



New South Wales

Statute Law (Miscellaneous Provisions) Bill (No 2) 2005

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are:

- (a) to make minor amendments to various Acts and Regulations (Schedule 1), and
- (b) to amend certain other Acts and instruments for the purpose of effecting statute law revision (Schedules 2 and 3), and
- (c) to repeal certain Acts (Schedule 4), and
- (d) to make other provisions of a consequential or ancillary nature (Schedule 5).

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act.

Clauses 3 and 5 are machinery provisions that give effect to the Schedules to the proposed Act containing amendments and savings, transitional and other provisions.

Clause 4 gives effect to the Schedule of repeals.

Clause 6 makes it clear that the explanatory notes contained in the Schedules do not form part of the proposed Act.

Schedule 1 Minor amendments

Schedule 1 makes amendments to the following Acts and Regulations:

Annual Reports (Departments) Act 1985 No 156

Annual Reports (Departments) Regulation 2005

Annual Reports (Statutory Bodies) Act 1984 No 87

Annual Reports (Statutory Bodies) Regulation 2005

Commons Management Act 1989 No 13

Crown Lands Act 1989 No 6

Exhibited Animals Protection Act 1986 No 123

Exotic Diseases of Animals Act 1991 No 73

Fines Act 1996 No 99

Food Act 2003 No 43

Forestry Act 1916 No 55

Home Building Act 1989 No 147

Independent Commission Against Corruption Act 1988 No 35

Marine Safety Act 1998 No 121

Non-Indigenous Animals Act 1987 No 166

Police (Special Provisions) Act 1901 No 5

Public Finance and Audit Act 1983 No 152

Public Finance and Audit Regulation 2005

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

Roads Act 1993 No 33

Security Industry Act 1997 No 157

Security Industry Amendment Act 2005 No 63

Security Industry Regulation 1998

State Owned Corporations Act 1989 No 134

Stock (Chemical Residues) Act 1975 No 26

Stock Diseases Regulation 2004

Stock Foods Act 1940 No 19

University of Western Sydney Act 1997 No 116

Valuers Act 2003 No 4

The amendments to each Act and Regulation are explained in detail in the explanatory note relating to the Act or Regulation concerned set out in Schedule 1.

Schedule 2 Amendments by way of statute law revision

Schedule 2 amends certain Acts and instruments for the purpose of effecting statute law revision.

The amendments to each Act and instrument are explained in detail in the explanatory note relating to the Act or instrument concerned set out in Schedule 2.

Schedule 3 Amendments consequential on the enactment of the Legal Profession Act 2004 No 112

Schedule 3 amends certain Acts for the purpose of effecting statute law revision, consequent on the enactment of the *Legal Profession Act 2004*.

The nature of the amendments contained in Schedule 3 is explained in detail in the explanatory note at the beginning of the Schedule.

Schedule 4 Repeals

Schedule 4 repeals a number of Acts.

The Schedule repeals amending Acts that contain no substantive provisions that need to be retained. The Acts or instruments that were amended by the Acts being repealed are available electronically at www.legislation.nsw.gov.au.

The Schedule also repeals Acts that are no longer of practical utility.

Schedule 5 General savings, transitional and other provisions

Schedule 5 contains savings, transitional and other provisions of a more general effect than those set out in Schedule 1.

The purpose of each provision is explained in detail in the explanatory note relating to the provision concerned set out in Schedule 5.



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Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Amendments	2
4 Repeals	2
5 General savings, transitional and other provisions	2
6 Explanatory notes	2
Schedule 1 Minor amendments	3
Schedule 2 Amendments by way of statute law revision	43
Schedule 3 Amendments consequential on the enactment of the Legal Profession Act 2004 No 112	63
Schedule 4 Repeals	79
Schedule 5 General savings, transitional and other provisions	82
Notes	85



New South Wales

Statute Law (Miscellaneous Provisions) Bill (No 2) 2005

No , 2005

A Bill for

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.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Statute Law (Miscellaneous Provisions) Act (No 2) 2005</i> .	3
2 Commencement	4
(1) This Act commences on the date of assent, except as provided by this section.	5 6
(2) The amendments made by Schedules 1–3 commence on the day or days specified in those Schedules in relation to the amendments concerned. If a commencement day is not specified, the amendments commence on the date of assent.	7 8 9 10
3 Amendments	11
The Acts and instruments specified in Schedules 1–3 are amended as set out in those Schedules.	12 13
4 Repeals	14
Each Act specified in Schedule 4 is repealed.	15
5 General savings, transitional and other provisions	16
Schedule 5 has effect.	17
6 Explanatory notes	18
The matter appearing under the heading “Explanatory note” in any of the Schedules does not form part of this Act.	19 20

Schedule 1	Minor amendments	1
	(Section 3)	2
1.1	Annual Reports (Departments) Act 1985 No 156	3
[1]	Section 3 Definitions	4
	Omit “financial statements” from paragraph (b) (i) of the definition of <i>financial year</i> .	5
	Insert instead “a financial report”.	6
[2]	Section 9 Annual reports	7
	Omit “financial statements” from section 9 (1) (a).	8
	Insert instead “a financial report”.	9
[3]	Section 9 (1) (b)	10
	Omit “those statements”. Insert instead “the financial report”.	11
[4]	Section 9 (2) (a)	12
	Omit “the financial statements”. Insert instead “a financial report”.	13
[5]	Section 9 (2) (b)	14
	Omit “those financial statements”. Insert instead “the financial report”.	15
[6]	Section 9 (2) (b)	16
	Omit “them”. Insert instead “it”.	17
[7]	Section 9 (2) (b)	18
	Omit “the other financial statements of the Department”.	19
	Insert instead “the Department’s financial report”.	20
[8]	Section 18 Additional information	21
	Omit “accounts” from section 18 (1). Insert instead “financial report”.	22
	Explanatory note	23
	IASB standards	24
	The Australian Accounting Standards Board (AASB) is implementing the Financial Reporting Council’s policy of adopting accounting standards of the International Accounting Standards Board (IASB). The Financial Reporting Council is a statutory body under the <i>Australian Securities and Investments Commission Act 2001</i> of the Commonwealth. The AASB has issued Australian Accounting Standards that are equivalent to IASB standards.	25
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The proposed amendments make certain terms used in the <i>Annual Reports (Departments) Act 1985 (the Act)</i> consistent with Australian Accounting Standards that are equivalent to standards of the IASB.	1 2 3
These amendments are explained below in further detail.	4
References to “financial statements”	5
Items [1]–[5] and [7] of the proposed amendments omit references in the nature of “financial statements” or “statements”. The object of these amendments is to make the language of the Act in this respect consistent with Australian Accounting Standards that are equivalent to IASB standards. Accordingly, those items insert instead references to “financial report”.	6 7 8 9 10
Item [6] of the proposed amendments makes a consequential change substituting “it” for “them” where, in the same provision, “financial report” is substituted for “financial statements”.	11 12 13
Reference to “accounts”	14
Item [8] of the proposed amendments omits a reference to “accounts” of a Department. The object of this amendment is to make the language of the Act in this respect consistent with Australian Accounting Standards that are equivalent to IASB standards. Accordingly, the item inserts instead a references to “financial report”.	15 16 17 18
1.2 Annual Reports (Departments) Regulation 2005	19
[1] Clause 4 Identification of audited financial reports	20
Omit “statements”. Insert instead “report”.	21
[2] Clause 6	22
Omit the clause. Insert instead:	23
6 Inclusion of unaudited financial reports and information	24
If an unaudited financial report or unaudited financial information is included in the annual report of a Department, the fact that the financial report or financial information has not been audited is to be clearly indicated by note or otherwise.	25 26 27 28
Explanatory note	29
IASB standards	30
The Australian Accounting Standards Board (AASB) is implementing the Financial Reporting Council’s policy of adopting accounting standards of the International Accounting Standards Board (IASB). The Financial Reporting Council is a statutory body under the <i>Australian Securities and Investments Commission Act 2001</i> of the Commonwealth. The AASB has issued Australian Accounting Standards that are equivalent to IASB standards.	31 32 33 34 35 36
The proposed amendments make certain terms used in the <i>Annual Reports (Departments) Regulation 2005 (the Regulation)</i> consistent with the <i>Annual Reports (Departments) Act 1985</i> which is, in turn, amended by this Schedule to be consistent with Australian Accounting Standards that are equivalent to standards of the IASB.	37 38 39 40
These amendments are explained below in further detail.	41

Omission of entire provision	1
In the case of item [2], multiple changes have been made to the one provision by way of the omission and re-insertion of the provision. See the references to item [2] in the notes below as to the changes effected by the item.	2 3 4
References to “financial statements”	5
Items [1] and [2] of the proposed amendments omit references to “financial statements” or “statements”. The object of these amendments is to make the language of the Regulation in this respect consistent with Australian Accounting Standards that are equivalent to IASB standards. Accordingly, those items insert instead references to “financial report” or “report” as the context requires.	6 7 8 9 10
Item [2] of the proposed amendments also makes other changes as a consequence of the substitution of “financial report” for “financial statements”.	11 12
1.3 Annual Reports (Statutory Bodies) Act 1984 No 87	13
[1] Section 7 Annual reports	14
Omit section 7 (1) (a) (i), (ia) and (ii). Insert instead:	15
(i) the statutory body’s financial report prepared in accordance with Division 3 of Part 3 of the <i>Public Finance and Audit Act 1983</i> and the regulations under that Act,	16 17 18
(ia) the financial report so prepared of each entity referred to in section 39 (1A) of the <i>Public Finance and Audit Act 1983</i> which is controlled by the statutory body,	19 20 21
(ii) the opinion of the auditor given in accordance with Division 3 of Part 3 of that Act as to any financial report referred to in subparagraph (i) or (ia),	22 23 24
[2] Section 7 (1) (a) (iii)	25
Omit “those statements relate”. Insert instead “the annual report relates”.	26
[3] Section 7 (1) (b)	27
Omit “financial statements”. Insert instead “financial reports”.	28
[4] Section 15 Additional information	29
Omit “accounts” from section 15 (1). Insert instead “financial report”.	30
Explanatory note	31
IASB standards	32
The Australian Accounting Standards Board (AASB) is implementing the Financial Reporting Council’s policy of adopting accounting standards of the International Accounting Standards Board (IASB). The Financial Reporting Council is a statutory body under the <i>Australian Securities and Investments Commission Act 2001</i> of the Commonwealth. The AASB has issued Australian Accounting Standards that are equivalent to IASB standards.	33 34 35 36 37 38

The proposed amendments make certain terms used in the <i>Annual Reports (Statutory Bodies) Act 1984 (the Act)</i> consistent with Australian Accounting Standards that are equivalent to standards of the IASB.	1 2 3
These amendments are explained below in further detail.	4
Omission of entire provisions	5
In the case of item [1], multiple changes have been made to the one group of provisions by way of the omission and re-insertion of the provisions. See the references to item [1] in the notes below for an explanation of the changes.	6 7 8
References to “financial statements”	9
Items [1]–[3] of the proposed amendments omit references in the nature of “financial statements” or “statements”. The object of these amendments is to make the language of the Act in this respect consistent with Australian Accounting Standards that are equivalent to IASB standards. Accordingly, those items insert instead references to “financial report”, “financial reports” or “report” as the context requires.	10 11 12 13 14
Item [1] of the proposed amendments also makes an amendment in the nature of statute law revision to make it clear that the financial report referred to is the financial report of the relevant statutory body.	15 16 17
References to “accounts”	18
Item [4] of the proposed amendments omits a reference to the “accounts” of a statutory body in section 15 (1) of the Act. The object of this amendment is to make the language of the Act in this respect consistent with Australian Accounting Standards that are equivalent to IASB standards. Accordingly, the item inserts instead a reference to “financial report”.	19 20 21 22 23
1.4 Annual Reports (Statutory Bodies) Regulation 2005	24
[1] Clause 5 Identification of audited financial reports	25
Omit “statements”. Insert instead “report”.	26
[2] Clause 7 Place for inclusion of detailed budget	27
Omit “statements”. Insert instead “report”.	28
[3] Clause 9	29
Omit the clause. Insert instead:	30
9 Inclusion of unaudited financial reports and information	31
If an unaudited financial report or unaudited financial information is included in the annual report of a statutory body, the fact that the financial report or financial information has not been audited is to be clearly indicated by note or otherwise.	32 33 34 35
[4] Clause 10 Annual reports of prescribed statutory bodies	36
Omit clause 10 (1) (b). Insert instead:	37
(b) a copy of the audited financial report for the Heritage Conservation Fund for the year for which the annual report is prepared.	38 39 40

[5] Clause 10 (2)	1
Omit the subclause. Insert instead:	2
(2) For the purposes of section 7 (1) (b) of the Act, the financial report of The Dumaresq—Barwon Border Rivers Commission, which has been audited by the Auditor-General of New South Wales or Queensland (as the case may be), is prescribed in relation to that Commission.	3 4 5 6 7
[6] Schedule 1 Report of operations	8
Omit “Department” wherever occurring. Insert instead “statutory body”.	9
Explanatory note	10
IASB standards	11
The Australian Accounting Standards Board (AASB) is implementing the Financial Reporting Council's policy of adopting accounting standards of the International Accounting Standards Board (IASB). The Financial Reporting Council is a statutory body under the <i>Australian Securities and Investments Commission Act 2001</i> of the Commonwealth. The AASB has issued Australian Accounting Standards that are equivalent to IASB standards.	12 13 14 15 16 17
Items [1]–[5] of the proposed amendments make certain terms used in the <i>Annual Reports (Statutory Bodies) Regulation 2005 (the Regulation)</i> consistent with the <i>Annual Reports (Statutory Bodies) Act 1984</i> which is, in turn, amended by this Schedule to be consistent with Australian Accounting Standards that are equivalent to standards of the IASB.	18 19 20 21 22
These amendments are explained below in further detail.	23
IASB standards—omission of entire provisions	24
In the case of items [3]–[5] of the proposed amendments, multiple changes have been made to the one provision by way of the omission and re-insertion of the provision. See the reference or references to the relevant item in the notes below as to the particular change or changes effected by the item.	25 26 27 28
IASB standards—references to “financial statements”	29
Items [1]–[5] of the proposed amendments omit references to “financial statements” or “statements”. The object of these amendments is to make the language of the Act in this respect consistent with Australian Accounting Standards that are equivalent to IASB standards. Accordingly, those items insert instead references to “financial report” or “report” as the context requires.	30 31 32 33 34
Items [3]–[5] of the proposed amendments also make changes consequential on the substitution of the term “financial report” for the term “financial statements”, for example, substituting a reference to “is” prepared for a reference to “are” prepared.	35 36 37
Item [4] also makes an amendment to clause 10 (1) (b) to make it clear that the reference to the year for which “the report is prepared” is a reference to the year for which the annual report of the statutory body is prepared.	38 39 40
Law revision amendment	41
Item [6] of the proposed amendments makes amendments in the nature of law revision to substitute references to “statutory body” for incorrect references in the Regulation to “Department”.	42 43 44

1.5 Commons Management Act 1989 No 13	1
[1] Section 3 Definitions	2
Insert “, by notice published in the Gazette,” after “Minister” in paragraph (b) of the definition of <i>common</i> in section 3 (1).	3 4
[2] Section 3 (6)	5
Insert after section 3 (5):	6
(6) Notes included in this Act do not form part of this Act.	7
[3] Section 61A	8
Insert after section 61:	9
61A Revocation of a common	10
(1) The revocation of the setting aside of land as a common is to be effected by the Minister by notice published in the Gazette.	11 12
(2) Any such revocation may relate to the whole or part of the land concerned.	13 14
(3) If the revocation relates to part of the land only, the Minister may deal with that part as if it were Crown land subject to the Crown Lands Acts and not otherwise.	15 16 17
Note. Section 24 provides that on the revocation of the whole of a common, the trust established for the common is dissolved and that the Minister may deal with any real property of the trust as if it were Crown land subject to the Crown Lands Acts and not otherwise.	18 19 20 21
Explanatory note	22
A <i>common</i> is defined in section 3 of the <i>Commons Management Act 1989</i> to include land set aside by the Governor or the Minister as a common or for pasturage for the use of the inhabitants of a specified locality. Item [1] of the proposed amendments provides for the setting aside of the land to occur by notice published in the Gazette. This reflects existing administrative practice.	23 24 25 26 27
Item [2] of the proposed amendments is a consequential amendment clarifying the status of notes.	28 29
Item [3] of the proposed amendments provides for the revocation of the setting aside of land as a common to be effected by notice of the Minister published in the Gazette, which also reflects existing administrative practice.	30 31 32
In addition, item [3] provides that, in the case of a partial revocation, the land concerned is to be dealt with as if it were Crown land subject to Crown lands legislation. This is consistent with the position currently applying where a revocation relates to the whole of a common.	33 34 35 36

1.6 Crown Lands Act 1989 No 6	1
[1] Section 45 Licences	2
Omit “34B” from section 45 (1). Insert instead “34A”.	3
[2] Section 92 Reserve trusts	4
Insert “the Minister (to the extent that the Minister is responsible for managing the affairs of a reserve trust), or” after “is a reference to” in section 92 (6A).	5 6
[3] Section 92 (6B)	7
Omit section 92 (6B) and (6C). Insert instead:	8
(6B) There can be more than one reserve trust manager for a reserve trust with the function of managing the affairs of the reserve trust allocated between them by the Minister in accordance with the following provisions:	9 10 11 12
(a) The Minister can allocate the exercise of functions in respect of different aspects of the affairs of the reserve trust or different parts of the reserve to different reserve trust managers, as specified in the allocation or as determined by the Minister, with those functions to be exercised in accordance with such arrangements (if any) as may be determined by the Minister.	13 14 15 16 17 18 19
(b) The Minister is the reserve trust manager for any aspect of the affairs of a reserve trust or any part of the reserve not allocated to another reserve trust manager and is accordingly allocated the function of managing the affairs of the reserve trust in respect of any such unallocated aspects of those affairs or unallocated parts of the reserve.	20 21 22 23 24 25
(c) A reserve trust manager has the function of managing the affairs of the reserve trust only to the extent of the allocated functions and is, for the purposes of this or any other Act or law, the reserve trust manager to that extent only.	26 27 28 29 30
Explanatory note	31
Item [1] of the proposed amendments corrects an incorrect cross-reference.	32
Currently, section 92 of the <i>Crown Lands Act 1989</i> enables the affairs of a reserve trust to be managed by the Minister for Lands or reserve trust managers appointed by the Minister (appointed reserve trust managers). Item [3] of the proposed amendments makes provision for the affairs of a reserve trust to be managed by more than one reserve trust manager, including the Minister. This provision represents an extension of the existing section 92 (6B) and (6C), which make provision for the affairs of a reserve trust to be managed by more than one appointed reserve trust manager, but not in conjunction with the Minister.	33 34 35 36 37 38 39 40

The amendment made by item [2] is consequential on the amendment made by item [3].

