

# Statute Law (Miscellaneous Provisions) Act (No 2) 2019 No 14

[2019-14]



New South Wales

## Status Information

### Currency of version

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

### Authorisation

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# Statute Law (Miscellaneous Provisions) Act (No 2) 2019 No 14



New South Wales

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# Statute Law (Miscellaneous Provisions) Act (No 2) 2019 No 14



New South Wales

An Act to amend certain Acts and instruments in various respects and for the purpose of effecting statute law revision; and to make certain savings.

## 1 Name of Act

This Act is the *Statute Law (Miscellaneous Provisions) Act (No 2) 2019*.

## 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 Schedule 1 to this Act commence on the day or days specified in that Schedule in relation to the amendments concerned. If a commencement day is not specified in relation to an amendment, the amendment commences in accordance with subsection (1).

## 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 Betting and Racing Act 1998 No 114

#### Section 34 Delegation

Insert at the end of the section—

- (2) The Secretary of the Department of Customer Service may delegate the exercise of any function of the Secretary under this Act (other than this power of delegation) to—
  - (a) any person employed in the Public Service, or

- (b) any person, or any class of persons, authorised for the purposes of this subsection by the regulations.

**Explanatory note**

The proposed amendment enables the Secretary of the Department of Customer Service to delegate to a person employed in the Public Service or authorised by the regulations the Secretary's functions under the *Betting and Racing Act 1998* relating to bookmakers' returns, the appointment of inspectors, and related investigation and enforcement powers.

## **1.2 Births, Deaths and Marriages Registration Act 1995 No 62**

**[1] Section 4(1)**

Omit the definition of *doctor*.

**[2] Sections 12(3)(a) and (b) and 39(1)(b)**

Omit "doctor's" wherever occurring. Insert instead "registered medical practitioner's".

**[3] Sections 12(3)(b), (4) and (5), 38(1)(a) and 39**

Omit "doctor" wherever occurring. Insert instead "registered medical practitioner".

**[4] Section 32C Application must be accompanied by declarations by doctors**

Omit section 32C(a). Insert instead—

- (a) 2 statutory declarations verifying that the person the subject of the application has undergone a sex affirmation procedure, and

**[5] Section 32C(2)**

Insert at the end of section 32C—

- (2) A statutory declaration required under subsection (1)(a) must be by—
- (a) a registered medical practitioner, or
- (b) a person authorised to practise medicine by a law of a jurisdiction outside Australia.

**[6] Section 32DB Documents to accompany application to register change of sex**

Omit section 32DB(a). Insert instead—

- (a) 2 statutory declarations verifying that the person the subject of the application has undergone a sex affirmation procedure, and

**[7] Section 32DB(2)**

Insert at the end of section 32DB—

- (2) A statutory declaration required under subsection (1)(a) must be by—
- (a) a registered medical practitioner, or
  - (b) a person authorised to practise medicine by a law of a jurisdiction outside Australia.

**Explanatory note**

The *Births, Deaths and Marriages Registration Act 1995* defines a doctor to be “a registered medical practitioner”. Item [1] of the proposed amendments omits this redundant definition. Items [2] and [3] replace references in that Act to “doctor” with “registered medical practitioner”.

Items [4]–[7] permit overseas qualified doctors to provide the Registrar of Births, Deaths and Marriages statutory declarations verifying that a person applying for the registration of the person’s change of sex has undergone a sex affirmation procedure. Currently, statutory declarations may only be provided by Australian registered medical practitioners.

### **1.3 Births, Deaths and Marriages Registration Regulation 2017**

**[1] Clause 10 Application to alter Register to record change of sex**

Omit “section 32C(b)”. Insert instead “section 32C(1)(b)”.

**[2] Clause 10(a)**

Omit the paragraph. Insert instead—

- (a) a signed statement by each registered medical practitioner or authorised person who makes a statutory declaration under section 32C(1)(a) of the Act declaring that the registered medical practitioner or authorised person sighted proof of the identity of the person the subject of the application when making the statutory declaration,

**[3] Clause 11 Application to register change of sex**

Omit “section 32DB(b)”. Insert instead “section 32DB(1)(b)”.

**[4] Clause 11(a)**

Omit the paragraph. Insert instead—

- (a) a signed statement by each registered medical practitioner or authorised person who makes a statutory declaration under section 32DB(1)(a) of the Act declaring that the registered medical practitioner or authorised person sighted proof of the identity of the person the subject of the application when making the statutory

declaration,

**Explanatory note**

The proposed amendments are consequential on proposed amendments to the *Births, Deaths and Marriages Registration Act 1995* made in Schedule 1.2.

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

### **[1] Section 168 Access to personal information**

Insert after section 168(3)—

- (4) This section extends to any person who was under the parental responsibility of the Minister or the Secretary, however expressed, under the repealed *Children (Care and Protection) Act 1987*, the repealed *Child Welfare Act 1939* or any other repealed Act.

**Note—**

Under the repealed Acts, a person under the parental responsibility of the Minister or the Secretary may have been referred to as a ward of the State, a person under guardianship of the Minister or the Secretary or a person in foster care.

