

# Statute Law (Miscellaneous Provisions) Act (No 2) 2010 No 119

[2010-119]



New South Wales

## Status Information

### Currency of version

Historical version for 8 January 2011 to 30 January 2012 (accessed 17 July 2024 at 19:31)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

Some, but not all, of the provisions displayed in this version of the legislation have commenced.

### Notes—

- **Note**

Amending Acts and amending provisions are subject to automatic repeal pursuant to sec 30C of the [Interpretation Act 1987 No 15](#) once the amendments have taken effect.

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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# Statute Law (Miscellaneous Provisions) Act (No 2) 2010 No 119



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# Statute Law (Miscellaneous Provisions) Act (No 2) 2010 No 119



New South Wales

An Act to repeal certain Acts and instruments 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.

## 1 Name of Act

This Act is the *Statute Law (Miscellaneous Provisions) Act (No 2) 2010*.

## 2 Commencement

- (1) This Act commences on 7 January 2011, 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 on 7 January 2011.

## 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

### 1.1-1.7

(Repealed)

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

#### [1] Part 3 Societies

Omit Division 6.

#### [2] Section 177 Application of Corporations Act to winding-up of societies

Insert after section 177 (1) (c):

(c1) a reference to the Court or the Court (within the meaning of section 58AA) in Division 2A of Part 5.7B is to be read as a reference to the Supreme Court,

(c2) section 588FK is to be read as if the definition of **PPSA security interest** in section 588FK (4) read as follows and the note to the section were omitted:

**PPSA security interest** (short for Personal Property Securities Act security interest) means a security interest to which the *Personal Property Securities Act 2009* of the Commonwealth applies (including a transitional security interest within the meaning of that Act).

(c3) section 588FL (1) (a) is to be read as if the following subparagraph were inserted after subparagraph (i):

“(ia) a certificate is issued by the Registrar under section 176 of the *Co-operative Housing and Starr-Bowkett Societies Act 1998* for the winding up of a society;”,

(c4) the definition of **critical time** in section 588FL (7) is to be read as if the words “(as applied and modified by section 177 of the *Co-operative Housing and Starr-Bowkett Societies Act 1998*)” were inserted after “513B” in paragraph (a) of that definition,

### **[3]-[6] (Repealed)**

#### **Explanatory note**

The *Personal Property Securities Act 2009* of the Commonwealth (the **PPS Act**), on its commencement, will provide for the effect, registration and enforcement of security interests in personal property. Chapter 2K of the *Corporations Act 2001* of the Commonwealth (the **Corporations Act**) currently provides for the registration of company charges. Chapter 2K will be repealed by the *Personal Property Securities (Corporations and Other Amendments) Act 2010* of the Commonwealth (the **PPS amending Act**). Such charges will in the future be subject to the provisions of the PPS Act. As part of the transfer of company charges to the PPS Act regime, terminology relating to such charges will also be changed.

Currently, the *Co-operative Housing and Starr-Bowkett Societies Act 1998* (the **Act**) applies (with some modifications) the provisions of Chapter 2K of the Corporations Act to co-operative housing society charges (including by making provision for a Register of Co-operative Housing Society Charges). These provisions will become outdated on the commencement of the PPS Act and the repeal of Chapter 2K of the Corporations Act.

Item [1] of the proposed amendments omits a Division of the Act relating to the registration of co-operative housing society charges.

Item [2] of the proposed amendments makes an amendment to the Act that is consequential on the amendments made to the Corporations Act by the PPS amending Act.

Item [4] of the proposed amendments enables the Governor to make regulations of a savings or transitional nature consequent on the enactment of the amendments made by the proposed Act. Item [5] of the proposed amendments makes a consequential amendment.

Item [6] of the proposed amendments enacts provisions of a savings and transitional nature consequent on the repeal of the provisions of the Act dealing with the registration of co-operative housing society charges. These provisions include provisions to confer powers on the Registrar under the Act:

- (a) to provide information to Commonwealth officers to assist in the establishment of the Personal Property Securities Register under the PPS Act, and
- (b) to clarify the accuracy of information recorded in the Register of Co-operative Housing Society Charges and to make amendments to the Register to improve its accuracy.