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1.7 Exhibited Animals Protection Act 1986 No 123

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Section 46A

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Insert after section 46:

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46A Penalty notices

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- (1) An authorised officer may serve a penalty notice on a person if it appears to the officer that the person has committed an offence against this Act or the regulations, being an offence prescribed by the regulations as a penalty notice offence.
- (2) A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person can pay, within the time and to the person specified in the notice, the amount of the penalty prescribed by the regulations for the offence if dealt with under this section.
- (3) A penalty notice may be served personally or by post.
- (4) If the amount of penalty prescribed for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence.
- (5) Payment under this section is not to be regarded as an admission of liability for the purpose of, and does not in any way affect or prejudice, any civil claim, action or proceeding arising out of the same occurrence.
- (6) The regulations may:
 - (a) prescribe an offence for the purposes of this section by specifying the offence or by referring to the provision creating the offence, and
 - (b) prescribe the amount of penalty payable for the offence if dealt with under this section, and
 - (c) prescribe different amounts of penalties for different offences or classes of offences.
- (7) The amount of a penalty prescribed under this section for an offence is not to exceed the maximum amount of penalty that could be imposed for the offence by a court.
- (8) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.

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(9)	In this section, <i>authorised officer</i> means any of the following:	1
(a)	an inspector (other than a member who is deemed to be an inspector under section 9 (2)),	2
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(b)	a person of a class prescribed by the regulations as a class of persons who may issue penalty notices under this section.	4
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	Explanatory note	7
	The proposed amendment allows penalty notices (on-the-spot fines) to be issued in respect of offences against the <i>Exhibited Animals Protection Act 1986</i> or the regulations made under that Act, but only if those offences are prescribed by regulations under that Act as penalty notice offences.	8
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1.8	Exotic Diseases of Animals Act 1991 No 73	12
	Section 73A	13
	Insert after section 73:	14
73A	Service of documents	15
(1)	A document that is authorised or required by this Act or the regulations to be given to or served on any person may be given or served by:	16
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(a)	in the case of a natural person:	19
(i)	delivering it to the person personally, or	20
(ii)	sending it by post to the address specified by the person for the giving or service of documents or, if no such address is specified, the residential or business address of the person last known to the person giving or serving the document, or	21
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(iii)	sending it by facsimile transmission to the facsimile number of the person, or	26
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(b)	in the case of a body corporate:	28
(i)	leaving it with a person apparently of or above the age of 16 years at, or by sending it by post to, the head office, a registered office or a principal office of the body corporate or to an address specified by the body corporate for the giving or service of documents, or	29
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(ii)	sending it by facsimile transmission to the facsimile number of the body corporate.	35
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(2)	A document that is required or permitted to be given to or served on the occupier of any particular premises may, if addressed to	37
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the occupier of the premises (either by name or as the occupier), be given or served:	1 2
(a) by delivering the document or a true copy of it to some person on those premises who is apparently over the age of 16 years, or	3 4 5
(b) if there is no person on those premises who can be given or served with the document, by fixing the document or copy to some conspicuous part of the premises.	6 7 8
(3) Nothing in this section affects the operation of any provision of a law or of the rules of a court authorising a document to be given or served on a person in any other manner.	9 10 11
(4) In this section:	12
<i>occupier</i> of premises includes a person in charge or in apparent control of the premises.	13 14
<i>premises</i> includes place, area or vehicle.	15
Explanatory note	16
The proposed amendment inserts section 73A into the <i>Exotic Diseases of Animals Act 1991</i> which provides for the service of documents under the Act.	17 18
1.9 Fines Act 1996 No 99	19
[1] Schedule 1 Statutory provisions under which penalty notices issued	20
Insert in alphabetical order:	21
<i>Exhibited Animals Protection Act 1986</i> , section 46A	22
<i>Meat Industry Act 1978</i> , section 76A	23
<i>Non-Indigenous Animals Act 1987</i> , section 27A	24
<i>Stock (Chemical Residues) Act 1975</i> , section 15A	25
<i>Stock Foods Act 1940</i> , section 32A	26
[2] Schedule 1	27
Omit “ <i>Ozone Protection Act 1989</i> , section 20”.	28
[3] Schedule 1	29
Omit “ <i>Wool, Hide and Skin Dealers Act 1935</i> , section 12A”.	30
Explanatory note	31
Item [1] of the proposed amendments is consequential and provides for the enforcement of penalty notices issued under:	32 33
(a) certain sections proposed to be inserted into various Acts by amendments made elsewhere in this Schedule, and	34 35

(b) an existing provision of the <i>Meat Industry Act 1978</i> .	1
Item [2] of the proposed amendments omits a cross-reference to a repealed section.	2
Item [3] of the proposed amendments omits a cross-reference to a repealed Act.	3
1.10 Food Act 2003 No 43	4
[1] Section 133 Information in relation to prosecutions to be forwarded to Director-General	5
Omit the section.	6
[2] Section 137 Publication of names of offenders	8
Omit section 137 (2). Insert instead:	9
(2) Except as provided by subsection (3), the notification may only be published within 21 days after the last day on which an appeal may be made against the conviction.	10
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[3] Sections 137A and 137B	13
Insert after section 137:	14
137A Recovery of fees and charges	15
Any charge, fee or money due to the Food Authority under this Act is recoverable by the Food Authority in a court of competent jurisdiction as a debt due to the Crown.	16
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137B Authorised officers may perform functions under Commonwealth legislation	19
The Minister may, on behalf of the State, enter into arrangements with a Commonwealth Minister or officer of the Commonwealth government in relation to the exercise under Commonwealth legislation, by authorised officers authorised under this Act, of functions relating to food inspection.	20
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Explanatory note	26
Item [1] of the proposed amendments omits a section of the <i>Food Act 2003 (the Act)</i> that requires a council or the Commissioner of Police to provide certain information to the NSW Food Authority about the taking of proceedings under the Act. The provision is considered unnecessary as the NSW Food Authority is required to be notified by enforcement agencies (which do not include the Commissioner of Police) after the finalisation of proceedings taken by them under the Act (see section 113 (2) of the Act).	27
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Section 137 of the Act enables the NSW Food Authority to publish a notification about certain persons convicted of offences under the Act. Currently, the notification may only be published within 21 days of the conviction concerned unless an appeal against the conviction has been made, in which case the Authority must wait until the outcome of the appeal. However, the time within which an appeal may be made could exceed the 21-day period within which the notification is to be published in the absence of an appeal. Item [2] of the proposed amendments amends section 137 to provide that the	33
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21-day period for publishing a notification in the absence of an appeal is to run from the expiry of the time within which an appeal may be made and not from the time of the conviction.	1 2 3
Item [3] of the proposed amendments inserts sections 137A and 137B into the Act. Proposed section 137A states that fees, charges and other money due to the NSW Food Authority may be recovered as a debt due to the Crown. Proposed section 137B enables the Minister for Primary Industries to enter into arrangements with the Commonwealth for the exercise by authorised officers under the Act of functions under Commonwealth legislation relating to the inspection of food. Similar provisions were contained in the <i>Food Production (Safety) Act 1998</i> (now repealed) which established Safe Food Production NSW but were not reproduced in the Act. The NSW Food Authority is a continuation of Safe Food Production NSW.	4 5 6 7 8 9 10 11 12
1.11 Forestry Act 1916 No 55	13
[1] Section 7 Incorporation	14
Omit “State Forests of NSW” from section 7 (4).	15
Insert instead “Forests NSW”.	16
[2] Section 13 Application of money	17
Omit section 13 (5). Insert instead:	18
(5) The Minister may from time to time by notice published in the Gazette set a limit on the amount of money that the commission may expend on any work without the approval of the Minister. Any expenditure by the commission that exceeds that limit is subject to the approval of the Minister.	19 20 21 22 23
Explanatory note	24
Item [1] of the proposed amendments updates a reference to the trading name of the Forestry Commission, which the commission may use in the exercise of its functions under any Act.	25 26 27
Item [2] of the proposed amendments allows the Minister for Primary Industries to set a limit on the amount of money that the Forestry Commission may expend on any work without the approval of the Minister and provides that any expenditure by the commission that exceeds that limit is subject to the approval of the Minister. At present, all expenditure above \$500,000 must be approved by the Minister (see section 13 (5) of the <i>Forestry Act 1916</i>).	28 29 30 31 32 33
1.12 Home Building Act 1989 No 147	34
Section 45 Surrender of authority	35
Omit the section.	36
Explanatory note	37
The proposed amendment omits a section of the <i>Home Building Act 1989</i> that provides for a matter (being the means by which authorities under that Act may be surrendered) that is adequately dealt with by section 21 (7) of the <i>Licensing and Registration (Uniform Procedures) Act 2002</i> .	38 39 40 41

1.13 Independent Commission Against Corruption Act 1988	1
No 35	2
[1] Section 57E Staff of Inspector	3
Omit “government department” from section 57E (4) (a).	4
Insert instead “Department”.	5
[2] Section 57E (4A)	6
Insert after section 57E (4):	7
(4A) The Department Head of a Department in which staff of the	8
Inspector are employed may delegate to the Inspector or a	9
member of staff of the Inspector any of the Department Head’s	10
functions under the <i>Public Sector Employment and Management</i>	11
<i>Act 2002</i> with respect to those staff (other than this power of	12
delegation).	13
[3] Section 57E (6)	14
Insert after section 57E (5):	15
(6) In this section:	16
<i>Department</i> has the same meaning as in the <i>Public Sector</i>	17
<i>Employment and Management Act 2002</i> .	18
<i>Department Head</i> has the same meaning as in the <i>Public Sector</i>	19
<i>Employment and Management Act 2002</i> .	20
[4] Section 70 Confidentiality	21
Insert “or Inspector” after “Commissioner” wherever occurring in section 70	22
(1A) and (1C).	23
Explanatory note	24
Under section 57E of the <i>Independent Commission Against Corruption Act 1988 (the</i>	25
<i>Act)</i> , staff of the Inspector of the Independent Commission Against Corruption (<i>the</i>	26
<i>ICAC)</i> may include persons who are employed by a Department of the Public Service.	27
Item [2] of the proposed amendments allows the Department Head of a Department in	28
which staff of the Inspector are employed to delegate to the Inspector or a member of	29
staff of the Inspector any of the Department Head’s functions under the <i>Public Sector</i>	30
<i>Employment and Management Act 2002</i> with respect to those staff.	31
Items [1] and [3] are consequential amendments.	32
The Act empowers the Committee on the Independent Commission Against Corruption	33
(<i>the Committee</i>) to veto a proposal to appoint a person as Commissioner for the ICAC	34
or Inspector of the ICAC. Section 70 (1A) of the Act requires the Committee to take in	35
private, evidence proposed to be given to the Committee that relates to the proposed	36
appointment of a person as Commissioner for the ICAC or to direct that any documents	37
produced or proposed to be produced to the Committee relating to such a proposed	38
appointment be treated as confidential. Item [4] of the proposed amendments extends	39

that provision to cover evidence or documents relating to the proposed appointment of a person as Inspector of the ICAC.	1 2
Item [4] also extends section 70 (1C) of the Act (which requires the Committee not to disclose (except to the Minister) whether or not it has vetoed or proposes to veto the proposed appointment of a person as Commissioner for the ICAC) to the proposed appointment of a person as Inspector of the ICAC. (These amendments bring the confidentiality provisions in the Act in line with those in the <i>Ombudsman Act 1974</i> in their application to the proposed appointment of a person as Inspector of the Police Integrity Commission.)	3 4 5 6 7 8 9
1.14 Marine Safety Act 1998 No 121	10
[1] Schedule 1 Alcohol and drugs—breath analysis and related matters	11
Insert after clause 3 (2):	12
(3) Before requiring a person to undergo a breath test under subclause (1A) or (1), and for the purpose of determining whether to conduct such a test, a police officer or other authorised officer (as the case may be) may conduct a preliminary assessment to determine if alcohol is present in the person’s breath by requiring the person to talk into a device that indicates the presence of alcohol.	13 14 15 16 17 18 19
[2] Schedule 3 Amendment of other Acts	20
Omit Schedule 3.2.	21
Explanatory note	22
Item [1] of the proposed amendments confirms the current practice of police and other authorised officers of conducting a preliminary assessment to determine whether alcohol is present in the breath of a person who is or was operating a vessel. The purpose of conducting the preliminary assessment is to determine whether to proceed to assess the concentration of alcohol present in a person’s blood by means of a breath test. The preliminary assessment is conducted by requiring a person to talk into a device that indicates the presence of alcohol.	23 24 25 26 27 28 29
Item [2] of the proposed amendments omits an uncommenced amendment to a repealed Act.	30 31
1.15 Non-Indigenous Animals Act 1987 No 166	32
Section 27A	33
Insert after section 27:	34
27A Penalty notices	35
(1) An authorised officer may serve a penalty notice on a person if it appears to the officer that the person has committed an offence against this Act or the regulations, being an offence prescribed by the regulations as a penalty notice offence.	36 37 38 39

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| (2) | A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person can pay, within the time and to the person specified in the notice, the amount of the penalty prescribed by the regulations for the offence if dealt with under this section. | 1
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| (3) | A penalty notice may be served personally or by post. | 6 |
| (4) | If the amount of penalty prescribed for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence. | 7
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| (5) | Payment under this section is not to be regarded as an admission of liability for the purpose of, and does not in any way affect or prejudice, any civil claim, action or proceeding arising out of the same occurrence. | 10
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| (6) | The regulations may: | 14 |
| | (a) prescribe an offence for the purposes of this section by specifying the offence or by referring to the provision creating the offence, and | 15
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| | (b) prescribe the amount of penalty payable for the offence if dealt with under this section, and | 18
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| | (c) prescribe different amounts of penalties for different offences or classes of offences. | 20
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| (7) | The amount of a penalty prescribed under this section for an offence is not to exceed the maximum amount of penalty that could be imposed for the offence by a court. | 22
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| (8) | This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences. | 25
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| (9) | In this section, <i>authorised officer</i> includes a person of a class prescribed by the regulations as a class of persons who may issue penalty notices under this section. | 28
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Explanatory note

The proposed amendment allows penalty notices (on-the-spot fines) to be issued in respect of offences against the *Non-Indigenous Animals Act 1987* or the regulations made under that Act, but only if those offences are prescribed by regulations under that Act as penalty notice offences.

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1.16 Police (Special Provisions) Act 1901 No 5	1
[1] Section 101 Magistrates or Justices may appoint special constables	2
Omit “as in the next subsection provided” from section 101 (1A).	3
Insert instead “provided for in subsection (2)”.	4
[2] Section 101 (4)	5
Insert after section 101 (3):	6
(4) Despite subsection (2), a person who is authorised to administer the oath, affirmation or engagement of the office of a member of a police force (including the Australian Federal Police) referred to in subsection (1A) (a) is authorised to administer to a member of that police force who is appointed as a special constable under that provision the oath referred to in subsection (2).	7 8 9 10 11 12
[3] Section 104 Penalty for refusing to take the oath of office	13
Omit “hereinbefore mentioned when thereunto required by the Magistrate or Justices appointing him,”.	14 15
Insert instead “of a special constable in accordance with section 101”.	16
Explanatory note	17
Section 101 of the <i>Police (Special Provisions) Act 1901 (the Act)</i> presently authorises only the Magistrate or Justices of the Peace who appoint special constables under that provision (being Magistrates or Justices of the Peace of New South Wales) to administer the oath of that office to appointees. The object of item [2] of the proposed amendments is to allow persons who are authorised to administer the police oath (or its equivalent) to a member of a police force referred to in section 101 (1A) (a) of the Act (being the Australian Federal Police, or a police force of another State or of the Australian Capital Territory) to administer the oath of a special constable to a member of that police force who is appointed as a special constable.	18 19 20 21 22 23 24 25 26
Items [1] and [3] are consequential amendments.	27
1.17 Public Finance and Audit Act 1983 No 152	28
[1] Section 4 Definitions	29
Insert in alphabetical order in section 4 (1):	30
<i>Australian Accounting Standards</i> means the standards issued by the Australian Accounting Standards Board as in force for the time being.	31 32 33
<i>financial report</i> means:	34
(a) in respect of the Total State Sector—the Total State Sector Accounts, and	35 36

	(b) in respect of a statutory body—a financial report referred to in section 41A, and	1 2
	(c) in respect of a Department—a financial report referred to in section 45D.	3 4
[2]	Section 4 (1), definition of “financial year”	5
	Omit “1 April to the next following 31 March” from paragraph (b) (ii).	6
	Insert instead “1 July to the next following 30 June”.	7
[3]	Section 4 (1), definition of “the Total State Sector Accounts”	8
	Omit “statements”. Insert instead “financial report”.	9
[4]	Section 6 Preparation of the Total State Sector Accounts	10
	Omit “consolidated financial statements” from section 6 (1).	11
	Insert instead “a consolidated financial report”.	12
[5]	Sections 6 (2) and 43A (3)	13
	Omit “statements” wherever occurring. Insert instead “report”.	14
[6]	Section 6 (2)	15
	Omit “are”. Insert instead “is”.	16
[7]	Sections 6 (3) and 9 (2) (n)	17
	Omit “statements” wherever occurring. Insert instead “reports”.	18
[8]	Sections 9 (2) (g), 27B (3) (a), 52 (3) and 57 (1) (b), (d), (e) and (f)	19
	Omit “accounts” wherever occurring. Insert instead “financial reports”.	20
[9]	Section 35 Inspection and audit of books and records of accounting officers	21 22
	Omit “books and accounts” from section 35 (2).	23
	Insert instead “books and records”.	24
[10]	Section 35 (2)	25
	Omit “whose accounts”. Insert instead “whose financial report”.	26
[11]	Sections 36 (1) and (5) (a), 41 (1) and 45C	27
	Omit “accounts” wherever occurring. Insert instead “books”.	28

[12] Section 36 (3)	1
Omit “books, accounts, records or documents”.	2
Insert instead “books, records, documents or papers”.	3
[13] Sections 36 (7) and 38A, definition of “authority”	4
Omit “accounts are” wherever occurring.	5
Insert instead “financial report is”.	6
[14] Sections 39 (1A) and 45A (1A)	7
Omit “within the meaning of Australian Accounting Standard AAS 24: <i>Consolidated Financial Reports</i> and Accounting Standard AASB 1024: <i>Consolidated Accounts</i> ” wherever occurring.	8 9 10
Insert instead “as defined in Australian Accounting Standards”.	11
[15] Sections 39 (3) and 45A (4)	12
Omit “accounts” wherever occurring.	13
Insert instead “financial report, books, records”.	14
[16] Section 41 (heading)	15
Omit “accounts”.	16
Insert instead “ books and records ”.	17
[17] Section 41 (2)	18
Omit “of account”. Insert instead “and records”.	19
[18] Sections 41A (1) and 45D (1)	20
Omit “financial statements” wherever occurring.	21
Insert instead “a financial report”.	22
[19] Section 41A Preparation of financial report	23
Omit “financial statements” from section 41A (2).	24
Insert instead “the Audit Office’s financial report”.	25
[20] Sections 41B (heading) and 45D (heading)	26
Omit “statements” wherever occurring. Insert instead “reports”.	27

