

Statute Law (Miscellaneous Provisions) Act 2009 No 56

[2009-56]



New South Wales

Status Information

Currency of version

Repealed version for 8 July 2011 to 7 January 2015 (accessed 18 July 2024 at 5:28)

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

Provisions in force

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

Notes—

- **Does not include amendments by**
Sec 3 (1) of this Act (sec 3 (1) repeals a subschedule of Schedule 1, 2, 3 or 4 on the day following the day on which all of the provisions of the subschedule have commenced)
- **Repeal**
The Act was repealed by Sch 3 to the [Statute Law \(Miscellaneous Provisions\) Act \(No 2\) 2014 No 88](#) with effect from 8.1.2015.

Authorisation

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

File last modified 2 March 2015

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New South Wales

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Statute Law (Miscellaneous Provisions) Act 2009 No 56



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 2009*.

2 Commencement

- (1) This Act commences on 17 July 2009, except as provided by this section.
- (2) The amendments made by Schedules 1 and 2 commence on the day or days specified in those Schedules in relation to the amendments concerned.

3 Repeal of provisions of Act

- (1) A subschedule of Schedule 1, 2, 3 or 4 is repealed on the day following the day on which all of the provisions of the subschedule have commenced.
- (2) The repeal of any such subschedule does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by those subschedules.

4 Explanatory notes

The matter appearing under the heading “Explanatory note” in any of the Schedules does not form part of this Act.

Schedule 1 Minor amendments

1.1-1.12

(Repealed)

1.13 Environmental Planning and Assessment Act 1979 No 203

[1]-[6] (Repealed)

[7] Sections 109H and 109J

Omit “section 93F” wherever occurring. Insert instead “section 116T”.

[8], [9] (Repealed)

Explanatory note

Development applications and new or amending environmental planning instruments

Sections 72I-72K of the *Environmental Planning and Assessment Act 1979* (**the EP&A Act**) allow for the making, and consideration by a consent authority, of development applications related to development that may only be carried out if an environmental planning instrument applying to the land is appropriately amended, and require the joint notification of such a development application and the draft environmental planning instrument allowing the development.

The effect of item [1] of the proposed amendments to the EP&A Act is to allow these provisions to operate where the development will be allowed by a principal (and not just an amending) environmental planning instrument.

The effect of item [2] of the proposed amendments is to require joint notification of the relevant development application and environmental planning instrument only if that is practicable and, if that is not practicable, to require the separate notification of each to be given as closely together as is practicable. Item [3] makes a consequential amendment.

Ministerial directions to accredited certifiers about development contributions

Under the EP&A Act, both local councils and accredited certifiers may, when issuing complying development certificates, impose conditions requiring contributions for local infrastructure. Section 94E of the EP&A Act authorises the Minister to direct a **consent authority** (which is defined to include a local council in this context, but not an accredited certifier) as to various matters in relation to such contributions, including the matters in relation to which they may be imposed and the maximum amount of any such contribution.

The effect of item [4] of the proposed amendments is to extend the application of the Minister’s directions under section 94E that are relevant to accredited certifiers and that relate to complying development, to accredited certifiers.

Special infrastructure contributions

The EP&A Act enables the State to require development contributions for the provision of infrastructure in relation to development on land within a special contributions area. In determining the level and nature of such a contribution, the Minister is required by section 94EE (3A) of the EP&A Act to identify what part (if any) of the contribution is for the provision of infrastructure by a local council or for the provision of certain infrastructure by the Minister, the Department or the Director-General. Those parts that are so identified are not required to be paid into the Special Contributions Areas Infrastructure Fund (**the Fund**) established under the Act and are instead to be paid to the local council or the Department as the case requires.

Item [5] of the proposed amendments inserts a provision to clarify that section 94EE (3A) does not limit any payments being made out of the Fund to a local council or the Department for the provision of infrastructure in relation to development.

Prerequisites to issue of subdivision or occupation certificates

The EP&A Act provides for voluntary agreements between planning authorities and developers (**planning agreements**), under which the developer is required to provide a development contribution for a public purpose.

Section 109J of the EP&A Act sets out requirements that must be satisfied before a subdivision certificate may be issued. Item [8] of the proposed amendments includes a requirement that all the requirements of a planning agreement that, by its terms, are required to be complied with before such a certificate is issued, have been met. Item [6] of the proposed amendments makes a parallel amendment to section 109H of the EP&A Act, which provides for requirements that must be satisfied before an occupation certificate may be issued. (Similar requirements exist in relation to conditions of a development consent (including any condition requiring a development contribution to be made) that are required to be met before a subdivision or occupation

certificate may be issued.) Item [9] inserts a consequential savings and transitional provision.

