

Statute Law (Miscellaneous Provisions) Act 2018 No 25

[2018-25]



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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Statute Law (Miscellaneous Provisions) Act 2018 No 25



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 2018*.

2 Commencement

- (1) This Act commences 14 days after the date of assent to this Act, except as provided by this section.
- (2) The amendments made by Schedules 1 and 5 to this Act commence on the day or days specified in those Schedules in relation to the amendments concerned. If a commencement day is not specified, the amendments commence in accordance with subsection (1).
- (3) Schedule 2 commences on 1 August 2018.
- (4) Schedule 4 commences on the date of assent to this Act.

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 Aboriginal Land Rights Act 1983 No 42

Section 36AA Aboriginal Land Agreements

Insert after section 36AA (11):

- (11A) The termination or transfer of an interest in land does not require the approval of

the holder of the interest under subsection (11) if:

- (a) the holder's interest remains in force or is restored in substantially the same terms, or
- (b) the Crown Lands Minister may, under any other Act or law, terminate or transfer the interest without the holder's approval.

Explanatory note

The proposed amendment will remove an impediment to giving effect to an Aboriginal Land Agreement by providing that a dealing in land pursuant to the agreement is not required to be approved by the holder of the interest in land if the holder's interest remains in force (or is substantially restored) or can lawfully be terminated or transferred by the Crown Lands Minister without the holder's approval.

1.2 Apprenticeship and Traineeship Act 2001 No 80

Dictionary

Omit "is," from the definition of **relevant registered training organisation**.

Insert instead "has been,".

Explanatory note

The proposed amendment makes it clear that the definition of **relevant registered training organisation** for the purposes of the *Apprenticeship and Traineeship Act 2001* extends to registered training organisations that have previously provided training in relation to an apprenticeship or traineeship. The amendment removes an inconsistency between the definition and certain provisions of that Act that relate to relevant registered training organisations that have previously provided training.

1.3 Children (Detention Centres) Act 1987 No 57

[1] Section 9A Certain persons not to be detained in detention centres

Insert "(to the extent the warrant continues in force after the repeal of that section by the *Crimes (Sentencing Procedure) Amendment (Sentencing Options) Act 2017*)" after "bond" in section 9A (2) (c).

[2] Section 9A (2) (e)

Insert "(to the extent the warrant continues in force after the repeal of that section by the *Crimes (Sentencing Procedure) Amendment (Sentencing Options) Act 2017*)" after "order".

[3] Section 9A (2) (e1)

Insert after section 9A (2) (e):

- (e1) a warrant issued under section 181 (1) (a) of the *Crimes (Administration of Sentences) Act 1999* in relation to an alleged failure to comply with a condition of an order referred to in that paragraph (to the extent the warrant continues in force

after the substitution of section 181 (1) by the *Crimes (Sentencing Procedure) Amendment (Sentencing Options) Act 2017*), or

[4] Section 9A (2) (f)

Omit “181 (1) (a)”. Insert instead “181 (1)”.

[5] Section 9A (2) (f1)

Insert after section 9A (2) (f):

(f1) a warrant issued under section 107C or 108C of the *Crimes (Administration of Sentences) Act 1999* in relation to an alleged failure to comply with a condition of a community correction order or of a conditional release order, or

Commencement

The amendments to the *Children (Detention Centres) Act 1987* commence on a day or days to be appointed by proclamation.

Explanatory note

Items [1]-[3] of the proposed amendments make it clear that a person aged 18-21 is not to be detained in a detention centre under an existing warrant issued in relation to an alleged failure to comply with the conditions of a good behaviour bond, community service order, intensive correction order, home detention order or parole order, where the bond or order is issued or made before the commencement of the *Crimes (Sentencing Procedure) Amendment (Sentencing Options) Act 2017*.

Item [4] removes an unnecessary reference to a paragraph of section 181 (1) of the *Crimes (Administration of Sentences) Act 1999* (as amended by the *Crimes (Sentencing Procedure) Amendment (Sentencing Options) Act 2017*).

Item [5] provides that a person aged 18-21 is not to be detained in a detention centre under a warrant issued in relation to an alleged failure to comply with the conditions of a community correction order or conditional release order, where the order is made after the commencement of the *Crimes (Sentencing Procedure) Amendment (Sentencing Options) Act 2017*.

1.4 Crimes (Administration of Sentences) Act 1999 No 93

[1] Section 3 Interpretation

Omit “Part 3, 4, 4A or 5” and “Part 3, 4 or 4A” from the definition of **offender** in section 3 (1).

Insert instead “Part 3, 4A, 4B, 4C or 5” and “Part 3, 4A, 4B or 4C”, respectively.

[2] Section 232 Commissioner

Omit “Part 2, 3 or 4” from section 232 (1) (a1). Insert instead “Part 2 or 3”.

Commencement

The amendments to the *Crimes (Administration of Sentences) Act 1999* commence on a day or days to be appointed by proclamation.

Explanatory note

Item [1] of the proposed amendments updates the definition of **offender** for the purposes of the *Crimes (Administration of*

Sentences) Act 1999 to make it clear that the definition applies for the purposes of provisions dealing with the administration of community correction orders and conditional release orders that are to be inserted by the *Crimes (Sentencing Procedure) Amendment (Sentencing Options) Act 2017*. The amendment also omits a reference to repealed Part 4.

Item [2] omits a reference to repealed Part 4.

1.5 Crimes (Sentencing Procedure) Act 1999 No 92

Section 25B Definitions

Omit the definition of **sentence**. Insert instead:

sentence means a term of imprisonment, fine or the term of an intensive correction order, a community correction order or a conditional release order.

Commencement

The amendment to the *Crimes (Sentencing Procedure) Act 1999* commences or is taken to have commenced on the commencement of Schedule 1 to the *Crimes (Sentencing Procedure) Amendment (Sentencing Options) Act 2017*.

Explanatory note

The amendment updates a definition of **sentence** to reflect changes to sentencing options as a consequence of amendments made to the *Crimes (Sentencing Procedure) Act 1999* by the *Crimes (Sentencing Procedure) Amendment (Sentencing Options) Act 2017*.

1.6, 1.7

(Repealed)

1.8 Crown Land Management Act 2016 No 58

[1] Section 6.5 General principles for rent determinations or redeterminations

Insert “determining or” before “redetermining” in section 6.5 (4) (a).

[2] Schedule 7 Savings, transitional and other provisions

Insert after Part 2:

Part 3 Provisions consequent on repeal of Moree and District War Memorial Educational Centre Act 1962

45 Definitions

In this Part:

Dhiyaan Aboriginal Centre means the uses, services and functions carried out under the Dhiyaan Aboriginal Centre licence immediately before the repeal day over the land to which the licence applied and the building in which those uses, services and functions occurred.

Dhiyaan Aboriginal Centre licence means the licence granted by the Trustee corporation to Moree Plains Shire Council (as representative for the Dhiyaan Aboriginal Centre) over the Trust land on 23 October 2014 as in force immediately before the repeal day.

Moree RSL Sub-branch licence means the sub-licence granted by Moree Plains Shire Council to the Moree RSL Sub-branch over the Trust land on 12 August 2016 as in force immediately before the repeal day.

repeal day means the day on which the repealed Act is repealed by the [Statute Law \(Miscellaneous Provisions\) Act 2018](#).

repealed Act means the [Moree and District War Memorial Educational Centre Act 1962](#).

reserved Crown land means the land comprised in the Trust land that is reserved Crown land by operation of clause 47 (2) of this Part.

Trust land means the land to which the Schedule to the repealed Act applied.

Trustee corporation means the body corporate established by operation of section 6 (3) of the repealed Act.

46 Relationship of Part with Act and other laws

- (1) This Part has effect despite anything to the contrary in this Act or the [Local Government Act 1993](#) (including in respect of maximum terms or conditions for licences).
- (2) Any matter or thing taken to have been granted or reserved by this Part may be varied, forfeited, revoked, terminated or cancelled or dealt with in any other way under this Act.

47 Trustee land becomes reserved Crown land

- (1) On and from the repeal day, the following are revoked:
 - (a) the dedication of the Trust land made under section 3 of the repealed Act,
 - (b) any licence granted by the Trustee corporation over the Trust land except as provided by this Part.
- (2) On and from the repeal day, the land comprised in the Trust land:
 - (a) becomes Crown land, and
 - (b) is taken to be reserved under Part 2 of this Act for use for community purposes.

Note—

Section 1.10 provides for land that becomes Crown land because of the operation of a provision of this Act.

- (3) To avoid doubt, the continued use of the land for the Dhiyaan Aboriginal Centre is a use for community purposes.

48 Abolition of Trustee corporation

- (1) On the repeal day, the following are abolished:

- (a) any trust over the Trust land,
- (b) the Trustee corporation.

- (2) On and from the repeal day, the following provisions apply:

- (a) Moree Plains Shire Council is taken to have been appointed as the Crown land manager of the Trust land,
- (b) the assets, rights and liabilities of the Trustee corporation are transferred to Moree Plains Shire Council.

- (3) Schedule 6 applies to a transfer of any assets, rights or liabilities under this clause.

49 Continued use of land by Moree RSL Sub-branch

- (1) This clause applies to the land comprised in the reserved Crown land to which the Moree RSL Sub-branch licence applied immediately before the repeal day.
- (2) On and from the repeal day, the Moree RSL Sub-branch licence is taken to have been a licence granted under this Act over the reserved Crown land to which this clause applies (the **Moree RSL Sub-branch continued licence**).
- (3) The Moree RSL Sub-branch continued licence:
- (a) is subject to the same conditions to which the Moree RSL Sub-branch licence was subject immediately before the repeal day and may be varied or revoked as if they were imposed under this Act, and
 - (b) expires on the expiry date.
- (4) To avoid doubt, the Moree RSL Sub-branch is permitted to use the reserved Crown land to which this clause applies in accordance with the conditions of the Moree RSL Sub-branch continued licence.
- (5) In this clause:

expiry date means:

- (a) the day on which the Moree RSL Sub-branch licence was to expire immediately before the repeal day unless an option is exercised in accordance with the conditions of the continued licence, or
- (b) if the option is exercised—the day on which the continued licence is to expire after the exercise of the option in accordance with the conditions of the licence.

50 Continued use of land for Dhiyaan Aboriginal Centre

- (1) This clause applies to the land comprised in the reserved Crown land to which the Dhiyaan Aboriginal Centre licence applied immediately before the repeal day.
- (2) A licence is taken to have been granted under this Act over the reserved Crown land to which this clause applies to permit the Dhiyaan Aboriginal Centre to continue (the ***Dhiyaan Aboriginal Centre continued licence***).
- (3) The Dhiyaan Aboriginal Centre continued licence:
 - (a) is subject to any conditions that may be prescribed by the regulations, and
 - (b) expires on the day on which the Dhiyaan Aboriginal Centre licence was to expire immediately before the repeal day or as may be prescribed by the regulations.
- (4) Without limiting any other power to grant licences under this Act, a licence may be granted over the reserved Crown land to which this clause applies for the purpose of permitting the Dhiyaan Aboriginal Centre to continue on terms and conditions that are the same as or similar to those of the Dhiyaan Aboriginal Centre licence.

51 Operation of Part not to be regarded as civil wrong

- (1) The operation of this Part is not to be regarded as a civil wrong, or:
 - (a) a breach of contract or confidence or otherwise as a civil wrong, or
 - (b) a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities, or
 - (c) giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability, or
 - (d) an event of default under any contract or other instrument.
- (2) Subclause (1) does not limit the application of clause 43 or clause 3 of Schedule

6 in their application to matters arising under or resulting from the operation of this Part.

