

Statute Law (Miscellaneous Provisions) Act (No 2) 2008 No 114

[2008-114]



New South Wales

Status Information

Currency of version

Historical version for 8 July 2011 to 31 December 2011 (accessed 4 May 2024 at 12:34)

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—

- **Does not include amendments by**

Sec 7 (1) of this Act (sec 7 (1) repeals a subschedule of Sch 1, 2 or 3 on the day following the day on which all of the provisions of that subschedule have commenced)

[Redfern-Waterloo Authority Repeal Act 2011 No 61](#) (not commenced — to commence on 1.1.2012)

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](#).

File last modified 16 December 2011

Statute Law (Miscellaneous Provisions) Act (No 2) 2008 No 114



New South Wales

Contents

Long title 3

1 Name of Act 3

2 Commencement 3

3 Amendments 3

4 Repeals 3

5 General savings, transitional and other provisions 3

6 Explanatory notes 3

7 Repeal of provisions of Act 4

Schedule 1 Minor amendments 4

Schedule 2 Amendments by way of statute law revision 6

Schedules 3, 4 (Repealed) 9

Schedule 5 General savings, transitional and other provisions 9

Statute Law (Miscellaneous Provisions) Act (No 2) 2008 No 114



New South Wales

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.

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- (1) Each Act specified in Part 1 of Schedule 4 is repealed.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)

1.1-1.7

(Repealed)

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) (iia).

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] (Repealed)

[8] Schedule 5A Special contributions areas

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

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.

1.9–1.11

(Repealed)

1.12 Local Government Act 1993 No 30

[1], [2] (Repealed)

[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]–[9] (Repealed)

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.

1.13–1.24

(Repealed)

Schedule 2 Amendments by way of statute law revision

(Section 3)

2.1–2.9

(Repealed)

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”.

Explanatory note

The proposed amendment updates a cross-reference.

2.11–2.22

(Repealed)

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”.

Explanatory note

The proposed amendments update cross-references.

2.24-2.31

(Repealed)

2.32 Sydney Olympic Park Authority Act 2001 No 57

[1] (Repealed)

[2] Section 23

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

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, 2.34

(Repealed)

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”.

Explanatory note

The proposed amendments update cross-references.

2.36-2.38

(Repealed)

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”.

Explanatory note

The proposed amendments update cross-references.

2.40, 2.41

(Repealed)

Schedules 3, 4 (Repealed)

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 on the NSW legislation website 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 on the NSW legislation website 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.
- (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.