencement

The amendment commences on the commencement of Schedule 3.1 [6] to the *Environmental Planning and Assessment Amendment Act 2008*.

Explanatory note

The proposed amendment updates a cross-reference.

2.11 Hawkesbury Local Environmental Plan 1989

[1] Clause 55 (1)

Omit “pink and edged heavy black or green and edged heavy black”.

Insert instead “pink or tan”.

[2] Schedule 1, item 3

Omit “(1006)” from the matter relating to No 142 Bathurst Street.
Insert instead “(CH2)”.

[3] Schedule 1, item 3

Omit “(1007)” from the matter relating to No 140 Bathurst Street.
Insert instead “(CH1)”.

Commencement

Item [1] of the amendments is taken to have commenced on 18 July 2008.

Explanatory note

Item [1] of the proposed amendments corrects a reference to a map.
Items [2] and [3] of the proposed amendments correct references to heritage items.

**2.12 Law Enforcement (Powers and Responsibilities) Act 2002
No 103**

[1] Section 80 (2)

Omit “, and such”. Insert instead “, such”.

[2] Schedule 2

Omit “*Exotic Diseases of Animals Act 1991*, section 48”.

Insert in alphabetical order “*Animal Diseases (Emergency Outbreaks) Act 1991*, section 48”.

Explanatory note

Item [1] of the proposed amendments omits a redundant word.
Item [2] of the proposed amendments updates a cross-reference.

**2.13 Local Courts (Criminal and Applications Procedure) Rule
2003**

[1] Clauses 24 (1), 24A, 25 (3) and 57 (2)

Omit “Part 15A of the *Crimes Act 1900*” wherever occurring.
Insert instead “the *Crimes (Domestic and Personal Violence) Act 2007*”.

[2] Clause 57 (2), note

Omit “Part 15A of the *Crimes Act 1900*”.
Insert instead “The *Crimes (Domestic and Personal Violence) Act 2007*”.

[3] Clause 57 (2), note

Omit “that Part”. Insert instead “that Act”.

Explanatory note

The proposed amendments update cross-references.

2.14 Local Government (General) Regulation 2005

Clause 184 (2) (b)

Omit “*Election Funding Act 1981*”.

Insert instead “*Election Funding and Disclosures Act 1981*”.

Explanatory note

The proposed amendment updates a cross-reference.

2.15 Medical Practice Act 1992 No 94

Section 190B, note

Insert “health or” before “medical”.

Explanatory note

The proposed amendment updates a reference to reports.

2.16 Mining Amendment Act 2008 No 19

Schedule 1 [109], proposed section 163 (6C) (c)

Omit “colliery”. Insert instead “colliery”.

Explanatory note

The proposed amendment corrects a typographical error.

2.17 Miscellaneous Acts (Local Court) Amendment Act 2007 No 94

Schedule 2, Column 1

Omit “*Election Funding Act 1981*”.

Insert instead “*Election Funding and Disclosures Act 1981*”.

Explanatory note

The proposed amendment updates a cross-reference.

2.18 Motor Dealers Regulation 2004

Clause 3 (3)

Insert “(other than in Schedule 3)” after “Regulation” where firstly occurring.

Explanatory note

The proposed amendment clarifies the status of notes.

2.19 Newcastle Local Environmental Plan 2003

Clause 37 (1), definition of “zoning map”

Omit “(Major Projects) Amendment No 11”.

Insert instead “(Major Projects) 2005 (Amendment No 11)”.

Explanatory note

The proposed amendment corrects the citation of a map.

2.20 Parliamentary Electorates and Elections Act 1912 No 41

Section 66B

Omit “*Election Funding Act 1981*”.

Insert instead “*Election Funding and Disclosures Act 1981*”.

Explanatory note

The proposed amendment updates a cross-reference.

2.21 Police Integrity Commission Act 1996 No 28

Part 3, Division 7, heading

Omit “**Listening**”. Insert instead “**Surveillance**”.

Commencement

The amendment is taken to have commenced on 1 August 2008.

Explanatory note

The proposed amendment updates a reference to a form of warrant.

2.22 Property, Stock and Business Agents Act 2002 No 66

Sections 8 (4), 14 (3) (c) and 221

Omit “class” wherever occurring. Insert instead “type”.