(3) In this clause:

instrument has the same meaning as in Schedule 6.

Commencement

Item [2] of the amendments to the *Crown Land Management Act 2016* commences on the day on which the *Moree and District War Memorial Educational Centre Act 1962* is repealed by this Act.

Explanatory note

Item [1] of the proposed amendments allows a recommendation by the Independent Pricing and Regulatory Tribunal in relation to the rent for a holding to be applied by the Minister or Secretary when making an initial determination of rent for any lease or licence issued under the *Crown Land Management Act 2016* (in addition to a redetermination of rent as is currently provided for by the Act).

Item [2] provides for transitional arrangements for the transfer, management and use of the land to which the *Moree and District War Memorial Educational Centre Act 1962* applies on and from the day that Act is repealed by Schedule 6 to this Act.

On and from the day that Act is repealed, the transitional arrangements provide for the land to become reserved Crown land for use for community purposes. The assets, rights and liabilities of the abolished body corporate that previously managed the land are to be transferred to Moree Plains Shire Council and the Council will be appointed the Crown land manager of the land. The transitional arrangements also provide for the continued use of the land by the Moree RSL Sub-branch and the Dhiyaan Aboriginal Centre.

1.9 Education Act 1990 No 8

[1] Section 83K Non-Government Schools Not-for-profit Advisory Committee

Omit “the Catholic Education Commission” from section 83K (1) (c).

Insert instead “Catholic Schools NSW Limited”.

[2] Section 109 Failure of Authority or authorised person to make a recommendation or other decision

Omit “Authority” from section 109 (1) (a). Insert instead “Minister”.

[3] Section 109 (2)

Omit “6 (4) of the *Administrative Decisions Review Act 1997*, the Authority or Minister (as the case may be)”.

Insert instead “6 (5) of the *Administrative Decisions Review Act 1997*, the decision-maker concerned”.

Explanatory note

Item [1] of the proposed amendments replaces a requirement for the Non-Government Schools Not-for-profit Advisory Committee to include a representative of the Catholic Education Commission with a requirement for the Committee to include a representative of Catholic Schools NSW Limited. The proposed amendment is consequent on a transfer of the functions of the Catholic Education Commission to Catholic Schools NSW Limited.

Item [2] corrects a provision relating to administrative reviews of decisions under the *Education Act 1990* by providing that it is the Minister for Education, rather than the NSW Education Standards Authority, who decides an application for registration of a non-government school.

Item [3] corrects references.

1.10 Education Standards Authority Regulation 2013

Clause 5 Exchange of information

Omit clause 5 (e). Insert instead:

(e) Catholic Schools NSW Limited,

Explanatory note

The proposed amendment is related to an amendment to the *Education Act 1990* in this Schedule.

1.11 Fisheries Management Act 1994 No 38

[1] Section 40U Method of transferring quota

Omit “an approved form” from section 40U (3).

Insert instead “a form approved by the Secretary”.

[2] Sections 198, 199 (1) and (2), 200 (1), 202 (1) and 203 (1), (4) and (5)

Insert “work” after “dredging” wherever occurring.

[3] Section 198A Definitions

Omit “the removal of material” from paragraph (b) of the definition of ***dredging work***.

Insert instead “moving material on water land or removing material”.

[4] Section 201 Circumstances in which a person (other than a public or local government authority) may carry out dredging or reclamation

Insert “work” after “dredging” in section 201 (1).

[5] Section 237B Aboriginal fishing assistance programs

Omit “owned, managed or operated” from the definition of ***Aboriginal entity*** in section 237B (11).

Insert instead “that the Minister is satisfied is controlled (including through majority ownership)”.

[6] Section 237D Special exemptions for Aboriginal fishing assistance programs

Omit “Section 81 (1)” from section 237D (4). Insert instead “Section 75A (1)”.

[7] Section 288B Waiver, postponement or refund of fees, charges and contributions

Insert “, postpone” after “waive”.

Explanatory note

Item [1] of the proposed amendments makes it clear that a notice of a transfer of quota between commercial fishers (which is required to be given to the Secretary of the Department of Industry in an approved form) is to be given in the form approved by the Secretary.

Item [3] extends a provision of the *Fisheries Management Act 1994* that allows regulations to prescribe types of dredging work for the purposes of a Division of that Act that authorises the carrying out of dredging work on water land. The provision is extended to apply to any work that involves moving material on water land (in addition to work involving the removal of material from water land, to which the provision currently applies). Items [2] and [4] correct references so as to refer to the defined expression **dredging work**.

Item [5] makes it clear that an entity is an Aboriginal entity for the purposes of granting assistance under Aboriginal fishing assistance programs if the Minister is satisfied that the entity is controlled by Aboriginal persons, including (for entities subject to ownership) through majority ownership.

Item [7] enables the Minister for Primary Industries to postpone the payment of all or part of a fee, charge, rental payment or contribution payable under the *Fisheries Management Act 1994*, as an alternative to the waiver or refund of the payment currently permitted under the Act.

Item [6] corrects a cross-reference.

1.12 Fisheries Management (General) Regulation 2010

Clause 263 Dredging work

Insert after clause 263 (1) (b):

- (c) work that involves moving woody debris, snags, gravel beds, cobbles, rocks, boulders, rock bars or aquatic vegetation on water land.

Explanatory note

The proposed amendment is related to an amendment to the *Fisheries Management Act 1994* in this Schedule.

1.13 Gas and Electricity (Consumer Safety) Act 2017 No 15

Section 75 Regulations

Insert after section 75 (2) (n):

- (o) the examination and testing of gas meters.

Explanatory note

The proposed amendment will enable regulations under the (uncommenced) *Gas and Electricity (Consumer Safety) Act 2017 (the 2017 Act)* to make provision with respect to the examination and testing of gas meters. This matter is currently regulated under section 83A of the *Gas Supply Act 1996*, which is to be repealed by the 2017 Act. The regulation-making power is necessary to support the transfer of provisions dealing with that subject matter in the regulations (also to be repealed by the 2017 Act) under section 83A to regulations under the 2017 Act.

1.14 Health Practitioner Regulation (Adoption of National Law) Act 2009 No 86

Schedule 1 Modification of Health Practitioner Regulation National Law

Omit “the adjournment (if any) that, in the Committee’s or Tribunal’s opinion, is” from clause 6 (4) of Schedule 5D in Schedule 1 [25].

Insert instead “after such an adjournment (if any) as is, in the Committee’s or Tribunal’s opinion,”.

Explanatory note

The proposed amendment corrects a provision of the *Health Practitioner Regulation (Adoption of National Law) Act 2009* to make it clear that when a Professional Standards Committee or the Civil and Administrative Tribunal is dealing with a complaint in proceedings it may deal with another complaint (which could have been made against the practitioner concerned) after an adjournment, if any, of those proceedings.

1.15 Home Building Act 1989 No 147

Section 7AA Consumer information

Omit “only to contracts to which section 7 applies” from section 7AA (1A).

Insert instead “to a contract to which section 7 or 7AAA applies,”.

Explanatory note

The proposed amendment extends to small job contracts for residential building or specialist work authorised by the *Home Building Act 1989* a requirement for the contractor to give to the other party to the contract information about the operation of the Act and related dispute resolution procedures. A **small job** contract is a contract that does not exceed a price of \$20,000, but exceeds \$5,000. The information requirement is currently limited to contracts that exceed a price of \$20,000.

1.16 Home Building Regulation 2014

Clause 6 Consumer Building Guide

Omit the clause.

Explanatory note

The proposed amendment is related to the amendment to the *Home Building Act 1989* in this Schedule.

1.17 Motor Accident Injuries Act 2017 No 10

[1] Section 2.28 Application of Division to statutory benefits

Insert “or, as the case may be, a vehicle the identity of which cannot be established” after “insured motor vehicle”.

[2] Section 3.7 Weekly payments during second entitlement period (weeks 14-78 after

motor accident)

Omit section 3.7 (2). Insert instead:

- (2) A weekly payment of statutory benefits under this section is to be at the rate of:
- (a) in the case of total loss of earning capacity—80%, or
 - (b) in the case of partial loss of earning capacity—85%,
- of the difference between the person's pre-accident weekly earnings and the person's post-accident earning capacity (if any) after the first entitlement period.

[3] Section 3.8 Weekly payments after second entitlement period (after week 78)

Omit section 3.8 (2). Insert instead:

- (2) A weekly payment of statutory benefits under this section is to be at the rate of:
- (a) in the case of total loss of earning capacity—80%, or
 - (b) in the case of partial loss of earning capacity—85%,
- of the difference between the person's pre-accident earning capacity and the person's post-accident earning capacity (if any) after the second entitlement period.

Explanatory note

Item [1] of the proposed amendments makes it clear that the liability of the Nominal Defendant to pay statutory benefits for death or injuries resulting from a motor accident involving an unidentified motor vehicle is a liability to pay statutory benefits as if the owner or driver of the vehicle were at fault in the accident. The amendment will make that liability consistent with the liability of the Nominal Defendant to pay statutory benefits in respect of death or injuries arising from a motor accident involving an uninsured motor vehicle.

Item [2] modifies the method of calculating the rate of weekly payments payable as a result of a motor accident during the second entitlement period (weeks 14-78 after the accident). The modified method provides for the rate of benefits to be calculated as a percentage of the difference between the person's pre-accident weekly earnings and post-accident earning capacity (rather than the difference between that percentage of pre-accident weekly earnings and the post-accident earning capacity, as is currently the case). Item [3] makes a corresponding amendment in relation to weekly payments payable after the second entitlement period. The amendments will make the method for calculating the rate of weekly payments payable after the first entitlement period (first 13 weeks after the accident) consistent with the method for calculating the rate of weekly payments payable during the first entitlement period. The modified method of calculation will generally result in an increase in the amount of weekly payments payable during and after the second entitlement period.

1.18 Motor Dealers and Repairers Act 2013 No 107

[1] Section 21A

Insert after section 21:

21A Restored licences

A licence restored at any time is taken to have been restored from the day on which the licence expired.

[2] Schedule 2 Savings, transitional and other provisions

Insert after Part 3:

Part 4 Continuing and validating certain tradesperson's certificates

15 Definitions

In this Part:

continuing transitional certificate—see clause 16 (2).

existing licence holder has the same meaning as it has in Part 2 of this Schedule.

renewed transitional certificate—see clause 17 (2).

transitional certificate means a tradesperson's certificate that was taken, by operation of clause 4 (1) (e), to be held under this Act by an existing licence holder.