### **[2] Section 169 Entitlement to certain documents**

Insert at the end of the section—

- (2) This section extends to any person who was under the parental responsibility of the Minister or the Secretary, however expressed, under the repealed *Children (Care and Protection) Act 1987*, the repealed *Child Welfare Act 1939* or any other repealed Act.

**Note—**

Under the repealed Acts, a person under the parental responsibility of the Minister or the Secretary may have been referred to as a ward of the State, a person under guardianship of the Minister or the Secretary or a person in foster care.

**Commencement**

The amendments to the *Children and Young Persons (Care and Protection) Act 1998* commence on the date of assent to this Act.

**Explanatory note**

The proposed amendments make it clear that any person who has left statutory out-of-home care, regardless of the term used to describe that care or when the person left out-of-home care, is entitled to access and possess personal information held by a designated agency, the person's authorised carer or the Secretary of the Department of Communities and Justice.

## 1.5 Co-operatives (Adoption of National Law) Act 2012 No 29

### Section 18 Local regulations

Insert at the end of section 18(2)(c)—

, and

- (d) the fees to be paid in respect of matters arising under this Act, the *Co-operatives National Law (NSW)* or the *Co-operatives National Regulations (NSW)*.

#### Explanatory note

The proposed amendment allows the making of regulations under the *Co-operatives (Adoption of National Law) Act 2012* in relation to the fees payable in respect of matters arising under that Act, the *Co-operatives National Law (NSW)* and the *Co-operatives National Regulations (NSW)*.

## 1.6 Fair Trading Legislation Amendment (Reform) Act 2018 No 65

### Schedule 8 Amendments relating to approval of forms

Omit “Secretary” from Schedule 8.4[2]. Insert instead “Authority”.

#### Explanatory note

The proposed amendment transfers to the State Insurance Regulatory Authority the function of approving the form of certificates of insurance and evidence of cover by alternative indemnity products under the *Home Building Act 1989* (which is currently conferred on the Commissioner for Fair Trading).

## 1.7 Gaming and Liquor Administration Act 2007 No 91

### Section 42 Service of documents on Authority

Omit section 42(1). Insert instead—

- (1) A document may be served on the Authority by any of the following methods—
- (a) by sending it by post to an office of the Authority,
  - (b) by leaving it at the office with a person authorised in writing by the Authority to accept service of documents on behalf of the Authority,
  - (c) by sending it by means of electronic communication addressed to the Authority at the Authority’s address for service of electronic communications.

#### Explanatory note

The proposed amendment enables the service of documents on the Independent Liquor and Gaming Authority to be effected by electronic communication.

## 1.8 Gaming Machines Act 2001 No 127

### Section 64 Declaration of approved gaming machines

Omit section 64(8). Insert instead—

- (8) If the Authority revokes the declaration of a device as an approved gaming machine, the revocation does not take effect until the hotelier, club or holder of the dealer's licence who is in possession of the device has been given or served written notice of the revocation—
- (a) by post, or
  - (b) by email to an email address specified by the hotelier, club or holder of the dealer's licence for the service of the notice.

#### Explanatory note

The proposed amendment enables the service of written notices of revocation of the declaration of a device as an approved gaming machine on the hotelier, club or holder of the dealer's licence who is in possession of the device to be effected by email.

## 1.9 Hairdressers Act 2003 No 62

### Section 7 Information and documents may be required

Omit section 7(3). Insert instead—

- (3) In this section—

**authorised officer** means an investigator appointed under section 18 of the *Fair Trading Act 1987* or an officer of a Government Department who is authorised by the Minister for the purposes of this section.

#### Explanatory note

The proposed amendment amends the definition of **authorised officer** to include an investigator appointed under the *Fair Trading Act 1987*, to enable an investigator to require, by notice, an individual to give information or documents under the *Hairdressers Act 2003*.

## 1.10 Housing Act 2001 No 52

### [1] Section 63 Housing Account

Omit “the Department or” wherever occurring in section 63(2)(a) and (d).

### [2] Section 63(3)

Omit “the Department and the Corporation to exercise their functions”.

Insert instead “the Corporation to exercise its functions”.



**[3] Section 63(4)**

Omit “the Department”. Instead instead “the Corporation”.

**Explanatory note**

The proposed amendments to the *Housing Act 2001* ensure that only amounts advanced by the Treasurer or appropriated for the purposes of the New South Wales Land and Housing Corporation are required to be directed to the Housing Account (and not all amounts so advanced or appropriated for the purposes of the Department of Communities and Justice). This reflects the current administrative and financial arrangements relating to the Housing Account held in the Special Deposits Account.

## **1.11 Independent Commission Against Corruption Act 1988 No 35**

### **Section 52 Legal and financial assistance for witness**

Omit “Director-General of the Attorney General’s Department” from section 52(5).

Insert instead “Secretary, a Deputy Secretary or the General Counsel of the Department of Communities and Justice”.

**Explanatory note**

The proposed amendment allows the Attorney General to delegate functions relating to the approval of an application by a witness for financial or legal assistance under section 52 of the *Independent Commission Against Corruption Act 1988* to the Secretary, a Deputy Secretary or the General Counsel of the Department of Communities and Justice. Currently, the functions may only be delegated to the Secretary.