Explanatory note

The proposed amendment corrects references to licences and certificates of registration.

2.23 Redfern–Waterloo Authority Act 2004 No 107

[1] Section 28A

Omit “Division 6 of Part 4”. Insert instead “Part 5B (Division 5 excepted)”.

[2] Sections 30 (1A) and 32 (1A) (a)

Omit “special contributions” wherever occurring.

Insert instead “State contributions”.

[3] Sections 30 (1A), 32 (1), 32 (1A) (a) and 32 (2)

Omit “Division 6 of Part 4” wherever occurring. Insert instead “Part 5B”.

[4] Section 30 (2) and (5)

Omit “Division 6A of Part 4” wherever occurring.

Insert instead “Division 5 of Part 5B”.

[5] Section 30 (2)

Omit “75R (4)”. Insert instead “116B (2)”.

[6] Section 30 (2) (a)

Omit “94F of”. Insert instead “116Y of”.

[7] Section 30 (2) (a)

Omit “a development application for consent to carry out”.

[8] Section 30 (2) (a)

Omit “a development application described”.

Insert instead “development described”.

[9] Section 30 (2) (a)

Omit “94F (1)”. Insert instead “116Y (2)”.

[10] Section 30 (2) (b)

Omit “94F (3) (b)”. Insert instead “116Y (4) (b)”.

[11] Section 30 (6)

Omit “Division 6 of Part 4”. Insert instead “Division 2, 3 or 4 of Part 5B”.

[12] Section 31 (8)

Omit “Division 6 of Part 4”. Insert instead “Division 1, 2, 3 or 4 of Part 5B”.

[13] Section 31 (8) (a)

Omit “section 94 or any other provision of that Division (other than section 94EF)”.

Insert instead “Division 2 of that Part”.

[14] Section 31 (8) (b)

Omit “under that Division”. Insert instead “under that Part”.

[15] Section 31 (8) (b)

Omit “section 94 or any other provision of that Division”.

Insert instead “Division 2 of that Part”.

[16] Section 31 (8) (c)

Omit “section 94 or any other provision of that Division”.

Insert instead “Division 2 or 4 of that Part”.

[17] Section 32 (1A)

Omit “section 94”.

Insert instead “a direct contribution under Division 2 of Part 5B”.

[18] Section 32 (1A) (b)

Omit “Subdivision 4 of Division 6 of Part 4”.

Insert instead “Division 3 of Part 5B”.

Commencement

The amendments commence on the commencement of Schedule 3.1 [6] to the *Environmental Planning and Assessment Amendment Act 2008*.

Explanatory note

The proposed amendments update cross-references.

2.24 Residential Parks Regulation 2006

Schedule 3, Part 1

Omit “land owner’s” from clause 3 of the agreement.

Insert instead “park owner’s”.

Explanatory note

The proposed amendment corrects a reference to a person.

2.25 Road Transport (Driver Licensing) Regulation 2008

Clause 9 (4)

Omit “the Authority”.

Insert instead “the driver licensing authority of that jurisdiction”.

Explanatory note

The proposed amendment corrects a reference to an authority.

2.26 Road Transport (General) Act 2005 No 11

Section 78 (1) (b)

Omit “or load restraint”. Insert instead “, load restraint or access”.

Explanatory note

The proposed amendment inserts missing words.

2.27 Solicitor General Act 1969 No 80

Schedule 1

Insert at the end of clause 5:

- (2) In the application of section 6 of this Act to that person, a reference to vacation of office pursuant to section 2 (5) (e) is to be read as a reference to vacation of office pursuant to section 2 (5) (d) (and taken to be retirement from office in accordance with law).

Explanatory note

The proposed amendment updates a reference to a provision for vacation of office by retirement (now repealed) by reproducing the effect of the repealed provision.

2.28 Standard Instrument (Local Environmental Plans) Order 2006

[1] Standard instrument, clause 1.9 (2)

Omit “*State Environmental Planning Policy No 9—Group Homes*”.

[2] Standard instrument, Dictionary, definition of “child care centre”

Omit “section 200” from paragraph (j). Insert instead “Chapter 12”.

[3] Standard instrument, Dictionary, definitions of “hotel or motel accommodation” and “pub”

Omit “*Liquor Act 1982*” wherever occurring.

Insert instead “*Liquor Act 2007*”.