1980 Act has the same meaning as it has in Part 2 of this Schedule.

16 Tradesperson's certificates under 1980 Act—continuing transitional certificates

- (1) This clause applies to a person if:
 - (a) the person held a transitional certificate, and
 - (b) the certificate expired (without previously being cancelled) before the commencement of this clause, and
 - (c) the certificate was not renewed, purportedly renewed or restored before that commencement.
- (2) A person to whom this clause applies is taken to have been granted a tradesperson's certificate under this Act from the day on which the person's transitional certificate ceased to have effect (a **continuing transitional certificate**).
- (3) A continuing transitional certificate ceases to have effect:
 - (a) in 2019 on the anniversary of the day on which the person's transitional certificate ceased to have effect, or

- (b) on any later day prescribed by the regulations.
- (4) A continuing transitional certificate is subject to the following conditions and any such conditions may be revoked or varied as if they were imposed under this Act:
 - (a) the same conditions to which the expired transitional certificate was subject immediately before it ceased to have effect,
 - (b) any conditions prescribed by the regulations.
- (5) If a person to whom this clause applies was taken to be a holder of a tradesperson's certificate to which clause 2 (2) of Schedule 4 to the *Motor Dealers and Repairers Regulation 2014* applied, the person's continuing transitional certificate:
 - (a) authorises the person to carry out repair work of the type that the person was authorised to carry out before the repeal of the 1980 Act, and
 - (b) may be renewed or restored under this Act as if it were a tradesperson's certificate granted under this Act.
- (6) To avoid doubt, a continuing transitional certificate may be suspended, cancelled, amended, renewed, restored or surrendered in the same way as a tradesperson's certificate granted under this Act.
- (7) Anything done or omitted to be done by a person to whom this clause applies at any time before the commencement of this Part that would have been lawful if the person had held a continuing transitional certificate at the time concerned is taken to be (and always to have been) lawful.
- (8) The Secretary may treat an application for renewal or restoration of a transitional certificate or a Category 1 continued certificate made before the commencement of this Part by a person to whom this clause applies, whether or not made within the time permitted, as an application for renewal of the person's continuing transitional certificate received in accordance with this Act.

17 Tradesperson's certificates under 1980 Act—renewed transitional certificates

- (1) This clause applies to a transitional certificate that:
 - (a) has expired (without previously being cancelled), and
 - (b) was purportedly renewed under this Act by the Secretary before the commencement of this Part in circumstances where a renewal was not permissible under this Act.

- (2) A transitional certificate to which this clause applies is taken to have been validly renewed (and always to have been validly renewed) from the day on which the transitional certificate ceased to have effect (a **renewed transitional certificate**).
- (3) A renewed transitional certificate is subject to the following conditions and any such conditions may be varied or revoked as if they were imposed under this Act:
 - (a) the same conditions as those purportedly imposed under this Act at the time of the purported renewal of the certificate,
 - (b) any conditions prescribed by the regulations.
- (4) If a person was taken to be a holder of a tradesperson's certificate to which clause 2 (2) of Schedule 4 to the *Motor Dealers and Repairers Regulation 2014* applied, the person's renewed transitional certificate:
 - (a) authorises the person to carry out repair work of the type that the person was authorised to carry out before the repeal of the 1980 Act, and
 - (b) may be renewed or restored under this Act as if it were a tradesperson's certificate granted under this Act.
- (5) To avoid doubt, a renewed transitional certificate may be suspended, cancelled, amended, renewed, restored or surrendered in the same way as a tradesperson's certificate granted under this Act.
- (6) Anything done or omitted to be done by a person, who is taken to hold a renewed transitional certificate by the operation of subclause (2), at any time before the commencement of this Part that would have been lawful if the person had held a renewed transitional certificate at the time concerned is taken to be (and always to have been) lawful.
- (7) The Secretary may treat an application for renewal or restoration of a transitional certificate or a Category 2 continued certificate made before the commencement of this Part by a person to whom this clause applies, whether or not made within the time permitted, as an application for renewal of the person's continuing transitional certificate received in accordance with this Act.

18 Cancellation of Category 1 and Category 2 continued certificates

On the commencement of this Part, the following licences taken to have been granted on the commencement of the *Motor Dealers and Repairers Amendment (Savings and Transitional and Other Matters) Regulation 2018* are taken to have been cancelled:

- (a) Category 1 continued certificates,

(b) Category 2 continued certificates.

19 Validation of expiry dates for transitional certificates

The specifying of dates for the terms of transitional certificates by the Secretary, purportedly done before the commencement of this Part in accordance with clause 7 (2) of Schedule 4 to the *Motor Dealers and Repairers Regulation 2014*, is taken to be (and always to have been) validly done.

20 Part subject to regulations

- (1) This Part is subject to the regulations.
- (2) Without limiting subclause (1), the regulations may:
 - (a) make validation provisions for or with respect to transitional certificates, renewed transitional certificates or continuing transitional certificates, and
 - (b) vary or revoke any conditions imposed under this Schedule.

Explanatory note

Item [2] of the proposed amendments makes transitional and validation provisions in relation to tradesperson's certificates granted under the *Motor Vehicle Repairs Act 1980 (the 1980 Act)* and continued under the *Motor Dealers and Repairers Act 2013 (the 2013 Act)* on repeal of the 1980 Act.

The amendments provide that a person who held a tradesperson's certificate that has since expired will be taken to hold a tradesperson's certificate from the day on which that licence expired. Anything done by the person in reliance on the expired certificate will be validated. The continued certificate:

- (a) expires on the first occurring anniversary date, in 2019, of the expiry of the certificate continued on the repeal of the 1980 Act, and
- (b) is subject to the same conditions as the expired certificate, and any other conditions prescribed by regulations under the 2013 Act.

The amendments also validate tradesperson's certificates that were invalidly renewed. Anything done or omitted to be done in reliance on an invalidly renewed certificate is validated. A validated certificate will be subject to the same conditions as those that were purportedly imposed for the invalidly renewed certificate, and any other conditions prescribed by the regulations.

The Commissioner for Fair Trading may, for the purpose of a pending application for renewal or restoration of a tradesperson's certificate, treat the tradesperson's certificate as having been validly renewed.

The amendments also validate expiry dates for certificates continued on the repeal of the 1980 Act in cases where the expiry date specified was beyond the permitted range under clause 7 (2) of Schedule 4 to the *Motor Dealers and Repairers Regulation 2014*.

The amendments permit regulations to be made with respect to the proposed transitional and validation provisions.

Item [1] makes a related amendment to clarify the effect of restoring a licence under the *Motor Dealers and Repairers Act 2013* by providing that the restoration takes effect from the day on which the licence expired.

1.19 Protection of the Environment Operations Act 1997 No 156

[1] Sections 45 (f) and 79 (5) (f)

Omit “(as referred to in section 83)” wherever occurring.

[2] Sections 45 (f) and 79 (5) (f), note

Insert at the end of the paragraphs:

Note—

See section 83 for provisions relating to the determination of whether a person is a fit and proper person for the purposes of this section.

[3] Section 83 Fit and proper persons

Insert “or in connection with” after “obligations under” in section 83 (2) (m).

Explanatory note

Items [1] and [2] of the proposed amendments correct references to a list of matters that are relevant to the determination of whether a person is a fit and proper person for licensing purposes under the *Protection of the Environment Operations Act 1997*.

Item [3] makes it clear that the matters that are relevant to such a determination relating to the financial capacity of the person to comply with obligations under a licence extend to the financial capacity of the person to comply with obligations in connection with the licence (such as the capacity to pay contributions under that Act for which the person is liable as the occupier of a waste facility requiring an environment protection licence).

1.20, 1.21

(Repealed)

1.22 Road Transport Act 2013 No 18

Section 206B Effect of licence suspension on period of disqualification

Omit section 206B (1). Insert instead:

- (1) This section applies where a driver licence or other authority to drive in this jurisdiction has been suspended under this Act or the statutory rules for an alleged offence.

Explanatory note

Currently, a court that determines a period of licence disqualification in connection with an offence for which a driver licence has been suspended is required under the *Road Transport Act 2013* to take into account the period of licence suspension when determining the period of licence disqualification. The proposed amendment extends this requirement to apply in relation to the suspension of other types of authority to drive (for example, the authority conferred on a visiting driver who does not hold a driver licence in New South Wales).

1.23 Road Transport and Related Legislation Amendment Act 2017 No

61

Schedule 1.3 Amendments concerning written-off heavy vehicles

Insert “, and includes any other person declared to be a licensed repairer by the statutory rules under this Act” after “*Motor Dealers and Repairers Act 2013*” in the definition of **licensed repairer** in Schedule 1.3 [1].

Explanatory note

The proposed amendment extends a definition of **licensed repairer** (which is to be inserted by the *Road Transport and Related Legislation Amendment Act 2017* into the *Road Transport Act 2013*) to enable persons prescribed by statutory rules under the *Road Transport Act 2013* to exercise the function of issuing certificates of compliance in relation to the repair of damaged vehicles. Currently, the definition is limited to motor vehicle repairers licensed under the *Motor Dealers and Repairers Act 2013*.

1.24 Subordinate Legislation Act 1989 No 146

Schedule 5 Further postponement of repeal of certain statutory rules

Insert after clause 8:

9 Postponement of repeal of other statutory rules due for repeal in 2018

The following statutory rules remain in force until 1 September 2019, unless sooner repealed:

- (a) *Building and Construction Industry Security of Payment Regulation 2008*,
- (b) *Building Professionals Regulation 2007*,
- (c) *Crown Lands (Continued Tenures) Regulation 2006*,
- (d) *Crown Lands (General Reserves) By-law 2006*,
- (e) *Crown Lands Regulation 2006*,
- (f) *Hay Irrigation Regulation 2007*,
- (g) *Local Government (General) Regulation 2005*,
- (h) *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005*,
- (i) *Parliamentary Electorates and Elections Regulation 2008*,
- (j) *Poisons and Therapeutic Goods Regulation 2008*,
- (k) *Tow Truck Industry Regulation 2008*,
- (l) *Water Industry Competition (General) Regulation 2008*,

(m) *Wentworth Irrigation Regulation 2007*.

Explanatory note

The proposed amendment keeps a number of statutory rules in force for a further period of 1 year after the date on which they would otherwise be repealed by the *Subordinate Legislation Act 1989*. However, any of the statutory rules may be repealed sooner by other legislation.

The proposed amendment is necessary as the statutory rules have each been postponed on at least 5 occasions and are due to be repealed by the *Subordinate Legislation Act 1989* on 1 September 2018.

Each of the statutory rules continues to be required and the repeal of each of the statutory rules is to be further postponed until 1 September 2019 for the following reasons:

- (a) The *Building and Construction Industry Security of Payment Act 1999* is currently under comprehensive review. It is considered that it would be premature to remake the *Building and Construction Industry Security of Payment Regulation 2008* before the outcome of that review has been determined.
- (b) A statutory review of the *Building Professionals Act 2005* has proposed new legislation to replace that Act with a new Act. It is therefore proposed to postpone the repeal of the *Building Professionals Regulation 2007* pending the enactment of that new legislation.
- (c) Schedule 8 to the *Crown Land Management Act 2016* will, on commencement, repeal the *Crown Lands (Continued Tenures) Regulation 2006*, the *Crown Lands (General Reserves) By-law 2006*, the *Crown Lands Regulation 2006*, the *Hay Irrigation Regulation 2007* and the *Wentworth Irrigation Regulation 2007* and the principal Acts under which they are made. It is therefore proposed to postpone the repeal of these regulations and the by-law pending the commencement of those repeals.
- (d) The Office of Local Government has undertaken a comprehensive review of the *Local Government Act 1993* and is currently considering amendments to that Act. It is considered that it would be premature to remake the *Local Government (General) Regulation 2005* at this time.
- (e) A review is being undertaken to determine whether the *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005* should be remade or replaced and whether to align it with the outcome of the current review of the *Local Government Act 1993*. It is considered that it would be premature to remake the Regulation before the conclusion of that review.
- (f) The *Electoral Act 2017* will, on commencement, repeal the *Parliamentary Electorates and Elections Act 1912* and the *Parliamentary Electorates and Elections Regulation 2008*. It is therefore proposed to postpone the repeal of the *Parliamentary Electorates and Elections Regulation 2008* pending the commencement of the *Electoral Act 2017*.
- (g) The *Poisons and Therapeutic Goods Act 1966* is currently under comprehensive review. It is considered that it would be premature to remake the *Poisons and Therapeutic Goods Regulation 2008* before the conclusion of that review.
- (h) The Department of Finance, Services and Innovation is currently in the process of implementing the recommendations of the IPART's *Review of Tow Truck Fees and Licensing in NSW*. It is considered that it would be premature to remake the *Tow Truck Industry Regulation 2008* before the completion of that implementation.
- (i) The *Water Industry Competition Amendment (Review) Act 2014* will, when fully commenced, make significant amendments to the *Water Industry Competition Act 2006*. It is considered that it would be premature to remake the *Water Industry Competition (General) Regulation 2008* pending the commencement of those amendments.

