

Regulatory Reform and Other Legislative Repeals Act 2015 No 48

[2015-48]



New South Wales

Status Information

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Provisions in force

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

Notes—

- **Note**

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

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New South Wales

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Regulatory Reform and Other Legislative Repeals Act 2015 No 48



New South Wales

An Act to repeal certain Acts for the purpose of regulatory reform; to repeal certain other Acts and instruments for the purpose of statute law revision; and to make certain savings.

1 Name of Act

This Act is the *Regulatory Reform and Other Legislative Repeals Act 2015*.

2 Commencement

- (1) This Act commences on the date of assent to this Act, except as otherwise provided by this section.
- (2) Section 3 (g) and (q)-(s) and Schedules 1, 2.1, 2.2, 2.4 [1] and 2.5-2.7 commence on a day or days to be appointed by proclamation.

3 Repeal of principal Acts and Regulation

The following Acts (or provisions of Acts) and Regulation are repealed:

- (a)-(f) (Repealed)
- (g) *Internal Audit Bureau Act 1992 No 20*,
- (h)-(p) (Repealed)
- (q) *Valuers Act 2003 No 4*,
- (r) *Valuers Regulation 2010*,
- (s) *West Scholarships Act 1930 No 19*.

4, 5 (Repealed)

Schedule 1 Consequential and other amendments related to repeal of

Valuers Act 2003

1.1 Aboriginal Land Rights Act 1983 No 42

[1] Section 38 Purchase, lease etc of property

Omit section 38 (1A) (a). Insert instead:

- (a) the purchase price for the land is not more than 5% above the market value of the land, as assessed by a qualified valuer who is appointed by the Local Aboriginal Land Council, or

[2] Section 38 (6)

Omit the subsection. Insert instead:

- (6) Subject to the regulations, a reference in this section to a **qualified valuer** is a reference to a person who:
 - (a) has membership of the Australian Valuers Institute (other than associate or student membership), or
 - (b) has membership of the Australian Property Institute (other than student or provisional membership), acquired in connection with his or her occupation as a valuer, or
 - (c) has membership of the Royal Institution of Chartered Surveyors as a chartered valuer, or
 - (d) is of a class prescribed by the regulations.

1.2 Civil and Administrative Tribunal Act 2013 No 2

Schedule 5 Occupational Division

Omit "*Valuers Act 2003*" from clause 4 (1).

1.3 Community Land Development Act 1989 No 201

[1] Section 3 Definitions

Omit the definition of **registered valuer** from section 3 (1).

Insert in alphabetical order:

qualified valuer means (subject to the regulations) a person who:

- (a) has membership of the Australian Valuers Institute (other than associate or student membership), or
- (b) has membership of the Australian Property Institute (other than student or provisional membership), acquired in connection with his or her occupation as a valuer, or
- (c) has membership of the Royal Institution of Chartered Surveyors as a chartered valuer, or
- (d) is of a class prescribed by the regulations.

[2] Schedule 8, clause 2 (2) (a) and Schedule 11, clauses 2 (b), 4 (c) and 6 (b)

Omit “registered valuer” wherever occurring. Insert instead “qualified valuer”.

[3] Schedule 12 Transitional provisions

Insert “or any other Act that amends this Act” after “this Act” in clause 1 (1).

1.4 Community Land Development Regulation 2007

Clauses 8 (5) (b), 9 (f), 15 (10), 21 (10) and 27 (10)

Omit “registered valuer” wherever occurring. Insert instead “qualified valuer”.

1.5 Community Land Management Act 1989 No 202

[1] Section 3 Definitions

Omit the definition of **registered valuer** from section 3 (1).

[2] Section 39 Insurance against damage or destruction

Omit section 39 (1A). Insert instead:

- (1A) Any such building or structure is to be insured for not less than the amount determined in accordance with the regulations.

[3] Section 39A Valuations to be obtained for the purposes of insurance

Omit the section.

[4] Section 78 Order by Tribunal substituting schedule of unit entitlements

Omit “different registered valuer” from section 78 (2) (a).

Insert instead “different valuer who is a qualified valuer”.

[5] Section 78 (4)

Omit “registered valuer”. Insert instead “qualified valuer”.

[6] Section 78 (7)

Insert after section 78 (6):

(7) In this section:

qualified valuer has the same meaning as it has in the [Community Land Development Act 1989](#).

[7] Schedule 7 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

any other Act that amends this Act

1.6 Community Land Management Regulation 2007

Clause 18 Valuations to be obtained for insurance purposes

Omit the clause.