## **1.12 Independent Pricing and Regulatory Tribunal Act 1992 No 39**

### **[1] Section 13 Investigations and reports by Tribunal—general**

Omit “newspaper circulating in the State” from section 13(2).

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

### **[2] Section 19 Reports to be made public**

Omit section 19(4).

### **[3] Section 21 Hearings in investigations**

Omit “by advertisement published in a newspaper circulating in the State” from section 21(3).

Insert instead “in a manner that the Tribunal is satisfied is likely to bring the notice to the attention of members of the public generally”.

**Explanatory note**

Items [1] and [3] of the proposed amendments replace the existing requirement for the Independent Pricing and Regulatory Tribunal (the *Tribunal*) to give notice in a newspaper of certain investigations and associated hearings with the requirement to publish those notices in a manner that the Tribunal is satisfied is likely to bring those notices to the attention of members of the public generally. The amendments reflect recent reforms of notification requirements across the statute book.

Item [2] removes the requirement for copies of certain reports to be made available for sale at the principal office of the Government Information Service (which is no longer operational). The Tribunal's reports are available free of charge on its website.

## **1.13 Law Enforcement Conduct Commission Act 2016 No 61**

### **Section 77 Legal and financial assistance for witness**

Insert “, a Deputy Secretary or the General Counsel” after “the Secretary” in section 77(5).

#### **Explanatory note**

The proposed amendment allows the Attorney General to delegate functions relating to the approval of an application by a witness for financial or legal assistance under section 77 of the *Law Enforcement Conduct Commission Act 2016* to the Secretary, a Deputy Secretary or the General Counsel of the Department of Communities and Justice. Currently, the functions may only be delegated to the Secretary.

## **1.14 Ombudsman Act 1974 No 68**

### **[1] Section 6 Office of Ombudsman**

Omit section 6(3)(a) and (b). Insert instead—

- (a) is a member of the Legislative Council or the Legislative Assembly, or
- (b) is a member of a House of Parliament of another State or of the Commonwealth.

### **[2] Section 6(4)(a)**

Omit the paragraph.

### **[3] Section 35 Ombudsman, officer or expert as witness**

Omit “21A” from section 35(2)(a). Insert instead “19A, 19B, 19C, 21C”.

### **[4] Schedule 2 Savings and transitional provisions**

Insert after clause 6—

## **7 Statute Law (Miscellaneous Provisions) Act (No 2) 2019**

Section 6, as amended by the *Statute Law (Miscellaneous Provisions) Act (No 2) 2019*, extends to the person who held office as Ombudsman immediately before the commencement of the amendment.

#### **Explanatory note**

Items [1] and [2] of the proposed amendments remove the requirement for the Ombudsman to be under 65 years of age. Item [4] extends those amendments to the existing Ombudsman.

Item [3] extends a provision that makes the Ombudsman competent and compellable to give evidence or produce documents in

certain legal proceedings to include proceedings relating to the unauthorised publication of evidence or prejudicial disclosure of information during investigations by the Ombudsman. Generally, the Ombudsman is not competent or compellable. Item [3] also corrects a cross-reference.

## **1.15 Passenger Transport Act 2014 No 46**

### **Schedule 4 Amendment of Acts**

Omit Schedule 4.12[22]. Insert instead—

#### **[22] Schedule 1, clause 8**

Omit the clause.

#### **Commencement**

The amendment to the *Passenger Transport Act 2014* commences on the date of assent to this Act.

#### **Explanatory note**

The proposed amendment is consequential on the proposed amendment to the *Transport Administration Act 1988* made in Schedule 1.25.

## **1.16 Public Lotteries Act 1996 No 86**

### **[1] Section 81 Delegation**

Insert at the end of the section—

- (2) The Secretary of the Department of Customer Service may delegate the exercise of any function of the Secretary under this Act (other than this power of delegation) to—
  - (a) any person employed in the Public Service, or
  - (b) any person, or any class of persons, authorised for the purposes of this subsection by the regulations.

### **[2] Section 82 Service of documents**

Insert at the end of section 82(1)(d)—

, or

- (e) by email to an email address specified by the person for the service of documents of that kind.

### **[3] Section 82(2)(c)**

Insert at the end of section 82(2)(b)—

, or

- (c) by email to an email address specified by the corporation for the service of documents of that kind.

**Explanatory note**

Item [1] of the proposed amendments enables the Secretary of the Department of Customer Service to delegate to a person employed in the Public Service or authorised by the regulations the Secretary's functions under the *Public Lotteries Act 1996* of appointing inspectors for the purposes of the Act and related investigation and enforcement powers.

Items [2] and [3] enable the service of documents on persons (including corporations) to be effected by email.

## **1.17 Public Works and Procurement Act 1912 No 45 (as amended by Public Works and Procurement Amendment (Enforcement) Act 2018)**

### **Section 176F Compensation for contravention**

Omit “, expression of interest or request for tender” from paragraph (a) of the definition of **procurement process expenditure** in section 176F(5).

Insert instead “or expression of interest”.

**Commencement**

The amendment to the *Public Works and Procurement Act 1912* commences or is taken to have commenced on the commencement of Schedule 1[6] to the *Public Works and Procurement Amendment (Enforcement) Act 2018*.