Schedule 2 Amendments relating to publication of notices

Explanatory note

The proposed amendments in this Schedule amend provisions of various Acts and Regulations that require notices to be published in newspapers. The amendments generally enable those notices to be published in a manner that persons required to publish them are satisfied is likely to bring them to the attention of the persons to whom they are directed (in most cases, members of the public). The proposed amendments will enable the publication of notices online where appropriate, including in

newspapers that are available in a digital form.

2.1 Agricultural Industry Services Act 1998 No 45

[1] Section 19 Action on committee's proposal to wind up committee's affairs

Omit section 19 (1). Insert instead:

- (1) On receiving a notice of a proposal under section 18 (1) (c), the Minister must cause notice of the proposal to be given in a manner that the Minister is satisfied is likely to bring the notice of the proposal to the attention of the committee's constituents.

[2] Section 24 Levying of rates

Omit section 24 (1). Insert instead:

- (1) A committee levies a rate on a constituent by causing notice:
 - (a) to be served on the constituent, or
 - (b) to be published in a manner approved by the Minister having regard to the object of bringing notices of that kind to the attention of constituents.

[3] Section 45 Service of documents on persons

Omit "required" wherever occurring in section 45 (1) and (2).

Insert instead "authorised or required by this Act or the regulations".

[4] Section 45 (2A)

Insert after section 45 (2):

- (2A) Without limiting subsection (1) or (2), a document that is authorised or required by this Act or the regulations to be served on a person may be served on the person:
 - (a) by email to an email address specified by the person for the service of documents of that kind, or
 - (b) by any other method authorised by the regulations for the service of documents of that kind.

2.2 Callan Park (Special Provisions) Act 2002 No 139

[1] Section 6 Leases, licences and management agreements

Omit section 6 (6) (a). Insert instead:

- (a) cause notice of the proposal to grant the lease or licence or to enter the contract to be published in a manner that the Minister is satisfied is likely to bring the proposal to the attention of members of the public in the locality, and

[2] Section 6 (6) (c)

Omit the paragraph. Insert instead:

- (c) publish the reasons for the decision to grant consent in a manner that the Minister is satisfied is likely to bring the reasons to the attention of members of the public in the locality.

[3] Section 6 (6A)

Insert after section 6 (6):

- (6A) The notice of the proposal must include a summary of the main terms of the lease, licence or contract, together with details of any related proposal to deal in land located in Callan Park of which the Minister is aware.

2.3 Cemeteries and Crematoria Act 2013 No 105

[1] Section 52 Revocation of perpetual interment rights

Omit section 52 (4) (b). Insert instead:

- (b) published in the Gazette and in:
 - (i) a newspaper circulating throughout the State, or
 - (ii) a manner approved in writing by the Minister having regard to the object of bringing notices of that kind to the attention of the holders of the relevant interment rights or (where holders have died) any persons entitled to the relevant interment rights as the result of bequests or intestacy or as surviving joint holders.

[2] Section 52 (5)

Omit "(6)". Insert instead "(7)".

[3] Section 55 Re-use of interment sites and removal of memorials

Omit section 55 (2) (b). Insert instead:

- (b) the cemetery operator has given notice of its intention to re-use the interment site or remove the memorial in the Gazette and in:

- (i) a newspaper circulating throughout the State, or
- (ii) a manner approved in writing by the Minister having regard to the object of bringing notices of that kind to the attention of members of the public to whom the relevant proposals to re-use interment sites or remove memorials may be of interest, and

[4] Section 61 Cemetery operator may determine holder of interment right

Omit “and in a newspaper circulating throughout the State” from section 61 (4) (a) (ii).

[5] Section 61 (4) (a) (iia)

Insert after section 61 (4) (a) (ii):

- (iia) publishes a notice about its intention to make the decision in a newspaper circulating throughout the State or in a manner approved in writing by the Minister having regard to the object of bringing notices of that kind to the attention of persons who may hold the relevant interment rights for interment sites, and

[6] Section 88 Invitations for tenders

Omit “published in the Gazette and in a newspaper circulating throughout the State” from section 88 (1) (a).

Insert instead “that complies with the requirements in subsection (2)”.

[7] Section 88 (2) (a1)

Insert before section 88 (2) (a):

- (a1) be published in the Gazette and in:
 - (i) a newspaper circulating throughout the State, or
 - (ii) a manner approved in writing by the Minister having regard to the object of bringing notices of that kind to the attention of persons who may be interested in submitting tenders for the relevant contracts, and

[8] Schedule 4 Conversion of cemeteries

Omit clause 3 (2). Insert instead:

- (2) The council must give notice of the resolution:
 - (a) twice, at an interval of not less than 2 weeks, in a newspaper or newspapers published and circulating in the locality and twice, at an interval of not less than

2 weeks, in a newspaper or newspapers published in Sydney and circulating widely throughout New South Wales, or

- (b) in a manner approved in writing by the Minister having regard to the object of bringing notices of that kind to the attention of members of the public in the relevant localities and elsewhere in the State to whom the relevant resolutions may be of interest.

2.4 Commons Management Act 1989 No 13

[1] Section 16 Trust not to enter into land transactions without the consent or authority of the Minister

Omit “in a newspaper which circulates in the area in which that land is located” from section 16 (6).

[2] Section 16 (6A)

Insert after section 16 (6):

(6A) The notice must be published in:

- (a) a newspaper that circulates in the area in which the land concerned is located, or
- (b) a manner approved in writing by the Minister having regard to the object of bringing notices of that kind to the attention of members of the public in the areas in which the relevant land is located.

[3] Section 26 Reference of certain draft management plans to the trust concerned

Omit section 26 (3) (b). Insert instead:

- (b) cause a copy of the plan, or a notice specifying the place at which the plan may be inspected, to be published in:
 - (i) a newspaper that circulates in the land district where the common concerned is located, or
 - (ii) a manner that the Minister is satisfied is likely to bring the plan or notice to the attention of members of the public in the land district where the common concerned is located.

[4] Schedule 2 Provisions relating to the members of a trust board

Omit clause 7 (1) (a). Insert instead:

- (a) the board must, by notice that complies with the requirements in subclause (2), invite tenders for the proposed contract, and

[5] Schedule 2, clause 7 (2) (a1)

Insert before clause 7 (2) (a):

(a1) be published in:

- (i) a newspaper circulating in the land district in which the common concerned is located, or
- (ii) a manner approved in writing by the Minister having regard to the object of bringing notices of that kind to the attention of persons in the land districts in which the relevant commons are located who may be interested in submitting tenders for the relevant contracts, and

2.5 Dams Safety Act 2015 No 26

Section 38 Public nature of inquiries

Omit “newspapers” from section 38 (2). Insert instead “other manner”.

2.6 Electricity Supply Act 1995 No 94

Schedule 2 Licences

Omit “a daily newspaper circulating throughout the State” from clause 3 (1).

Insert instead “such other manner as the Minister is satisfied is likely to bring the notice to the attention of members of the public”.

2.7 Environmental Planning and Assessment Act 1979 No 203

Schedule 2 Provisions relating to planning bodies

Omit “newspapers” from clause 3 (2) (a). Insert instead “manner”.

2.8 Environmental Trust Act 1998 No 82

Section 13 Program for annual grants

Omit “newspaper circulating throughout the State” from section 13 (4).

Insert instead “manner that the Trust is satisfied is likely to bring the information to the attention of organisations and persons who may be interested in applying for grants”.

2.9 Fisheries Management Act 1994 No 38

[1] Section 46 Invitation for shares

Omit “, in a newspaper circulating throughout New South Wales and in such other publications as the Minister considers appropriate” from section 46 (2) (a).

Insert instead “and in such other manner as the Minister is satisfied is likely to bring the notice to the attention of eligible persons and members of the public generally”.

[2] Section 284 Public consultation procedure

Omit “newspaper circulating throughout the State and (if the matter relates to a particular area only) in a local newspaper circulating” from section 284 (2) (c).

Insert instead “manner that the person or body is satisfied is likely to bring the advertisement to the attention of members of the public generally and, if the matter relates to a particular area only, members of the public”.

2.10 Food Act 2003 No 43

Section 33 Manner of making orders

Omit section 33 (2). Insert instead:

- (2) Notice of an order addressed as referred to in subsection (1) (b) setting out the terms of the order and the persons to be bound by the order must, as soon as practicable after the order is made, be published:
 - (a) in such reasonably practicable manner as, in the opinion of the Food Authority, will be most likely to bring the order to the attention of the persons bound by it, and
 - (b) on the NSW legislation website if the order is addressed to a class of persons or to all persons.

2.11 Gas Supply Act 1996 No 38

Sections 8 (1) and 37 (1)

Omit “a daily newspaper circulating throughout New South Wales” wherever occurring.

Insert instead “such other manner as the Minister is satisfied is likely to bring the notice to the attention of members of the public”.

2.12 Gene Technology (GM Crop Moratorium) Act 2003 No 12

[1] Section 9 Notification of making an order

Omit section 9 (1) (a). Insert instead:

- (a) in a manner that the Minister is satisfied is likely to bring the notice to the attention of members of the public generally, and

[2] Section 9 (1) (c)

Omit the paragraph. Insert instead:

- (c) in the case of an exemption order that does not apply to the whole State, in a manner that the Minister is satisfied is likely to bring the notice to the attention of members of the public in the area in which the exemption order is to apply.

2.13 Heritage Act 1977 No 136

[1] Sections 28 (1) (d) and 29 (5) (c)

Omit “newspaper circulating” wherever occurring.

Insert instead “manner that the Minister or the council is satisfied is likely to bring the notice to the attention of members of the public”.

[2] Section 33 Procedure before recommendation for listing

Omit “at least one metropolitan newspaper and one local newspaper circulating in the precinct” from section 33 (1) (a) (ii).

Insert instead “a manner that the Heritage Council is satisfied is likely to bring the notice to the attention of affected owners or occupiers and of members of the public”.

[3] Section 33 (1) (b)

Omit “at least one newspaper circulating”.

Insert instead “a manner that the Heritage Council is satisfied is likely to bring the notice to the attention of members of the public”.

[4] Section 33 (1) (c)

Omit “publication of the newspaper notice”.

Insert instead “notice under paragraph (a) (ii) or (b) was first published”.

[5] Section 61 Public notice of certain applications

Omit “daily newspaper circulating throughout the State” from section 61 (1).

Insert instead “manner that the approval body is satisfied is likely to bring the notice to the attention of members of the public”.

[6] Section 61 (2)

Omit “published in the newspaper”. Insert instead “first published”.

2.14 Heritage Regulation 2012

[1] Clause 17 Procedure for listing of minimum standards on Register

Omit “at least one newspaper circulating” from clause 17 (3) (b).

Insert instead “a manner that the Heritage Council is satisfied will bring the notice to the attention of members of the public”.

[2] Clause 17 (3) (c)

Omit “publication of the newspaper notice”.