1.7 Conveyancing Act 1919 No 6

[1] Section 131 Costs and expenses

Omit “registered valuer (within the meaning of the [Valuers Act 2003](#))”.

Insert instead “valuer”.

[2] Schedule 9 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

any other Act that amends this Act

1.8 Duties Act 1997 No 123

[1] Section 305 Valuation of property

Omit section 305 (1). Insert instead:

(1) The Chief Commissioner may, for the purpose of determining whether a person is liable for duty or determining a person’s liability for duty:

- (a) require the person, by notice in writing given to the person, to provide any evidence of the value of property that the Chief Commissioner considers appropriate, or
- (b) obtain a valuation of property from a person the Chief Commissioner is satisfied is suitably qualified to provide evidence of the value of property, or
- (c) rely on a valuation of property prepared for any purpose by a person the Chief Commissioner is satisfied is suitably qualified to provide evidence of the value of property.

[2] Section 305 (2)

Insert "other" after "or".

[3] Section 305 (4)

Omit the subsection.

1.9 Election Funding, Expenditure and Disclosures Regulation 2009

Clause 37 Determination of value of property disposed of

Omit clause 37 (1). Insert instead:

- (1) The Authority may, if it is of the opinion that the value of property disposed of has not been correctly stated, appoint or approve persons to assess the value of the property who have, for a period of (or for periods totalling not less than) 5 years, been engaged in making valuations of property of the same kind as that property.

1.10 Encroachment of Buildings Act 1922 No 23

[1] Section 3 Encroachments

Omit section 3 (4). Insert instead:

- (4) The Court may refer any question involved in proceedings on the application to:
 - (a) any registered land surveyor (within the meaning of the *Surveying and Spatial Information Act 2002*), or
 - (b) any valuer.

[2] Schedule 1 Savings and transitional provisions

Insert before clause 1:

1A Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of any Act that amends this Act.
- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned 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.

1.11 Fair Trading Act 1987 No 68

[1] Section 25I Functions

Omit “, valuing” from paragraph (a) of the definition of **property services industry** in section 25I (2).

[2] Section 25I (2), definition of “property services industry”

Omit “or the *Valuers Act 2003*” from paragraph (a).

[3] Schedule 5 Savings and transitional provisions

Insert after Part 6:

Part 7 Provisions consequent on repeal of **Valuers Act 2003** by **Regulatory Reform and Other Legislative Repeals Act 2015**

42 Definition of “relevant valuer”

In this Part:

relevant valuer means a person who was registered under the *Valuers Act 2003* as a valuer immediately before the repeal of that Act.

43 References to qualified valuers

- (1) Subject to the regulations, a reference in any Act or regulation to a qualified valuer is taken to include a reference to a relevant valuer.
- (2) Subclause (1) does not apply in relation to a person to whom an order that is in force under this clause applies.
- (3) The Secretary may, by order published in the Gazette, direct that a person who is a relevant valuer is not to be taken to be a qualified valuer under this clause if the Secretary is satisfied that:
 - (a) the person is a disqualified person (within the meaning of the *Valuers Act 2003*, as in force immediately before the repeal of that Act), or
 - (b) the person was not eligible to be registered and was registered by mistake or as a result of any false representation concerning the person's age or qualifications for registration, or
 - (c) any circumstances prescribed by the regulations apply in relation to the person.
- (4) The Secretary may, by notice published in the Gazette, revoke an order under this clause.

44 Conditions and undertakings to continue

- (1) A relevant valuer must not practise as a valuer in contravention of any restriction on the valuer's practice as a valuer that was in force under the *Valuers Act 2003* immediately before the repeal of that Act.

Maximum penalty: 100 penalty units.
- (2) A reference in this clause to a restriction on a valuer's practice is a reference to:
 - (a) a condition imposed under section 11 of the *Valuers Act 2003* on the valuer's registration, or
 - (b) a written undertaking from the valuer accepted by the Secretary under section 18 of that Act.
- (3) The regulations may exempt any of the following from the application of this clause:
 - (a) a relevant valuer or any class of relevant valuers,
 - (b) a condition or any class of conditions,
 - (c) a written undertaking or any class of written undertakings.

45 Expiry of clauses 43 and 44

Clauses 43 and 44 cease to have effect 3 years after the day on which the *Valuers Act 2003* is repealed.