Item [3] of the proposed amendments makes a consequential amendment to a heading.

## **1.9 Co-operative Housing and Starr-Bowkett Societies Regulation 2005**

### **[1] Clause 7 Inspection of documents**

Insert “that were lodged before the repeal of section 88 of the Act” after “section 88 of the Act)” in clause 7 (t).

### **[2] Part 5 Registration of charges**

Omit the Part.

### **[3] Schedule 2 Fees**

Omit items 9–14 (including the section reference in Column 2 and introductory wording in Column 3 before item 9).

#### **Explanatory note**

The proposed amendments to the *Co-operative Housing and Starr-Bowkett Societies Regulation 2005* are consequential on the amendments proposed to be made to the *Co-operative Housing and Starr-Bowkett Societies Act 1998* elsewhere in this Schedule.

## **1.10 Co-operatives Act 1992 No 18**

### **[1] Section 40 Lodgment of documents etc not to constitute constructive notice**

Omit section 40 (2).

### **[2] Part 10 Funds, property etc**

Omit the heading of Division 3. Insert instead:  
Division 3 **Receivers and Managers**

### **[3] Section 278 Registration of charges**

Omit the section.

### **[4] Section 343B Application of Corporations Act concerning insolvent co-operatives**

Insert after section 343B (b):

- (b1) a reference to the Court or the Court (within the meaning of section 58AA) in Division 2A of Part 5.7B is to be read as a reference to the Supreme Court,

(b2) section 588FK is to be read as if the definition of **PPSA security interest** in section 588FK (4) read as follows and the note to the section were omitted:

**PPSA security interest** (short for Personal Property Securities Act security interest) means a security interest to which the *Personal Property Securities Act 2009* applies (including a transitional security interest within the meaning of that Act).

(b3) section 588FL (1) (a) is to be read as if the following subparagraph were inserted after subparagraph (i):

“(ia) a certificate is issued by the Registrar under section 324 of the *Co-operatives Act 1992* for the winding up of a co-operative;”,

(b4) the definition of **critical time** in section 588FL (7) is to be read as if the words “(as applied and modified by section 325 of the *Co-operatives Act 1992*)” were inserted after “513B” in paragraph (a) of that definition,

#### **[5] Schedule 3 Registration etc of charges**

Omit the Schedule.

#### **[6]-[8] (Repealed)**

##### **Explanatory note**

The *Personal Property Securities Act 2009* of the Commonwealth (the **PPS Act**), on its commencement, will provide for the effect, registration and enforcement of security interests in personal property. Chapter 2K of the *Corporations Act 2001* of the Commonwealth (the **Corporations Act**) currently provides for the registration of company charges. Chapter 2K will be repealed by the *Personal Property Securities (Corporations and Other Amendments) Act 2010* of the Commonwealth (**the PPS amending Act**). Such charges will in the future be subject to the provisions of the PPS Act. As part of the transfer of company charges to the PPS Act regime, terminology relating to such charges will also be changed.

Currently, the *Co-operatives Act 1992* (**the Act**) applies provisions based largely on Chapter 2K of the Corporations Act to co-operative charges (including by making provision for a Register of Co-operative Charges). These provisions will become outdated on the commencement of the PPS Act and the repeal of Chapter 2K of the Corporations Act.

Items [3] and [5] of the proposed amendments omit provisions of the Act relating to the registration of co-operative charges. Items [1] and [2] of the proposed amendments make consequential amendments.

Item [4] of the proposed amendments makes an amendment to the Act that is consequential on the amendments made to the Corporations Act by the PPS amending Act.

Item [7] of the proposed amendments enables the Governor to make regulations of a savings or transitional nature consequent on the enactment of the amendments made by the proposed Act.