Insert instead “the notice was first published”.

2.15 Hunter Water Act 1991 No 53

[1] Section 38 Terms and conditions of customer contracts may be varied on 6 months’ notice

Omit “a daily newspaper circulating in the area of operations, a notice” from section 38 (1).

Insert instead “the Gazette or on the NSW legislation website, an order”.

[2] Section 38 (1)

Omit “at least 6 months, or a shorter period to which the Minister agrees, before the variation becomes effective”.

[3] Section 38 (1A)

Insert after section 38 (1):

(1A) Notice of the making of an order under this section must be published, at least 6 months before the variation becomes effective or within a shorter period approved by the Minister, in a manner that the Corporation is satisfied is likely to bring the notice to the attention of members of the public in the area of operations.

[4] Section 38 (2)

Omit “the notice” where firstly occurring. Insert instead “an order”.

[5] Section 38 (2)

Omit “notice” where secondly occurring. Insert instead “order”.

[6] Section 38 (3)

Omit “a notice” and “the notice”. Insert instead “an order” and “the order”, respectively.

2.16 Hunter Water Regulation 2015

[1] Clause 33 Restrictions on use of water

Omit “notice” from clause 33 (1).

Insert instead “order published on the NSW legislation website”.

[2] Clause 33 (2)

Omit “notice” wherever occurring. Insert instead “order”.

[3] Clause 33 (2) (a)

Omit the paragraph.

[4] Clause 33 (2A)

Insert after clause 33 (2):

(2A) Notice of the making of an order is to be given in such reasonably practicable manner as the Minister is satisfied is most likely to bring the order to the attention of members of the public in the area of operations of the Corporation or that part of the area to which the order applies.

[5] Clause 33 (3) and (4)

Omit “a notice” wherever occurring. Insert instead “an order”.

2.17 Landlord and Tenant (Amendment) Act 1948 No 25

[1] Section 59 Service of notices

Omit section 59 (3). Insert instead:

(3) Where any notice or other document is required or permitted by this Part to be given to, or served upon, a person whose address is unknown, it may be given or

served by publishing it in:

(a) the Gazette, and

(b) a daily newspaper circulating in the district in which the prescribed premises concerned are situated or in a manner approved in writing by the Secretary having regard to the object of bringing notices or documents of that kind to the attention of the relevant persons whose addresses are unknown.

[2] Section 62 Restriction on eviction

Omit section 62 (4A) (a) (ii). Insert instead:

(ii) in any other case—by publishing the notice twice in a daily newspaper circulating in the district in which the premises are situated or by publishing the notice in a manner approved in writing by the Secretary for notices of that kind.

2.18 Local Government Act 1993 No 30

[1] Section 47 Leases, licences and other estates in respect of community land—terms greater than 5 years

Insert “(including on the council’s website)” after “proposal” in section 47 (1) (a).

[2] Section 47 (6)

Omit “newspaper” from the fourth bullet point. Insert instead “public”.

[3] Section 348 Advertising of staff positions

Omit section 348 (2).

[4] Section 410 Alternative use of money raised by special rates or charges

Omit section 410 (2) (b). Insert instead:

(b) notice of the fact that the proposal was included in the operational plan adopted by the council for that year has been published in a manner that the council is satisfied is likely to bring the notice to the attention of members of the public in the area.

[5] Sections 644A (1), 644B (3) and 645 (1)

Omit “newspaper circulating” wherever occurring.

Insert instead “manner that the council is satisfied is likely to bring the notice to the attention of members of the public”.

[6] Section 707 Publication of notices in Gazette and elsewhere

Omit “any newspaper” and “a newspaper” from section 707 (1).

Insert instead “another manner” and “that other manner”, respectively.

[7] Section 710 Service of notices on persons

Omit section 710 (4) (b). Insert instead:

- (b) in any case where the land, building or premises are unoccupied and the owner or the owner’s address or place of residence is not known to the council, service by the council may be by advertisement in the approved form published in:
 - (i) a newspaper circulating in the area or part of the area in which the land, building or premises are situated that is published in print form at intervals not exceeding 26 days, or
 - (ii) a manner determined by the council having regard to the object of bringing notices to the attention of owners in cases of that kind, and

[8] Section 715 Notice of proposal to sell land

Omit section 715 (1) (a) and (b). Insert instead:

- (a) fix a time and place for the sale, and
- (b) give notice of the proposed sale by means of an advertisement published in the Gazette and in:
 - (i) a newspaper circulating in the area or part of the area in which the land is situated that is published in print form at intervals not exceeding 26 days, or
 - (ii) a manner that the council is satisfied is likely to bring the notice to the attention of persons who may be interested in purchasing the land, and

[9] Section 715 (1A)

Insert after section 715 (1):

- (1A) The time fixed for the sale must be no earlier than 3 months and no later than 6 months after the date on which an advertisement is first published in the manner determined by the council in accordance with this section.

[10] Dictionary

Omit the definition of *newspaper*.

2.19 Local Land Services Act 2013 No 51

[1] Section 71 Notice of closure

Omit “newspaper circulating generally” from section 71 (1).

Insert instead “manner that Local Land Services is satisfied is likely to bring the notice to the attention of members of the public”.

[2] Section 133 Public notice of proposal to make order

Omit section 133 (1). Insert instead:

- (1) The Minister is to cause notice of a proposal to make a pest control order applying to land to be published in a manner that the Minister is satisfied is likely to bring the notice to the attention of members of the public in the region in which the land is situated.

[3] Section 137

Omit the section. Insert instead:

137 Notice of making of order

The Minister is to cause a notice of the making of a pest control order to be published in a manner that the Minister is satisfied is likely to bring the notice to the attention of members of the public in the region in which the controlled land is situated.

[4] Section 144 When may eradication orders be given?

Omit “newspaper circulating generally” from section 144 (3).

Insert instead “manner that Local Land Services is satisfied is likely to bring the order to the attention of members of the public”.

[5] Schedule 5 Sale of land for unpaid money owing to Local Land Services

Omit clause 5 (1) (a) and (b). Insert instead:

- (a) fix a time and place for the sale, and
- (b) give notice of the proposed sale by means of an advertisement published in the Gazette and in such other manner as Local Land Services is satisfied is likely to bring the notice to the attention of persons who may be interested in purchasing the land, and

[6] Schedule 5, clause 5 (1A)

Insert after clause 5 (1):

(1A) The time fixed for the sale must be no earlier than 3 months and no later than 6 months after the date on which an advertisement is first published in the manner determined by Local Land Services in accordance with this clause.

2.20 Local Land Services Regulation 2014

[1] Clause 68 Local Land Services not liable for injury attributable to diseased travelling stock

Omit “in a newspaper circulating generally in the region” from clause 68 (a).

Insert instead “, in a manner that Local Land Services is satisfied is likely to bring the notice to the attention of members of the public in the region,”.

[2] Clause 77 Notice of exemption or cancellation of exemption

Omit “a newspaper circulating generally” from clause 77 (1) (b).

Insert instead “the Gazette and in such other manner as Local Land Services is satisfied is likely to bring the notice to the attention of members of the public”.

[3] Clause 117 Consultation with landholders affected by proposed re-categorisation (s 60K (7))

Omit clause 117 (4) (a). Insert instead:

(a) a notice must be published in a manner that the Environment Agency Head is satisfied is likely to bring the notice to the attention of:

(i) members of the public generally, or

(ii) if the re-categorisation relates only to one local government area—members of the public in that local government area,

[4] Schedule 1 Elections for members of local boards

Omit clause 12 (3) (a). Insert instead:

(a) causing notice to be published in a manner approved in writing by Local Land Services having regard to the object of bringing notices of that kind to the attention of members of the public in the relevant regions, and

[5] Schedule 1, clause 35 (2) (b)

Omit the paragraph. Insert instead:

- (b) in a manner approved in writing by Local Land Services having regard to the object of bringing notices of that kind to the attention of members of the public in the relevant regions.

[6] Schedule 1, clause 49 (a)

Omit “one or more local newspapers that, individually or collectively, circulate generally throughout the region concerned”.

Insert instead “a manner approved in writing by Local Land Services having regard to the object of bringing notices of that kind to the attention of members of the public in the relevant regions”.

2.21 Marine Estate Management Act 2014 No 72

Section 79 Meaning of “diligent inquiry”

Omit section 79 (1) (c). Insert instead:

- (c) publishing a notice referred to in paragraph (b) in a manner approved by the relevant Ministers having regard to the object of bringing notices of that kind to the attention of persons who may be owners of the relevant land.

2.22 National Parks and Wildlife Act 1974 No 80

[1] Section 151F Public consultation regarding grant of leases and licences

Omit “newspaper circulating in the area in which the land is located and on the Office’s website” from section 151F (1) (a).

Insert instead “manner that the Minister is satisfied is likely to bring the notice to the attention of members of the public in the area in which the land is located, and also on the Office’s website,”.

[2] Section 151F (1) (b)

Omit “newspaper circulating throughout New South Wales, in a newspaper circulating in the area in which the land is located and on the Office’s website”.

Insert instead “manner that the Minister is satisfied is likely to bring the notice to the attention of members of the public both generally and in the area in which the land is located, and also on the Office’s website,”.

[3] Section 151I Restrictions on grant of lease for residential accommodation

Omit “newspaper circulating throughout New South Wales” from section 151I (2) (a).

Insert instead “manner that the Minister is satisfied is likely to bring the notice to the attention of members of the public”.

[4] Section 160D Notice to state interest in structure or contents

Omit section 160D (2) (b). Insert instead:

- (b) published in a manner determined in writing by the Minister having regard to the object of bringing notices of that kind to the attention of persons of the kind referred to in subsection (1).

2.23 Pesticides Act 1999 No 80

Section 38 Making of pesticide control order

Omit “newspapers and other publications” from section 38 (5). Insert instead “manner”.

2.24 Pipelines Act 1967 No 90

[1] Section 13 Manner of making applications for licences

Omit section 13 (3). Insert instead:

- (3) Not less than 7 days before making an application under section 12, the applicant must cause a notification, setting out particulars of the proposed application, to be published in a manner approved in writing by the Minister having regard to the object of bringing notifications of that kind to the attention of members of the public.

[2] Section 13A Amendment of application for licence by inclusion or exclusion of lands

Omit section 13A (7). Insert instead:

- (7) Not less than 7 days before making a further application for a variation (other than a minor variation) of the area in respect of which the application is made by including additional lands in that area, the applicant must cause a notification, setting out particulars of the proposed further application, to be published in a manner approved in writing by the Minister having regard to the object of bringing notifications of that kind to the attention of members of the public.

[3] Section 18 Variation of licence area

Omit section 18 (7). Insert instead:

- (7) Not less than 7 days before making an application under this section for a variation (other than a minor variation) of the licence area by including additional lands in that area, the applicant must cause a notification, setting out particulars of the proposed application, to be published in a manner approved in writing by the Minister having regard to the object of bringing notifications of that kind to the attention of members of the public.

[4] Sections 31 (2) (c) and 32 (2) (d)

Omit “newspapers” wherever occurring. Insert instead “manner”.

2.25 Plantations and Reafforestation Act 1999 No 97

Section 26 Public consultation

Omit “newspaper circulating throughout the State and in any local newspaper that the Minister considers appropriate” from section 26 (2) (c).

Insert instead “manner that the Minister is satisfied is likely to bring the advertisement to the attention of members of the public”.