[21] Section 41B (1)	1
Omit “The financial statements referred to in section 41A of a statutory body”.	2
Insert instead “A statutory body’s financial report”.	3
[22] Section 41B (1) (a)	4
Omit “having regard to current accounting standards and industry practices relating to the statutory body”.	5
Insert instead “in accordance with Australian Accounting Standards”.	6
[23] Section 41B (1) (b)	8
Omit the paragraph.	9
[24] Section 41B (1) (c)	10
Omit “shall consist of”. Insert instead “is to include”.	11
[25] Section 41B (1) (c) (i)–(v)	12
Omit the subparagraphs.	13
[26] Section 41B (1) (e)	14
Omit “transactions” wherever occurring.	15
Insert instead “financial performance”.	16
[27] Section 41B (2)–(4)	17
Omit the subsections.	18
[28] Section 41BA Variation of requirements	19
Omit “of financial statements” from section 41BA (1).	20
Insert instead “of financial reports”.	21
[29] Section 41BA (1) (a)	22
Omit “the financial statements”. Insert instead “a financial report”.	23
[30] Section 41C Auditing etc of financial report	24
Omit section 41C (1). Insert instead:	25
(1) The Auditor-General is to audit a statutory body’s financial report for a financial year within 10 weeks of its receipt by the Auditor-General.	26
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[31] Sections 41C (1A) (a) and 45F (1A) (a)	1
Omit “accounts caused to be kept by” wherever occurring.	2
Insert instead “financial report of”.	3
[32] Sections 41C (1A) (b) and 45F (1A) (b)	4
Omit “statements comply” wherever occurring.	5
Insert instead “report complies”.	6
[33] Section 41C (1B)	7
Omit the subsection. Insert instead:	8
(1B) An opinion in relation to the financial report of a statutory body	9
is not to be furnished under subsection (1A) unless the	10
Auditor-General has received a statement made in accordance	11
with a resolution of the statutory body and:	12
(a) stating whether, in the opinion of the person or persons by	13
whom the statement is signed:	14
(i) the financial report exhibits a true and fair view of	15
the financial position and financial performance of	16
the statutory body, or	17
(ii) if the statutory body is the Senate, Council or Board	18
of Governors of a university, the financial report	19
exhibits a true and fair view of the financial position	20
and financial performance of the university, and	21
(b) including such matters as are prescribed by the regulations	22
for the purposes of this subsection.	23
[34] Section 41C (2)	24
Omit the subsection. Insert instead:	25
(2) Nothing in this section prevents the alteration of a statutory	26
body’s financial report, with the approval of the Auditor-General,	27
after its receipt by the Auditor-General and before its submission	28
to the Minister.	29
[35] Section 41D	30
Omit the section. Insert instead:	31
41D Return of audited financial report etc to statutory body	32
The Auditor-General or a person authorised by the	33
Auditor-General shall, after all the functions conferred by section	34
41C in relation to the financial report of a statutory body have	35

	been performed, submit the financial report and the opinion under that section to the statutory body for submission to the Minister.	1 2 3
[36]	Section 43 Inspection and audit of financial reports, books and records of statutory bodies	4 5
	Omit “accounts” from section 43 (1). Insert instead “financial reports, books”.	6
[37]	Section 43A General audit of former statutory bodies	7
	Omit section 43A (2) (a). Insert instead:	8
	(a) a financial report for the portion of the financial year ending when the body ceased to be such a statutory body (and for any previous financial year) is to be prepared and submitted, and	9 10 11 12
[38]	Section 43A (2) (b)	13
	Omit “the accounts of the body are”. Insert instead “the financial report is”.	14
[39]	Section 43A (2)	15
	Omit “they”. Insert “it”.	16
[40]	Section 45 Particular audit	17
	Omit section 45 (1). Insert instead:	18
	(1) In accordance with the request of the Treasurer, a Minister or a person prescribed for the purposes of this section in relation to a statutory body, the Auditor-General is to inspect and audit:	19 20 21
	(a) in the case of a statutory body to which section 44 (1) (a) applies—the financial report of the statutory body and the books and records of financial transactions of or relating to:	22 23 24 25
	(i) the statutory body, and	26
	(ii) assets of or in the custody of the body, and	27
	(b) in the case of a statutory body to which section 44 (1) (b) applies—the financial report of the statutory body and the books and records of financial transactions of or relating to the fund or account under the control or management of the statutory body.	28 29 30 31 32

[41] Section 45E Nature of financial reports	1
Omit section 45E (1). Insert instead:	2
(1) A Department's financial report:	3
(a) is to be prepared in accordance with Australian Accounting Standards, and	4
(b) is to comply with any written directions of the Treasurer as to form and content, and	6
(c) is to exhibit a true and fair view of the financial position and financial performance of the Department.	8
[42] Section 45EA Variation of requirements	10
Omit "of financial statements" from section 45EA (1).	11
Insert instead "of a financial report".	12
[43] Section 45EA (1) (a)	13
Omit "the financial statements". Insert instead "a financial report".	14
[44] Section 45F Auditing etc of financial reports	15
Omit section 45F (1). Insert instead:	16
(1) The Auditor-General is to audit a Department's financial report for a financial year within 10 weeks of its receipt by the Auditor-General.	17
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[45] Section 45F (1B)	20
Omit the subsection. Insert instead:	21
(1B) An opinion in relation to the financial report of a Department is not to be furnished under subsection (1A) unless the Auditor-General has received a statement:	22
(a) stating whether, in the opinion of the Department Head, the financial report exhibits a true and fair view of the financial position and financial performance of the Department, and	23
(b) including such matters as are prescribed by the regulations for the purposes of this subsection.	24
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[46] Section 45F (2)	1
Omit the subsection. Insert instead:	2
(2) Nothing in this section prevents the alteration of a Department's financial report, with the approval of the Auditor-General, after its receipt by the Auditor-General and before its submission to the Minister.	3 4 5 6
[47] Section 45G	7
Omit the section. Insert instead:	8
45G Return of audited financial report etc to Department Head	9
The Auditor-General or a person authorised by the Auditor-General shall, after all the functions conferred by section 45F in relation to the financial report of a Department have been performed, submit the financial report and the opinion under that section to the Department Head for submission to the Minister.	10 11 12 13 14
[48] Section 45I Inspection and audit of financial reports, books and records of Departments	15 16
Omit "accounts" from section 45I (1).	17
Insert instead "financial reports, books".	18
[49] Section 47 Appointment and functions of auditor	19
Omit "books and accounts" from section 47 (1).	20
Insert instead "Audit Office's financial report and the books and records".	21
[50] Section 48 Auditing of financial report and records	22
Omit "books and accounts" from section 48 (1).	23
Insert instead "Audit Office's financial report and the books and records".	24
[51] Section 49 Examination by Auditor-General of the Total State Sector Accounts	25 26
Omit section 49 (1). Insert instead:	27
(1) The Auditor-General shall examine the Total State Sector Accounts transmitted to the Auditor-General by the Treasurer in accordance with section 6 (4) and shall prepare and sign an opinion stating whether the Total State Sector Accounts are properly drawn up in accordance with this Act and accord with the books and records of the Treasurer.	28 29 30 31 32 33

[52] Section 52 Auditor-General's reports	1
Omit "accounts" from section 52 (1).	2
Insert instead "Total State Sector Accounts".	3
[53] Section 52C Definitions	4
Omit "accounts are" from the definition of <i>authority</i> .	5
Insert instead "financial report is".	6
[54] Section 53 Definitions	7
Omit "accounts of which are" from paragraph (b) of the definition of <i>authority of the State</i> .	8
	9
Insert instead "financial report of which is".	10
[55] Section 57 Functions of Committee	11
Omit "accounts" from section 57 (1) (c). Insert instead "financial report".	12
[56] Section 59 Form of books, records etc	13
Omit ", account" from section 59 (1), (2), (3) and (4) wherever occurring.	14
[57] Section 61 Misappropriation of money or property	15
Omit "books of account" from section 61 (3).	16
Insert instead "books, records".	17
[58] Section 63A Reference of matters to Public Accounts Committee	18
Omit "statements" from section 63A (2) and (3) wherever occurring.	19
Insert instead "report".	20
Explanatory note	21
IASB standards	22
The Australian Accounting Standards Board (AASB) is implementing the Financial Reporting Council's policy of adopting accounting standards of the International Accounting Standards Board (IASB). The Financial Reporting Council is a statutory body under the <i>Australian Securities and Investments Commission Act 2001</i> of the Commonwealth. The AASB has issued Australian Accounting Standards that are equivalent to IASB standards.	23
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Items [1], [3]–[11], [13]–[21] and [24]–[58] of the proposed amendments make certain terms used in the <i>Public Finance and Audit Act 1983</i> (the Act) consistent with Australian Accounting Standards that are equivalent to standards of the IASB.	29
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These amendments are explained below in further detail.	32

IASB standards—omission of entire provisions	1
In the case of items [30], [33], [34], [35], [37], [40], [41], [44], [45], [46], [47] and [51] multiple changes have been made to the one provision by way of the omission and re-insertion of the provision. See the reference or references to the relevant item in the notes below as to the particular change or changes effected by the item.	2 3 4 5
IASB standards—definition of Australian Accounting Standards	6
Item [1] of the proposed amendments inserts a definition of Australian Accounting Standards in section 4 (1) of the Act. The defined term is currently used in the Act and is also inserted in other provisions by items [14], [22] and [41] of the proposed amendments.	7 8 9 10
The object of this definition is to make it clear that references in the Act to Australian Accounting Standards are references to Australian Accounting Standards as in force for the time being. Accordingly it is made clear that the references include the standards currently in force that are equivalent to IASB standards and such standards issued in the future.	11 12 13 14 15
IASB standards—definition of financial report	16
The object of the insertion by item [1] of the proposed amendments of a definition of financial report is to make it clear, when referring to a financial report in respect of the relevant accounting entity, to which form of financial report the reference refers.	17 18 19
IASB standards—control	20
Item [14] of the proposed amendments replaces references to control “within the meaning of Australian Accounting Standard AAS 24: <i>Consolidated Financial Reports</i> and Accounting Standard AASB 1024: <i>Consolidated Accounts</i> ” in sections 39 (1A) and 45A (1A) with references to control “as defined in Australian Accounting Standards”. The standards to which reference is omitted are no longer in force.	21 22 23 24 25
Instead, reference is made to Australian Accounting Standards, a term defined by a definition inserted by item [1]. As explained in relation to item [1], the references in sections 39 (1A) and 45A (1A) to Australian Accounting Standards accordingly include the standards currently in force that are equivalent to IASB standards and such standards issued in the future.	26 27 28 29 30
IASB standards—financial reports of statutory bodies	31
The object of the amendment made by item [24] of the proposed amendments is to provide that financial reports that, under section 41B (1) (a) (as amended by item [22]), are to be prepared in accordance with Australian Accounting Standards, may include matters other than the matters currently set out in section 41B (1) (c), for example matters required under Australian Accounting Standards.	32 33 34 35 36
The object of the amendment made by item [25] of the proposed amendments is to ensure that the matters that are required to be included under section 41B (1) (c) are not inconsistent with the requirement to prepare a financial report in accordance with Australian Accounting Standards. This is done by omitting redundant requirements. Item [27] of the proposed amendments (to the extent that it omits section 41B (3), (3A) and (4) of the Act) is an amendment consequential on the amendment made by item [25].	37 38 39 40 41 42 43
IASB standards—references to “financial statements”	44
Items [3], [4], [5], [7], [18], [19], [20], [21], [28], [29], [32], [33], [34], [35], [37], [41], [42], [43], [46], [47] and [58] of the proposed amendments omit references to “financial statements” or “statements”. The object of these amendments is to make the language of the Act in this respect consistent with Australian Accounting Standards that are equivalent to IASB standards. Accordingly, those items insert instead references to “financial report”, “financial reports” or “report” as the context requires.	45 46 47 48 49 50

Statute Law (Miscellaneous Provisions) Bill (No 2) 2005

Schedule 1 Minor amendments

Items [6], [33], [34], [38], [39] and [41] of the proposed amendments make consequential changes, for example, substituting “is” for “are” if, in the same provision, “financial report” is substituted for “financial statements”.	1 2 3
IASB statements—references to “transactions”	4
Items [26], [33], [40] and [41] of the proposed amendments replace references in the Act to “transactions” with references to “financial performance”. The object of such amendments is to make the language of the Act in this respect consistent with Australian Accounting Standards that are equivalent to IASB standards.	5 6 7 8
IASB standards—references to “accounts”	9
Items [8], [9], [10], [11], [13], [15], [16], [17], [30], [31], [36], [38], [40], [44], [45], [48], [49], [50], [51] (where “account” occurs secondly in the current section 49 (1)), [52], [53], [54], [55], [56] and [57] of the proposed amendments omit references to “accounts”. The object of these amendments is to make the language of the Act in this respect consistent with Australian Accounting Standards that are equivalent to IASB standards. Accordingly, those items insert instead references to other terms as the context requires.	10 11 12 13 14 15 16
Item [56] does not replace the term omitted.	17
Items [8], [10], [13], [30], [38], [44], [45], [53], [54] and [55] insert instead references to “financial report”.	18 19
Items [9], [11], [16], [17] and [51] insert instead references to “records”, “books” or “books and records”.	20 21
Items [15], [36], [40], [48], [49] and [50] insert instead references to “financial report and books and records”.	22 23
Item [57] omits a reference to “books of account” and inserts instead a reference to “books, records”.	24 25
Item [51] of the proposed amendments omits “accounts” where firstly occurring in section 49 (1) and inserts instead “Total State Sector Accounts” to make it clear that the terms are referring to the same financial report. A corresponding amendment is made by item [52] of the proposed amendments in respect of section 52.	26 27 28 29
Statutory authority’s financial year	30
The object of item [2] of the proposed amendments is to provide (if no other provision applies to the statutory authority in respect of this matter) for a statutory authority’s financial year, within the meaning of the Act, to run from 1 July to the following 30 June instead of from 1 April to the following 31 March.	31 32 33 34
Accrual accounting	35
Items [23], [27] (to the extent that it omits section 41B (2) of the Act) and [41] (in part) of the proposed amendments remove redundant references in the Act to accrual accounting.	36 37 38
Item [41] of the proposed amendments replaces a redundant reference to preparing a financial statement of a Department on an accrual accounting basis with a reference to preparing a financial report of a Department in accordance with Australian Accounting Standards.	39 40 41 42
The use in item [41] of the defined term Australian Accounting Standards , the relevant definition being inserted by item [1] of the proposed amendments, has the effect that this provision also incorporates reference to existing and future Australian Accounting Standards that are equivalent to IASB standards.	43 44 45 46
Inclusion of reference to papers	47
Item [12] of the proposed amendments inserts a reference to “papers” in the kinds of documents the Auditor-General is entitled to require the production of under section 36 (3) of the Act.	48 49 50

This amendment makes section 36 (3) consistent with section 36 (1) (as amended by item [11]) and section 36 (5) (a) (as amended by item [11]) in their reference to such documents.	1 2 3
Preparation of financial reports of statutory bodies	4
Item [22] of the proposed amendments changes the requirements in respect of the preparation of financial reports of statutory bodies under section 41B of the Act. Section 41B (1) (a) of the Act currently provides that the financial statements shall be prepared "having regard to current accounting standards and industry practices relating to the statutory body". Proposed section 41B (1) (a), as amended by item [22], provides for the financial report of the body to be prepared "in accordance with Australian Accounting Standards". The effect of the amendment is to require compliance with Australian Accounting Standards rather than providing for their preparation "with regard to" certain matters and also to remove the ability of a statutory body to prepare financial reports with regard to industry practices relevant to the statutory body.	5 6 7 8 9 10 11 12 13 14
1.18 Public Finance and Audit Regulation 2005	15
[1] Clause 3 Definitions	16
Omit the definitions of <i>Australian Accounting Standards</i> and <i>financial statements</i> from clause 3 (1).	17 18
[2] Clause 3 (2)	19
Omit "financial statements". Insert instead "a financial report".	20
[3] Clause 4 Certification	21
Omit "statements have" from clause 4 (a). Insert instead "report has".	22
[4] Clauses 4 (b), 7 (2), 8 (2) and 11 (b)	23
Omit "statements" wherever occurring. Insert instead "report".	24
[5] Clause 5 Exemptions	25
Omit "statements" from clause 5 (1) and (4) wherever occurring. Insert instead "report".	26 27
[6] Clause 5 (4)	28
Omit "to". Insert instead "within".	29
[7] Clause 6	30
Omit the clause. Insert instead:	31
6 Accounting standards	32
Except as may be provided by the Act, this Regulation and the Treasurer's directions, the financial report of a statutory body	33 34

	must be prepared in accordance with Australian Accounting Standards.	1 2
[8]	Clause 7 Income and expenditure information	3
	Omit clause 7 (1). Insert instead:	4
	(1) For the purposes of section 41B (1) (c) (vi) and (g) of the Act, the particulars set out in Part 1 of Schedule 1 must be shown separately in the financial report of a statutory body.	5 6 7
[9]	Clauses 7 (3) and 8 (3)	8
	Omit “transactions” wherever occurring.	9
	Insert instead “financial performance”.	10
[10]	Clause 8 Balance sheet information	11
	Omit clause 8 (1). Insert instead:	12
	(1) For the purposes of section 41B (1) (c) (vi) and (g) of the Act, the particulars set out in Part 2 of Schedule 1 must be shown separately in the financial report of a statutory body.	13 14 15
[11]	Clause 9 Rounding off	16
	Omit “statement”. Insert instead “report”.	17
[12]	Clause 10 Exclusion of budget information from certain financial reports submitted for certification	18 19
	Omit “statements” from clause 10 (1). Insert instead “report”.	20
[13]	Clause 10 (2)	21
	Omit the subclause. Insert instead:	22
	(2) Subclause (1) does not apply to the financial report of a statutory body if the statutory body is required by or under the Act (including by a condition of exemption granted under the Act or a direction of the Treasurer under the Act) to include a budget or budget information in that report.	23 24 25 26 27
[14]	Clause 11 Certification	28
	Omit “statements have” from clause 11 (a). Insert instead “report has”.	29
[15]	Clause 12 Exemptions	30
	Omit “statements” from clause 12 (1) and (4) wherever occurring.	31
	Insert instead “report”.	32