Updating references

Item [7] of the proposed amendments updates a cross-reference as a consequence of (uncommenced) amendments to the EP&A Act by the [Environmental Planning and Assessment Amendment Act 2008](#).

1.14-1.44

(Repealed)

Schedules 2-5 (Repealed)

Schedule 6 General savings, transitional and other provisions

1 Effect of amendment of amending provisions

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

(2) In this clause:

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

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

Explanatory note

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

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

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

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

any act done or decision made under the provision amended or repealed has effect after the amendment or repeal as if it had been done or made under the provision as so amended or repealed.

Explanatory note

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

3 Effect of amendment on instruments

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

Explanatory note

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

4 Revocation of repeal

(1) The Governor may by proclamation published on the NSW legislation website revoke the repeal of any Act or instrument effected by the following:

 this Act

[*Statute Law \(Miscellaneous Provisions\) Act \(No 2\) 2007*](#)

[*Statute Law \(Miscellaneous Provisions\) Act 2008*](#)

(2) Any Act or instrument the subject of a proclamation under subclause (1) is taken not to be, and never to have been, repealed by any such Act.

(3) Subclause (2) does not operate in respect of any Act or instrument so as:

 (a) to affect in a manner prejudicial to any person (other than the State or an authority of the State) the rights of that person existing before the date of publication on the NSW legislation website of the proclamation under subclause (1) in respect of that Act or instrument, or

 (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of publication of that proclamation.

(4) A reference in this clause to an Act or instrument includes a reference to a provision of any Act or instrument.

Explanatory note

This clause enables the Governor, by proclamation, to revoke the repeal of any Act or instrument or the provision of any Act or instrument repealed by this Act or any of the other statute law revision Acts listed. The Act or

instrument or provision of an Act or instrument the subject of the revocation of repeal is taken not to be, and never to have been, repealed.