2.26 Plantations and Reafforestation (Code) Regulation 2001

Appendix Plantations and Reafforestation Code

Omit clause 25 (3) (c). Insert instead:

- (c) before the draft schedule is exhibited, advertise the dates and places of exhibition and the period allowed for comment in a manner that the Minister is satisfied is likely to bring the advertisement to the attention of:
- (a) members of the public generally, and
 - (b) if the matter relates to a particular area only—members of the public in the particular area.

2.27 Protection of the Environment Operations Act 1997 No 156

[1] Section 15 EPA to give notice of intention to prepare draft PEP

Omit section 15 (2) (b) and (c). Insert instead:

- (b) also be published in a manner that the EPA is satisfied is likely to bring the notice to

the attention of members of the public generally, and

- (c) if it is intended that the policy will specifically affect only a particular region of the State—also be published in a manner that the EPA is satisfied is likely to bring the notice to the attention of members of the public in that region.

[2] Section 17 Public consultation on draft PEP and impact statement

Omit section 17 (2) (b) and (c). Insert instead:

- (b) also be published in a manner that the EPA is satisfied is likely to bring the notice to the attention of members of the public generally, and
- (c) if it is intended that the policy will specifically affect only a particular region of the State—also be published in a manner that the EPA is satisfied is likely to bring the notice to the attention of members of the public in that region.

[3] Section 133 Prohibition by EPA of burning in open air or incinerators

Insert at the end of section 133 (4) (b):

, or

- (c) published, not later than on the eve of the day on which the order is to take effect, in such other reasonably practicable manner as the EPA is satisfied is most likely to bring the order to the attention of the persons to whom the order applies.

[4] Section 293A Alteration, suspension or termination of a scheme

Omit section 293A (2) (a). Insert instead:

- (a) cause notice of its intention to do so to be published in the Gazette and in such other manner as the EPA is satisfied is likely to bring the notice to the attention of the members of the public generally or in the locality in which the scheme operates, and

[5] Section 295C Regulations relating to tradeable emission schemes

Omit section 295C (5) (a). Insert instead:

- (a) cause notice of the review to be published in the Gazette and in such other manner as the Minister is satisfied is likely to bring the notice to the attention of members of the public generally or in the locality in which the scheme operates, and

[6] Section 295Q Regulations relating to green offsets

Omit section 295Q (6) (a). Insert instead:

- (a) cause notice of the review to be published in the Gazette and in such other manner as the Minister is satisfied is likely to bring the notice to the attention of members of the public generally or in the locality in which any relevant green offset scheme operates or relevant green offset works are located, and

[7] Section 308 Public register

Insert after section 308 (2) (h):

- (h1) in the case of the EPA—details of each order published under section 133,

2.28 Protection of the Environment Operations (Clean Air) Regulation 2010

Clause 13 Approval for certain fires or incinerators

Omit “a local newspaper circulating in the local government area” from clause 13 (2) (a).

Insert instead “the Gazette and in such other manner as the council is satisfied is likely to bring the notice to the attention of persons of that class”.

2.29 Protection of the Environment Operations (General) Regulation 2009

Clause 61 Emergency prohibition or regulation—safety of drinking water

Omit “publication of the notice in newspapers circulating in the area and” from clause 61 (4).

Insert instead “by means of”.

2.30 Rice Marketing Act 1983 No 176

[1] Section 31 Advertisement by Minister as to time for petition

Omit “and at least one newspaper circulating within the relevant area,” from section 31 (1).

Insert instead “, and in such other manner as the Minister is satisfied is likely to bring the notice to the attention of producers of the commodity,”.

[2] Section 57 Exemption by board

Omit section 57 (3). Insert instead:

- (3) The board may revoke any such exemption by notice in writing signed by the secretary or other authorised officer of the board. The notice:
 - (a) in the case of an exemption applying in relation to a specified producer or producers—is to be given to the producer or producers, or
 - (b) in any other case—is to be published in the Gazette and in such other manner as is approved by the Minister having regard to the object of bringing notices of that kind to the attention of any persons directly affected by the relevant revocations.

[3] Section 92 Exemptions

Omit section 92 (3). Insert instead:

- (3) The committee may revoke any such exemption by notice in writing signed by the secretary or other authorised officer of the committee. The notice:
 - (a) in the case of an exemption applying in relation to a particular producer or producers—is to be given to the producer or producers, or
 - (b) in any other case—is to be published in the Gazette and in such other manner as is approved by the Minister having regard to the object of bringing notices of that kind to the attention of any persons directly affected by the relevant revocations.

[4] Schedule 6 Special provisions relating to Rice Marketing Board

Omit clause 6 (3). Insert instead:

- (3) The Board is to grant any such extension by notice in writing signed by the secretary or other authorised officer of the Board. The notice:
 - (a) in the case of an exemption applying in relation to a particular producer or producers—is to be given to the producer or producers, or
 - (b) in any other case—is to be published in the Gazette and in such other manner as is approved by the Minister having regard to the object of bringing notices of that kind to the attention of any persons directly affected by the relevant extensions.

2.31 Royal Botanic Gardens and Domain Trust Act 1980 No 19

Section 20A Power to grant certain longer-term leases

Omit section 20A (6) (a). Insert instead:

- (a) give public notice of a proposed lease by means of a notice published in a manner determined by the Trust, and

2.32 Snowy Hydro Corporatisation Act 1997 No 99

Section 27 Public consultation on review or variation of licence

Omit “newspaper circulating generally throughout the State” from section 27 (2) (d).

Insert instead “manner that the Corporation is satisfied is likely to bring the advertisement to the attention of members of the public”.

2.33 Soil Conservation Act 1938 No 10

Section 17 Areas of erosion hazard

Omit section 17 (1). Insert instead:

- (1) The Minister may give notice of a proposal that a tract of land should be notified as an area of erosion hazard if the Minister is of the opinion that the tract of land is subject to, or liable or likely to become liable to, erosion. Notice of the proposal is to be given:
 - (a) by publishing the notice in the Gazette, and
 - (b) in such other manner as the Minister is satisfied is likely to bring the notice to the attention of members of the public in the locality in which the land is situated to whom the proposal may be of interest.

2.34 Sydney Water Act 1994 No 88

[1] Section 27 Re-use of sewage effluent

Insert “(or in a manner that the Corporation is satisfied is likely to bring the notice to the attention of members of the public)” after “Wales” in section 27 (5) (b).

[2] Section 36 Public exhibition of memoranda of understanding

Insert “(or in a manner that the regulatory agency concerned is satisfied is likely to bring the notice to the attention of members of the public in the area of operations)” after “operations” in section 36 (2).

[3] Section 36 (5)

Insert “(or in a manner that the regulatory agency that is a party to the memorandum of understanding is satisfied is likely to bring the notice to the attention of members of the public in the area of operations)” after “operations”.

[4] Section 100 Service of notices

Insert “or in a manner that is determined in writing by the Corporation having regard to the object of bringing advertisements of that kind to the attention of the relevant owners” after “premises” in section 100 (5) (a).

2.35 Very Fast Train (Route Investigation) Act 1989 No 44

Section 7 Applications for permits

Omit “published in a newspaper circulating throughout the State and in another newspaper circulating in the locality in which that land is situated” from section 7 (2).

Insert instead “given or published in a manner approved by the Minister having regard to the object of bringing notices of that kind to the attention of any persons who may be owners or occupiers of the relevant land”.

2.36 Waste Avoidance and Resource Recovery Act 2001 No 58

[1] Section 12 Development of waste strategies

Omit “daily newspaper circulating throughout the State” from section 12 (7) (a).

Insert instead “manner that the EPA is satisfied is likely to bring the notice to the attention of members of the public”.

[2] Section 18 Priorities with respect to the implementation of schemes

Omit section 18 (2). Insert instead:

- (2) The advertisement is to be published in a manner that the EPA is satisfied is likely to bring the advertisement to the attention of members of the public.

2.37 Water Act 1912 No 44

[1] Section 11 Notification of application for licence

Omit “to be advertised once in the Gazette and once in a newspaper published and circulating in the district where the work is or is proposed to be situated, a notice containing particulars of the application” from section 11 (1).

Insert instead “a notice containing particulars of the application to be advertised in the

Gazette and in such other manner as the Ministerial Corporation is satisfied is likely to bring the notice to the attention of members of the public in the district where the work is or is proposed to be situated”.

[2] Sections 11 (6A) (a), 13A (4), 20A (2) and 20CA (4) (c)

Omit “once in the Gazette and once in a newspaper published and circulating” wherever occurring.

Insert instead “in the Gazette and in such other manner as the Ministerial Corporation is satisfied is likely to bring the holding of the inquiry to the attention of members of the public”.

[3] Section 18G Application for permit

Omit “once in the Gazette and once in a newspaper circulating in the district where the work is or will be situate”.

Insert instead “in accordance with subsection (2)”.

[4] Section 18G (2)

Insert at the end of section 18G:

(2) The notice is to be advertised:

(a) in the Gazette, and

(b) in such other manner as the Ministerial Corporation is satisfied is likely to bring the notice to the attention of members of the public in the district where the work is or will be situated.

[5] Section 20A Notification of application and reference to Secretary or Magistrate

Omit “to be published, once in the Gazette and once in a newspaper published and circulating in the district where the work is or is proposed to be situated, a notice giving particulars of the application” from section 20A (1).

Insert instead “a notice giving particulars of the application to be published in the Gazette and in such other manner as the Ministerial Corporation is satisfied is likely to bring the notice to the attention of members of the public in the district where the work is or is proposed to be situated”.

[6] Section 20E Amended authorities

Omit “to be published, once in the Gazette and once in a newspaper published and circulating in the district where the work is situated, a notice giving particulars of the application” from section 20E (2) (b).

Insert instead “a notice giving particulars of the application to be published in the Gazette and in such other manner as the Ministerial Corporation is satisfied is likely to bring the notice to the attention of members of the public in the district where the work is situated”.

[7] Section 20Y Invalidation of applications for entitlements

Omit “and in a newspaper circulating in the district in which the water source is located” from section 20Y (1).

Insert instead “(and in such other manner as the Ministerial Corporation is satisfied is likely to bring the notice to the attention of members of the public in the district in which the water source is located)”.

[8] Section 20Z Power of Ministerial Corporation to reduce water allocations in time of shortage

Omit “and in a newspaper circulating in the district in which that water source is located” from section 20Z (1).

Insert instead “(and in such other manner as the Ministerial Corporation is satisfied is likely to bring the notice to the attention of members of the public in the district in which that water source is located)”.

[9] Section 20AI Application for transfer

Omit “newspaper circulating” from section 20AI (3C) (a).

Insert instead “manner that the Ministerial Corporation is satisfied is likely to bring that information to the attention of members of the public”.

[10] Section 22B Restriction or suspension of rights held under licences etc during periods of water shortage

Omit “a newspaper published and circulating” wherever occurring in section 22B (2) and (3).

Insert instead “such other manner as the Ministerial Corporation is satisfied is likely to bring those particulars to the attention of members of the public”.

[11] Section 113 Application for licence

Omit “to be advertised once in the Gazette and once in a public newspaper circulating in the neighbourhood where the bore or the site thereof is situate a notice” from section 113 (2).

Insert instead “a notice to be advertised in the Gazette (and in such other manner as the Ministerial Corporation is satisfied is likely to bring the notice to the attention of members of the public in the neighbourhood where the bore or the site of the bore is situated)”.

[12] Section 113A Invalidation of applications for licences

Omit section 113A (3) (b). Insert instead:

- (b) in such other manner as the Ministerial Corporation is satisfied is likely to bring the order to the attention of members of the public in the district in which the water shortage zone is situated.