Item [8] of the proposed amendments enacts provisions of a savings and transitional nature consequent on the repeal of the provisions of the Act dealing with the registration of co-operative charges. These provisions include provisions to confer powers on the Registrar under the Act:

(a) to provide information to Commonwealth officers to assist in the establishment of the Personal Property Securities Register

under the PPS Act, and

- (b) to clarify the accuracy of information recorded in the Register of Co-operative Charges and to make amendments to the Register to improve its accuracy.

Item [6] of the proposed amendments makes a consequential amendment to a heading.

## **1.11 Co-operatives Regulation 2005**

### **[1] Clause 34 Application for registration of participating co-operative as foreign co-operative**

Omit clause 34 (3) (e).

### **[2] Clause 35 Application for registration of non-participating co-operative as foreign co-operative**

Omit clause 35 (3) (h).

### **[3] Clause 43 Inspection of Register**

Omit clause 43 (c) (ii).

### **[4] Clause 43 (p)**

Omit “or under clause 44 of Schedule 3 to the Act”.

### **[5] Clause 47 Charges required to be registered**

Omit the clause.

### **[6] Clause 48 Inspection of register of charges**

Omit the clause.

### **[7] Clause 49 Copies of register of charges**

Omit the clause.

### **[8] Clause 50 Request for certificate of particulars of charge**

Omit the clause.

### **[9] Schedule 6 Fees**

Omit items 80–87.

#### **Explanatory note**

The proposed amendments to the [Co-operatives Regulation 2005](#) are consequential on the amendments proposed to be made to the [Co-operatives Act 1992](#) elsewhere in this Schedule.

## **1.12-1.33**

(Repealed)

## **Schedules 2-4 (Repealed)**

### **Schedule 5 General savings, transitional and other provisions**

#### **1 Effect of amendment of amending provisions**

(1) An amendment made by Schedule 1 or 2 to an amending provision contained in an Act or instrument is, if the amending provision has commenced before the Schedule 1 or 2 amendment concerned, taken to have effect as from the commencement of the amending provision (whether or not the amending provision has been repealed).

(2) In this clause:

**amending provision** means a provision of an Act or instrument that makes a direct amendment to an Act or instrument by:

- (a) the repeal or omission of matter contained in the amended Act or instrument without the insertion of any matter instead of the repealed or omitted matter, or
- (b) the omission of matter contained in the amended Act or instrument and the insertion of matter instead of the omitted matter, or
- (c) the insertion into the amended Act or instrument of matter, not being matter inserted instead of matter omitted from the Act or instrument.

#### **Explanatory note**

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

#### **2 Effect of amendment 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 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 the provision of any Act or instrument repealed by this 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.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication on the NSW legislation website, the provision does not operate so as:
  - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

#### **Explanatory note**

This clause enables the making of regulations of a savings or transitional nature having a short term effect and relating to incidental matters arising out of the proposed Act with regard to which no specific, or sufficient, provision has been made in the proposed Act.

## **Notes**

### **Index of Acts and instruments amended by Schedules 1-4**

*Aboriginal Land Rights Regulation 2002*—Schedule 2

*Adoption Act 2000 No 75*—Schedule 1

*Agricultural Tenancies Act 1990 No 64*—Schedule 2

*Apprenticeship and Traineeship Regulation 2010*—Schedule 2

*Assisted Reproductive Technology Act 2007 No 69*—Schedule 4

*Balranald Local Environmental Plan 2010*—Schedule 2

*Bellingen Local Environmental Plan 2010*—Schedule 2

*Building Professionals Act 2005 No 115*—Schedule 2

*Camden Local Environmental Plan 2010*—Schedule 2

*Children and Young Persons (Care and Protection) Act 1998 No 157*—Schedule 2

*Children and Young Persons Legislation (Repeal and Amendment) Act 1998 No 158*—Schedule 4

*Children (Detention Centres) Act 1987 No 57*—Schedule 3

*Children Legislation Amendment (Wood Inquiry Recommendations) Act 2009 No 13*—Schedule 1