5 Regulations

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

Explanatory note

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

1 Index of Acts and Instruments amended by Schedules 1–4

[Aboriginal Land Rights Act 1983 No 42](#)—Schedule 4

[Administrative Decisions Tribunal Act 1997 No 76](#)—Schedule 4

[Adoption Act 2000 No 75](#)—Schedule 1

[Adoption Amendment Act 2008 No 103](#)—Schedule 1

[AGL Corporate Conversion Act 2002 No 16](#)—Schedule 4

[Annual Reports \(Departments\) Regulation 2005](#)—Schedule 1

[Annual Reports \(Statutory Bodies\) Regulation 2005](#)—Schedule 1

[Apiaries Act 1985 No 16](#)—Schedule 4

[Australian Museum Trust Act 1975 No 95](#)—Schedule 1

[Baulkham Hills Local Environmental Plan 2005](#)—Schedule 2

[Bible Society NSW \(Corporate Conversion\) Act 2008 No 91](#)—Schedule 4

[Botany Cemetery and Crematorium Act 1972 No 6](#)—Schedule 4

Brigalow and Nandewar Community Conservation Area Act 2005 No 56—Schedule 4

Camden Local Environmental Plan No 47—Schedule 2

Camden Local Environmental Plan No 74—Harrington Park—Schedule 2

Catchment Management Authorities Act 2003 No 104—Schedule 4

Central Coast Water Corporation Act 2006 No 105—Schedule 4

Child Protection (Offenders Registration) Act 2000 No 42—Schedule 2

Chipping Norton Lake Authority Act 1977 No 38—Schedule 4

Civil Procedure Act 2005 No 28—Schedule 4

Coastal Protection Act 1979 No 13—Schedule 1

Coffs Harbour City Local Environmental Plan 2000—Schedule 2

Community Land Management Act 1989 No 202—Schedule 1

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

Constitution Amendment (Governor's Salary) Act 2003 No 66—Schedule 2

Consumer Credit Administration Act 1995 No 69—Schedule 3

Conveyancing Act 1919 No 6—Schedule 3

Cowra Local Environmental Plan 1990—Schedule 2

Crimes (Administration of Sentences) Act 1999 No 93—Schedule 2

Crimes (Administration of Sentences) Regulation 2008—Schedule 2

Crimes (Criminal Organisations Control) Act 2009 No 6—Schedule 2

Crimes (Domestic and Personal Violence) Act 2007 No 80—Schedule 1

Criminal Procedure Act 1986 No 209—Schedules 2 and 3

Dams Safety Act 1978 No 96—Schedule 4

Dangerous Goods (Road and Rail Transport) Act 2008 No 95—Schedule 1

Defamation Act 2005 No 77—Schedule 2

Discharged Servicemen's Badges Act 1964 No 49—Schedule 4

District Court Act 1973 No 9—Schedules 1 and 4

Drug and Alcohol Treatment Act 2007 No 7—Schedule 4

Dungog Local Environmental Plan 2006—Schedule 2

[Dust Diseases Tribunal Act 1989 No 63](#)—Schedule 4

[Duties Act 1997 No 123](#)—Schedule 2

[Electricity Supply Act 1995 No 94](#)—Schedule 1

[Environmental Planning and Assessment Act 1979 No 203](#)—Schedules 1, 2 and 4

[Environmental Planning and Assessment Amendment Act 2008 No 36](#)—Schedule 1

[Evidence on Commission Act 1995 No 26](#)—Schedule 3

[Fair Trading Act 1987 No 68](#)—Schedule 4

[Fire Brigades Act 1989 No 192](#)—Schedules 1 and 4

[Firearms Act 1996 No 46](#)—Schedule 1

[First State Superannuation Act 1992 No 100](#)—Schedule 4

[Fisheries Management Act 1994 No 38](#)—Schedule 4

[Fisheries Management \(General\) Regulation 2002](#)—Schedule 2

[Fisheries Management \(Ocean Trawl Share Management Plan\) Regulation 2006](#)—Schedule 2

[Forestry Act 1916 No 55](#)—Schedule 2

[Forestry and National Park Estate Act 1998 No 163](#)—Schedule 4

[Gas Supply Act 1996 No 38](#)—Schedule 1

[Goulburn Mulwaree Local Environmental Plan 2009](#)—Schedule 2

[Goulburn Mulwaree Local Environmental Plan 2009 \(Amendment No 1\)](#)—Schedule 2

[Government and Related Employees Appeal Tribunal Act 1980 No 39](#)—Schedule 4

[Great Lakes Local Environmental Plan 1996](#)—Schedule 2

[Growth Centres \(Development Corporations\) Act 1974 No 49](#)—Schedule 4

[Guardianship Act 1987 No 257](#)—Schedule 4

[Hawkesbury Local Environmental Plan 1989](#)—Schedule 2

[Hawkesbury Racecourse Act 1996 No 74](#)—Schedule 4

[Health Services Act 1997 No 154](#)—Schedule 4

[Higher Education Act 2001 No 102](#)—Schedules 2 and 4

[Holiday Parks \(Long-term Casual Occupation\) Act 2002 No 88](#)—Schedule 1

[Holiday Parks \(Long-term Casual Occupation\) Regulation 2003](#)—Schedule 1

Home Building Act 1989 No 147—Schedule 2

Imperial Acts Application Act 1969 No 30—Schedule 4

Innovation Council Act 1996 No 77—Schedule 1

Interpretation Act 1987 No 15—Schedules 2 and 4

Kempsey Local Environmental Plan 1987—Schedule 2

Lake Illawarra Authority Act 1987 No 285—Schedule 4

Lake Macquarie Local Environmental Plan 2004—Schedule 2

Land Acquisition (Just Terms Compensation) Act 1991 No 22—Schedule 1

Land and Environment Court Act 1979 No 204—Schedule 4

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

Law Enforcement (Powers and Responsibilities) Act 2002 No 103—Schedules 2 and 3

Leeton Local Environmental Plan No 4—Schedule 2

Legal Profession Act 2004 No 112—Schedules 2 and 4

Legal Profession Regulation 2005—Schedule 2

Leichhardt Local Environmental Plan 2000—Schedule 2

Library Act 1939 No 40—Schedule 1

Loan Fund Companies Act 1976 No 94—Schedule 3

Local Court Act 2007 No 93—Schedule 4

Local Courts Act 1982 No 164—Schedules 1 and 4

Local Government Associations Incorporation Act 1974 No 20—Schedule 4

Lord Howe Island Act 1953 No 39—Schedule 4

Marine Safety (General) Regulation 2009—Schedule 2

Medical Practice Act 1992 No 94—Schedule 4

Mental Health Act 2007 No 8—Schedule 1

Mental Health (Forensic Provisions) Act 1990 No 10—Schedules 1 and 2

Mental Health Regulation 2007—Schedule 2

Mining Amendment Act 2008 No 19—Schedule 1

Miscellaneous Acts (Local Court) Amendment Act 2007 No 94—Schedule 2

Motor Dealers Regulation 2004—Schedule 2

Museum of Applied Arts and Sciences Act 1945 No 31—Schedule 1

Muswellbrook Local Environmental Plan 2009—Schedule 2

Nation Building and Jobs Plan (State Infrastructure Delivery) Act 2009 No 1—Schedule 4