**Explanatory note**

The proposed amendment removes the reference to a “request for tender” from the definition of **procurement process expenditure** that is to be inserted by the *Public Works and Procurement Amendment (Enforcement) Act 2018* into the *Public Works and Procurement Act 1912* (being certain costs incurred by a participant in a procurement process carried out by a government agency). The reference is unnecessary because the costs of preparing a request for tender are incurred by the government agency carrying out the procurement process rather than participants in the procurement process.

## **1.18 Registered Clubs Act 1976 No 31**

### **[1] Section 35A Secretary may carry out inquiries and investigations**

Omit section 35A(1). Insert instead—

- (1) The Secretary may carry out such investigations and inquiries as the Secretary considers necessary in connection with—
  - (a) a complaint or proposed complaint under Part 6A in relation to the secretary, or a member of the governing body, of a registered club, or
  - (b) compliance with the provisions of Part 4A (including the provisions of the

Registered Clubs Accountability Code) by a registered club or member of the governing body or employee of a registered club.

**[2] Section 71 Service of notices**

Omit section 71(1). Insert instead—

- (1) Any notice or other instrument to be served on a registered club under this Act may be served by any of the following methods—
  - (a) by leaving it with the secretary of the club, a member of the governing body or of a committee of the club or a person who is apparently an employee of the club at the premises of the club,
  - (b) by affixing it to a conspicuous part of the premises of the club,
  - (c) by email to an email address specified by the registered club for the service of notices or other instruments of that kind.

**Explanatory note**

Item [1] of the proposed amendments makes it clear that the Secretary of the Department of Customer Service may continue to carry on investigations and inquiries in connection with a complaint or proposed complaint in relation to the secretary, or a member of the governing body, of a registered club after the Secretary has ascertained that a complaint should be made to the Independent Liquor and Gaming Authority under Part 6A of the *Registered Clubs Act 1976*.

Item [2] enables the service of notices on registered clubs to be effected electronically.

## **1.19 Residential Tenancies Amendment (Review) Act 2018 No 58**

**[1] Schedule 1 Amendment of Residential Tenancies Act 2010 No 42**

Insert “(if any)” after “regulations” in paragraph (a) of the proposed definition of ***separately metered*** in Schedule 1[1].

**[2] Schedule 1[18]**

Insert “(if any)” after “fee” wherever occurring in proposed sections 65B(2)(d) and 65C(2)(d).

**Explanatory note**

Item [1] of the proposed amendments makes it clear that the regulations need not prescribe any Australian Standard dealing with electrical, gas, oil or water metering equipment for the purposes of the definition of ***separately metered*** proposed to be inserted into the *Residential Tenancies Act 2010* (the ***principal Act***) by the *Residential Tenancies Amendment (Review) Act 2018* (the ***amending Act***).

Item [2] makes it clear that the regulations need not prescribe an application fee for an application to the Commissioner for Fair Trading to investigate alleged damage to premises by a tenant or an alleged breach by a landlord of the landlord’s obligation to provide and maintain premises in a reasonable state of repair under sections 65B and 65C proposed to be inserted into the principal Act by the amending Act.

## 1.20 Road Transport Act 2013 No 18

### [1] Section 82 Definitions

Omit the definition of **former written-off light vehicle**. Insert in alphabetical order—

**inspected written-off light vehicle** has the meaning given by section 83(1).

### [2] Section 83 NSW written-off light vehicles register

Omit “**former written-off light vehicles**” from section 83(1)(b).

Insert instead “**inspected written-off light vehicles**”.

### [3] Section 104A Definitions

Omit the definition of **former written-off heavy vehicle**. Insert in alphabetical order—

**inspected written-off heavy vehicle** has the meaning given by section 104B(1).

### [4] Section 104B NSW written-off heavy vehicles register

Omit “**former written-off heavy vehicles**” from section 104B(1)(c).

Insert instead “**inspected written-off heavy vehicles**”.

#### Explanatory note

The proposed amendments replace references in the [Road Transport Act 2013](#) to “former” written-off light and heavy vehicles with “inspected” written-off light and heavy vehicles to make the language of that Act consistent with the language commonly used in the motor vehicle repair industry and in other jurisdictions.

## 1.21 Surveying and Spatial Information Act 2002 No 83

### Section 3 Definitions

Omit the definitions of **Australian Height Datum** and **Geocentric Datum of Australia** from section 3(1).

Insert instead, respectively—

**Australian Height Datum** means the datum surface prescribed by the regulations for the purposes of this definition.

**Geocentric Datum of Australia** means the datum surface prescribed by the regulations for the purposes of this definition.

#### Commencement

The amendment to the [Surveying and Spatial Information Act 2002](#) commences on 1 January 2020.

### Explanatory note

The proposed amendment enables the datum surfaces on which the definitions of **Australian Height Datum** and **Geocentric Datum of Australia** rely to be prescribed by the regulations to enable those definitions to be readily updated to maintain consistency with national standards as determined from time to time.

## 1.22 Surveying and Spatial Information Regulation 2017

### Clauses 5A and 5B

Insert after clause 5—

#### 5A Australian Height Datum

For the purposes of the definition of **Australian Height Datum** in section 3(1) of the Act, the datum surface approximating mean sea level that was adopted by the National Mapping Council of Australia in May 1971 is prescribed.