[16] Clause 12 (4)	1
Omit “to”. Insert instead “within”.	2
[17] Clause 14 Definitions of “authority” and “officer of an authority”	3
Omit “the Police Service” from clause 14 (1) and (2) wherever occurring.	4
Insert instead “NSW Police”.	5
[18] Schedule 1 (heading)	6
Omit “statements”. Insert instead “reports”.	7
Explanatory note	8
IASB standards	9
The Australian Accounting Standards Board (AASB) is implementing the Financial Reporting Council's policy of adopting accounting standards of the International Accounting Standards Board (IASB). The Financial Reporting Council is a statutory body under the <i>Australian Securities and Investments Commission Act 2001</i> of the Commonwealth. The AASB has issued Australian Accounting Standards that are equivalent to IASB standards.	10 11 12 13 14 15
The proposed amendments make certain terms used in the <i>Public Finance and Audit Regulation 2005 (the Regulation)</i> consistent with the <i>Public Finance and Audit Act 1983 (the Act)</i> which is, in turn, amended by this Schedule to be consistent with Australian Accounting Standards that are equivalent to standards of the IASB.	16 17 18 19
These amendments are explained below in further detail.	20
IASB standards—omission of entire provisions	21
In the case of items [7], [8], [10] and [13] of the proposed amendments, multiple changes have been made to the one provision by way of the omission and re-insertion of the provision. See the reference or references to the relevant item in the notes below as to the particular change or changes effected by the item.	22 23 24 25
IASB standards—omission of definitions	26
Item [1] of the proposed amendments omits definitions of Australian Accounting Standards and financial statements from clause 3 (1) of the Regulation.	27 28
The definition of Australian Accounting Standards is unnecessary because an amendment to the Act by this Schedule inserts a definition of Australian Accounting Standards in the Act.	29 30 31
The definition of financial statements is omitted as a consequence of the removal of the term from the Act by amendments made by this Schedule.	32 33
IASB standards—references to “financial statements”	34
Items [2], [3], [4], [5], [7], [8], [10], [11], [12], [13], [14], [15] and [18] of the proposed amendments omit references to “financial statements” or “statements”. The object of these amendments is to make the language of the Regulation in this respect consistent with Australian Accounting Standards that are equivalent to IASB standards. Accordingly, those items insert instead references to “financial report”, “financial reports” or “report” as the context requires.	35 36 37 38 39 40
IASB standards—references to notes “to” financial statements	41
Items [6] and [16] of the proposed amendments omit references to notes “to” financial statements and insert instead a reference to notes “within” a financial report. The object of these amendments is to make the language of the Regulation in this respect consistent with Australian Accounting Standards that are equivalent to IASB standards.	42 43 44 45

IASB standards—financial reports of statutory bodies	1
Items [7] and [8] of the proposed amendments omit words that are redundant because of amendments made to section 41B of the Act by this Schedule with respect to the requirement that a financial report of a statutory body be prepared in accordance with Australian Accounting Standards.	2 3 4 5
IASB standards—references to “transactions”	6
Item [9] of the proposed amendments replaces references in the Regulation to “transactions” with references to “financial performance”. The object of such amendments is to make the language of the Regulation in this respect consistent with Australian Accounting Standards that are equivalent to IASB standards.	7 8 9 10
Law revision	11
Item [17] of the proposed amendments is consequential on the change of name of an organisation.	12 13
1.19 Road Transport (Safety and Traffic Management) Act 1999 No 20	14 15
Section 13 Power to conduct random breath testing	16
Insert after section 13 (3):	17
(3A) Before requiring a person to undergo a breath test under subsection (1), and for the purpose of determining whether to conduct such a test, a police officer may conduct a preliminary assessment to determine if alcohol is present in the person’s breath by requiring the person to talk into a device that indicates the presence of alcohol.	18 19 20 21 22 23
Explanatory note	24
The proposed amendment confirms the current practice of police officers of conducting a preliminary assessment to determine whether alcohol is present in a driver’s breath. The purpose of conducting the preliminary assessment is to determine whether to proceed to assess the concentration of alcohol present in a driver’s blood by means of a breath test. The preliminary assessment is conducted by requiring a driver to talk into a device that indicates the presence of alcohol.	25 26 27 28 29 30
1.20 Roads Act 1993 No 33	31
[1] Sections 46 (b), 47, 51 (b), 61 (1) (a), 214 (1) and 216 (1) and Dictionary, definition of “classified road”	32 33
Omit “State highway” wherever occurring. Insert instead “highway”.	34

[2] Schedule 2 Savings, transitional and other provisions	1
Insert after Part 3:	2
Part 4 Provisions consequent on enactment of Statute Law (Miscellaneous Provisions) Act (No 2) 2005	3
	4
	5
72 Definition	6
In this Part:	7
<i>amending Act</i> means the <i>Statute Law (Miscellaneous Provisions) Act (No 2) 2005</i> .	8
	9
73 State highways taken to be classified as highways	10
An order in force under section 47 immediately before the date of assent to the amending Act is taken to have been made under section 47 as amended by Schedule 1.20 to the amending Act.	11
	12
	13
74 References to State highways	14
Subject to the regulations, in any other Act or instrument, a reference to a State highway (within the meaning of this Act immediately before the date of assent to the amending Act) is taken to be a reference to a highway.	15
	16
	17
	18
[3] Dictionary	19
Insert in alphabetical order:	20
<i>highway</i> means a road that is declared to be a highway by an order in force under section 47.	21
	22
[4] Dictionary, definition of “State highway”	23
Omit the definition.	24
Explanatory note	25
Item [1] of the proposed amendments replaces references in the <i>Roads Act 1993 (the Act)</i> to “State highway” with references to “highway”.	26
	27
Item [3] of the proposed amendments inserts a definition of <i>highway</i> into the Act for the purposes of the Act.	28
	29
Item [4] of the proposed amendments omits the definition of <i>State highway</i> in the Act (being a road that is declared to be a State highway by an order in force under section 47 of the Act).	30
	31
	32
Item [2] of the proposed amendments inserts savings and transitional provisions into the Act consequent on the amendments proposed to be made by item [1].	33
	34

1.21 Security Industry Act 1997 No 157	1
[1] Section 21 Grant of licence	2
Insert “and nominate a place where the person is to collect the licence” after “application” in section 21 (1) (a).	3 4
[2] Section 21 (4)	5
Insert after section 21 (3):	6
(4) A licence is granted subject to the condition that the person making the application collect the licence from the place nominated by the Commissioner under subsection (1) (a) within 60 days of being notified of the grant.	7 8 9 10
[3] Section 24 Term of licence	11
Insert before section 24 (1):	12
(1A) A licence comes into force on the day that it is collected from the place nominated by the Commissioner under section 21 (1) (a).	13 14
[4] Section 24 (1)	15
Omit “was granted”. Insert instead “comes into force”.	16
[5] Section 24 (3)	17
Insert after section 24 (2):	18
(3) Despite subsection (1), if the person who made the application for a licence (the <i>applicant</i>) fails to collect the licence in accordance with the condition set out in section 21 (4):	19 20 21
(a) the licence does not come into force and is taken to have not been granted, and	22 23
(b) for the purposes of section 18 (5), the applicant is taken to be a person who was an applicant for, but was never granted, a licence.	24 25 26
[6] Section 29 Right to seek review from Administrative Decisions Tribunal	27
Insert “(other than by operation of section 24 (3))” after “person” in section 29 (1) (a).	28 29
Explanatory note	30
Item [2] of the proposed amendments provides that the grant of a licence under the <i>Security Industry Act 1997</i> is subject to the condition that the applicant must collect the licence from a place nominated by the Commissioner of Police (usually a Roads and Traffic Authority motor registry) within 60 days of the applicant being notified of the grant of the licence.	31 32 33 34 35

Item [3] of the proposed amendments provides that a licence comes into force when it is collected from the place nominated by the Commissioner.	1 2
Item [5] of the proposed amendments provides that if the applicant fails to collect the licence from the place nominated by the Commissioner of Police within 60 days of being notified of the grant of the licence, the licence does not come into force and is taken not to have been granted. Currently, uncommenced amendments to the <i>Security Industry Act 1997</i> contained in the <i>Security Industry Amendment Act 2005</i> provide for a licence to be revoked in such circumstances.	3 4 5 6 7 8
Items [1], [4] and [6] are consequential amendments.	9
Consequential amendments proposed to be made to the <i>Security Industry Amendment Act 2005</i> and the <i>Security Industry Regulation 1998</i> are contained elsewhere in this Schedule.	10 11 12
1.22 Security Industry Amendment Act 2005 No 63	13
[1] Schedule 1 Amendment of Security Industry Act 1997	14
Insert “selling,” before “installing” wherever occurring in section 12 (1) (c) and (e) of the <i>Security Industry Act 1997</i> (as inserted by Schedule 1 [14]).	15 16
[2] Schedule 1 [14]	17
Insert “sell,” before “install” in section 12 (1) (f) of the <i>Security Industry Act 1997</i> (as inserted by Schedule 1 [14]).	18 19
[3] Schedule 1 [43], [46] and [50]	20
Omit the items.	21
Explanatory note	22
The <i>Security Industry Amendment Act 2005</i> (which is not yet in force) substitutes section 12 (1) of the <i>Security Industry Act 1997</i> (the principal Act). Items [1] and [2] of the proposed amendments amend that provision (as substituted) to clarify that the holder of a class 2C licence under the principal Act is authorised to sell security equipment, the holder of a class 2E licence under that Act to sell barrier equipment and the holder of a class 2F licence under that Act to sell electronic security equipment (in addition to the other activities that that Act currently expressly authorises under those licences).	23 24 25 26 27 28 29 30
Item [3] of the proposed amendments is consequential on the amendments proposed to be made to the principal Act contained elsewhere in this Schedule.	31 32
1.23 Security Industry Regulation 1998	33
Clause 17 Pending application for subsequent licence	34
Omit clause 17 (1). Insert instead:	35
(1) If a person applies for a subsequent licence before the term of the person’s current licence expires (referred to in this clause as the old licence) and the application has not been dealt with by the time the old licence expires, the authority conferred by the old licence continues:	36 37 38 39 40

(a) until the person is notified of the refusal of the subsequent licence, or	1 2
(b) until the person collects the subsequent licence in accordance with the condition set out in section 21 (4) of the Act, or	3 4 5
(c) until 60 days after the person is notified of the grant of the subsequent licence,	6 7
whichever occurs first.	8
Explanatory note	9
The proposed amendment is consequential on the amendments proposed to be made to the <i>Security Industry Act 1997 (the Act)</i> contained elsewhere in this Schedule. The amendment provides for the authority of an existing licence under the Act to continue when a subsequent licence is granted until such time as the subsequent licence is collected from a place nominated by the Commissioner of Police or until 60 days after the notification of the grant of the subsequent licence (whichever occurs first). Proposed section 21 (4) of the Act provides that the grant of a licence is subject to the condition that the applicant must collect the licence from a place nominated by the Commissioner of Police (usually a Roads and Traffic Authority motor registry) within 60 days of the applicant being notified of the grant of the licence. If the applicant fails to collect the licence in accordance with this condition the licence does not come into force and is taken not to have been granted.	10 11 12 13 14 15 16 17 18 19 20 21
1.24 State Owned Corporations Act 1989 No 134	22
[1] Section 19 Acquisition and disposal of assets etc	23
Omit “accounts” wherever occurring in section 19 (1) (a) and (b).	24
Insert instead “financial report”.	25
[2] Section 20X Acquisition and disposal of assets, investments and liabilities	26 27
Omit “accounts” wherever occurring in section 20X (1) (a) and (b).	28
Insert instead “financial report”.	29
[3] Section 22 Statement of corporate intent: contents	30
Omit “accounts” from section 22 (d).	31
Insert instead “financial reports of the corporation and of its subsidiaries”.	32

[4] Section 24 Annual reports and financial reports: company SOCs	1
Omit section 24 (1) (b). Insert instead:	2
(b) the SOC’s financial report for that financial year, audited	3
by the Auditor-General, being a financial report that	4
conforms to the requirements of the <i>Corporations Act</i>	5
2001 of the Commonwealth or any other law applying to	6
the report, and	7
[5] Section 24 (1) (c)	8
Omit “those financial statements”. Insert instead “the SOC’s financial report”.	9
[6] Section 24 (2)	10
Omit “Every report”. Insert instead “Every annual report”.	11
[7] Section 24 (3)	12
Omit “Every report”. Insert instead “Every Auditor-General’s report”.	13
[8] Section 24 (9)	14
Omit “financial statements”. Insert instead “a financial report”.	15
[9] Section 24 (9) (a)	16
Omit “statements”. Insert instead “reports”.	17
[10] Section 24 (9) (b)	18
Omit “statements”. Insert instead “report”.	19
[11] Section 24A, heading	20
Omit “accounts”. Insert instead “ financial reports ”.	21
[12] Section 26 Information to be laid before Parliament	22
Omit “financial statements” from section 26 (1) (i).	23
Insert instead “financial report”.	24
[13] Section 26 (1) (i)	25
Omit “those statements”. Insert instead “that financial report”.	26
[14] Section 28 Public Accounts Committee	27
Omit “statements” from section 28 (1). Insert instead “reports”.	28

[15] Section 28 (2)	1
Omit “statements and reports”.	2
Insert instead “reports and Auditor-General’s reports”.	3
[16] Section 28 (2)	4
Omit “accounts and reports of”.	5
Insert instead “financial reports and Auditor-General’s reports in relation to”.	6
Explanatory note	7
IASB standards	8
The Australian Accounting Standards Board (AASB) is implementing the Financial Reporting Council’s policy of adopting accounting standards of the International Accounting Standards Board (IASB). The Financial Reporting Council is a statutory body under the <i>Australian Securities and Investments Commission Act 2001</i> of the Commonwealth. The AASB has issued Australian Accounting Standards that are equivalent to IASB standards.	9 10 11 12 13 14
The proposed amendments make certain terms used in the <i>State Owned Corporations Act 1989 (the Act)</i> consistent with Australian Accounting Standards that are equivalent to standards of the IASB.	15 16 17
These amendments are explained below in further detail.	18
Omission of entire provision	19
In the case of item [4] of the proposed amendments, multiple changes have been made to the one provision by way of the omission and re-insertion of the provision. See the references to item [4] in the notes below as to the particular change or changes effected by the item.	20 21 22 23
References to “financial statements”	24
Items [4], [5], [8]–[10], [12], [14] and [15] of the proposed amendments omit references to “financial statements” or “statements”. The object of these amendments is to make the language of the Act in this respect consistent with Australian Accounting Standards that are equivalent to IASB standards. Accordingly, those items insert instead references to “financial report”, “financial reports” or “report” as the context requires.	25 26 27 28 29
Items [4] and [5] make amendments consequential on the amendments omitting references to “financial statements”, making it clear that the relevant provisions refer to the financial report of the relevant State owned corporation.	30 31 32
Items [6] and [7] make amendments consequential on the amendments omitting references to “financial statements”, making it clear that section 24 (2) and (3) of the Act refer to an annual report and an Auditor-General’s report, respectively, rather than to a financial report.	33 34 35 36
References to “accounts”	37
Items [1]–[3], [11] and [16] of the proposed amendments omit references to “accounts”. The object of these amendments is to make the language of the Act in this respect consistent with Australian Accounting Standards that are equivalent to IASB standards. Accordingly, those items insert instead references to “financial report”.	38 39 40 41
Item [16] also makes an amendment to make it clear that both financial reports and Auditor-General’s reports are referred to in section 28 (2) of the Act.	42 43

1.25 Stock (Chemical Residues) Act 1975 No 26	1
Section 15A	2
Insert after section 15:	3
15A Penalty notices	4
(1) An authorised officer may serve a penalty notice on a person if it appears to the officer that the person has committed an offence against this Act or the regulations, being an offence prescribed by the regulations as a penalty notice offence.	5 6 7 8
(2) A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person can pay, within the time and to the person specified in the notice, the amount of the penalty prescribed by the regulations for the offence if dealt with under this section.	9 10 11 12 13
(3) A penalty notice may be served personally or by post.	14
(4) If the amount of penalty prescribed for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence.	15 16 17
(5) Payment under this section is not to be regarded as an admission of liability for the purpose of, and does not in any way affect or prejudice, any civil claim, action or proceeding arising out of the same occurrence.	18 19 20 21
(6) The regulations may:	22
(a) prescribe an offence for the purposes of this section by specifying the offence or by referring to the provision creating the offence, and	23 24 25
(b) prescribe the amount of penalty payable for the offence if dealt with under this section, and	26 27
(c) prescribe different amounts of penalties for different offences or classes of offences.	28 29
(7) The amount of a penalty prescribed under this section for an offence is not to exceed the maximum amount of penalty that could be imposed for the offence by a court.	30 31 32
(8) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.	33 34 35
(9) In this section, <i>authorised officer</i> means any of the following:	36
(a) an inspector,	37

(b) a person of a class prescribed by the regulations as a class of persons who may issue penalty notices under this section.	1 2 3
Explanatory note	4
The proposed amendment allows penalty notices (on-the-spot fines) to be issued in respect of offences against the <i>Stock (Chemical Residues) Act 1975</i> or the regulations made under that Act, but only if those offences are prescribed by regulations under that Act as penalty notice offences.	5 6 7 8
1.26 Stock Diseases Regulation 2004	9
Clause 10A Testing of stock for Bovine Spongiform Encephalopathy	10
Omit “100 penalty units” wherever occurring in clause 10A (1) and (2).	11
Insert instead “50 penalty units”.	12
Explanatory note	13
The proposed amendment to the <i>Stock Diseases Regulation 2004</i> reduces the maximum penalty for certain offences under the Regulation. Section 23 (3) (b) of the <i>Stock Diseases Act 1923</i> provides that the maximum penalty that may be imposed by the regulations for such offences is 50 penalty units.	14 15 16 17
1.27 Stock Foods Act 1940 No 19	18
Section 32A	19
Insert after section 32:	20
32A Penalty notices	21
(1) An authorised officer may serve a penalty notice on a person if it appears to the officer that the person has committed an offence against this Act or the regulations, being an offence prescribed by the regulations as a penalty notice offence.	22 23 24 25
(2) A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person can pay, within the time and to the person specified in the notice, the amount of the penalty prescribed by the regulations for the offence if dealt with under this section.	26 27 28 29 30
(3) A penalty notice may be served personally or by post.	31
(4) If the amount of penalty prescribed for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence.	32 33 34

(5)	Payment under this section is not to be regarded as an admission of liability for the purpose of, and does not in any way affect or prejudice, any civil claim, action or proceeding arising out of the same occurrence.	1 2 3 4
(6)	The regulations may:	5
(a)	prescribe an offence for the purposes of this section by specifying the offence or by referring to the provision creating the offence, and	6 7 8
(b)	prescribe the amount of penalty payable for the offence if dealt with under this section, and	9 10
(c)	prescribe different amounts of penalties for different offences or classes of offences.	11 12
(7)	The amount of a penalty prescribed under this section for an offence is not to exceed the maximum amount of penalty that could be imposed for the offence by a court.	13 14 15
(8)	This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.	16 17 18
(9)	In this section, <i>authorised officer</i> means any of the following:	19
(a)	an inspector,	20
(b)	a person of a class prescribed by the regulations as a class of persons who may issue penalty notices under this section.	21 22 23
	Explanatory note	24
	The proposed amendment allows penalty notices (on-the-spot fines) to be issued in respect of offences against the <i>Stock Foods Act 1940</i> or the regulations made under that Act, but only if those offences are prescribed by regulations under that Act as penalty notice offences.	25 26 27 28
	1.28 University of Western Sydney Act 1997 No 116	29
	[1] Section 12 Constitution of Board	30
	Omit “are” from section 12 (1) (h) (ii). Insert instead “may be”.	31
	[2] Section 40 By-laws	32
	Insert after section 40 (1) (j):	33
(ja)	the designation of members of staff of the University as academic staff, general staff, full-time staff, part-time staff or otherwise,	34 35 36