Explanatory note

Item [1] of the proposed amendments omits a reference to a repealed instrument.

Item [2] of the proposed amendments corrects a cross-reference.

Item [3] of the proposed amendments updates cross-references.

2.29 State Environmental Planning Policy No 19—Bushland in Urban Areas

Clause 8 (3) (b)

Omit “this plan”. Insert instead “this Policy”.

Explanatory note

The proposed amendment corrects a reference to an instrument.

2.30 State Environmental Planning Policy (Major Projects) 2005

Schedule 3, clause 24 (1) of Part 5

Omit “this plan”. Insert instead “this Policy”.

Explanatory note

The proposed amendment corrects a reference to an instrument.

2.31 Swimming Pools Regulation 2008

Part 2, note

Omit “Clause 25”. Insert instead “Clause 23”.

Explanatory note

The proposed amendment corrects a cross-reference.

2.32 Sydney Olympic Park Authority Act 2001 No 57

[1] Sections 18 (4) and (5), 21, 22, 23, 49 (5) (b) and 71 (6) (d)

Omit “Urban Affairs and Planning” wherever occurring.

Insert instead “Planning”.

[2] Section 23

Omit “Division 6 of Part 4”. Insert instead “Part 5B”.

Commencement

Item [2] of the amendments commences on the commencement of Schedule 3.1 [6] to the *Environmental Planning and Assessment Amendment Act 2008*.

Explanatory note

Item [1] of the proposed amendments updates references to a Minister and a Department.

Item [2] of the proposed amendments updates a cross-reference.

2.33 Sydney Water Catchment Management Regulation 2008

[1] Clause 17 (1)

Insert at the end of the subclause:

Maximum penalty: 400 penalty units in the case of a corporation
or 200 penalty units in the case of an individual.

[2] Clause 17 (4)

Omit “(subclauses (2) and (4))” from the penalty provision.

Explanatory note

The proposed amendments move a penalty provision to the correct location in a clause.

2.34 Terrorism (Police Powers) Act 2002 No 115

Section 26ZO (3) (c)

Omit “of an order”. Insert instead “if an order”.

Explanatory note

The proposed amendment corrects a typographical error.

2.35 Threatened Species Conservation Act 1995 No 101

[1] Section 127B (10) (a)

Omit “Subdivision 2 of Division 6 of Part 4”.

Insert instead “Division 4 of Part 5B”.

[2] Section 127B (10) (b)

Omit “or levy) required under Subdivision 3 or 4 of Division 6 of Part 4”.

Insert instead “) required under Division 2 or 3 of Part 5B”.

[3] Section 127ZO (7)

Omit “Section 82A”. Insert instead “Section 96D”.

Commencement

Items [1] and [2] of the amendments commence on the commencement of Schedule 3.1 [6] to the *Environmental Planning and Assessment Amendment Act 2008*.

Item [3] of the amendments commences on the commencement of section 96D of the *Environmental Planning and Assessment Act 1979* to be inserted by Schedule 2.1 [36] to the *Environmental Planning and Assessment Amendment Act 2008*.

Explanatory note

The proposed amendments update cross-references.

2.36 Tumut Local Environmental Plan 1990

Clause 25 (4)

Omit “*State Environmental Policy No 4—Development Without Consent*”.

Insert instead “*State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development*”.

Explanatory note

The proposed amendment corrects a cross-reference.

2.37 Victims Support and Rehabilitation Act 1996 No 115

Schedule 1, clause 7A (3), definition of “domestic violence offence”

Omit “Part 15A of the *Crimes Act 1900*”.

Insert instead “the *Crimes (Domestic and Personal Violence) Act 2007*”.

Explanatory note

The proposed amendment updates a cross-reference.

2.38 Water Sharing Plan for the NSW Great Artesian Basin Groundwater Sources 2008

Clause 4 (2)

Omit “*Source 2003*”. Insert instead “*Sources 2003*”.

Explanatory note

The proposed amendment corrects a cross-reference.

2.39 Western Sydney Parklands Act 2006 No 92

[1] Section 39 (4)

Omit “Division 6 of Part 4”. Insert instead “Part 5B”.

[2] Section 39 (4)

Omit “section 94EJ”. Insert instead “section 116ZD”.