National Park Estate (Lower Hunter Region Reservations) Act 2006 No 90—Schedule 4

National Park Estate (Reservations) Act 2002 No 137—Schedule 4

National Park Estate (Reservations) Act 2003 No 24—Schedule 4

National Park Estate (Reservations) Act 2005 No 84—Schedule 4

National Park Estate (Southern Region Reservations) Act 2000 No 103—Schedule 4

National Parks and Wildlife Act 1974 No 80—Schedules 2 and 4

National Rail Corporation (Agreement) Act 1991 No 82—Schedule 4

New South Wales Retirement Benefits Act 1972 No 70—Schedule 4

Occupational Health and Safety Act 2000 No 40—Schedule 3

Ombudsman Act 1974 No 68—Schedule 4

Parliamentary Electorates and Elections Amendment Act 2006 No 68—Schedule 2

Parliamentary Evidence Act 1901 No 43—Schedule 2

Parramatta Park Trust Act 2001 No 17—Schedule 4

Passenger Transport Act 1990 No 39—Schedule 4

Pesticides Act 1999 No 80—Schedule 1

Plant Diseases Act 1924 No 38—Schedules 2 and 4

Poisons and Therapeutic Goods Act 1966 No 31—Schedule 4

Police Act 1990 No 47—Schedule 1

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan 2008—Schedule 2

Poultry Meat Industry Act 1986 No 101—Schedule 2

Poultry Meat Industry Regulation 2008—Schedule 2

Powers of Attorney Act 2003 No 53—Schedule 2

Privacy and Personal Information Protection Act 1998 No 133—Schedule 1

Probate and Administration Act 1898 No 13—Schedule 2

Professional Standards Act 1994 No 81—Schedule 4

Protection of the Environment Operations Act 1997 No 156—Schedule 1

Public Authorities Superannuation Act 1985 No 41—Schedule 4

Public Finance and Audit Act 1983 No 152—Schedule 4

Public Notaries Act 1997 No 98—Schedule 4

Public Sector Employment and Management Act 2002 No 43—Schedules 2 and 4

Rail Safety Act 2008 No 97—Schedule 2

Real Property Act 1900 No 25—Schedule 1

Redfern-Waterloo Authority Act 2004 No 107—Schedule 4

Registered Clubs Act 1976 No 31—Schedules 1 and 2

Residential Parks Act 1998 No 142—Schedule 1

Residential Tenancies Act 1987 No 26—Schedule 1

Rice Marketing Act 1983 No 176—Schedule 2

Road Transport (Driver Licensing) Act 1998 No 99—Schedule 2

Road Transport (Driver Licensing) Regulation 2008—Schedule 2

Road Transport (General) Regulation 2005—Schedule 2

Road Transport (Safety and Traffic Management) Act 1999 No 20—Schedule 2

Roads Regulation 2008—Schedule 2

Roman Catholic Church Communities' Lands Act 1942 No 23—Schedule 4

Royal Blind Society (Merger) Act 2005 No 87—Schedule 4

Royal Botanic Gardens and Domain Trust Act 1980 No 19—Schedule 4

Rural Fires Act 1997 No 65—Schedule 4

Security Industry Regulation 2007—Schedule 2

Shellharbour Rural Local Environmental Plan 2004—Schedule 2

Sporting Venues Authorities Act 2008 No 65—Schedule 4

Sporting Venues (Pitch Invasions) Regulation 2006—Schedule 2

Standard Instrument (Local Environmental Plans) Order 2006—Schedule 2

State Authorities Non-contributory Superannuation Act 1987 No 212—Schedule 4

State Authorities Superannuation Act 1987 No 211—Schedule 4

State Emergency Service Act 1989 No 164—Schedule 4

State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development—Schedule 2

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008—Schedule 2

State Environmental Planning Policy (Major Projects) 2005—Schedule 2

State Environmental Planning Policy (Western Sydney Parklands) 2009—Schedule 2

State Property Authority Act 2006 No 40—Schedules 1 and 4

State Public Service Superannuation Act 1985 No 45—Schedule 4