46 No compensation by State

(1) Compensation is not payable by or on behalf of the State because of the repeal of the *Valuers Act 2003* by the *Regulatory Reform and Other Legislative Repeals Act 2015*, or the enactment or operation of Schedule 1 to the *Regulatory Reform and Other Legislative Repeals Act 2015*, or for any consequence of that repeal, enactment or operation.

(2) This clause does not prevent the regulations making provision for or with respect to the refund of any application fees paid under the *Valuers Act 2003* before the repeal of that Act.

(3) In this clause:

compensation includes damages or any other form of monetary compensation.

the State means the Crown within the meaning of the *Crown Proceedings Act 1988*, and includes any employee or agent of the Crown.

1.12 Fines Act 1996 No 99

Schedule 1 Statutory provisions under which penalty notices issued

Omit the matter relating to the *Valuers Act 2003*.

1.13 First Home Owner Grant (New Homes) Act 2000 No 21

[1] Section 36A Power to require valuation or other evidence

Omit section 36A (1). Insert instead:

- (1) For the purposes of determining the total value of a transaction, the Chief Commissioner may do any one or more of the following:
 - (a) require, by written notice, an applicant (or former applicant) for a first home owner grant to provide to the Chief Commissioner any evidence of the value of the property or consideration that the Chief Commissioner considers appropriate,
 - (b) have a valuation made of any property or consideration by a person the Chief Commissioner is satisfied is suitably qualified to provide evidence of the value of property or consideration,

- (c) adopt any available valuation made of the property or consideration by a person the Chief Commissioner is satisfied is suitably qualified to provide evidence of the value of property or consideration.

[2] Section 36A (2)

Omit the subsection.

1.14 Land Acquisition (Just Terms Compensation) Act 1991 No 22

[1] Section 59 Loss attributable to disturbance

Omit paragraph (b) of the definition of **loss attributable to disturbance**. Insert instead:

- (b) valuation fees of a qualified valuer reasonably incurred by those persons in connection with the compulsory acquisition of the land (but not fees calculated by reference to the value, as assessed by the valuer, of the land),

[2] Section 59 (2)

Insert at the end of section 59:

- (2) Subject to the regulations, a reference in this section to a **qualified valuer** is a reference to a person who:
 - (a) has membership of the Australian Valuers Institute (other than associate or student membership), or
 - (b) has membership of the Australian Property Institute (other than student or provisional membership), acquired in connection with his or her occupation as a valuer, or
 - (c) has membership of the Royal Institution of Chartered Surveyors as a chartered valuer, or
 - (d) is of a class prescribed by the regulations.

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

Schedule 2 Search warrants under other Acts

Omit the matter relating to the *Valuers Act 2003*.

1.16 Licensing and Registration (Uniform Procedures) Act 2002 No 28

Schedule 2 Registration to which Part 3 of Act applies

Omit the matter relating to the *Valuers Act 2003* (including the heading).

1.17 Mining Regulation 2010

[1] Clause 47 Objections

Omit clause 47 (2) (a). Insert instead:

- (a) a qualified valuer, or

[2] Clause 47 (3)

Insert after clause 47 (2):

- (3) In this clause:

qualified valuer means a person who:

- (a) has membership of the Australian Valuers Institute (other than associate or student membership), or
- (b) has membership of the Australian Property Institute (other than student or provisional membership), acquired in connection with his or her occupation as a valuer, or
- (c) has membership of the Royal Institution of Chartered Surveyors as a chartered valuer.

[3] Clause 71 Inquiry and report concerning significant improvement claim

Omit the clause.

1.18 Mine Subsidence Compensation Act 1961No 22

[1] Section 13 Purchase of damaged improvements and effecting of remedial works by the Board

Omit “valuer with the prescribed qualifications” from section 13 (1) (a).

Insert instead “qualified valuer”.

[2] Section 13 (3)

Insert after section 13 (2):

- (3) Subject to the regulations, a reference in this section to a **qualified valuer** is a reference to a person who:
 - (a) has membership of the Australian Valuers Institute (other than associate or student membership), or

- (b) has membership of the Australian Property Institute (other than student or provisional membership), acquired in connection with his or her occupation as a valuer, or
- (c) has membership of the Royal Institution of Chartered Surveyors as a chartered valuer, or
- (d) is of a class prescribed by the regulations.

1.19 Mine Subsidence Compensation Regulation 2012

Clause 8 Prescribed qualifications of valuer under section 13 (1) (a)

Omit the clause.

1.20 Property, Stock and Business Agents Act 2002 No 66

Section 189 Application of money in Statutory Interest Account

Omit “, the *Valuers Act 2003*” from section 189 (2) (d).