#### 5B Geocentric Datum of Australia

- (1) For the purposes of the definition of **Geocentric Datum of Australia** in section 3(1) of the Act, the datum surface approximating the shape of the earth's surface defined by the reference frame designated under the *National Measurement (Recognized-Value Standard of Measurement of Position) Determination 2017* of the Commonwealth is prescribed.

#### Note—

The reference frame designated in the *National Measurement (Recognized-Value Standard of Measurement of Position) Determination 2017* of the Commonwealth is Geocentric Datum of Australia 2020 (GDA2020) at the Reference Epoch of 2020.0.

- (2) In this clause—

**Chief Metrologist** means the Chief Metrologist established under section 18A(1) of the *National Measurement Act 1960* of the Commonwealth.

**National Measurement (Recognized-Value Standard of Measurement of Position) Determination 2017** means the standard of measurement of that name maintained by the Chief Metrologist under section 8(1) of the *National Measurement Act 1960* of the Commonwealth.

#### Commencement

The amendment to the *Surveying and Spatial Information Regulation 2017* commences on 1 January 2020.

#### Explanatory note

The proposed amendment is consequential on the proposed amendment to the *Surveying and Spatial Information Act 2002* made in Schedule 1.21, and prescribes the datum surfaces for the purposes of the definitions of **Australian Height Datum** and **Geocentric Datum of Australia** in that Act to ensure those definitions are consistent with current national standards.

## 1.23 Totalizator Act 1997 No 45

### [1] Section 115 Delegation

Insert at the end of the section—

- (2) The Secretary of the Department of Customer Service may delegate the exercise of any function of the Secretary under this Act (other than this power of delegation) to—
- (a) any person employed in the Public Service, or
  - (b) any person, or any class of persons, authorised for the purposes of this subsection by the regulations.

### [2] Section 116 Service of documents

Insert at the end of section 116(1)(d)—

, or

- (e) by email to an email address specified by the person for the service of documents of that kind.

### [3] Section 116(2)(c)

Insert at the end of section 116(2)(b)—

, or

- (c) by email to an email address specified by the corporation for the service of documents of that kind.

#### Explanatory note

Item [1] of the proposed amendments enables the Secretary of the Department of Customer Service to delegate to a person employed in the Public Service or authorised by the regulations the Secretary's functions under the *Totalizator Act 1997* to appoint inspectors for the purposes of the Act and related investigation and enforcement powers.

Items [2] and [3] enable the service of documents on persons (including corporations) to be effected by email.

## 1.24 Tow Truck Industry Act 1998 No 111

### [1] Section 17 Application for licence

Insert at the end of section 17(2)(g)—

and



**[2] Section 17(2)(h)**

Omit the paragraph. Insert instead—

(h) be accompanied by the fee (if any) prescribed by the regulations.

**[3] Section 21 Licence fees**

Omit the section.

**[4] Section 25 Application for drivers certificate**

Omit section 25(2)(c). Insert instead—

(c) be accompanied by the fee (if any) prescribed by the regulations.

**[5] Section 30 Drivers certificate fees**

Omit the section.

**[6] Section 105 Regulations**

Insert after section 105(2)(p)—

(q) fees for the granting of licences and drivers certificates.

**Commencement**

The amendments to the [Tow Truck Industry Act 1998](#) commence on 2 December 2019.

**Explanatory note**

Items [2]-[5] of the proposed amendments will enable the amount of fees payable for an application for a tow truck operators licence or a drivers certificate under the [Tow Truck Industry Act 1998](#) to be prescribed by the regulations rather than being determined by the Secretary of the Department of Customer Service and published in the NSW Government Gazette as currently occurs.

Item [1] corrects a grammatical error.

## **1.25 Transport Administration Act 1988 No 109**

### **Schedule 1 Functions of Transport for NSW**

Insert after clause 7—

#### **7A Fare revenue from public passenger services**

If authorised by, or under arrangements or contracts made under, this Act, the [Passenger Transport Act 1990](#) or the [Passenger Transport Act 2014](#), TfNSW may collect, manage and deal with any fare revenue received in respect of the provision

of public passenger services by RailCorp, Sydney Trains, NSW Trains, the State Transit Authority, Sydney Metro, Sydney Ferries or any other operator of a public passenger service.

#### **Commencement**

The amendment to the *Transport Administration Act 1988* commences on the date of assent to this Act.

#### **Explanatory note**

The proposed amendment is consequential on the transition from the *Passenger Transport Act 1990* (the **1990 Act**) to the *Passenger Transport Act 2014* (the **2014 Act**). An amendment in item [22] of Schedule 4.12 to the 2014 Act (the **existing amendment**) replaced existing clause 8 of Schedule 1 to the *Transport Administration Act 1988* with an unrelated provision, which allows Transport for NSW to collect, manage and deal with any fare revenue from public passenger services authorised under an arrangement or contract under the 2014 Act and the *Transport Administration Act 1988*. The existing amendment has not commenced.