[13] Section 114 Inquiry

Omit “once in the Gazette and once in a public newspaper circulating” from section 114 (1).

Insert instead “in the Gazette and in such other manner as the Ministerial Corporation is satisfied is likely to bring those particulars to the attention of members of the public”.

[14] Section 117E Restriction or suspension of rights held under licences during periods of water shortage

Omit section 117E (4) (b). Insert instead:

- (b) such other manner as the Ministerial Corporation is satisfied is likely to bring the order to the attention of members of the public in the district in which the water shortage zone is situated.

[15] Section 117F Allocation of surplus

Omit section 117F (3) (b). Insert instead:

- (b) such other manner as the Ministerial Corporation is satisfied is likely to bring the order to the attention of members of the public in the district in which the water surplus zone is situated.

2.38 Water NSW Act 2014 No 74

[1] Section 23 Public exhibition of memoranda of understanding

Omit “newspaper circulating” wherever occurring in section 23 (2) and (5).

Insert instead “manner that the regulatory agency concerned is satisfied is likely to bring the notice to the attention of members of the public”.

[2] Section 52 Plans of management

Omit “newspaper circulating throughout New South Wales” from section 52 (2).

Insert instead “manner that the joint sponsors are satisfied is likely to bring the notice to

the attention of members of the public”.

Schedule 3 Amendments by way of statute law revision—amendments consequent on enactment of [Biodiversity Conservation Act 2016 No 63](#) and [Local Land Services Amendment Act 2016 No 64](#)

Explanatory note

The proposed amendments in this Schedule update terminology and references to Acts and provisions of Acts as a consequence of the enactment of the [Biodiversity Conservation Act 2016](#) and the [Local Land Services Amendment Act 2016](#). The Schedule also corrects typographical errors in the [Biodiversity Conservation Act 2016](#) and the [Biodiversity Conservation \(Savings and Transitional\) Regulation 2017](#).

3.1 Biodiversity Conservation Act 2016 No 63

Section 6.2 (d)

Omit “conservations”. Insert instead “conservation”.

3.2 Biodiversity Conservation (Savings and Transitional) Regulation 2017

Clauses 26 (1) (b) and 51

Omit “as a a reference” wherever occurring. Insert instead “as a reference”.

3.3 Biosecurity Act 2015 No 24

[1] Sections 74 (1), 86 (1), 115 (1) (a) and 137 (1) (a)

Omit “protected fauna or a protected native plant within the meaning of the [National Parks and Wildlife Act 1974](#)” wherever occurring.

Insert instead “a protected animal or protected plant within the meaning of the [Biodiversity Conservation Act 2016](#)”.

[2] Sections 74 (2), 86 (2), 115 (1) (b) and 137 (1) (b)

Omit “threatened species within the meaning of the [Threatened Species Conservation Act 1995](#)” wherever occurring.

Insert instead “threatened species within the meaning of the [Biodiversity Conservation Act 2016](#)”.

[3] Sections 74 (3), 86 (3), 115 (1) (c) and 137 (1) (c)

Omit “the [Native Vegetation Act 2003](#)” wherever occurring.

Insert instead “Part 5A of the [Local Land Services Act 2013](#)”.

[4] Sections 74 (3) and 86 (3)

Omit “that Act” wherever occurring. Insert instead “that Part of that Act”.

[5] Section 386 (1)

Omit “the *Native Vegetation Act 2003*”.

Insert instead “Part 5A of the *Local Land Services Act 2013*”.

[6] Section 386 (1)

Omit “the *Threatened Species Conservation Act 1995*”.

Insert instead “the *Biodiversity Conservation Act 2016*”.

3.4 Cemeteries and Crematoria Act 2013 No 105

Section 5 (4) (g)

Omit “*Threatened Species Conservation Act 1995*”.

Insert instead “*Biodiversity Conservation Act 2016*”.

3.5 Dividing Fences Act 1991 No 72

Section 14 (1A)

Omit “critical habitat within the meaning of the *Threatened Species Conservation Act 1995* without the consent of the Director-General of National Parks and Wildlife”.

Insert instead “a declared area of outstanding biodiversity value under the *Biodiversity Conservation Act 2016* without the consent of the Environment Agency Head (within the meaning of that Act)”.

3.6 Electricity Supply Act 1995 No 94

Section 53H (3)

Omit “the *Native Vegetation Act 2003*, the *Threatened Species Conservation Act 1995*”.

Insert instead “the *Biodiversity Conservation Act 2016*, Part 5A of the *Local Land Services Act 2013*”.

3.7 Exhibited Animals Protection Regulation 2010

[1] Clause 5 Exhibitions exempted from the operation of the Act

Omit clause 5 (1) (g).

[2] Clause 31 (1) (a) (ii)

Insert “or the *Biodiversity Conservation Act 2016*” after “the *National Parks and Wildlife Act 1974*”.

3.8 Fisheries Management (General) Regulation 2010

Clause 260 (3) (a)

Omit “*Threatened Species Conservation Act 1995*”.

Insert instead “*Biodiversity Conservation Act 2016*”.

3.9 Impounding Act 1993 No 31

[1] Section 41 (3)

Omit “threatened species (as defined in the *Threatened Species Conservation Act 1995*), protected fauna (as defined in the *National Parks and Wildlife Act 1974*)”.

Insert instead “threatened species or protected animal (within the meaning of the *Biodiversity Conservation Act 2016*)”.

[2] Section 41 (3)

Omit “(as defined in that Act)”.

Insert instead “(within the meaning of the *National Parks and Wildlife Act 1974*)”.

3.10 Law Enforcement (Power and Responsibilities) Act 2002 No 103

Schedule 2 Search warrants under other Acts

Insert in appropriate order:

Biodiversity Conservation Act 2016, section 12.14

3.11 Mining Regulation 2016

[1] Schedule 5 Other relevant legislation

Insert in alphabetical order in the matter under the heading “New South Wales legislation”:

Biodiversity Conservation Act 2016

Local Land Services Act 2013 (Part 5A)

[2] Schedule 5

Insert “(repealed)” after “*Native Vegetation Act 2003*” and “*Threatened Species Conservation Act 1995*” wherever occurring in the matter under the heading “New South Wales legislation”.

3.12 Pesticides Act 1999 No 80

[1] Section 9 (1) (a)

Omit “threatened species within the meaning of the *Threatened Species Conservation Act 1995*”.

Insert instead “threatened species within the meaning of the *Biodiversity Conservation Act 2016*”.

[2] Section 9 (1) (b)

Omit “protected fauna within the meaning of the *National Parks and Wildlife Act 1974*”.

Insert instead “protected animal within the meaning of the *Biodiversity Conservation Act 2016*”.

[3] Section 9 (2)

Omit “any such animal or protected fauna”. Insert instead “any such animal”.

[4] Section 9 (3)

Omit “protected fauna”. Insert instead “a protected animal”.

Schedule 4 (Repealed)

**Schedule 5 Amendments by way of statute law
revision—miscellaneous amendments**

5.1 Betting and Racing Act 1998 No 114

Section 17A (1), definition of “sporting event”

Omit “incudes”. Insert instead “includes”.

Explanatory note

The proposed amendment corrects a spelling error.

5.2 Building and Construction Industry Long Service Payments Act

1986 No 19

Section 3 (1), definition of “Chief Executive Officer”

Omit “Chief Executive Officer within the meaning of the *Long Service Corporation Act 2010*”.

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

Explanatory note

The proposed amendment updates a reference as a consequence of a past administrative changes order.

5.3 Building Professionals Regulation 2007

[1] Clause 3 (1), definition of “strata certificate”

Omit “*Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986*”.

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

[2] Clause 13 (3), note

Omit “that that”. Insert instead “that”.

[3] Schedule 1, Part 1

Omit “*Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986* and the regulations under those Acts” and “section 37AA of the *Strata Schemes (Freehold Development) Act 1973* and section 66AA of the *Strata Schemes (Leasehold Development) Act 1986*”.

Insert instead “*Strata Schemes Development Act 2015* and any regulations under that Act” and “section 57 (1) (b) of the *Strata Schemes Development Act 2015*”, respectively.

Explanatory note

Items [1] and [3] of the proposed amendments update references to an Act. Item [2] omits a duplicated word.

5.4 Contaminated Land Management Act 1997 No 140

Section 103 (1)

Insert “being” before “reckless”.

Explanatory note

The proposed amendment corrects grammar.

5.5 Contract Cleaning Industry (Portable Long Service Leave Scheme)

Act 2010 No 122

Section 3 (1), definition of “Secretary”

Omit “Secretary of the Treasury”.

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

Explanatory note

The proposed amendment updates a reference as a consequence of a past administrative changes order.

5.6 Cootamundra Local Environmental Plan 2013

Land Use Table, Zone IN3, item 4

Omit “Recreation areas (indoor); Recreation areas (major); Recreation areas (outdoor);”.

Insert instead “Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor);”.

Explanatory note

The proposed amendment corrects references to land uses.

5.7 Crimes Act 1900 No 40

Section 307A (1) (b)

Insert “being” before “reckless”.

Explanatory note

The proposed amendment corrects grammar.

5.8 Crimes (Administration of Sentences) Act 1999 No 93

Section 78A (5)

Omit “section 79 (c1)”. Insert instead “section 79 (1) (c1)”.

Explanatory note

The proposed amendment corrects a cross-reference.

5.9 Crimes (Administration of Sentences) Regulation 2014

Schedule 6, clause 2 Government analysts and other analysts

Renumber the clause as clause 3.

Explanatory note

The proposed amendment corrects duplicate numbering.

5.10 Criminal Procedure Act 1986 No 209

Section 3 (1), definition of “case conference”

Omit “—means”. Insert instead “means”.

Explanatory note

The proposed amendment corrects a typographical error.

5.11 Driving Instructors Act 1992 No 3

Section 3 (3)

Insert after section 3 (2):

(3) Notes included in this Act do not form part of this Act.

Explanatory note

The proposed amendment clarifies the status of notes.

5.12 Electoral Act 2017 No 66

Section 215 (b)

Insert “being” before “reckless”.

Explanatory note

The proposed amendment corrects grammar.

5.13 Environmental Planning and Assessment Regulation 2000

Clause 52 (2)

Omit “to the Act of the Act”. Insert instead “to the Act”.

Explanatory note

The proposed amendment omits redundant words.

5.14 Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017

[1] Clause 17

Omit “to not”. Insert instead “do not”.

[2] Schedule 1

Insert “**Part 1 Preliminary**” before clause 1.

Explanatory note

Item [1] of the proposed amendments corrects a typographical error. Item [2] inserts a missing heading.

5.15 Fisheries Management (Abalone Share Management Plan) Regulation 2000

Appendix, clause 30

Insert “of the Act” after “section 68 (6A)”.

Explanatory note

The proposed amendment corrects a reference.

5.16 Fisheries Management (Aquaculture) Regulation 2017

Clause 3 (3)

Insert “(except in Schedule 2)” after “Regulation” where firstly occurring.

Explanatory note

The proposed amendment clarifies the status of notes in the Regulation.

5.17 Fisheries Management (Estuary General Share Management Plan) Regulation 2006

Appendix, Schedule 1

Omit “that that”. Insert instead “that”.

Explanatory note

The proposed amendment omits a redundant word.

5.18 Fisheries Management (Lobster Share Management Plan) Regulation 2000

Appendix, clause 21, note

Omit “total allowable catch”. Insert instead “TAC determination”.

Explanatory note

The proposed amendment updates terminology consequent on the making of the [Fisheries Management Legislation Amendment \(Quota Management\) Regulation 2017](#).