Commencement

The amendments commence on the commencement of Schedule 3.1 [6] to the *Environmental Planning and Assessment Amendment Act 2008*.

Explanatory note

The proposed amendments update cross-references.

2.40 Wyong Local Environmental Plan 1991

Clause 45 (6), definition of “the RTA”

Omit “*Transport Administration Act 1989*”.

Insert instead “*Transport Administration Act 1988*”.

Explanatory note

The proposed amendment corrects a cross-reference.

2.41 Young Offenders Regulation 2004

Clause 22

Omit “section 199” where firstly occurring. Insert instead “section 9”.

Explanatory note

The proposed amendment corrects a cross-reference.

Schedule 3 Amendments consequential on repeals

(Section 3)

3.1 Environmental Planning and Assessment Act 1979 No 203

Schedule 6 Savings, transitional and other provisions

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

Part Bennelong Point (Parking Station) Act 1985

Repeal of Act

The repeal of the *Bennelong Point (Parking Station) Act 1985* does not affect the carrying out of development authorised by that Act.

Explanatory note

The *Bennelong Point (Parking Station) Act 1985* (**the Act**) made provision for the construction and operation of an underground parking station. Although the construction of the parking station has been completed, the Act continues to authorise the use of the works for which development was carried out for the purposes of a parking station.

The proposed amendment saves development authorised by the Act, which is proposed to be repealed by Schedule 4.

3.2 Government Guarantees Act 1934 No 57

Section 3 Authority for Treasurer to guarantee overdraft accounts etc

Omit section 3 (2) (a1).

Explanatory note

The proposed amendment omits a reference to a body established under an Act to be repealed by Schedule 4 (namely, the *Grain Marketing Act 1991*).

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

Schedule 2 Search warrants under other Acts

Omit the matter relating to the *Grain Marketing Act 1991*.

Explanatory note

The proposed amendment omits a reference to an Act to be repealed by Schedule 4.

3.4 Miscellaneous Acts (Local Court) Amendment Act 2007 No 94

Schedule 2 Amendments replacing “a Local Court” with “the Local Court”

Omit the matter relating to the *Grain Marketing Act 1991* and the *Swine Compensation Act 1928*.

Explanatory note

The proposed amendment omits references to Acts to be repealed by Schedule 4.

3.5 Parliamentary Electorates and Elections Amendment Act 2006 No 68

Schedule 19 Amendment of other legislation

Omit Schedule 19.9.

Explanatory note

The proposed amendment omits uncommenced amendments to an Act to be repealed by Schedule 4 (namely, the *Grain Marketing Act 1991*).

3.6 Public Authorities (Financial Arrangements) Regulation 2005

[1] Schedule 1 Definitions of “authority” and “controlled entity”

Omit the matter relating to the New South Wales Grains Board, wherever occurring, in Parts 2 and 3.

[2] Schedule 5 Authorities having additional investment powers

Omit clause 3.

Explanatory note

The proposed amendments omit references to an authority established under an Act to be repealed by Schedule 4 (namely, the *Grain Marketing Act 1991*).

3.7 Public Finance and Audit Act 1983 No 152

Schedule 2 Statutory bodies

Omit “New South Wales Grains Board”.

Explanatory note

The proposed amendment omits a reference to a body established under an Act to be repealed by Schedule 4 (namely, the *Grain Marketing Act 1991*).

3.8 Rice Marketing Act 1983 No 176

[1] Section 4 Definitions

Omit “, oilseed or other primary product to which the *Grain Marketing Act 1991* for the time being applies” from the definition of ***primary product*** in section 4 (1).

Insert instead “, or oilseed”.

[2] Section 135 Functions of boards etc not affected

Omit “or of the New South Wales Grains Board” from section 135 (1).

Explanatory note

The proposed amendments omit references to products to which an Act to be repealed by Schedule 4 applies and to a body established under that Act.