1.21 Regional Relocation Grants (Skills Incentive) Act 2011 No 26

[1] Section 52 Power to require valuation or other evidence

Omit section 52 (1). Insert instead:

- (1) For the purposes of determining the value of a purchase, the Chief Commissioner may do any one or more of the following:
 - (a) require, by written notice, an applicant (or former applicant) for a regional relocation grant to provide to the Chief Commissioner any evidence of the value of the property or consideration that the Chief Commissioner considers appropriate,
 - (b) have a valuation made of any property or consideration by a person the Chief Commissioner is satisfied is suitably qualified to provide evidence of the value of property or consideration,
 - (c) adopt any available valuation made of the property or consideration by a person the Chief Commissioner is satisfied is suitably qualified to provide evidence of the value of property or consideration.

[2] Section 52 (2)

Omit the subsection.

1.22 Registered Clubs Act 1976 No 31

[1] Section 41J Disposal by club of real property

Omit section 41J (3) (a). Insert instead:

- (a) the property has been valued by a qualified valuer, and

[2] Section 41J (5)

Insert after section 41J (4):

- (5) Subject to the regulations, a reference in this section to a **qualified valuer** is a reference to a person who:
 - (a) has membership of the Australian Valuers Institute (other than associate or student membership), or
 - (b) has membership of the Australian Property Institute (other than student or provisional membership), acquired in connection with his or her occupation as a valuer, or
 - (c) has membership of the Royal Institution of Chartered Surveyors as a chartered valuer, or
 - (d) is of a class prescribed by the regulations.

1.23 Registered Clubs Regulation 2015

Clause 23 Exceptions relating to disposal of core property

Omit “a registered valuer” from clause 23 (1) (a).

Insert instead “a qualified valuer (within the meaning of section 41J of the Act)”.

1.24 Residential (Land Lease) Communities Act 2013 No 97

[1] Section 138 Tribunal may value homes to facilitate sale

Omit “registered valuers” from section 138 (2). Insert instead “qualified valuers”.

[2] Section 138 (3)

Omit “registered valuer”. Insert instead “qualified valuer”.

[3] Section 138 (5)

Omit the subsection. Insert instead:

- (5) Subject to the regulations, a reference in this section to a **qualified valuer** is a reference to a person who:
- (a) has membership of the Australian Valuers Institute (other than associate or student membership), or
 - (b) has membership of the Australian Property Institute (other than student or provisional membership), acquired in connection with his or her occupation as a valuer, or
 - (c) has membership of the Royal Institution of Chartered Surveyors as a chartered valuer, or
 - (d) is of a class prescribed by the regulations.

1.25 Strata Schemes (Freehold Development) Act 1973 No 68

[1] Section 28QAA Revised schedule of unit entitlements

Omit “registered valuer” from section 28QAA (3) (d). Insert instead “qualified valuer”.

[2] Section 28QAA (4)

Omit the subsection. Insert instead:

- (4) Subject to the regulations, a reference in this section to a **qualified valuer** is a reference to a person who:
- (a) has membership of the Australian Valuers Institute (other than associate or student membership), or
 - (b) has membership of the Australian Property Institute (other than student or provisional membership), acquired in connection with his or her occupation as a valuer, or
 - (c) has membership of the Royal Institution of Chartered Surveyors as a chartered valuer, or
 - (d) is of a class prescribed by the regulations.

[3] Schedule 4 Transitional and savings provisions

Insert before Part 1:

Part 1A General

1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of any Act that amends this Act.
- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned 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.

1.26 Strata Schemes (Leasehold Development) Act 1986 No 219

[1] Section 57AAA Revised schedule of unit entitlements

Omit “registered valuer” from section 57AAA (3) (d). Insert instead “qualified valuer”.

[2] Section 57AAA (4)

Omit the subsection. Insert instead:

- (4) Subject to the regulations, a reference in this section to a **qualified valuer** is a reference to a person who:
 - (a) has membership of the Australian Valuers Institute (other than associate or student membership), or
 - (b) has membership of the Australian Property Institute (other than student or provisional membership), acquired in connection with his or her occupation as a valuer, or
 - (c) has membership of the Royal Institution of Chartered Surveyors as a chartered valuer, or
 - (d) is of a class prescribed by the regulations.