5.19 Food Regulation 2015

[1] Clause 170 (1)

Omit “clause 3” wherever occurring. Insert instead “clause 4”.

[2] Clause 170 (1)

Renumber the proposed provision as clause 5.

Explanatory note

Item [1] of the proposed amendments updates a reference to a renumbered provision of a Code. Item [2] makes a related amendment to update a reference to a provision of a Regulation.

5.20 Gene Technology (GM Crop Moratorium) Act 2003 No 12

Section 7

Insert “that” after “knowing”.

Explanatory note

The proposed amendment corrects grammar.

5.21 Home Building Act 1989 No 147

Section 119C (7), definitions of “lot”, “owners corporation” and “strata scheme”

Omit “*Strata Schemes Management Act 1996*”.

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

Explanatory note

The proposed amendment updates a reference to an Act.

5.22 Home Building Regulation 2014

[1] Clause 34 (1), paragraph (a) of definition of “common property”

Omit “*Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986*”.

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

[2] Clause 57 (4), definition of “strata scheme”

Omit “*Strata Schemes Management Act 1996*”.

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

Explanatory note

The proposed amendments update references to an Act.

5.23 Human Cloning for Reproduction and Other Prohibited Practices

Act 2003 No 20

Section 15 (1)

Insert “being” before “reckless”.

Explanatory note

The proposed amendment corrects grammar.

5.24 Liquor Act 2007 No 90

[1] Section 47J (c)

Omit “and”.

[2] Section 104 (5) (c)

Omit “or”.

Explanatory note

The proposed amendments omit redundant words.

5.25 Long Service Corporation Act 2010 No 123

Section 3 (1), definition of “Secretary”

Omit “Secretary of the Treasury”.

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

Explanatory note

The proposed amendment updates a reference as a consequence of a past administrative changes order.

5.26 Marine Safety Regulation 2016

Schedule 4

Renumber the subrules in each rule commencing with subrule (1).

Explanatory note

The proposed amendment corrects numbering.

5.27 Parramatta Local Environmental Plan 2011

Schedule 1, clause 14 Use of certain land at 111-113 Victoria Road, Parramatta

Renumber the clause as clause 15.

Explanatory note

The proposed amendment corrects duplicate numbering.

5.28 Passenger Transport Act 1990 No 39

Section 63 (2) (h)

Omit “and licence”.

Explanatory note

The proposed amendment omits redundant matter consequential on the enactment of the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016*.

5.29 Passenger Transport (General) Regulation 2017

Clause 6 (2)

Omit “section section”. Insert instead “section”.

Explanatory note

The proposed amendment omits a duplicated word.

5.30 Point to Point Transport (Taxis and Hire Vehicles) Regulation 2017

Clause 20 (2)

Omit “retroreflective”. Insert instead “retroreflective”.

Explanatory note

The proposed amendment corrects a typographical error.

5.31 Police Regulation 2015

Clause 100

Omit “subclause”. Insert instead “clause”.

Explanatory note

The proposed amendment corrects a cross-reference.

5.32 Private Health Facilities Regulation 2017

Schedule 1

Re-number Divisions 1–3 as Parts 1–3, respectively.

Explanatory note

The proposed amendment corrects numbering.

5.33 Protection of the Environment Operations (General) Regulation 2009

[1] Clause 81 (6) (h)

Omit “the Sydney Harbour Foreshore Authority”.

Insert instead “Place Management NSW”.

[2] Clause 106 (c)

Omit “clause 6G or 31 of the *Protection of the Environment Operations (Clean Air) Regulation 2002*”.

Insert instead “clause 13 or 42 of the *Protection of the Environment Operations (Clean Air) Regulation 2010*”.

Explanatory note

Item [1] of the proposed amendments corrects a reference to a statutory body. Item [2] updates a reference to provisions of a regulation.

5.34 Public Health Act 2010 No 127

Schedule 3

Omit “Meningococcal”. Insert instead “Meningococcal”.

Explanatory note

The proposed amendment corrects a spelling error.

5.35 Road Rules 2014

Dictionary, definition of “taxi”, note

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

Explanatory note

The proposed amendment omits a redundant number.

5.36 Road Transport (General) Regulation 2013

[1] Clause 6 (6)

Omit “Clause”. Insert instead “clause”.

[2] Schedule 2, matter relating to University of Sydney Camden Farms

Omit “Cobbity” wherever occurring. Insert instead “Cobbitty”.

Explanatory note

The proposed amendments correct typographical errors.

5.37 State Emergency Service Act 1989 No 164

[1] Section 24ZA (1) (c) and (d)

Omit “Incorporated” wherever occurring. Insert instead “Ltd”.

[2] Schedule 3, clauses 5 (3) and 15 (1) and (2)

Omit “Incorporated” wherever occurring. Insert instead “Ltd”.

Explanatory note

The proposed amendments update references to a body that has been renamed as a consequence of a corporate restructure.

5.38 State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

Clause 3B.49 (6)

Omit “Despite subclause (6)”. Insert instead “Despite subclause (5)”.

Commencement

The amendment to *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* commences, or is taken to have commenced, on the commencement of *State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Low Rise Medium Density Housing) 2017*.

Explanatory note

The proposed amendment corrects a cross-reference.

5.39 State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes)

Clause 8

Omit “section “1.4 (1)”. Insert instead “section 1.4 (1)”.

Explanatory note

The proposed amendment corrects a typographical error.

5.40 State Environmental Planning Policy (State and Regional Development) 2011

Schedule 5, clause 8 Parramatta Light Rail

Renumber the clause as clause 7A.

Explanatory note

The proposed amendment corrects duplicate numbering.

5.41 State Environmental Planning Policy (Sydney Region Growth Centres) 2006

Appendix 13, clause 6.6 (1) (b)

Renumber subparagraphs (a) and (b) as subparagraphs (i) and (ii), respectively.

Explanatory note

The proposed amendment corrects numbering.

5.42, 5.43

(Repealed)

5.44 Swimming Pools Act 1992 No 49

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

Omit the definition. Insert in appropriate order:

Secretary means:

- (a) the Commissioner for Fair Trading, Department of Finance, Services and Innovation,
or
- (b) if there is no person employed as Commissioner for Fair Trading—the Secretary of
the Department of Finance, Services and Innovation.

[2] Sections 22D (5) and (7), 30A (2), 30B (2) (a) and (3), 30C (1), 30D and 30E (1), (3) and (4)

Omit “Director-General” wherever occurring. Insert instead “Secretary”.

[3] Section 27 (1) (b)

Omit the paragraph. Insert instead:

- (b) with the approval of the Secretary or any other person employed in the Department
of Finance, Services and Innovation designated by the Secretary—any other
persons,

Explanatory note

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

5.45 Swimming Pools Regulation 2008

Clause 3 (1), definition of “Department”

Omit “Division of Local Government within the Department of Premier and Cabinet”.

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

Explanatory note

The proposed amendment updates a reference to a Department as a consequence of a past administrative changes order.

Schedule 6 Repeals

1 Repeal of *Moree and District War Memorial Educational Centre Act 1962 No 15*

The *Moree and District War Memorial Educational Centre Act 1962* is repealed.

Explanatory note

The repeal of the *Moree and District War Memorial Educational Centre Act 1962* (**the 1962 Act**) is enabled by proposed amendments to the *Crown Land Management Act 2016* in Schedule 1. The proposed amendments provide for the transfer, management and use of the land to which the 1962 Act applies and the abolition of the Trustees of the Moree and District War Memorial Educational Centre established under that Act.

2 Repeal of redundant Acts and provisions

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

Act or instrument	Provisions repealed
<i>Forestry Restructuring and Nature Conservation Act 1995 No 50</i>	Sections 4 (1) (e) and (6), 6, 7, 11 and 11A
<i>Hairdressers Act 2003 No 62</i>	Section 4 (1) (b)
<i>Protection of the Environment Operations (General) Regulation 2009</i>	Clause 95B
<i>Statute Law (Miscellaneous Provisions) Act (No 2) 2017 No 63</i>	Whole Act
<i>Sydney Mint Act 1902 No 41</i>	Whole Act

3 Repeal of amending provisions that have commenced

The following provisions of Acts or instruments are repealed:

Act or instrument	Provisions repealed
<i>Biodiversity Conservation (Savings and Transitional) Regulation 2017</i>	Schedules 1 and 2
<i>Building Products (Safety) Act 2017 No 69</i>	Schedule 2

State Environmental Planning Policy (Coastal Management) 2018 Clause 9 and Schedule 2

Strata Schemes Development Regulation 2016 Schedule 8

4 Repeal of uncommenced amendments that have been superseded

The following Acts or provisions of Acts are repealed:

Act or instrument	Provisions repealed
<i>Environmental Planning and Assessment Amendment Act 2014 No 79</i>	Whole Act
<i>Environmental Planning and Assessment and Electoral Legislation Amendment (Planning Panels and Enforcement) Act 2017 No 39</i>	Whole Act
<i>Fair Trading Amendment (Commercial Agents) Act 2016 No 52</i>	Schedule 2.3
<i>Regulatory and Other Legislation (Amendments and Repeals) Act 2016 No 60</i>	Schedule 2.2 [2] and 2.6 [2]
<i>Security Industry Amendment (Private Investigators) Act 2016 No 40</i>	Schedule 3.3

5 Repeal and consequential amendment

- (1) **Repeal of Occupational Licensing National Law Repeal Act 2015 No 49** The *Occupational Licensing National Law Repeal Act 2015* is repealed.
- (2) **Amendment of State Records Act 1998 No 17** Insert at the end of Schedule 3, with appropriate Part and clause numbering:

Part Provision consequent on repeal of Occupational Licensing National Law Repeal Act 2015 by Statute Law (Miscellaneous Provisions) Act 2018

Transferred provision—records of dissolved entities in custody of NSW Treasury

- (1) This Act and other laws of New South Wales apply to the transferred records, and so apply as if they were the records of NSW Treasury.
- (2) In this clause, **transferred records** means the records of an entity dissolved by the *Occupational Licensing National Law Repeal Act 2015* (as in

force immediately before its repeal) that were transferred by the operation of section 8 of that Act to the custody of NSW Treasury.

- (3) Subclause (1) re-enacts (with minor modifications) section 8 (2) of the *Occupational Licensing National Law Repeal Act 2015* and is a transferred provision to which section 30A of the *Interpretation Act 1987* applies.

Explanatory note

Clause 5 repeals the *Occupational Licensing National Law Repeal Act 2015* and transfers the substance of a provision having ongoing effect into the *State Records Act 1998*.

Schedule 7 General savings, transitional and other provisions

1 Effect of amendment of amending provisions

- (1) An amendment made by Schedule 1 or 5 to an amending provision contained in an Act or instrument is, if the amending provision has commenced before the Schedule 1 or 5 amendment concerned, taken to have effect as from the commencement of the amending provision (whether or not the amending provision has been repealed).

- (2) In this clause:

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

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

Explanatory note

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

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

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

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

any act done or decision made under the provision amended or repealed has effect after

the amendment or repeal as if it had been done or made under the provision as so amended or repealed.

Explanatory note

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

3 Effect of amendment on instruments

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

Explanatory note

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

4 Revocation of repeal

Section 29A of the [Interpretation Act 1987](#) applies to the repeal of Acts or instruments, or provisions of Acts or instruments, by this Act.

Explanatory note

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

5 Regulations

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

Explanatory note

This clause enables the making of regulations of a savings or transitional nature relating to incidental matters

arising out of the proposed Act.