Stock Diseases Act 1923 No 34—Schedule 4

Strata Schemes (Freehold Development) Act 1973 No 68—Schedule 2

Strata Schemes (Leasehold Development) Act 1986 No 219—Schedule 2

Strata Schemes (Leasehold Development) Regulation 2007—Schedule 2

Strata Schemes Management Act 1996 No 138—Schedule 1

Subordinate Legislation Act 1989 No 146—Schedules 1 and 2

Superannuation Act 1916 No 28—Schedule 4

Supreme Court Act 1970 No 52—Schedules 1 and 4

Supreme Court Rules 1970—Schedule 2

Sutherland Shire Local Environmental Plan 2006—Schedule 2

Sydney Hospital (Trust Property) Act 1984 No 133—Schedule 4

Sydney Opera House Trust Act 1961 No 9—Schedule 1

Sydney Regional Environmental Plan No 19—Rouse Hill Development Area—Schedule 2

Sydney Regional Environmental Plan No 24—Homebush Bay Area—Schedule 2

Sydney Water Act 1994 No 88—Schedule 4

Sydney Water Catchment Management Act 1998 No 171—Schedule 4

Taxation Administration Act 1996 No 97—Schedule 4

Technical Education Trust Funds Act 1967 No 95—Schedule 4

Threatened Species Conservation Act 1995 No 101—Schedule 1

Trade Measurement Regulation 2007—Schedule 2

Transport Employees Retirement Benefits Act 1967 No 96—Schedule 4

Trustee Companies Act 1964 No 6—Schedule 4

Warringah Local Environmental Plan 2000—Schedule 2

Water Act 1912 No 44—Schedules 1 and 4

Water Industry Competition Act 2006 No 104—Schedule 4

Water Management Act 2000 No 92—Schedules 1 and 4

Water Sharing Plan for the Bellinger River Area Unregulated and Alluvial Water Sources 2008—Schedule 2

Water Sharing Plan for the Coopers Creek Water Source 2003—Schedule 2

Western Sydney Parklands Act 2006 No 92—Schedule 4

Wilderness Act 1987 No 196—Schedule 2

Wollongong Sportsground Act 1986 No 174—Schedule 4

Workmen's Compensation (Lead Poisoning—Broken Hill) Act 1922 No 31—Schedule 4

Wyong Local Environmental Plan 1991—Schedule 2

2 Index of Acts and Instruments wholly repealed by Schedule 5

Australian William E. Simon University Act 1988 No 89

Cinematograph Films (Further Suspension) Act 1985 No 31

Farm Produce Act 1983 No 30

Farm Produce (Repeal) Act 1996 No 134

Justice Legislation Amendment (Non-association and Place Restriction) Act 2001 No 100

Land Agents Act 1927 No 3

Local Government (Savings and Transitional) Regulation 1993

Poultry Meat Industry Amendment (Prevention of National Competition Policy Penalties) Act 2005 No 48

Statute Law (Miscellaneous Provisions) Act 2008 No 62

3 Index of Acts partly repealed by Schedule 5

Adoption Amendment Act 2008 No 103

Centennial Park and Moore Park Trust Act 1983 No 145

Contaminated Land Management Amendment Act 2008 No 111

Courts and Crimes Legislation Further Amendment Act 2008 No 107

Crimes (Administration of Sentences) Amendment Act 2008 No 108

Dangerous Goods (Road and Rail Transport) Act 2008 No 95

Fines Further Amendment Act 2008 No 110

Fisheries Management and Planning Legislation Amendment (Shark Meshing) Act 2008 No 86

Graffiti Control Act 2008 No 100

Hemp Industry Act 2008 No 58

Insurance Act 1902 No 49

Public Sector Employment and Management Act 2002 No 43

Rail Safety Act 2008 No 97

Rice Marketing Act 1983 No 176

Rural Lands Protection Amendment Act 2008 No 112

Security Industry Amendment Act 2008 No 113

Tow Truck Industry Amendment Act 2008 No 83

Vexatious Proceedings Act 2008 No 80

Wagga Wagga Racecourse Act 1993 No 109

Water (Commonwealth Powers) Act 2008 No 69

Water Management Amendment Act 2008 No 73