*Children’s Court Rule 2000*—Schedule 2

*Civil Procedure Act 2005 No 28*—Schedule 2

*Coastal Protection and Other Legislation Amendment Act 2010 No 78*—Schedule 2

*Commission for Children and Young People Act 1998 No 146*—Schedule 1

*Community Land Management Regulation 2007*—Schedule 2

*Community Relations Commission and Principles of Multiculturalism Act 2000 No 77*—Schedule 1

*Community Services (Complaints, Reviews and Monitoring) Act 1993 No 2*—Schedule 1

*Community Welfare Act 1987 No 52*—Schedule 1

*Consumer, Trader and Tenancy Tribunal Regulation 2009*—Schedule 2

*Conveyancers Licensing Act 2003 No 3*—Schedule 3

*Conveyancers Licensing Regulation 2006*—Schedule 3

*Conveyancing Act 1919 No 6*—Schedule 1

*Co-operative Housing and Starr-Bowkett Societies Act 1998 No 11*—Schedule 1

*Co-operative Housing and Starr-Bowkett Societies Regulation 2005*—Schedule 1

*Co-operatives Act 1992 No 18*—Schedule 1

*Co-operatives Regulation 2005*—Schedule 1

*Coroners Act 2009 No 41*—Schedules 2 and 4

*Crimes (Administration of Sentences) Act 1999 No 93*—Schedule 3

*District Court Act 1973 No 9*—Schedule 2

*Dust Diseases Tribunal Act 1989 No 63*—Schedule 2

*Election Funding and Disclosures Act 1981 No 78*—Schedule 2

*Electricity Supply Act 1995 No 94*—Schedule 2

*Electronic Transactions Act 2000 No 8*—Schedule 3

*Electronic Transactions (ECM Courts) Order 2005*—Schedule 2

*Electronic Transactions Regulation 2007*—Schedule 2

*Energy and Utilities Administration Act 1987 No 103*—Schedule 3

*Environmental Planning and Assessment Act 1979 No 203*—Schedules 1 and 3

*Essential Services Act 1988 No 41*—Schedule 3

*Fines Act 1996 No 99*—Schedule 1

*Firearms Act 1996 No 46*—Schedule 2

*Gas Supply Act 1996 No 38*—Schedule 1

*Gunnedah Local Environmental Plan 1998*—Schedule 2

*Health Care Complaints Act 1993 No 105*—Schedule 4

*Health Practitioner Regulation (Adoption of National Law) Act 2009 No 86*—Schedules 1 and 2

*Health Practitioner Regulation (New South Wales) Regulation 2010*—Schedule 2

*Heritage Act 1977 No 136*—Schedule 1

*Home Building Legislation Amendment Act 2001 No 51*—Schedule 4

*Illawarra Regional Environmental Plan No 1*—Schedule 2

*Independent Commission Against Corruption Act 1988 No 35*—Schedule 1

*Independent Pricing and Regulatory Tribunal Act 1992 No 39*—Schedule 1

*Institute of Sport Act 1995 No 52*—Schedule 1

*Interpretation Act 1987 No 15*—Schedule 4

*Jury Regulation 2010*—Schedule 2

*Land and Environment Court Act 1979 No 204*—Schedule 2

*Law Enforcement and National Security (Assumed Identities) Act 2010 No 73*—Schedule 1