Schedule 4 Repeals

(Section 4)

Part 1 Acts that are redundant

Appropriation Act 2007 No 18

Appropriation (Parliament) Act 2007 No 19

Appropriation (Special Offices) Act 2007 No 20

Bennelong Point (Parking Station) Act 1985 No 189

Dairy Adjustment Programme Agreement Ratification Act 1975 No 31

Dairy Adjustment Programme Agreement Ratification Act 1977 No 98

Dried Fruits (Repeal) Act 1997 No 124

Grain Marketing Act 1991 No 15

Marginal Dairy Farms Reconstruction Scheme Agreement Ratification Act 1971
No 72

Softwood Forestry Agreement Act 1968 No 20

Softwood Forestry Agreement Ratification Act 1980 No 90

Softwood Forestry (Further Agreement) Act 1973 No 7

State Brickworks Act 1946 No 16

Swine Compensation Act 1928 No 36

Part 2 Provisions of Acts that are redundant

Name of Act	Extent of repeal
<i>Environmental Planning and Assessment Amendment Act 2008</i> No 36	Schedule 2.1 [4]
<i>Glen Davis Act 1939</i> No 38	Part 4 and Third Schedule
<i>Marine Safety Act 1998</i> No 121	Schedule 3.3

Part 3 Acts or provisions of Acts that contain only amendments that have commenced

Note. Section 30 (2) (c) of the *Interpretation Act 1987* ensures that, when an Act or statutory rule is repealed, no amendment or validation made by the Act or statutory rule is affected. (Section 5 (6) of that Act applies section 30 to environmental planning instruments.)

Name of Act	Extent of repeal
<i>Australian Jockey Club Act 2008</i> No 52	Section 39 and Schedule 2

Name of Act	Extent of repeal
<i>Building Professionals Amendment Act 2008</i> No 37	Schedules 1 [1]–[3], [10], [18], [20], [22]–[32], [35], [43] and [49]–[52] and 2 [3], [10] and [11]
<i>Child Protection (Offenders Registration) Amendment Act 2007</i> No 87	Sections 3–5 and Schedules 1–3 and 4.2–4.4
<i>Consumer, Trader and Tenancy Tribunal Amendment Act 2008</i> No 51	Schedule 1 [1]–[17] and [20]–[25]
<i>Courts and Crimes Legislation Amendment Act 2008</i> No 53	Schedules 2–20
<i>Courts and Other Legislation Amendment Act 2007</i> No 73	Schedule 4
<i>Crimes (Domestic and Personal Violence) Act 2007</i> No 80	Section 103 and Schedule 2
<i>Deer Act 2006</i> No 113	Section 40 and Schedule 2
<i>Education Amendment Act 2008</i> No 12	Schedule 1 [1], [2] and [4]–[11]
<i>Environmental Planning and Assessment Amendment Act 2008</i> No 36	Schedules 2.1 [5], 2.10 [12], 4.1 [7], [8], [12]–[14], [20]–[22], [24]–[26] and [31], 4.2 [2], [5], [7] and [11]–[13], 4.3, 4.4 and 5.1 [10] and [12]
<i>Hemp Industry Act 2008</i> No 58	Schedule 2.1 [1] and [3]
<i>Marine Safety Amendment Act 2008</i> No 59	Schedule 1 [1]–[12], [20]–[22] and [49]–[79]
<i>Mine Health and Safety Act 2004</i> No 74	Division 7 of Part 13 and Schedules 2–4
<i>Mining Amendment Act 2008</i> No 19	Schedules 1 [16], [20], [28], [32], [35], [37], [42], [51], [54], [57], [62], [68], [71], [78], [81], [96]–[98], [101], [116]–[118], [121], [122], [134], [138], [141], [142], [147]–[149], [172], [174], [175], [177], [178], [182], [188], [196], [197], [199], [200], [202], [203], [222], [237], [238], [244], [246], [247], [249], [252], [255], [256], [260]–[262], [265], [266], [268], [269], [277], [278] and [280] and 2.2 [2], 2.5, 2.6 and 2.8 [1]
<i>National Gas (New South Wales) Act 2008</i> No 31	Sections 17–19 and Schedule 1
<i>Residential Parks Act 1998</i> No 142	Part 15
<i>Road Transport Legislation Amendment Act 2008</i> No 61	Schedules 1, 3 and 4

Statute Law (Miscellaneous Provisions) Bill (No 2) 2008

Schedule 4 Repeals

Name of Act	Extent of repeal
<i>Shop Trading Act 2008</i> No 49	Sections 24 and 25 and Schedule 3
<i>Sporting Venues Authorities Act 2008</i> No 65	Section 42 and Schedule 6
<i>Statute Law (Miscellaneous Provisions) Act (No 2) 2007</i> No 82	Whole Act
<i>Succession Act 2006</i> No 80	Section 59 and Schedules 2 and 3
<i>Surveillance Devices Act 2007</i> No 64	Sections 61 and 62 and Schedule 2
<i>Thoroughbred Racing Amendment Act 2008</i> No 63	Schedule 1 [31] and [32]
<i>Water Industry Competition Act 2006</i> No 104	Section 102 and Schedule 3
<i>Western Sydney Parklands Act 2006</i> No 92	Section 52 and Schedule 5

Explanatory note

Part 1 repeals Acts that are redundant.