The proposed amendments (contained in this subschedule and Schedule 1.15) separate enactment of the existing amendment from the repeal of clause 8 of Schedule 1 to the *Transport Administration Act 1988* in order for the repeal of that provision and the enactment of the existing amendment to occur at separate times.

The proposed amendment further provides that TfNSW may also collect, manage and deal with any fare revenue from public passenger services authorised under an arrangement or contract under the 1990 Act, as well as the 2014 Act and the *Transport Administration Act 1988*.

## **1.26 Workers Compensation Act 1987 No 70**

### **[1] Schedule 6 Savings, transitional and other provisions**

Insert at the end of clause 3 of Part 19I—

(2) This clause does not apply, and is taken never to have applied—

- (a) in respect of the *Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987*, to an amendment made by the 2015 amending Act to section 25 of the 1987 Act, or
- (b) in respect of the *Workers' Compensation (Dust Diseases) Act 1942*, to an amendment made by the 2015 amending Act to section 26 of the 1987 Act, or
- (c) to clause 5 of this Part in its application to either of those amendments.

### **[2] Schedule 6, Part 19I, clause 15(1A)**

Insert after clause 15(1)—

- (1A) This clause does not apply, and is taken never to have applied, to the amendments made by the 2015 amending Act to sections 25 and 26 of the 1987 Act.

#### **Explanatory note**

Item [1] of the proposed amendments (together with the proposed amendment to the *Workers' Compensation (Dust Diseases) Act 1942* made in Schedule 1.27) increases, from \$9,000 to \$15,000, the amount of funeral expenses compensation payable under that Act in respect of the death of a worker resulting from a dust disease. The increase is in line with the increase in funeral expenses compensation payable under the *Workers Compensation Act 1987* (**the 1987 Act**) as a consequence of the enactment of the *Workers Compensation Amendment Act 2015* (**the 2015 amending Act**). The proposed amendment applies to deaths occurring on or after 5 August 2015 (the date of introduction into the Legislative Assembly of the Bill for the 2015 amending Act).

Items [1] and [2] also consolidate savings and transitional provisions relating to death benefits under the 1987 Act, currently included in the *Workers Compensation Regulation 2016*.

## 1.27 Workers' Compensation (Dust Diseases) Act 1942 No 14

### Section 8 Certificate of Medical Assessment Panel and rates of compensation

Omit "section 27" from section 8(2A). Insert instead "section 26".

#### Commencement

The amendment to the *Workers' Compensation (Dust Diseases) Act 1942* is taken to have commenced on 5 August 2015.

#### Explanatory note

The proposed amendment (together with the proposed amendments to the *Workers Compensation Act 1987* made in Schedule 1.26) increases, from \$9,000 to \$15,000, the amount of funeral expenses compensation payable under the *Workers' Compensation (Dust Diseases) Act 1942*. The proposed amendment applies to deaths occurring on or after 5 August 2015 (the date of introduction into the Legislative Assembly of the Bill for the *Workers Compensation Amendment Act 2015*).

## 1.28 Workers Compensation Regulation 2016

### Schedule 8 Savings and transitional provisions

Insert before clause 37—

#### 37AA Operation of amendments

This Part ceases to have effect on the commencement of the amendments made to the 1987 Act by the *Statute Law (Miscellaneous Provisions) Act (No 2) 2019*.

#### Explanatory note

The proposed amendment is consequent on the proposed amendments to the *Workers Compensation Act 1987* made in Schedule 1.26.

## Schedule 2 Amendments by way of statute law revision—miscellaneous amendments

### 2.1 Aboriginal Languages Act 2017 No 51

#### Section 13(3)

Omit "Minster". Insert instead "Minister".

#### Explanatory note

The proposed amendment corrects a spelling error.

## 2.2 Associations Incorporation Act 2009 No 7

### Section 101(1)(d)

Omit “registered office”. Insert instead “official address”.

#### Explanatory note

The proposed amendment updates terminology used in relation to an association’s registered office.

## 2.3 Byron Local Environmental Plan 1988

### [1] Clause 10(2)

Omit “*Strata Schemes (Freehold Development) Act 1973*”.

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

### [2] Clause 17A(5)

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

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

### [3] Clause 24(4)

Omit “the the”. Insert instead “the”.

### [4] Clause 49(1)(b)

Omit the paragraph. Insert instead—

(b) Division 2 of Part 4 of the *Strata Schemes Development Act 2015*,

#### Explanatory note

Items [1], [2] and [4] of the proposed amendments update references to Acts.

Item [3] omits a duplicate word.

## 2.4 Companion Animals Act 1998 No 87

### Section 62A(1)

Omit “authorised by the Departmental Chief Executive under section 75(7)(a1)” from paragraph (b) of the definition of **approved person**.

Insert instead “approved by the Departmental Chief Executive under section 83F(1)”.

#### Explanatory note

The proposed amendment corrects a cross-reference.

## 2.5 Cootamundra Local Environmental Plan 2013

### [1] Clause 2.1

Omit “Zone E4”. Insert instead “E4”.

### [2] Land Use Table, Zone R3, item 3

Omit “Restaurant or cafe” from the item. Insert instead “Restaurants or cafes”.

### [3] Land Use Table, Zone R3, item 3

Omit “Takeaway” from the item. Insert instead “Take away”.