*Law Enforcement (Controlled Operations) Act 1997 No 136*—Schedule 1

*Licensing and Registration (Uniform Procedures) Act 2002 No 28*—Schedule 1

*Local Court Act 2007 No 93*—Schedule 2

*Marine Safety Act 1998 No 121*—Schedule 4

*Marine Safety (General) Regulation 2009*—Schedule 2

*Mining Act 1992 No 29*—Schedule 1

*Mining Regulation 2010*—Schedule 1

*Miscellaneous Acts (Planning) Repeal and Amendment Act 1979 No 205*—Schedule 4

*Motor Vehicles Taxation Act 1988 No 111*—Schedule 1

*Nambucca Local Environmental Plan 2010*—Schedule 2

*National Park Estate (Riverina Red Gum Reservations) Act 2010 No 22*—Schedule 2

*National Parks and Wildlife Act 1974 No 80*—Schedule 4

*National Parks and Wildlife Regulation 2009*—Schedule 2

*Petroleum (Onshore) Act 1991 No 84*—Schedule 2

*Plant Diseases Act 1924 No 38*—Schedule 1

*Police (Special Provisions) Act 1901 No 5*—Schedule 4

*Prisoners (Interstate Transfer) Act 1982 No 104*—Schedule 3

*Private Health Facilities Act 2007 No 9*—Schedule 4

*Property, Stock and Business Agents Act 2002 No 66*—Schedule 3

*Protection of the Environment Operations (Clean Air) Regulation 2010*—Schedule 2

*Public Sector Employment and Management Act 2002 No 43*—Schedule 1

*Radiation Control Amendment Act 2010 No 91*—Schedule 2

*Real Property Act 1900 No 25*—Schedule 2

*Residential Tenancies Act 2010 No 42*—Schedule 1

*Retirement Villages Act 1999 No 81*—Schedule 1

*Road Obstructions (Special Provisions) Act 1979 No 9*—Schedule 3

*Road Transport (Driver Licensing) Act 1998 No 99*—Schedule 1

*Road Transport (General) Act 2005 No 11*—Schedule 2

*Road Transport Legislation Amendment Act 2008 No 61*—Schedule 4

*Road Transport (Vehicle Registration) Regulation 2007*—Schedule 2

*State Emergency and Rescue Management Act 1989 No 165*—Schedule 3

*Strata Schemes (Freehold Development) Act 1973 No 68*—Schedule 1

*Strata Schemes (Leasehold Development) Act 1986 No 219*—Schedule 1

*Subordinate Legislation Act 1989 No 146*—Schedule 1

*Supreme Court Act 1970 No 52*—Schedule 2

*Sydney Water Catchment Management Act 1998 No 171*—Schedule 4

*Transport Administration Act 1988 No 109*—Schedule 2

*Wagga Wagga Local Environmental Plan 2010*—Schedule 2

*Water Sharing Plan for the Peel Valley Regulated, Unregulated, Alluvium and Fractured Rock Water Sources 2010*—Schedule 2

*Workplace Injury Management and Workers Compensation Act 1998 No 86*—Schedule 3

#### **Index of Acts and instruments wholly repealed by Schedules 1 and 4**

*Appropriation Act 2009 No 43*—Schedule 4

*Appropriation (Budget Variations) Act 2009 No 10*—Schedule 4

*Appropriation (Parliament) Act 2009 No 44*—Schedule 4

*Appropriation (Special Offices) Act 2009 No 45*—Schedule 4

*Children (Care and Protection) (Personal and Family Violence) Amendment Act 1987 No 186*—Schedule 4

*Coal Mines Regulation (Transitional Provisions) Regulation 1984*—Schedule 4

*Crimes (Sentencing Legislation) Amendment (Intensive Correction Orders) Act 2010 No 48*—Schedule 4

*Duties (Marketable Securities) Order 1998*—Schedule 4

*Government Insurance Office (Privatisation) Savings and Transitional Regulation 1992*—Schedule 4

*Miscellaneous Acts (Coal Mines Regulation) Repeal and Amendment Act 1982 No 69*—Schedule 4

*National Parks and Wildlife (Adjustment of Areas) Act 2006 No 15*—Schedule 4

*National Parks and Wildlife (Broken Head Nature Reserve) Act 2010 No 12*—Schedule 4

*National Parks and Wildlife (Further Adjustment of Areas) Act 2005 No 60*—Schedule 4

*National Parks and Wildlife (Leacock Regional Park) Act 2008 No 20*—Schedule 4

*Residential Parks Amendment (Statutory Review) Act 2005 No 117*—Schedule 4

*Workers Compensation Legislation Amendment Act 1995 No 30*—Schedule 4