Part 2 repeals provisions of Acts that are redundant, because they authorise works that have been completed (Part 4 of, and the Third Schedule to, the *Glen Davis Act 1939*), they omit a heading that is still required (Schedule 2.1 [4] to the *Environmental Planning and Assessment Amendment Act 2008*) or they amend an Act that has since been repealed (Schedule 3.3 to the *Marine Safety Act 1998*).

Part 3 repeals Acts or provisions of Acts that contain only amendments to other Acts or instruments. All of the amendments have commenced.

In relation to the repeal of amending provisions, it should be noted that the provisions are repealed simply to rationalise the legislation in force and that the repeals have no substantive effect on the amendments made by the provisions, or any associated provisions. The Acts and instruments that were amended by the provisions being repealed are up-to-date on the NSW legislation website maintained by the Parliamentary Counsel's Office (www.legislation.nsw.gov.au).

Section 30 (2) of the *Interpretation Act 1987* ensures that the following matters are not affected when an Act or statutory rule is amended or repealed:

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

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 (whether or not the amending provision has been repealed).
- (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.

Explanatory note

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

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

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

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

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

Explanatory note

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

3 Effect of amendment on instruments

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

Explanatory note

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

4 Revocation of repeal

- (1) The Governor may by proclamation published in the Gazette revoke the repeal of any Act or instrument effected by the following:
this Act
Statute Law (Miscellaneous Provisions) Act (No 2) 2007
- (2) Any Act or instrument the subject of a proclamation under subclause (1) is taken not to be, and never to have been, repealed by any such Act.
- (3) Subclause (2) does not operate in respect of any Act or instrument 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 publication in the Gazette of the proclamation under subclause (1) in respect of that Act or instrument, 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 publication of that proclamation.
- (4) A reference in this clause to an Act or instrument includes a reference to a provision of any Act or instrument.

Explanatory note

This clause enables the Governor, by proclamation, to revoke the repeal of any Act or instrument or the provision of any Act or instrument repealed by this Act or the 2007 statute law revision Act. The Act or instrument or provision of an Act or instrument 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.

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- (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 proposed Act.

Notes

Index of Acts and instruments amended by Schedules 1–3

Administrative Decisions Tribunal Amendment Act 2008 No 77—Schedule 2
Anti-Discrimination Act 1977 No 48—Schedule 2
Banks and Bank Holidays Act 1912 No 43—Schedule 1
Building Professionals Act 2005 No 115—Schedule 1
Building Professionals Amendment Act 2008 No 37—Schedule 2
Business Names Act 2002 No 97—Schedule 1
Canada Bay Local Environmental Plan 2008—Schedule 2
Children and Young Persons (Care and Protection) Act 1998 No 157—Schedule 1
City of Sydney Act 1988 No 48—Schedule 2
Commission for Children and Young People Act 1998 No 146—Schedule 1
Constitution Act 1902 No 32—Schedule 1
Constitution (Disclosures by Members) Regulation 1983—Schedule 2
Conveyancing Act 1919 No 6—Schedule 2
Co-operatives Act 1992 No 18—Schedule 1
Criminal Procedure Act 1986 No 209—Schedule 2
Electronic Transactions Regulation 2007—Schedule 2
Environmental Planning and Assessment Act 1979 No 203—Schedules 1 and 3
Environmental Planning and Assessment Amendment Act 2008 No 36—Schedule 1
Government Guarantees Act 1934 No 57—Schedule 3
Growth Centres (Development Corporations) Act 1974 No 49—Schedule 2
Hawkesbury Local Environmental Plan 1989—Schedule 2
Interpretation Act 1987 No 15—Schedule 1
Justices of the Peace Act 2002 No 27—Schedule 1
Law Enforcement (Powers and Responsibilities) Act 2002 No 103—Schedules 2 and 3
Local Courts (Criminal and Applications Procedure) Rule 2003—Schedule 2
Local Government Act 1993 No 30—Schedule 1
Local Government (General) Regulation 2005—Schedule 2
Marine Parks Act 1997 No 64—Schedule 1
Medical Practice Act 1992 No 94—Schedule 2
Mining Amendment Act 2008 No 19—Schedule 2
Miscellaneous Acts (Local Court) Amendment Act 2007 No 94—Schedules 2 and 3
Motor Dealers Regulation 2004—Schedule 2
Motor Vehicle Repairs Act 1980 No 71—Schedule 1