Statute Law (Miscellaneous Provisions) Bill (No 2) 2005

Schedule 1 Minor amendments

Explanatory note	1
Item [1] of the proposed amendments makes wording in a provision consistent with that used in related provisions in the same section.	2 3
Item [2] of the proposed amendments will allow the governing body of the University of Western Sydney to make by-laws, not inconsistent with the <i>University of Western Sydney Act 1997</i> , for or with respect to the designation of members of staff of the University as academic staff, general staff, full-time staff, part-time staff or otherwise. The by-law making power is contained in the Acts of most other universities in New South Wales.	4 5 6 7 8 9
1.29 Valuers Act 2003 No 4	10
Section 48 Regulations	11
Insert at the end of the section:	12
(2) Without affecting the generality of subsection (1), the regulations may make provision for or with respect to the waiver or refund of the whole or any part of a fee payable under this Act.	13 14 15
Explanatory note	16
The object of the proposed amendment is to allow the making of regulations to provide for the waiver or refund of any fees payable under the <i>Valuers Act 2003</i> .	17 18

Schedule 2	Amendments by way of statute law revision	1
		2
	(Section 3)	3
2.1	Animal Research Regulation 2005	4
	Clause 17	5
	Insert “of the Act” after “section 25C (3)”.	6
	Explanatory note	7
	The proposed amendment inserts a missing Act reference.	8
2.2	Baulkham Hills Local Environmental Plan 2005	9
[1]	Clause 2	10
	Omit “ Explanatory note ”. Insert instead “ Note ”.	11
[2]	Clause 5 (2) (d)	12
	Omit “any explanatory notes to this plan are intended to assist the reader to understand this plan but”.	13
	Insert instead “notes included in this plan”.	14
	Explanatory note	15
	The proposed amendments clarify the status of notes.	16
		17
2.3	Births, Deaths and Marriages Registration Regulation 2001	18
	Clause 7 (2)	19
	Omit the note.	20
	Explanatory note	21
	The proposed amendment omits a redundant note.	22
2.4	Blue Mountains Local Environmental Plan 1991	23
[1]	Clause 10.5 (da) (iv)	24
	Omit “any, lake”. Insert instead “any lake”.	25
[2]	Schedule 4	26
	Omit “ Definitions, references and headings ” from the heading.	27
	Insert instead “ Interpretation ”.	28

[3] Schedule 4, clause 1, definition of “Forestry”	1
Omit “aboriculture, sylviculture”.	2
Insert instead “arboriculture, silviculture”.	3
[4] Schedule 4, clause 1, definition of “Original lot”	4
Omit “(1919)”. Insert instead “1919”.	5
[5] Schedule 4, clause 2A	6
Insert after clause 2:	7
2A Notes	8
Notes included in this plan do not form part of this plan.	9
[6] Schedule 4, clause 3	10
Omit the clause.	11
Explanatory note	12
Items [1] and [3] of the proposed amendments correct typographical errors.	13
Item [2] of the proposed amendments updates a heading.	14
Item [4] of the proposed amendments corrects the citation of an Act.	15
Item [5] of the proposed amendments inserts a provision clarifying the status of notes.	16
Item [6] of the proposed amendments omits a redundant provision.	17
2.5 Blue Mountains Local Environmental Plan 2005	18
Clause 54A (4) (l)	19
Omit “ <i>Surveying Act 2000</i> ”. Insert instead “ <i>Surveying Act 2002</i> ”.	20
Explanatory note	21
The proposed amendment corrects the citation of an Act.	22
2.6 Blue Mountains Local Environmental Plan No 4	23
[1] Clause 10 (1)	24
Re-number paragraph (b) where secondly occurring as paragraph (c).	25
[2] Clause 61B (1)	26
Omit “McLachlan Load”. Insert instead “McLachlan Road”.	27
[3] Clause 61B (3)	28
Omit “subclause (1)”. Insert instead “subclause (2)”.	29

[4] Clause 65A (2)	1
Omit “to which this plan applies”. Insert instead “to which this clause applies”.	2
Explanatory note	3
Item [1] of the proposed amendments corrects duplicated numbering.	4
Items [2] and [3] of the proposed amendments correct typographical errors.	5
Item [4] of the proposed amendments clarifies the operation of a provision.	6
2.7 Brigalow and Nandewar Community Conservation Area Act 2005 No 56	7
	8
Schedule 9, clause 5 (2) (b)	9
Omit “the appointed day”. Insert instead “the commencement of this Act”.	10
Explanatory note	11
The proposed amendment replaces a reference to the “appointed day” (an undefined term) with a reference to the “commencement of the Act”.	12
	13
2.8 Charles Sturt University Act 1989 No 76	14
Section 9 (1) (g) (ii)	15
Omit “are”. Insert instead “may be”.	16
Explanatory note	17
The proposed amendment makes wording in a provision consistent with that used in related provisions in the same section.	18
	19
2.9 Child Protection (Offenders Registration) Regulation 2001	20
Clause 4	21
Omit the clause. Insert instead:	22
4 Notes	23
Notes included in this Regulation do not form part of this Regulation.	24
	25
Explanatory note	26
The proposed amendment inserts a provision clarifying the status of notes.	27
	27
2.10 Civil Procedure Act 2005 No 28	28
Schedule 3	29
Omit “(Section 9 (3))”. Insert instead “(Section 9 (2))”.	30
Explanatory note	31
The proposed amendment corrects an incorrect cross-reference.	32
	32

2.11 Coal Mine Health and Safety Act 2002 No 129	1
Schedule 2.6	2
Omit the Subschedule.	3
Explanatory note	4
The proposed amendment omits uncommenced amendments to a repealed Act.	5
2.12 Co-operative Housing and Starr-Bowkett Societies Regulation 2005	6
Schedule 4, Form A	7
Omit “2000”. Insert instead “2005”.	8
Explanatory note	9
The proposed amendment corrects the citation of a Regulation.	10
2.13 Dams Safety Act 1978 No 96	11
[1] Schedule 2, clauses 4 and 7 (1) (c)	12
Omit “him” wherever occurring. Insert instead “the member”.	13
[2] Schedule 2, clause 7 (2)	14
Omit “him”. Insert instead “the Minister”.	15
Explanatory note	16
The proposed amendments replace gender-specific language.	17
2.14 Defamation Act 2005 No 77	18
[1] Section 24 (1)	19
Omit “exclusion or liability”. Insert instead “exclusion of liability”.	20
[2] Section 32 (3) (g)	21
Insert “or provider” after “operator” where secondly occurring.	22
Explanatory note	23
Item [1] of the proposed amendments corrects a typographical error.	24
Item [2] of the proposed amendments inserts missing words.	25
	26

2.15 Dust Diseases Tribunal Act 1989 No 63	1
Section 33	2
Renumber subsections (8) and (9) where secondly occurring as subsections (10) and (11) respectively.	3
Explanatory note	4
The proposed amendment corrects duplicated numbering.	5
2.16 Dust Diseases Tribunal Regulation 2001	6
Clause 3	7
Omit the clause. Insert instead:	8
3 Notes	9
Notes included in this Regulation (other than those in Schedules 1 and 2) do not form part of this Regulation.	10
Explanatory note	11
The proposed amendment inserts a provision clarifying the status of notes.	12
2.17 Dust Diseases Tribunal Rules	13
Rule 18 (1)	14
Omit “subpoeana”. Insert instead “subpoena”.	15
Explanatory note	16
The proposed amendment corrects a typographical error.	17
2.18 Electricity Supply (General) Regulation 2001	18
Clause 71 (2) (a) (ii)	19
Omit the subparagraph. Insert instead:	20
(ii) any payment plan operated by the exempt person, is pending, or	21
Explanatory note	22
The proposed amendment clarifies the operation of a provision.	23
2.19 Environmental Planning and Assessment Act 1979 No 203	24
[1] Section 75V (5)	25
Omit “was”. Insert instead “way”.	26

[2] Schedule 6, clause 91 (3)	1
Omit “be matter”. Insert instead “be a matter”.	2
Explanatory note	3
The proposed amendments correct typographical errors.	4
2.20 Environmental Planning and Assessment Amendment (Infrastructure and Other Planning Reform) Act 2005 No 43	5
	6
Schedule 7.11 [1]	7
Omit “Schedule 7.9”. Insert instead “Schedule 7.11”.	8
Explanatory note	9
The proposed amendment corrects an incorrect cross-reference.	10
2.21 Eurobodalla Rural Local Environmental Plan 1987	11
[1] Clause 4 (1) (d) (x)	12
Omit “archeological”. Insert instead “archaeological”.	13
[2] Clause 11, Table	14
Omit “Nil; telecommunications” from item 3 of the matter relating to Zone No 8.	15
	16
Insert instead “Telecommunications”.	17
[3] Clause 13 (7)	18
Insert “In this clause,” before “ <i>existing parcel</i> means”.	19
[4] Clause 17 (3) (i)	20
Omit “prupose”. Insert instead “purpose”.	21
[5] Clause 36 (1)	22
Renumber paragraph (c) of the definition of <i>Temporary sign</i> as paragraph (b).	23
[6] Clause 36 (2) (c)	24
Omit “larger that”. Insert instead “larger than”.	25
Explanatory note	26
Items [1], [4] and [6] of the proposed amendments correct typographical errors.	27
Item [2] of the proposed amendments omits a redundant reference.	28
Item [3] of the proposed amendments clarifies the operation of a provision.	29
Item [5] of the proposed amendments corrects incorrect numbering.	30

2.22 Eurobodalla Rural Local Environmental Plan 1987 (Amendment No 36)	1
	2
Clause 4	3
Omit “clause 10”. Insert instead “clause 11”.	4
Commencement	5
The amendment to the <i>Eurobodalla Rural Local Environmental Plan 1987 (Amendment No 36)</i> is taken to have commenced on 22 November 2002.	6
Explanatory note	7
The proposed amendment corrects an incorporation direction.	8
	9
2.23 Exhibited Animals Protection Regulation 2005	10
[1] Clause 3 (2)	11
Insert at the end of clause 3:	12
(2) Notes included in this Regulation do not form part of this Regulation.	13
	14
[2] Schedule 2, Part 6	15
Omit “ Montremes ” from the heading to the first table.	16
Insert instead “ Monotremes ”.	17
Explanatory note	18
Item [1] of the proposed amendments inserts a provision clarifying the status of notes.	19
Item [2] of the proposed amendments corrects a typographical error.	20
2.24 Explosives Regulation 2005	21
Schedule 1, clause 6 (2) (c) (iii)	22
Omit “thriugh”. Insert instead “through”.	23
Explanatory note	24
The proposed amendment corrects a typographical error.	25
2.25 Food Regulation 2004	26
Clause 3 (2)	27
Insert at the end of clause 3:	28
(2) Notes included in this Regulation do not form part of this Regulation.	29
	30
Explanatory note	31
The proposed amendment inserts a provision clarifying the status of notes.	32

2.26 Forestry and National Park Estate Act 1998 No 163	1
[1] Sections 21 (1) and (3) and 22 (1)	2
Omit “Minister administering the <i>Environmental Planning and Assessment Act 1979</i> ” wherever occurring.	3
	4
Insert instead “Minister”.	5
[2] Sections 21 (2) and 22 (2), (3) and (6)	6
Omit “Department of Urban Affairs and Planning” wherever occurring.	7
Insert instead “Department of Natural Resources”.	8
Explanatory note	9
The proposed amendments change associated ministerial and departmental references to reflect the operation of a series of <i>Administrative Changes Orders</i> and ministerial allocations since 2001.	10
	11
	12
2.27 Freedom of Information Regulation 2005	13
Schedule 4, Part 2	14
Omit the matter relating to the Inspector of Dangerous Goods.	15
Explanatory note	16
The proposed amendment omits matter consequential on the repeal of an Act.	17
2.28 Guardianship Act 1987 No 257	18
Section 5, definition of “eligible witness”	19
Omit “Clerk” from paragraph (a) (iii). Insert instead “registrar”.	20
Explanatory note	21
The proposed amendment updates a reference to an office.	22
2.29 Health Services Act 1997 No 154	23
Sections 99A (1) and 117A (1)	24
Omit “chief executive officer” wherever occurring.	25
Insert instead “chief executive”.	26
Explanatory note	27
The proposed amendment updates references to an office.	28

2.30 Home Building Regulation 2004	1
Clause 7 (a) (iii) and (v)	2
Omit the subparagraphs.	3
Explanatory note	4
The proposed amendment removes references to repealed instruments.	5
2.31 Hunter Regional Environmental Plan 1989	6
Clause 46 (1)	7
Omit “Scheule”. Insert instead “Schedule”.	8
Explanatory note	9
The proposed amendment corrects a typographical error.	10
2.32 Judges’ Pensions Act 1953 No 41	11
Schedule 1, clause 4 (4), definition of “de facto partner amendments”	12
Omit “ <i>Prosecutions</i> ” from paragraph (b). Insert instead “ <i>Prosecutions</i> ”.	13
Explanatory note	14
The proposed amendment corrects the citation of an Act.	15
2.33 Jury Act 1977 No 18	16
Section 4 (4)	17
Insert after section 4 (3):	18
(4) Notes included in this Act do not form part of this Act.	19
Explanatory note	20
The proposed amendment inserts a provision clarifying the status of notes.	21
2.34 Law Enforcement (Powers and Responsibilities) Act 2002 No 103	22
Section 117 (1) (c)	23
Omit “section 108”. Insert instead “section 281”.	24
Explanatory note	25
The proposed amendment corrects an incorrect cross-reference.	26
	27

2.35 Legal Profession Regulation 2005	1
Clause 147 (1), definition of “registered valuer”	2
Omit “ <i>Valuation Act 2003</i> ”. Insert instead “ <i>Valuers Act 2003</i> ”.	3
Explanatory note	4
The proposed amendment corrects the citation of an Act.	5
2.36 Licensing and Registration (Uniform Procedures) Act 2002 No 28	6
Schedule 4.3 and 4.4	7
Omit the Subschedules.	8
Explanatory note	9
The proposed amendment omits uncommenced amendments to repealed legislation.	10
2.37 Local Government (General) Regulation 2005	11
[1] Schedule 11, Forms 2 and 3	12
Insert “person” after “Aboriginal” wherever occurring.	13
[2] Schedule 11, Form 3	14
Omit “ <i>no by-elections</i> ”. Insert instead “ <i>not by-elections</i> ”.	15
Explanatory note	16
Item [1] of the proposed amendments inserts missing words.	17
Item [2] of the proposed amendments corrects a typographical error.	18
2.38 Macquarie University Act 1989 No 126	19
Section 9 (1) (g) (ii)	20
Omit “are”. Insert instead “may be”.	21
Explanatory note	22
The proposed amendment makes wording in a provision consistent with that used in related provisions in the same section.	23
2.39 Maitland Local Environmental Plan 1993	24
Clause 27, table	25
Omit “landuses” from item (1) (a) of the matter relating to Zone 7 (b).	26
Insert instead “land uses”.	27
Explanatory note	28
The proposed amendment corrects a typographical error.	29

2.40 Manly Local Environmental Plan 1988	1
Schedule 4, table	2
Omit “Superintendent’s house” from the first column of the matter under the heading “ (A) Alphabetical Entry by Street ”.	3
Insert instead “Superintendent’s house”.	4
Explanatory note	5
The proposed amendment corrects a typographical error.	6
2.41 Mine Health and Safety Act 2004 No 74	7
Schedule 4.3	8
Omit the Subschedule.	9
Explanatory note	10
The proposed amendment omits an uncommenced amendment to a repealed Act.	11
2.42 Motor Accidents Compensation Regulation 2005	12
Clause 18 (1) (k) (ii)	13
Omit “ <i>Road Transport (Heavy Vehicle Registration Charges) Act 1995</i> ”.	14
Insert instead “ <i>Road Transport (Heavy Vehicles Registration Charges) Act 1995</i> ”.	15
Explanatory note	16
The proposed amendment corrects the citation of an Act.	17
2.43 National Park Estate (Southern Region Reservations) Act 2000 No 103	18
[1] Schedule 1, clause 19 (1)	19
Omit “about 3,664” hectares”. Insert instead “about 3,664 hectares”.	20
[2] Schedule 1, clause 19 (1)	21
Omit “lots 51 52”. Insert instead “lots 51, 52”.	22
[3] Schedule 1, clause 19 (1)	23
Omit “Registrar General”. Insert instead “Registrar-General”.	24
Explanatory note	25
The proposed amendments correct typographical errors.	26

2.44 Occupational Health and Safety Regulation 2001	1
[1] Clause 150 (2) (a1)	2
Insert “must” before “be”.	3
[2] Clause 150 (2) (a2)	4
Insert “must” before “contain”.	5
[3] Clause 174ZN (4)	6
Omit “Maximum penalty: Level 4.”.	7
[4] Clause 174ZN	8
Insert at the end of the clause:	9
Maximum penalty: Level 4.	10
[5] Clause 174ZW (5)	11
Omit “Maximum penalty: Level 1.”.	12
[6] Clause 174ZW	13
Insert at the end of the clause:	14
Maximum penalty: Level 1.	15
Explanatory note	16
Items [1] and [2] of the proposed amendments insert missing words.	17
Items [3]–[6] of the proposed amendments clarify the operation of penalty provisions.	18
2.45 Passenger Transport Act 1990 No 39	19
Section 46BC (2)	20
Omit “An transport”. Insert instead “A transport”.	21
Explanatory note	22
The proposed amendment corrects a typographical error.	23
2.46 Pipelines Regulation 2005	24
Schedule 3, Form 17	25
Omit “[<i>what goes in here?</i>]”. Insert instead “\$ [<i>amount</i>]”.	26
Explanatory note	27
The proposed amendment clarifies the matter that is to be inserted in a form.	28

2.47 Privacy Code of Practice (General) 2003	1
Clause 4 (2)	2
Insert at the end of clause 4:	3
(2) Notes included in this Code do not form part of this Code.	4
Explanatory note	5
The proposed amendment inserts a provision clarifying the status of notes.	6
2.48 Protection of the Environment Operations (Clean Air) Regulation 2002	7
	8
Clause 26 (1) (d)	9
Insert “and” at the end of the paragraph.	10
Explanatory note	11
The proposed amendment inserts a missing word.	12
2.49 Road Transport (Driver Licensing) Act 1998 No 99	13
Section 33A	14
Omit “of this Act” where secondly occurring.	15
Explanatory note	16
The proposed amendment omits unnecessary words.	17
2.50 Road Transport (General) Act 2005 No 11	18
Sections 3 (1), definition of “applicable road law”, 40 (1) (b), note and 41 (1) (b), note	19
Omit “ <i>Road Transport (Mass, Loading and Access) Regulation 1996</i> ” wherever occurring.	21
	22
Insert instead “ <i>Road Transport (Mass, Loading and Access) Regulation 2005</i> ”.	23
	24
Explanatory note	25
The proposed amendment updates references to a repealed instrument.	26

2.51 Road Transport (General) Regulation 2005	1
Schedule 3	2
Omit “ <i>Road Transport (Mass, Loading and Access Regulation 2005)</i> ” wherever occurring in column 1 of the matter relating to the <i>Road Transport (General) Act 2005</i> .	3 4 5
Insert instead “ <i>Road Transport (Mass, Loading and Access) Regulation 2005</i> ”.	6 7
Explanatory note	8
The proposed amendments corrects the citation of an instrument.	9
2.52 Security Interests in Goods Act 2005 No 69	10
Schedule 5.3	11
Omit “ Co-operatives Regulation 1997 ” from the heading.	12
Insert instead “ Co-operatives Regulation 2005 ”.	13
Commencement	14
The amendment to the <i>Security Interests in Goods Act 2005</i> commences or is taken to have commenced immediately before the commencement of Schedule 5.3 to that Act.	15 16
Explanatory note	17
The proposed amendment updates a reference to a repealed regulation.	18
2.53 Southern Cross University Act 1993 No 69	19
Section 10 (1) (g) (ii)	20
Omit “are”. Insert instead “may be”.	21
Explanatory note	22
The proposed amendment makes wording in a provision consistent with that used in related provisions in the same section.	23 24
2.54 State Environmental Planning Policy No 14—Coastal Wetlands	25 26
Clause 9	27
Omit the clause.	28
Explanatory note	29
The proposed amendment omits a clause containing spent amendments.	30