[3] Schedule 5 Transitional and savings provisions

Insert at the end of clause 1 (1):

any other Act that amends this Act

1.27 Strata Schemes Management Act 1996 No 138

[1] Sections 83 (2) and 84 (2)

Omit the subsections. Insert instead as sections 83 (2) and 84 (2), respectively:

(2) The building is to be insured for at least the amount determined in accordance with the regulations.

[2] Section 85 Valuations to be obtained for the purposes of insurance

Omit the section.

[3] Section 183 Order for reallocation of unit entitlements

Omit section 183 (5). Insert instead:

(5) **Requirements as to person giving certificate** The certificate must have been given by a qualified valuer.

[4] Section 183 (11)

Insert after section 183 (10):

(11) In this section:

qualified valuer:

(a) in relation to a freehold strata scheme, has the same meaning as in section 28QAA of the *Strata Schemes (Freehold Development) Act 1973*, and

(b) in relation to a leasehold strata scheme, has the same meaning as in section 57AAA of the *Strata Schemes (Leasehold Development) Act 1986*.

1.28 Strata Schemes Management Regulation 2010

[1] Clause 11 Qualifications for person to carry out valuation for insurance purposes

Omit the clause.

[2] Clause 12 Calculation of insured amount under damage policy

Insert after clause 12 (1):

- (1A) For the purposes of sections 83 (2) and 84 (2) of the Act, the amount for which a building is to be insured under a damage policy is to be not less than the amount calculated in accordance with subclause (1).

1.29 Succession Act 2006 No 80

[1] Section 101 Definitions

Omit the definition of **registered valuer**.

[2] Section 119 Basis of the election

Omit “registered valuer” from section 119 (3). Insert instead “qualified valuer”.

[3] Section 119 (6)

Insert after section 119 (5):

- (6) Subject to the regulations, a reference in this section to a **qualified valuer** is a reference to a person who:
- (a) has membership of the Australian Valuers Institute (other than associate or student membership), or
 - (b) has membership of the Australian Property Institute (other than student or provisional membership), acquired in connection with his or her occupation as a valuer, or
 - (c) has membership of the Royal Institution of Chartered Surveyors as a chartered valuer, or
 - (d) is of a class prescribed by the regulations.

[4] Schedule 1 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

any other Act that amends this Act

1.30 Trustee Act 1925 No 14

[1] Section 18 Ratio of loan to value

Omit “valuer of land, registered under the *Valuers Act 2003*,” from section 18 (2).

Insert instead “qualified valuer”.

[2] Section 18 (7)

Omit the subsection. Insert instead:

(7) In this section:

prescribed insurer means an insurer or an insurer of a class prescribed by the regulations.

qualified valuer means (subject to the regulations) a person who:

- (a) has membership of the Australian Valuers Institute (other than associate or student membership), or
- (b) has membership of the Australian Property Institute (other than student or provisional membership), acquired in connection with his or her occupation as a valuer, or
- (c) has membership of the Royal Institution of Chartered Surveyors as a chartered valuer, or
- (d) is of a class prescribed by the regulations.

[3] Schedule 2 Savings and transitional provisions

Insert at the end of clause 1 (1):

any other Act that amends this Act

1.31 Valuation of Land Act 1916 No 2

[1] Section 13C Contested contracts

Omit section 13C (3) and (4).

[2] Section 80B Valuers Registration Act 1975 not affected

Omit the section.

[3] Schedule 2 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

any other Act that amends this Act

Schedule 2 Consequential and other amendments related to repeal of

Internal Audit Bureau Act 1992

2.1 First State Superannuation Act 1992 No 100

Schedule 1 Employers

Omit “Internal Audit Bureau”.

2.2 Government Sector Employment Act 2013 No 40

Schedule 4 Savings, transitional and other provisions

Omit clause 13A (a).

2.3

(Repealed)

2.4 Public Finance and Audit Act 1983 No 152

[1] Schedule 2 Statutory bodies

Omit “Internal Audit Bureau of New South Wales”.

[2], [3] (Repealed)

2.5 State Authorities Non-contributory Superannuation Act 1987 No 212

Schedule 1 Employers

Omit “Internal Audit Bureau of New South Wales” from Part 1.

2.6 State Authorities Superannuation Act 1987 No 211

Schedule 1 Employers

Omit “Internal Audit Bureau of New South Wales” from Part 1.

2.7 Superannuation Act 1916 No 28

Schedule 3 List of employers

Omit “Internal Audit Bureau of New South Wales” from Part 1.

Schedule 3 (Repealed)

Schedule 4 General savings, transitional and other provisions

1 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.

2 Revocation of repeal

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

3 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.