Notes

National Parks and Wildlife Act 1974 No 80—Schedule 1
Newcastle Local Environmental Plan 2003—Schedule 2
Noxious Weeds Act 1993 No 11—Schedule 1
Parliamentary Electorates and Elections Act 1912 No 41—Schedule 2
Parliamentary Electorates and Elections Amendment Act 2006 No 68—Schedule 3
Pesticides Act 1999 No 80—Schedule 1
Police Integrity Commission Act 1996 No 28—Schedule 2
Police Regulation (Superannuation) Act 1906 No 28—Schedule 1
Property, Stock and Business Agents Act 2002 No 66—Schedule 2
Public Authorities (Financial Arrangements) Regulation 2005—Schedule 3
Public Finance and Audit Act 1983 No 152—Schedule 3
Public Sector Employment and Management Act 2002 No 43—Schedule 1
Redfern–Waterloo Authority Act 2004 No 107—Schedule 2
Residential Parks Regulation 2006—Schedule 2
Rice Marketing Act 1983 No 176—Schedule 3
Road Transport (Driver Licensing) Regulation 2008—Schedule 2
Road Transport (General) Act 2005 No 11—Schedule 2
Road Transport (Safety and Traffic Management) Act 1999 No 20—Schedule 1
Solicitor General Act 1969 No 80—Schedule 2
Standard Instrument (Local Environmental Plans) Order 2006—Schedule 2
State Authorities Non-contributory Superannuation Act 1987 No 212—Schedule 1
State Authorities Superannuation Act 1987 No 211—Schedule 1
State Environmental Planning Policy No 19—Bushland in Urban Areas—Schedule 2
State Environmental Planning Policy (Major Projects) 2005—Schedule 2
Statutory and Other Offices Remuneration Act 1975 (1976 No 4)—Schedule 1
Superannuation Act 1916 No 28—Schedule 1
Swimming Pools Regulation 2008—Schedule 2
Sydney Olympic Park Authority Act 2001 No 57—Schedule 2
Sydney Water Catchment Management Regulation 2008—Schedule 2
Terrorism (Police Powers) Act 2002 No 115—Schedule 2
Threatened Species Conservation Act 1995 No 101—Schedule 2
Tumut Local Environmental Plan 1990—Schedule 2
Victims Support and Rehabilitation Act 1996 No 115—Schedule 2
Water Sharing Plan for the NSW Great Artesian Basin Groundwater Sources 2008—Schedule 2
Western Sydney Parklands Act 2006 No 92—Schedule 2

Wyong Local Environmental Plan 1991—Schedule 2

Young Offenders Regulation 2004—Schedule 2

Index of Acts repealed by Schedule 4

Appropriation Act 2007 No 18

Appropriation (Parliament) Act 2007 No 19

Appropriation (Special Offices) Act 2007 No 20

Bennelong Point (Parking Station) Act 1985 No 189

Dairy Adjustment Programme Agreement Ratification Act 1975 No 31

Dairy Adjustment Programme Agreement Ratification Act 1977 No 98

Dried Fruits (Repeal) Act 1997 No 124

Grain Marketing Act 1991 No 15

Marginal Dairy Farms Reconstruction Scheme Agreement Ratification Act 1971
No 72

Softwood Forestry Agreement Act 1968 No 20

Softwood Forestry Agreement Ratification Act 1980 No 90

Softwood Forestry (Further Agreement) Act 1973 No 7

State Brickworks Act 1946 No 16

Statute Law (Miscellaneous Provisions) Act (No 2) 2007 No 82

Swine Compensation Act 1928 No 36