2.55 State Environmental Planning Policy No 53—Metropolitan Residential Development	1
	2
Clause 5 (3)	3
Omit “, except as provided by clause 1 (3) of Schedule 4”.	4
Explanatory note	5
The proposed amendment omits a redundant cross-reference.	6
2.56 State Environmental Planning Policy No 65—Design Quality of Residential Flat Development	7
	8
[1] Part 4	9
Omit “12 months or more after the date of commencement of <i>State Environmental Planning Policy No 65—Design Quality of Residential Flat Development</i> ” from the matter relating to development applications occurring after clause 29.	10
	11
	12
	13
Insert instead “on or after 1 December 2003”.	14
[2] Part 4	15
Omit “ <i>Architects Act 1921</i> ” from the matter relating to development applications occurring after clause 29.	16
	17
Insert instead “ <i>Architects Act 2003</i> ”.	18
Explanatory note	19
Item [1] of the proposed amendments updates a note.	20
Item [2] of the proposed amendments updates the citation of an Act.	21
2.57 Superannuation Administration Act 1996 No 39	22
Section 128B (1) (f)	23
Omit “scheme, and”. Insert instead “scheme.”.	24
Explanatory note	25
The proposed amendment omits an unnecessary word.	26

2.58 Superannuation Legislation Amendment Act 2005 No 52	1
Schedule 5 [1]	2
Omit the item. Insert instead:	3
[1] Sections 2C and 43AA	4
Omit “Part 3 of Schedule 5” wherever occurring.	5
Insert instead “Part 2 of Schedule 5”.	6
Commencement	7
The amendment to the <i>Superannuation Legislation Amendment Act 2005</i> is taken to have commenced immediately before the commencement of Schedule 5 [1] to that Act.	8
Explanatory note	10
The proposed amendment corrects an incorporation direction.	11
2.59 Supreme Court (Corporations) Rules 1999	12
Schedule 1, Form 8	13
Omit “+ <i>address</i> ”. Insert instead “[<i>address</i>]”.	14
Explanatory note	15
The proposed amendment corrects a typographical error.	16
2.60 Supreme Court Rules 1970	17
[1] Part 60, rules 1A (1), (4) and (6), 3 and 4 (1)	18
Omit “A associate” wherever occurring. Insert instead “An associate”.	19
[2] Part 65C, rule 10	20
Omit the note.	21
Explanatory note	22
Item [1] of the proposed amendments corrects typographical errors.	23
Item [2] of the proposed amendments removes a redundant note.	24
2.61 Sydney Regional Environmental Plan No 5—(Chatswood Town Centre)	25
Clause 15 (1) (f)	27
Omit “metres,”. Insert instead “metres, or”.	28
Explanatory note	29
The proposed amendment inserts a missing word.	30

2.62 Sydney Regional Environmental Plan No 11—Penrith Lakes Scheme	1
	2
Clause 8 (4) (f) (iii)	3
Omit “acquatic”. Insert instead “aquatic”.	4
Explanatory note	5
The proposed amendment corrects a typographical error.	6
2.63 Sydney Regional Environmental Plan No 17—Kurnell Peninsula (1989)	7
	8
[1] Clause 5 (1), definition of “recreation area”	9
Omit “childrens” from paragraph (a). Insert instead “children’s”.	10
[2] Clause 23B (2)	11
Omit “archaeolocal”. Insert instead “archaeological”.	12
Explanatory note	13
The proposed amendments correct typographical errors.	14
2.64 Threatened Species Conservation Act 1995 No 101	15
[1] Schedule 1, Part 1, Animals, Vertebrates, Mammals, Dasyuridae	16
Omit the matter relating to <i>Antechinomys laniger</i> .	17
Insert that matter instead before the matter relating to <i>Dasyurus viverrinus</i> .	18
[2] Schedule 2, Part 1, Animals, Vertebrates, Birds, Laridae	19
Omit “White Tern Columbidae”. Insert instead “White Tern”.	20
[3] Schedule 2, Part 1, Animals, Vertebrates, Birds	21
Insert the heading “Columbidae” before the matter relating to <i>Ptilinopus magnificus</i> .	22
	23
[4] Schedule 2, Part 1, Animals, Vertebrates, Birds, Meliphagidae	24
Omit the matter relating to <i>Lichenostomus cratitius</i> .	25
Insert that matter instead before the matter relating to <i>Lichenostomus fasciogularis</i> .	26
	27

[5] Schedule 2, Part 1, Animals, Vertebrates, Birds, Pachycephalidae	1
Omit the matter relating to <i>Pachycephala inornata</i> .	2
Insert that matter instead before the matter relating to <i>Pachycephala olivacea</i> .	3
Explanatory note	4
Items [1], [4] and [5] of the proposed amendments correct the alphabetic listing of species names.	5
Items [2] and [3] of the proposed amendments correct a typographical error.	6
2.65 Trustee Companies Act 1964 No 6	8
[1] Second Schedule	9
Omit “Tower Trust (NSW) Limited”.	10
Insert instead “Australian Executor Trustees (NSW) Limited”.	11
[2] Third Schedule, First Part	12
Omit “Tower Trust Limited”.	13
Insert instead “Australian Executor Trustees Limited”.	14
[3] Third Schedule, First Part	15
Omit “Executor Trustee and Agency Company of South Australia, Limited”.	16
Insert instead “Executor Trustee Australia Limited”.	17
[4] Third Schedule, First Part	18
Omit “Tower Trust (NSW) Limited”.	19
Insert instead “Australian Executor Trustees (NSW) Limited”.	20
[5] Third Schedule, First Part	21
Omit “Sandhurst and Northern District Trustees Executors and Agency Company Limited”.	22
Insert instead “Sandhurst Trustees Limited”.	23
[6] Third Schedule, First Part	24
Omit “Guardian Trust Australia Limited”.	25
Insert instead “J.P. Morgan Trust Australia Limited”.	26
Explanatory note	27
The proposed amendments are consequential on the change of names of companies.	28
	29

2.66 University of New England Act 1993 No 68	1
Section 9 (1) (h) (ii)	2
Omit “are”. Insert instead “may be”.	3
Explanatory note	4
The proposed amendment makes wording in a provision consistent with that used in related provisions in the same section.	5 6
2.67 University of New South Wales Act 1989 No 125	7
Section 9 (1) (h) (ii)	8
Omit “are”. Insert instead “may be”.	9
Explanatory note	10
The proposed amendment makes wording in a provision consistent with that used in related provisions in the same section.	11 12
2.68 University of Newcastle Act 1989 No 68	13
Section 9 (1) (h) (ii)	14
Omit “are”. Insert instead “may be”.	15
Explanatory note	16
The proposed amendment makes wording in a provision consistent with that used in related provisions in the same section.	17 18
2.69 University of Sydney Act 1989 No 124	19
Section 9 (1) (h) (ii)	20
Omit “are”. Insert instead “may be”.	21
Explanatory note	22
The proposed amendment makes wording in a provision consistent with that used in related provisions in the same section.	23 24
2.70 University of Technology, Sydney, Act 1989 No 69	25
Section 9 (1) (h) (ii)	26
Omit “are”. Insert instead “may be”.	27
Explanatory note	28
The proposed amendment makes wording in a provision consistent with that used in related provisions in the same section.	29 30

2.71 University of Wollongong Act 1989 No 127	1
Section 9 (1) (g) (ii)	2
Omit “are”. Insert instead “may be”.	3
Explanatory note	4
The proposed amendment makes wording in a provision consistent with that used in related provisions in the same section.	5 6
2.72 Water Sharing Plan for the Tenterfield Creek Water Source 2003	7 8
Clauses 21 (2) (a) (ii), 22, 45 (1) (a) (i), (b) (i), (c) (i), (d) (i) and (e) (i), 46 (1) (b) (i) and (2) (a) (i), (b) (i), (c) (i), (d) (i) and (e) (i), 67 (d) and 75 (1), (2) (b), (3) (b) and (c) (ii) and (iii), (4) and (5)	9 10 11
Omit “clause 62”. Insert instead “clause 62A”.	12
Explanatory note	13
The proposed amendment corrects incorrect cross-references.	14
2.73 Workers Compensation Amendment (Insurance Reform) Act 2003 No 81	15 16
Schedule 2 [60]	17
Omit “1988”. Insert instead “1998”.	18
Commencement	19
The amendment to the <i>Workers Compensation Amendment (Insurance Reform) Act 2003</i> is taken to have commenced immediately before the commencement of Schedule 2 [60] to that Act.	20 21 22
Explanatory note	23
The proposed amendment corrects an incorporation direction.	24

Schedule 3 Amendments consequential on the enactment of the Legal Profession Act 2004 No 112

(Section 3)

Explanatory note

The *Legal Profession Act 2004* introduced new terms to distinguish between different types of lawyers. In particular, the Act introduced the concept of an **Australian lawyer** (a person who is admitted to the legal profession under the Act or a corresponding law) and an **Australian legal practitioner** (an Australian lawyer who holds a current local practising certificate or a current interstate practising certificate). The proposed amendments in Schedule 3 replace references in various Acts to a legal practitioner, solicitor, barrister, lawyer, counsel or attorney with the appropriate term for these positions following the enactment of the *Legal Profession Act 2004*. The proposed amendments also replace references to the *Legal Profession Act 1987* (now repealed) with references to the *Legal Profession Act 2004*. Currently, the meaning of **Australian legal practitioner** is contained in the *Interpretation Act 1987* for ease of reference in other Acts. The proposed amendments also contain a similar amendment to the *Interpretation Act 1987* in connection with the term **Australian lawyer**.

3.1 Aboriginal Land Rights Act 1983 No 42

[1] Sections 202 and 206 (4)

Omit “a legal practitioner” wherever occurring.

Insert instead “an Australian legal practitioner”.

[2] Section 206 Privilege concerning answers and documents

Omit “the legal practitioner” from section 206 (4).

Insert instead “the Australian legal practitioner”.

3.2 Adoption Act 2000 No 75

[1] Section 119 Hearings to be in camera

Omit “barristers, solicitors” from section 119 (2).

Insert instead “Australian legal practitioners”.

[2] Sections 122 (2)–(5) and 124 (2)

Omit “a lawyer” wherever occurring.

Insert instead “an Australian legal practitioner”.

[3] Sections 122 (3), (6) and (9), 123 (3) (b) and 124 (1) (b) and (4) (b)	1
Omit “the lawyer” wherever occurring.	2
Insert instead “the Australian legal practitioner”.	3
[4] Sections 122 (8), 123 (4) and 124 (5)	4
Omit “A lawyer” wherever occurring.	5
Insert instead “An Australian legal practitioner”.	6
[5] Section 124 Guardian ad litem and amicus curiae—birth parents of child	7
Omit “or their, lawyer” from section 124 (1).	8
Insert instead “or their, Australian legal practitioner”.	9
[6] Dictionary	10
Omit the definition of <i>lawyer</i> .	11
3.3 Annual Holidays Act 1944 No 31	12
Section 12 Proceedings for recovery of penalties	13
Omit “a counsel, attorney” from section 12 (5).	14
Insert instead “an Australian legal practitioner”.	15
3.4 Anti-Discrimination Act 1977 No 48	16
[1] Section 87 Definitions	17
Omit “legal practitioner” from the definition of <i>agent</i> .	18
Insert instead “Australian legal practitioner”.	19
[2] Section 98 Rights of appearance and representation	20
Omit “a legal practitioner” from section 98 (3).	21
Insert instead “an Australian legal practitioner”.	22
[3] Section 122O Representation	23
Omit “counsel or a solicitor”.	24
Insert instead “an Australian legal practitioner”.	25

3.5 Apprenticeship and Traineeship Act 2001 No 80	1
Section 45 Legal representation	2
Omit “a legal practitioner” wherever occurring.	3
Insert instead “an Australian legal practitioner”.	4
3.6 Bail Act 1978 No 161	5
[1] Section 4 Definitions	6
Omit the definition of <i>lawyer</i> from section 4 (1).	7
[2] Section 19 Procedure following determination as to bail	8
Omit “a lawyer” from section 19 (1) (a).	9
Insert instead “an Australian legal practitioner”.	10
[3] Section 25A Stay of decision to grant bail if review sought	11
Omit “legal practitioner” wherever occurring in section 25A (1) and (2).	12
Insert instead “Australian legal practitioner”.	13
3.7 Chiropractors Act 2001 No 15	14
[1] Sections 44 (2) and 112, clause 13 (1) of Schedule 1 and clause 9 (2) of Schedule 5	15
Omit “a legal practitioner” wherever occurring.	16
Insert instead “an Australian legal practitioner”.	17
[2] Section 47 Making submissions to inquiry	18
Omit “a legal practitioner” from section 47 (6).	19
Insert instead “an Australian lawyer”.	20
3.8 Civil Liability Act 2002 No 22	21
[1] Section 17A Tariffs for damages for non-economic loss	22
Omit “counsel” from section 17A (2).	23
Insert instead “Australian legal practitioner”.	24
[2] Section 25 Obligation of Australian legal practitioners to provide advice	25
Omit “A legal practitioner”.	26
Insert instead “An Australian legal practitioner”.	27
	28

[3] Section 26 Offer of structured settlement—legal costs	1
Omit “Section 198F of the <i>Legal Profession Act 1987</i> ” from section 26 (1).	2
Insert instead “Section 340 of the <i>Legal Profession Act 2004</i> ”.	3
3.9 Community Land Management Act 1989 No 202	4
[1] Section 93 Appearance before Tribunal	5
Omit “counsel or solicitor,” from section 93 (3).	6
Insert instead “an Australian legal practitioner”.	7
[2] Section 97A Intervention by Director-General	8
Omit “a barrister, solicitor” from section 97A (3).	9
Insert instead “an Australian legal practitioner”.	10
3.10 Community Services (Complaints, Reviews and Monitoring) Act 1993 No 2	11
Section 33 Right of appearance	12
Omit “a barrister or solicitor” from section 33 (1).	13
Insert instead “an Australian legal practitioner”.	14
3.11 Confiscation of Proceeds of Crime Act 1989 No 90	15
Section 70 Existence and operation of monitoring order not to be disclosed	16
Omit “a barrister or solicitor” wherever occurring in section 70 (1) (d) and (2) (a) (iii).	17
Insert instead “an Australian legal practitioner”.	18
3.12 Contracts Review Act 1980 No 16	19
Section 13 Intervention	20
Omit “counsel, solicitor”. Insert instead “an Australian legal practitioner”.	21
3.13 Co-operatives Act 1992 No 18	22
[1] Section 351 Directors to arrange for reports	23
Omit “solicitors” from section 351 (1) (a).	24
Insert instead “Australian legal practitioners”.	25

[2] Sections 375 (2) (a) and 385 (definition of “involved person”)	1
Omit “solicitor” wherever occurring.	2
Insert instead “Australian legal practitioner”.	3
[3] Sections 383 (1), 388 (1) and 392 (4)	4
Omit “A legal practitioner” wherever occurring.	5
Insert instead “An Australian legal practitioner”.	6
[4] Sections 383 (1) (a) and (b), (3) and (4), 389 (1)–(3) and 392 (3)	7
Omit “the legal practitioner” wherever occurring.	8
Insert instead “the Australian legal practitioner”.	9
[5] Sections 383 (1) (a) and (b), 389 (1) and 392 (3)	10
Omit “a legal practitioner” wherever occurring.	11
Insert instead “an Australian legal practitioner”.	12
[6] Sections 383 (2) and (3) and 389 (2)	13
Omit “The legal practitioner” wherever occurring.	14
Insert instead “The Australian legal practitioner”.	15
[7] Section 408A Power of Registrar to intervene in proceedings	16
Omit “solicitor or barrister” from section 408A (3) (c).	17
Insert instead “an Australian legal practitioner”.	18
[8] Schedule 4 Receivers, and other controllers, of property of co-operatives	19
Omit “a solicitor” from clause 5 (2) (n).	20
Insert instead “an Australian legal practitioner”.	22
3.14 Coroners Act 1980 No 27	23
[1] Section 32 Representation at inquests or inquiries	24
Omit “thereat by counsel or a solicitor” from section 32 (1).	25
Insert instead “by an Australian legal practitioner”.	26
[2] Section 32 (3) (a)	27
Omit “a barrister or solicitor”.	28
Insert instead “an Australian legal practitioner”.	29

[3] Schedule 1 Special provisions—inquests concerning deaths or suspected deaths in mines	1 2
Omit “counsel, solicitor” from clause 2 (h).	3
Insert instead “Australian legal practitioner”.	4
3.15 Credit Act 1984 No 94	5
[1] Sections 47 (1) (a), 70 (1) (d) (v), 71 (3) (b) and 102 (3) (b) (ii), clause 1 (f) (iii) of Schedule 2 and clause 1 (c) (iii) of Schedule 4	6 7
Omit “a duly qualified legal practitioner” wherever occurring.	8
Insert instead “an Australian legal practitioner”.	9
[2] Section 159A Persons who may take proceedings	10
Omit “a legal practitioner” from section 159A (3).	11
Insert instead “an Australian legal practitioner”.	12
3.16 Credit (Home Finance Contracts) Act 1984 No 97	13
Section 13 Who may take proceedings for offences	14
Omit “counsel or attorney” from section 13 (3).	15
Insert instead “an Australian legal practitioner”.	16
3.17 Crimes (Forensic Procedures) Act 2000 No 59	17
[1] Sections 3 (1) (definitions of “legal representative” and “time out”), 4 (3) (b), 9 (2) (d), 10 (5) (a) and (6), 30 (2), (3) (b) and (5), 67 (1) (c) and 77 (1) (e)	18 19
Omit “a legal practitioner” wherever occurring.	20
Insert instead “an Australian legal practitioner”.	21
[2] Sections 9 (3), 10 (8) and 67 (2)	22
Omit “the legal practitioner” wherever occurring.	23
Insert instead “the Australian legal practitioner”.	24
3.18 Crimes (Sentencing Procedure) Act 1999 No 92	25
Sections 38 (1), 39 (1) and 39A (1)	26
Omit “a legal practitioner” wherever occurring.	27
Insert instead “an Australian legal practitioner”.	28