#### Explanatory note

Item [1] of the proposed amendments omits an additional word. Items [2] and [3] correct typographical errors.

## 2.6 Environmental Planning and Assessment Act 1979 No 203

### [1] Section 4.32(1)

Omit the definition of ***applicable regional panel***.

### [2] Section 4.32(1)

Insert in alphabetical order—

***applicable Sydney district or regional planning panel*** for development means the Sydney district or regional planning panel for the part of the State in which the development is to be carried out.

### [3] Sections 4.33 and 4.34(1)

Omit “applicable regional panel” wherever occurring.

Insert instead “applicable Sydney district or regional planning panel”.

#### Explanatory note

The current definition of ***applicable regional panel*** suggests that an applicable planning panel must be a Sydney regional planning panel. The proposed amendments clarify that an applicable planning panel may be a Sydney district planning panel or a regional planning panel.

## 2.7 Farrer Memorial Research Scholarship Fund Act 1930 No 38

### [1] Section 2

Omit the definition of ***Director-General***.

**[2] Section 2**

Insert in alphabetical order—

**Secretary** means the Secretary of the Department.

**[3] Section 3**

Omit “Director-General (or the Director-General’s nominee), a Deputy Director-General of the Department nominated by the Director-General”.

Insert instead “Secretary (or the Secretary’s nominee), a Deputy Secretary of the Department nominated by the Secretary”.

**Explanatory note**

The proposed amendments update references to the Secretary.

## **2.8 Fisheries Management Act 1994 No 38**

**[1] Section 128**

Omit the definition of **this Act**.

**[2] Section 146(1A)**

Omit “section 91 of the *Environmental Planning and Assessment Act 1979* is subject to Division 5 of Part 4”.

Insert instead “section 4.46 of the *Environmental Planning and Assessment Act 1979* is subject to Division 4.8”.

**[3] Section 163(7B)(b)**

Omit “Part 5.1”. Insert instead “Division 5.2”.

**[4] Section 218(5C)**

Omit “Part 5.1”. Insert instead “Division 5.2”.

**[5] Section 220(1A)**

Omit “section 91 of the *Environmental Planning and Assessment Act 1979* is subject to Division 5 of Part 4”.

Insert instead “section 4.46 of the *Environmental Planning and Assessment Act 1979* is subject to Division 4.8”.

**[6] Section 227(2)**

Omit “Division 5 of Part 5 of the *Environmental Planning and Assessment Act 1979* (other

than the function of making a determination under that Division”.

Insert instead “Schedule 1AA (other than the function of making a determination under that Schedule”.

**[7] Section 238B**

Omit “Division 5 of Part 5 of the *Environmental Planning and Assessment Act 1979*”.

Insert instead “Schedule 1AA”.

**[8] Section 282A(1)(a)**

Omit “section 123”. Insert instead “section 9.45”.

**[9] Section 282A(1)**

Omit “this Act or of Division 5 of Part 5 of the EPA Act”.

Insert instead “, or Schedule 1AA to, this Act”.

**[10] Schedule 6D, clause 10(2)**

Omit “Part 7A of this Act or of Part 7, Part 7A or Part 8A of the *National Parks and Wildlife Act 1974*”.

Insert instead “Part 2 of the *Biodiversity Conservation Act 2016*”.

**[11] Schedule 6D, clause 10(5)(b)**

Omit “Division 1 (Stop work orders) of Part 6A of the *National Parks and Wildlife Act 1974*, Division 1 (Stop work orders) of Part 7 of the *Threatened Species Conservation Act 1995*”.

Insert instead “Division 2 (Stop work orders) of Part 11 of the *Biodiversity Conservation Act 2016*, Division 1 (Stop work orders) of Part 6A of the *National Parks and Wildlife Act 1974*”.

**Explanatory note**

Items [1]-[9] of the proposed amendments update cross-references to provisions of the *Environmental Planning and Assessment Act 1979* consequent on the renumbering and relocation of provisions of that Act.

Items [10] and [11] update cross-references consequent on the commencement of the *Biodiversity Conservation Act 2016*.

## **2.9 Fisheries Management (General) Regulation 2019**

**[1] Clause 12(2), definition of “charter fishing exempt fish”**

Omit “*australis*” from paragraph (b). Insert instead “*australis*”.

**[2] Clause 23(1)**

Omit “speargun”. Insert instead “spear gun”.

**Explanatory note**

Item [1] of the proposed amendments corrects a typographical error.

Item [2] corrects a spelling error.

## **2.10 Health Services Act 1997 No 154**

**Schedule 7, clause 73(2)**

Omit “the” where firstly occurring.

**Explanatory note**

The proposed amendment omits a duplicate word.

## **2.11 Land Management (Native Vegetation) Code 2018**

**[1] Clause 17, note**

Omit “the” where firstly occurring in paragraph (a).

**[2] Clause 72(2)**

Omit “of” where firstly occurring.

**Explanatory note**

The proposed amendments omit duplicate words.

## **2.12 Local Government Act 1993 No 30**

**Section 254A(1), note**

Omit the note.

**Explanatory note**

The proposed amendment omits a redundant note. The note refers only to matters that were required to be included in a council’s annual report under a repealed provision.