3.19 Criminal Appeal Act 1912 No 16	1
[1] Section 5A Point of law stated by judge	2
Omit “counsel” from section 5A (2) (e).	3
Insert instead “an Australian legal practitioner”.	4
[2] Section 5A (2) (g)	5
Omit “a barrister or solicitor”.	6
Insert instead “an Australian legal practitioner”.	7
[3] Section 17 Costs of appeal	8
Omit “solicitor or counsel” from section 17 (2).	9
Insert instead “Australian legal practitioner”.	10
3.20 Criminal Assets Recovery Act 1990 No 23	11
[1] Section 16B Maximum legal expenses that can be met from restrained property	12
Omit “ <i>Legal Profession Act 1987</i> ” from section 16B (3).	13
Insert instead “ <i>Legal Profession Act 2004</i> ”.	14
[2] Section 16B (4)	15
Omit “a legal practitioner”.	16
Insert instead “an Australian legal practitioner”.	17
[3] Section 50 Existence and operation of monitoring order not to be disclosed	18
Omit “a barrister or solicitor” wherever occurring in section 50 (1) (c) and (2) (a) (iii).	19
Insert instead “an Australian legal practitioner”.	20
3.21 Employment Protection Act 1982 No 122	21
Section 19 Summary procedure for offences	22
Omit “a legal practitioner” from section 19 (3) (b).	23
Insert instead “an Australian legal practitioner”.	24

3.22 Entertainment Industry Act 1989 No 230	1
Schedule 2 Conduct and procedure of inquiries by the Complaints Committee	2 3
Omit “a barrister or solicitor” from clause 2.	4
Insert instead “an Australian legal practitioner”.	5
3.23 Environmental Planning and Assessment Act 1979 No 203	6
[1] Section 121I Making of representations	7
Omit “a barrister, solicitor” from section 121I (2).	8
Insert instead “an Australian legal practitioner”.	9
[2] Section 149B Applications for building certificates	10
Omit “solicitor” from section 149B (1) (c).	11
Insert instead “Australian legal practitioner”.	12
[3] Section 152 Right to be heard	13
Omit “counsel, solicitor”. Insert instead “an Australian legal practitioner”.	14
3.24 Fair Trading Act 1987 No 68	15
[1] Section 13 Grant of legal assistance	16
Omit “solicitor to whom the case is assigned under section 14, or any barrister or solicitor” from section 13 (3) (a).	17 18
Insert instead “Australian legal practitioner to whom the case is assigned under section 14, or any Australian legal practitioner”.	19 20
[2] Section 14 Assignment to Australian legal practitioner of case of assisted person	21 22
Omit “a solicitor” wherever occurring in section 14 (1) (b)–(d).	23
Insert instead “an Australian legal practitioner”.	24
[3] Section 14 (1)	25
Omit “the solicitor”. Insert instead “the Australian legal practitioner”.	26
[4] Section 14 (2)	27
Omit “The solicitor”. Insert instead “The Australian legal practitioner”.	28

[5] Section 14 (2)	1
Omit “legal practitioner”. Insert instead “Australian legal practitioner”.	2
[6] Section 14 (3)	3
Omit “A solicitor”. Insert instead “An Australian legal practitioner”.	4
[7] Section 15 Court proceedings to which assisted person is a party	5
Omit “a solicitor has been assigned under section 14, the solicitor” from section 15 (1).	6 7
Insert instead “an Australian legal practitioner has been assigned under section 14, the Australian legal practitioner”.	8 9
[8] Section 17 Privilege attaching to certain relationships	10
Omit “solicitor” wherever occurring.	11
Insert instead “Australian legal practitioner”.	12
3.25 Farm Debt Mediation Act 1994 No 91	13
Section 11B Rights during cooling off period	14
Omit “solicitor” wherever occurring in section 11B (1) and (2).	15
Insert instead “Australian legal practitioner”.	16
3.26 Fisheries Management Act 1994 No 38	17
Section 86 Procedure at appeals	18
Omit “a legal practitioner” from section 86 (4).	19
Insert instead “an Australian legal practitioner”.	20
3.27 Gaming Machines Act 2001 No 127	21
Section 82 Definitions	22
Omit “a legal practitioner” wherever occurring from paragraph (a) of the definition of <i>gaming machine adviser</i> .	23 24
Insert instead “an Australian legal practitioner”.	25

3.28 Gas Industry Restructuring Act 1986 No 213	1
Section 50 Information concerning shareholding	2
Omit “solicitor” from section 50 (3).	3
Insert instead “Australian legal practitioner”.	4
3.29 Health Care Complaints Act 1993 No 105	5
[1] Section 8 Who may make a complaint?	6
Omit “a lawyer”. Insert instead “an Australian legal practitioner”.	7
[2] Section 50 Assistance to parties at conciliation	8
Omit “a legal practitioner” from section 50 (2).	9
Insert instead “an Australian legal practitioner”.	10
3.30 Health Services Act 1997 No 154	11
[1] Sections 93 (5) and 110 (1)	12
Omit “a practising legal practitioner” wherever occurring.	13
Insert instead “an Australian legal practitioner”.	14
[2] Dictionary	15
Omit the definition of <i>practising legal practitioner</i> from Part 1.	16
3.31 Heritage Act 1977 No 136	17
[1] Section 36 Commissioner of Inquiry	18
Omit “legal practitioner” from section 36 (1).	19
Insert instead “an Australian legal practitioner”.	20
[2] Sections 72 and 79	21
Omit “counsel, solicitor” wherever occurring.	22
Insert instead “an Australian legal practitioner”.	23
3.32 Housing Act 2001 No 52	24
Section 70 Misuse of information	25
Omit “solicitor” from section 70 (6) (d).	26
Insert instead “Australian legal practitioner”.	27

3.33 Insurance Act 1902 No 49	1
Section 21 Exemption	2
Omit “section 41 of the <i>Legal Profession Act 1987</i> ” from section 21 (2) (c).	3
Insert instead “section 406 of the <i>Legal Profession Act 2004</i> ”.	4
3.34 Interpretation Act 1987 No 15	5
Section 21 Meaning of commonly used words and expressions	6
Insert in alphabetical order in section 21 (1):	7
<i>Australian lawyer</i> has the same meaning as in the <i>Legal Profession Act 2004</i> .	8
	9
3.35 Judicial Officers Act 1986 No 100	10
[1] Section 3 Definitions	11
Omit the definition of <i>legal practitioner</i> from section 3 (1).	12
[2] Sections 24 (6) and 47	13
Omit “a legal practitioner” wherever occurring.	14
Insert instead “an Australian legal practitioner”.	15
[3] Section 24 Hearings by Conduct Division	16
Omit “any legal practitioner” from section 24 (7) (c).	17
Insert instead “any Australian legal practitioner”.	18
3.36 Jurisdiction of Courts (Cross-vesting) Act 1987 No 125	19
Section 5 Transfer of proceedings	20
Omit “a barrister or a solicitor, or as both a barrister and a solicitor,” from section 5 (8).	21
Insert instead “an Australian legal practitioner”.	22
	23
3.37 Jury Act 1977 No 18	24
[1] Section 44 Australian legal practitioner may make challenge on behalf of accused	25
Omit “barrister or solicitor”. Insert instead “Australian legal practitioner”.	26
	27

[2] Schedule 2 Persons ineligible to serve as jurors	1
Omit item 7. Insert instead:	2
7 An Australian lawyer (whether or not an Australian legal practitioner).	3 4
3.38 Law and Justice Foundation Act 2000 No 97	5
[1] Section 3 Definitions	6
Omit the definition of <i>legal practitioner</i> .	7
[2] Section 3, definition of “Public Purpose Fund”	8
Omit “Division 2 of Part 6 of the <i>Legal Profession Act 1987</i> ”.	9
Insert instead “Division 7 of Part 3.1 of the <i>Legal Profession Act 2004</i> ”.	10
3.39 Limitation Act 1969 No 31	11
Schedule 5 Further transitional provisions	12
Omit “a solicitor or barrister” from the definition of <i>legal professional negligence</i> in clause 1 (1).	13 14
Insert instead “an Australian legal practitioner”.	15
3.40 Local Government Act 1993 No 30	16
[1] Section 133 Making of representations	17
Omit “a barrister, solicitor” from section 133 (2).	18
Insert instead “an Australian legal practitioner”.	19
[2] Section 264 Can a person be represented in proceedings before the Boundaries Commission?	20 21
Omit section 264 (1) (a). Insert instead:	22
(a) by an Australian lawyer or by a person qualified for admission as an Australian lawyer, or	23 24
[3] Sections 473 and 477 (4)	25
Omit “a legal practitioner” wherever occurring.	26
Insert instead “an Australian legal practitioner”.	27

[4] Section 477 Privilege concerning answers and documents	1
Omit “the legal practitioner” from section 477 (4).	2
Insert instead “the Australian legal practitioner”.	3
[5] Section 486A Contempt of Pecuniary Interest and Disciplinary Tribunal	4
Omit “a practising legal practitioner” from section 486A (1) (b) (iii).	5
Insert instead “an Australian legal practitioner”.	6
[6] Section 682 Power to appear before local land boards	7
Omit “counsel, solicitor”. Insert instead “an Australian legal practitioner”.	8
3.41 Long Service Leave Act 1955 No 38	9
Section 11 Recovery of penalties	10
Omit “counsel, attorney” from section 11 (4).	11
Insert instead “Australian legal practitioner”.	12
3.42 Long Service Leave (Metalliferous Mining Industry) Act 1963 No 48	13
Section 11 Recovery of penalties	14
Omit “counsel, attorney” from section 11 (4).	15
Insert instead “Australian legal practitioner”.	16
3.43 Medical Practice Act 1992 No 94	17
[1] Sections 162 (1) and (2) and 177 (1), (2) and (3), clause 13 (1) of Schedule 1 and clause 9 (2) of Schedule 2	18
Omit “a barrister or solicitor” wherever occurring.	19
Insert instead “an Australian legal practitioner”.	20
[2] Section 177 Representation at inquiry	21
Omit “the barrister or solicitor” from section 177 (1).	22
Insert instead “the Australian legal practitioner”.	23
[3] Schedule 3A Provisions relating to performance assessments	24
Omit “a legal practitioner” from clause 12 (2).	25
Insert instead “an Australian legal practitioner”.	26
	27
	28

[4] Schedule 3A, clause 12 (2)	1
Omit “the legal practitioner”.	2
Insert instead “the Australian legal practitioner”.	3
3.44 Mental Health Act 1990 No 9	4
[1] Sections 43 (1), 159 (d), 274 (3) and (4) and 288	5
Omit “a barrister or solicitor” wherever occurring.	6
Insert instead “an Australian legal practitioner”.	7
[2] Section 172 Notice of decision	8
Omit “barrister or solicitor” from section 172 (1).	9
Insert instead “Australian legal practitioner”.	10
[3] Section 226 Appointment of Principal official visitor	11
Omit “barrister, solicitor”. Insert instead “Australian legal practitioner”.	12
3.45 Mine Health and Safety Act 2004 No 74	13
Section 95 Boards of Inquiry	14
Omit “a legal practitioner” wherever occurring in section 95 (5) and (9).	15
Insert instead “an Australian legal practitioner”.	16
3.46 Mining Act 1992 No 29	17
[1] Section 146 Right of appearance	18
Omit “a barrister or a solicitor” wherever occurring in section 146 (2) (a) and (b).	19 20
Insert instead “an Australian legal practitioner”.	21
[2] Section 304 Right of appearance	22
Omit “a solicitor or barrister”. Insert instead “an Australian legal practitioner”.	23
[3] Section 332 Practice and procedure etc of Wardens’ Courts	24
Omit “barristers and solicitors” from section 332 (c).	25
Insert instead “Australian legal practitioners”.	26

3.47 Police Integrity Commission Act 1996 No 28	1
[1] Section 4 Definitions	2
Omit the definition of <i>legal practitioner</i> from section 4 (1).	3
[2] Section 4 (1), definition of “officer of the Police Royal Commission”	4
Omit “legal practitioner”. Insert instead “Australian legal practitioner”.	5
[3] Sections 12, 33 (2), 35 (1) (b), 40 (5), 56 (1) (c) and 118 (1) (d) (ii) and (iv)	6
Omit “a legal practitioner” wherever occurring.	7
Insert instead “an Australian legal practitioner”.	8
[4] Sections 35 (3), 37 (2) and 137 (2)	9
Omit “A legal practitioner” wherever occurring.	10
Insert instead “An Australian legal practitioner”.	11
[5] Section 37 Examination and cross-examination of witnesses	12
Omit “legal practitioner” from section 37 (1).	13
Insert instead “Australian legal practitioner”.	14
[6] Section 40 Privilege as regards answers, documents etc	15
Omit “the legal practitioner” from section 40 (5).	16
Insert instead “the Australian legal practitioner”.	17
[7] Section 56 Secrecy	18
Omit “legal practitioner’s” from section 56 (1) (c).	19
Insert instead “Australian legal practitioner’s”.	20
[8] Section 65	21
Omit the section. Insert instead:	22
65 Legal Profession Act 2004	23
Section 602 of the <i>Legal Profession Act 2004</i> does not apply to	24
proceedings for an offence under this Act.	25
[9] Section 137 Protection from liability	26
Insert after section 137 (5):	27
(6) For the purposes of this section, <i>barrister</i> has the same meaning	28
as in the <i>Legal Profession Act 2004</i> .	29

3.48 Shops and Industries Act 1962 No 43	1
Section 145 Proceedings	2
Omit “counsel, attorney” from section 145 (5).	3
Insert instead “Australian legal practitioner”.	4
3.49 Supreme Court Act 1970 No 52	5
[1] Section 48 Assignment to the Court of Appeal	6
Omit subparagraph (viii) from the definition of <i>specified tribunal</i> in section 48 (1) (a).	7
Insert instead:	8
(viii) the Legal Services Division of the Administrative Decisions Tribunal.	9
[2] Section 101A Question of law concerning criminal contempt may be submitted to Court of Appeal	10
Omit “counsel” from section 101A (5).	11
Insert instead “an Australian legal practitioner”.	12
[3] Section 101A (7)	13
Omit “a legal practitioner”. Insert instead “an Australian legal practitioner”.	14
[4] Section 124 Rule-making power	15
Omit “section 7 or 14 of the <i>Legal Profession Act 1987</i> ” from section 124 (9).	16
Insert instead “section 28 or 38 (4) of the <i>Legal Profession Act 2004</i> ”.	17
[5] Section 124 (10)	18
Omit “Part 11 of the <i>Legal Profession Act 1987</i> ”.	19
Insert instead “Part 3.2 of the <i>Legal Profession Act 2004</i> ”.	20
3.50 Travel Agents Act 1986 No 5	21
Section 49 Who may take proceedings for offences	22
Omit “counsel or attorney” from section 49 (3).	23
Insert instead “an Australian legal practitioner”.	24

Schedule 4 Repeals

1

(Section 4)

2

Name of Act	Extent of repeal
<i>Anti-Discrimination Amendment (Miscellaneous Provisions) Act 2004 No 79</i>	Whole Act ¹
<i>Appropriation Act 2004 No 60</i>	Whole Act ²
<i>Appropriation (Budget Variations) Act 2004 No 32</i>	Whole Act ²
<i>Appropriation (Special Offices) Act 2004 No 62</i>	Whole Act ²
<i>Child Protection (Offenders Registration) Amendment Act 2004 No 85</i>	Whole Act ¹
<i>Civil Liability Amendment (Food Donations) Act 2005 No 16</i>	Whole Act ¹
<i>Civil Liability Amendment (Offender Damages) Act 2005 No 9</i>	Whole Act ¹
<i>Coal Acquisition Amendment (Fair Compensation) Act 2005 No 24</i>	Whole Act ¹
<i>Courts Legislation Amendment Act 2005 No 31</i>	Whole Act ¹
<i>Crimes Amendment (Grievous Bodily Harm) Act 2005 No 14</i>	Whole Act ¹
<i>Crimes (Sentencing Procedure) Amendment (Existing Life Sentences) Act 2005 No 13</i>	Whole Act ¹
<i>Criminal Assets Recovery Amendment Act 2005 No 32</i>	Whole Act ¹
<i>Criminal Procedure Amendment (Evidence) Act 2005 No 15</i>	Whole Act ¹
<i>Crown Lands Legislation Amendment Act 2005 No 58</i>	Whole Act ¹
<i>Dust Diseases Tribunal Amendment (Claims Resolution) Act 2005 No 22</i>	Whole Act ¹
<i>Duties Amendment (Abolition of Vendor Duty) Act 2005 No 66</i>	Whole Act ¹
<i>Electricity Supply Amendment Act 2005 No 17</i>	Whole Act ¹
<i>Environmental Planning and Assessment Amendment (Development Contributions) Act 2005 No 19</i>	Whole Act ¹
<i>Fire Brigades Amendment (Community Fire Units) Act 2005 No 33</i>	Whole Act ¹
<i>Gambling (Two-up) Amendment Act 2005 No 44</i>	Whole Act ¹

Statute Law (Miscellaneous Provisions) Bill (No 2) 2005

Schedule 4 Repeals

Name of Act	Extent of repeal
<i>Game and Feral Animal Control Amendment Act 2005</i> No 26	Whole Act ¹
<i>Health Legislation Amendment (Complaints) Act 2004</i> No 98	Whole Act ¹
<i>Health Registration Legislation Amendment Act 2004</i> No 99	Whole Act ¹
<i>Historic Houses Amendment Act 2005</i> No 3	Whole Act ¹
<i>Independent Commission Against Corruption Amendment Act 2005</i> No 10	Whole Act ¹
<i>Legal Profession Amendment Act 2005</i> No 46	Whole Act ¹
<i>Liquor Amendment (Parliamentary Precincts) Act 2004</i> No 57	Whole Act ¹
<i>Local Government Amendment (Public-Private Partnerships) Act 2004</i> No 113	Whole Act ¹
<i>Local Government and Valuation of Land Amendment (Water Rights) Act 2005</i> No 49	Whole Act ¹
<i>Marine Safety Amendment (Random Breath Testing) Act 2005</i> No 4	Whole Act ¹
<i>Occupational Health and Safety Amendment (Dangerous Goods) Act 2003</i> No 38	Whole Act ¹
<i>Occupational Health and Safety Amendment (Workplace Deaths) Act 2005</i> No 34	Whole Act ¹
<i>Passenger Transport Amendment (Maintenance of Bus Services) Act 2005</i> No 61	Whole Act ¹
<i>Pawnbrokers and Second-hand Dealers Amendment Act 2005</i> No 62	Whole Act ¹
<i>Petroleum (Submerged Lands) Amendment (Permits and Leases) Act 2005</i> No 35	Whole Act ¹
<i>Retail Leases Amendment Act 2004</i> No 84	Whole Act ¹
<i>Standard Time Amendment (Co-ordinated Universal Time) Act 2005</i> No 7	Whole Act ¹
<i>State Records Amendment Act 2005</i> No 8	Whole Act ¹
<i>State Revenue Legislation Amendment Act 2005</i> No 51	Whole Act ¹
<i>State Revenue Legislation Amendment (Budget Measures) Act 2005</i> No 42	Whole Act ¹
<i>State Revenue Legislation Further Amendment Act 2004</i> No 67	Whole Act ¹