## **2.13 Local Government (General) Regulation 2005**

**Schedule 2, Part 5, Division 1, clause 18(1)**

Omit “clause 1”. Insert instead “clause 17”.

**Explanatory note**

The proposed amendment corrects a cross-reference.



## 2.14 Long Service Leave Act 1955 No 38

### Section 4(5A)

Omit “*Building and Construction Industry Long Service Payments Act 1974*”.

Insert instead “*Building and Construction Industry Long Service Payments Act 1986*”.

#### Explanatory note

The proposed amendment corrects an incorrect cross-reference.

## 2.15 Lord Howe Island Regulation 2014

### Clause 22(6)

Omit “elector elector”. Insert instead “elector”.

#### Explanatory note

The proposed amendment omits a duplicate word.

## 2.16 Mining Act 1992 No 29

### [1] Section 88

Omit “Director of Planning” wherever occurring. Insert instead “Secretary”.

### [2] Section 121(8)

Omit “section 75V (Approvals etc legislation that must be applied consistently) or 93 (Granting and modification of approval by approval body)”.

Insert instead “section 4.50 (Granting and modification of approval by approval body)”.

#### Explanatory note

Item [1] of the proposed amendments updates a reference to the Secretary.

Item [2] updates cross-references to provisions of the *Environmental Planning and Assessment Act 1979* consequent on the renumbering and relocation of provisions of that Act.

## 2.17 National Parks and Wildlife Regulation 2019

### Clause 10(7), definition of “registered”

Omit the definition. Insert instead—

**registered** means registered in Australia within the meaning of the *Road Transport Act 2013*.

#### Explanatory note

The proposed amendment updates a listing style used in the definition of **registered**.

## **2.18 Oaths Act 1900 No 20**

### **Section 26(1)**

Omit “Any oath”. Insert instead “Any oath,”.

#### **Explanatory note**

The proposed amendment inserts missing punctuation.

## **2.19 Paintball Act 2018 No 44**

### **Section 14(1)(e)**

Omit “by prescribed”. Insert instead “be prescribed”.

#### **Explanatory note**

The proposed amendment corrects a typographical error.

## **2.20 Rail Safety National Law (NSW)**

### **[1] Section 127**

Omit “urine screening test,” wherever occurring.

### **[2] Section 129**

Omit “or urine taken”. Insert instead “taken”.

### **[3] Section 129**

Omit “urine screening test,”.

#### **Explanatory note**

The proposed amendments omit duplicate references.

## **2.21 State Records Act 1998 No 17**

### **Section 7(4A)**

Omit “The Cabinet Office”.

Insert instead “the Department of Premier and Cabinet”.

#### **Explanatory note**

The proposed amendment updates a reference to a department.

## 2.22 Stock Medicines Act 1989 No 182

### [1] Section 3(1)

Omit the definition of **Director-General**.

### [2] Section 3(1)

Insert in alphabetical order—

**Secretary** means the Secretary of the Department of Planning, Industry and Environment.

### [3] Section 43(3)

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

### [4] Section 46

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

### [5] Section 47(2)

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

### [6] Section 62(a)(ii)

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

### [7] Section 64

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

### [8] Section 64

Omit “Director-General’s”. Insert instead “Secretary’s”.

#### Explanatory note

The proposed amendments update references to the Secretary.

## 2.23 Water Management (General) Regulation 2018

### Schedule 4, Part 2, cl 18

Omit “*Crown Lands*”. Insert instead “*Crown Land*”.

#### Explanatory note

The proposed amendment corrects a reference to an Act.

## 2.24 Water Sharing Plan for the Gwydir Unregulated and Alluvial

## Water Sources 2012

### [1] Appendix 4

Omit "IRIGATION" from the matter relating to the Moredun Creek Water Source.

Insert instead "IRRIGATION".

### [2] Appendix 4

Omit "HOISE" from the matter relating to the Myall Creek Water Source.

Insert instead "HOUSE".

### [3] Appendix 4

Omit "NOTHWITHSTANDING" wherever occurring in the matters relating to the Mehi River Water Source.

Insert instead "NOTWITHSTANDING".

### [4] Appendix 4

Omit "ACCORNDACE" from the matter relating to the Mehi River Water Source.

Insert instead "ACCORDANCE".

### [5] Appendix 4

Omit "DELARED" from the matter relating to the Gingham Watercourse Water Source.

Insert instead "DECLARED".

#### Explanatory note

The proposed amendments correct spelling errors.

## 2.25 Work Health and Safety (Mines and Petroleum Sites) Act 2013 No 54

### Part 4, Division 1, note

Omit the note at the beginning of the Division.

#### Explanatory note

The proposed amendment omits a redundant note.

## 2.26 Young Offenders Act 1997 No 54

### Section 8(2)(f)(ii)

Insert “or” at the end of the subparagraph.

#### Explanatory note

The proposed amendment corrects a grammatical error.

## Schedule 3 General savings, transitional and other provisions

### 1 Effect of amendment of amending provisions

- (1) An amendment made by Schedule 1 to an amending provision contained in an Act or instrument is, if the amending provision has commenced before the Schedule 1 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 instrument, 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.