Name of Act	Extent of repeal
<i>Surveying Amendment Act 2005</i> No 53	Whole Act ¹
<i>Workers Compensation and Other Legislation Amendment Act 2004</i> No 111	Whole Act ¹
Key	1
1 indicates repeal of a whole Act that contains only amendments, or amendments and repeals, that have commenced and provisions that are redundant	2 3
2 indicates repeal of a whole Act that contains amendments that are redundant	4
Explanatory note	5
The repeals are explained in detail in the Explanatory note relating to this Act. In relation to the repeal of amending Acts, it should be noted that the Acts are repealed simply to rationalise the legislation in force and that the repeals have no substantive effect on the amendments made by the Acts or any associated provisions. The Acts that were amended by the Acts being repealed are up-to-date on the Legislation Database maintained by the Parliamentary Counsel's Office and are available electronically.	6 7 8 9 10 11 12
Section 30 (2) of the <i>Interpretation Act 1987</i> ensures that, when an Act is amended or repealed, no amendment made by the Act is affected. Section 30 (2) also ensures that the following matters are not affected:	13 14 15
(a) the proof of any past act or thing,	16
(b) any right, privilege, obligation or liability saved by the operation of the Act,	17
(c) any amendment or validation made by the Act,	18
(d) the operation of any savings or transitional provision contained in the Act.	19

Schedule 5	General savings, transitional and other provisions	1
		2
	(Section 5)	3
1	Effect of amendment of amending provisions	4
(1)	An amendment made by Schedule 1 or 2 to an amending provision contained in an Act is, if the amending provision has commenced before the date of assent to this Act, taken to have effect as from the commencement of the amending provision.	5 6 7 8
(2)	In this clause: <i>amending provision</i> means a provision of an Act that makes a direct amendment to an Act by:	9 10 11
(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	12 13 14
(b)	the omission of matter contained in the amended Act and the insertion of matter instead of the omitted matter, or	15 16
(c)	the insertion into the amended Act of matter, not being matter inserted instead of matter omitted from the Act,	17 18
	whether the provision was enacted before or after the commencement of the <i>Reprints Act 1972</i> .	19 20
	Explanatory note	21
	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.	22 23 24 25 26 27 28
2	Effect of amendment or repeal on acts done or decisions made	29
	Except where it is expressly provided to the contrary, if this Act:	30
(a)	amends a provision of an Act or an instrument, or	31
(b)	repeals and re-enacts (with or without modification) a provision of an Act or an instrument,	32 33
	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.	34 35 36
	Explanatory note	37
	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.	38 39 40

3	Application of Interpretation Act 1987 to amendments to statutory rules	1
	Sections 39, 40 and 41 of the <i>Interpretation Act 1987</i> do not apply to any amendments to statutory rules made by this Act.	2 3
	Explanatory note	4
	This clause makes it clear that certain provisions concerning the making, tabling and disallowance of statutory rules do not apply to amendments to statutory rules made by the proposed Act.	5 6 7
4	Effect of amendment on regulations	8
	Except where expressly provided to the contrary, any regulation 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.	9 10 11 12
	Explanatory note	13
	This clause ensures that, unless expressly provided, any regulation made under an Act amended by the proposed Act, and in force immediately before the commencement of the amendment, will be taken to have been made under the amended Act.	14 15 16
5	Effect of amendment on environmental planning instruments	17
	The amendment of an environmental planning instrument by this Act does not prevent its later amendment or repeal by another environmental planning instrument.	18 19 20
	Explanatory note	21
	This clause ensures that the amendment of a local environmental plan or other environmental planning instrument does not prevent its amendment or repeal by an environmental planning instrument.	22 23 24
6	Effect of amendment on water sharing plan	25
	The amendment by this Act of a water sharing plan made under section 50 of the <i>Water Management Act 2000</i> does not prevent its later amendment or repeal by another such water sharing plan or other instrument.	26 27 28 29
	Explanatory note	30
	This clause ensures that the amendment of a water sharing plan does not prevent its amendment or repeal by another water sharing plan or other instrument.	31 32
7	Regulations	33
	(1) The Governor may make regulations containing provisions of a savings or transitional nature consequent on the enactment of this Act.	34 35
	(2) Any such provision may, if the regulations so provide, take effect from the date of assent to this Act or a later date.	36 37

Statute Law (Miscellaneous Provisions) Bill (No 2) 2005

Schedule 5 General savings, transitional and other provisions

- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.
- Explanatory note**
- This clause enables the making of regulations of a savings or transitional nature having a short term effect and relating to incidental matters arising out of the proposed Act with regard to which no specific, or sufficient, provision has been made in the Act.

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2
3
4
5
6
7
8
9
10
11
12
13

Notes	1
Index of Acts and instruments amended by Schedules 1–3	2
<i>Aboriginal Land Rights Act 1983</i> No 42—Schedule 3	3
<i>Adoption Act 2000</i> No 75—Schedule 3	4
<i>Animal Research Regulation 2005</i> —Schedule 2	5
<i>Annual Holidays Act 1944</i> No 31—Schedule 3	6
<i>Annual Reports (Departments) Act 1985</i> No 156—Schedule 1	7
<i>Annual Reports (Departments) Regulation 2005</i> —Schedule 1	8
<i>Annual Reports (Statutory Bodies) Act 1984</i> No 87—Schedule 1	9
<i>Annual Reports (Statutory Bodies) Regulation 2005</i> —Schedule 1	10
<i>Anti-Discrimination Act 1977</i> No 48—Schedule 3	11
<i>Apprenticeship and Traineeship Act 2001</i> No 80—Schedule 3	12
<i>Bail Act 1978</i> No 161—Schedule 3	13
<i>Baulkham Hills Local Environmental Plan 2005</i> —Schedule 2	14
<i>Births, Deaths and Marriages Registration Regulation 2001</i> —Schedule 2	15
<i>Blue Mountains Local Environmental Plan 1991</i> —Schedule 2	16
<i>Blue Mountains Local Environmental Plan 2005</i> —Schedule 2	17
<i>Blue Mountains Local Environmental Plan No 4</i> —Schedule 2	18
<i>Brigalow and Nandewar Community Conservation Area Act 2005</i> No 56— Schedule 2	19 20
<i>Charles Sturt University Act 1989</i> No 76—Schedule 2	21
<i>Child Protection (Offenders Registration) Regulation 2001</i> —Schedule 2	22
<i>Chiropractors Act 2001</i> No 15—Schedule 3	23
<i>Civil Liability Act 2002</i> No 22—Schedule 3	24
<i>Civil Procedure Act 2005</i> No 28—Schedule 2	25
<i>Coal Mine Health and Safety Act 2002</i> No 129—Schedule 2	26
<i>Commons Management Act 1989</i> No 13—Schedule 1	27
<i>Community Land Management Act 1989</i> No 202—Schedule 3	28
<i>Community Services (Complaints, Reviews and Monitoring) Act 1993</i> No 2— Schedule 3	29 30
<i>Confiscation of Proceeds of Crime Act 1989</i> No 90—Schedule 3	31
<i>Contracts Review Act 1980</i> No 16—Schedule 3	32
<i>Co-operative Housing and Starr-Bowkett Societies Regulation 2005</i> —Schedule 2	33
<i>Co-operatives Act 1992</i> No 18—Schedule 3	34
<i>Coroners Act 1980</i> No 27—Schedule 3	35
<i>Credit Act 1984</i> No 94—Schedule 3	36

Statute Law (Miscellaneous Provisions) Bill (No 2) 2005

Notes

<i>Credit (Home Finance Contracts) Act 1984</i> No 97—Schedule 3	1
<i>Crimes (Forensic Procedures) Act 2000</i> No 59—Schedule 3	2
<i>Crimes (Sentencing Procedure) Act 1999</i> No 92—Schedule 3	3
<i>Criminal Appeal Act 1912</i> No 16—Schedule 3	4
<i>Criminal Assets Recovery Act 1990</i> No 23—Schedule 3	5
<i>Crown Lands Act 1989</i> No 6—Schedule 1	6
<i>Dams Safety Act 1978</i> No 96—Schedule 2	7
<i>Defamation Act 2005</i> No 77—Schedule 2	8
<i>Dust Diseases Tribunal Act 1989</i> No 63—Schedule 2	9
<i>Dust Diseases Tribunal Regulation 2001</i> —Schedule 2	10
<i>Dust Diseases Tribunal Rules</i> —Schedule 2	11
<i>Electricity Supply (General) Regulation 2001</i> —Schedule 2	12
<i>Employment Protection Act 1982</i> No 122—Schedule 3	13
<i>Entertainment Industry Act 1989</i> No 230—Schedule 3	14
<i>Environmental Planning and Assessment Act 1979</i> No 203—Schedules 2 and 3	15
<i>Environmental Planning and Assessment Amendment (Infrastructure and Other Planning Reform) Act 2005</i> No 43—Schedule 2	16
<i>Eurobodalla Rural Local Environmental Plan 1987</i> —Schedule 2	18
<i>Eurobodalla Rural Local Environmental Plan 1987 (Amendment No 36)</i> —Schedule 2	19
	20
<i>Exhibited Animals Protection Act 1986</i> No 123—Schedule 1	21
<i>Exhibited Animals Protection Regulation 2005</i> —Schedule 2	22
<i>Exotic Diseases of Animals Act 1991</i> No 73—Schedule 1	23
<i>Explosives Regulation 2005</i> —Schedule 2	24
<i>Fair Trading Act 1987</i> No 68—Schedule 3	25
<i>Farm Debt Mediation Act 1994</i> No 91—Schedule 3	26
<i>Fines Act 1996</i> No 99—Schedule 1	27
<i>Fisheries Management Act 1994</i> No 38—Schedule 3	28
<i>Food Act 2003</i> No 43—Schedule 1	29
<i>Food Regulation 2004</i> —Schedule 2	30
<i>Forestry Act 1916</i> No 55—Schedule 1	31
<i>Forestry and National Park Estate Act 1998</i> No 163—Schedule 2	32
<i>Freedom of Information Regulation 2005</i> —Schedule 2	33
<i>Gaming Machines Act 2001</i> No 127—Schedule 3	34
<i>Gas Industry Restructuring Act 1986</i> No 213—Schedule 3	35
<i>Guardianship Act 1987</i> No 257—Schedule 2	36
<i>Health Care Complaints Act 1993</i> No 105—Schedule 3	37

Statute Law (Miscellaneous Provisions) Bill (No 2) 2005

Notes

<i>Health Services Act 1997</i> No 154—Schedules 2 and 3	1
<i>Heritage Act 1977</i> No 136—Schedule 3	2
<i>Home Building Act 1989</i> No 147—Schedule 1	3
<i>Home Building Regulation 2004</i> —Schedule 2	4
<i>Housing Act 2001</i> No 52—Schedule 3	5
<i>Hunter Regional Environmental Plan 1989</i> —Schedule 2	6
<i>Independent Commission Against Corruption Act 1988</i> No 35—Schedule 1	7
<i>Insurance Act 1902</i> No 49—Schedule 3	8
<i>Interpretation Act 1987</i> No 15—Schedule 3	9
<i>Judges' Pensions Act 1953</i> No 41—Schedule 2	10
<i>Judicial Officers Act 1986</i> No 100—Schedule 3	11
<i>Jurisdiction of Courts (Cross-vesting) Act 1987</i> No 125—Schedule 3	12
<i>Jury Act 1977</i> No 18—Schedules 2 and 3	13
<i>Law and Justice Foundation Act 2000</i> No 97—Schedule 3	14
<i>Law Enforcement (Powers and Responsibilities) Act 2002</i> No 103—Schedule 2	15
<i>Legal Profession Regulation 2005</i> —Schedule 2	16
<i>Licensing and Registration (Uniform Procedures) Act 2002</i> No 28—Schedule 2	17
<i>Limitation Act 1969</i> No 31—Schedule 3	18
<i>Local Government Act 1993</i> No 30—Schedule 3	19
<i>Local Government (General) Regulation 2005</i> —Schedule 2	20
<i>Long Service Leave Act 1955</i> No 38—Schedule 3	21
<i>Long Service Leave (Metalliferous Mining Industry) Act 1963</i> No 48—Schedule 3	22
<i>Macquarie University Act 1989</i> No 126—Schedule 2	23
<i>Maitland Local Environmental Plan 1993</i> —Schedule 2	24
<i>Manly Local Environmental Plan 1988</i> —Schedule 2	25
<i>Marine Safety Act 1998</i> No 121—Schedule 1	26
<i>Medical Practice Act 1992</i> No 94—Schedule 3	27
<i>Mental Health Act 1990</i> No 9—Schedule 3	28
<i>Mine Health and Safety Act 2004</i> No 74—Schedules 2 and 3	29
<i>Mining Act 1992</i> No 29—Schedule 3	30
<i>Motor Accidents Compensation Regulation 2005</i> —Schedule 2	31
<i>National Park Estate (Southern Region Reservations) Act 2000</i> No 103—Schedule 2	32
<i>Non-Indigenous Animals Act 1987</i> No 166—Schedule 1	33
<i>Occupational Health and Safety Regulation 2001</i> —Schedule 2	34
<i>Passenger Transport Act 1990</i> No 39—Schedule 2	35
<i>Pipelines Regulation 2005</i> —Schedule 2	36

Statute Law (Miscellaneous Provisions) Bill (No 2) 2005

Notes

<i>Police Integrity Commission Act 1996</i> No 28—Schedule 3	1
<i>Police (Special Provisions) Act 1901</i> No 5—Schedule 1	2
<i>Privacy Code of Practice (General) 2003</i> —Schedule 2	3
<i>Protection of the Environment Operations (Clean Air) Regulation 2002</i> —Schedule 2	4
<i>Public Finance and Audit Act 1983</i> No 152—Schedule 1	5
<i>Public Finance and Audit Regulation 2005</i> —Schedule 1	6
<i>Road Transport (Driver Licensing) Act 1998</i> No 99—Schedule 2	7
<i>Road Transport (General) Act 2005</i> No 11—Schedule 2	8
<i>Road Transport (General) Regulation 2005</i> —Schedule 2	9
<i>Road Transport (Safety and Traffic Management) Act 1999</i> No 20—Schedule 1	10
<i>Roads Act 1993</i> No 33—Schedule 1	11
<i>Security Industry Act 1997</i> No 157—Schedule 1	12
<i>Security Industry Amendment Act 2005</i> No 63—Schedule 1	13
<i>Security Industry Regulation 1998</i> —Schedule 1	14
<i>Security Interests in Goods Act 2005</i> No 69—Schedule 2	15
<i>Shops and Industries Act 1962</i> No 43—Schedule 3	16
<i>Southern Cross University Act 1993</i> No 69—Schedule 2	17
<i>State Environmental Planning Policy No 14—Coastal Wetlands</i> —Schedule 2	18
<i>State Environmental Planning Policy No 53—Metropolitan Residential Development</i> —Schedule 2	19 20
<i>State Environmental Planning Policy No 65—Design Quality of Residential Flat Development</i> —Schedule 2	21 22
<i>State Owned Corporations Act 1989</i> No 134—Schedule 1	23
<i>Stock (Chemical Residues) Act 1975</i> No 26—Schedule 1	24
<i>Stock Diseases Regulation 2004</i> —Schedule 1	25
<i>Stock Foods Act 1940</i> No 19—Schedule 1	26
<i>Superannuation Administration Act 1996</i> No 39—Schedule 2	27
<i>Superannuation Legislation Amendment Act 2005</i> No 52—Schedule 2	28
<i>Supreme Court Act 1970</i> No 52—Schedule 3	29
<i>Supreme Court (Corporations) Rules 1999</i> —Schedule 2	30
<i>Supreme Court Rules 1970</i> —Schedule 2	31
<i>Sydney Regional Environmental Plan No 5—(Chatswood Town Centre)</i> —Schedule 2	32 33
<i>Sydney Regional Environmental Plan No 11—Penrith Lakes Scheme</i> —Schedule 2	34
<i>Sydney Regional Environmental Plan No 17—Kurnell Peninsula (1989)</i> —Schedule 2	35 36
<i>Threatened Species Conservation Act 1995</i> No 101—Schedule 2	37

<i>Travel Agents Act 1986</i> No 5—Schedule 3	1
<i>Trustee Companies Act 1964</i> No 6—Schedule 2	2
<i>University of New England Act 1993</i> No 68—Schedule 2	3
<i>University of New South Wales Act 1989</i> No 125—Schedule 2	4
<i>University of Newcastle Act 1989</i> No 68—Schedule 2	5
<i>University of Sydney Act 1989</i> No 124—Schedule 2	6
<i>University of Technology, Sydney, Act 1989</i> No 69—Schedule 2	7
<i>University of Western Sydney Act 1997</i> No 116—Schedule 1	8
<i>University of Wollongong Act 1989</i> No 127—Schedule 2	9
<i>Valuers Act 2003</i> No 4—Schedule 1	10
<i>Water Sharing Plan for the Tenterfield Creek Water Source 2003</i> —Schedule 2	11
<i>Workers Compensation Amendment (Insurance Reform) Act 2003</i> No 81— Schedule 2	12 13
Index of Acts wholly repealed by Schedule 4	14
<i>Anti-Discrimination Amendment (Miscellaneous Provisions) Act 2004</i> No 79	15
<i>Appropriation Act 2004</i> No 60	16
<i>Appropriation (Budget Variations) Act 2004</i> No 32	17
<i>Appropriation (Special Offices) Act 2004</i> No 62	18
<i>Child Protection (Offenders Registration) Amendment Act 2004</i> No 85	19
<i>Civil Liability Amendment (Food Donations) Act 2005</i> No 16	20
<i>Civil Liability Amendment (Offender Damages) Act 2005</i> No 9	21
<i>Coal Acquisition Amendment (Fair Compensation) Act 2005</i> No 24	22
<i>Courts Legislation Amendment Act 2005</i> No 31	23
<i>Crimes Amendment (Grievous Bodily Harm) Act 2005</i> No 14	24
<i>Crimes (Sentencing Procedure) Amendment (Existing Life Sentences) Act 2005</i> No 13	25 26
<i>Criminal Assets Recovery Amendment Act 2005</i> No 32	27
<i>Criminal Procedure Amendment (Evidence) Act 2005</i> No 15	28
<i>Crown Lands Legislation Amendment Act 2005</i> No 58	29
<i>Dust Diseases Tribunal Amendment (Claims Resolution) Act 2005</i> No 22	30
<i>Duties Amendment (Abolition of Vendor Duty) Act 2005</i> No 66	31
<i>Electricity Supply Amendment Act 2005</i> No 17	32
<i>Environmental Planning and Assessment Amendment (Development Contributions)</i> <i>Act 2005</i> No 19	33 34
<i>Fire Brigades Amendment (Community Fire Units) Act 2005</i> No 33	35
<i>Gambling (Two-up) Amendment Act 2005</i> No 44	36

Statute Law (Miscellaneous Provisions) Bill (No 2) 2005

Notes

<i>Game and Feral Animal Control Amendment Act 2005 No 26</i>	1
<i>Health Legislation Amendment (Complaints) Act 2004 No 98</i>	2
<i>Health Registration Legislation Amendment Act 2004 No 99</i>	3
<i>Historic Houses Amendment Act 2005 No 3</i>	4
<i>Independent Commission Against Corruption Amendment Act 2005 No 10</i>	5
<i>Legal Profession Amendment Act 2005 No 46</i>	6
<i>Liquor Amendment (Parliamentary Precincts) Act 2004 No 57</i>	7
<i>Local Government Amendment (Public-Private Partnerships) Act 2004 No 113</i>	8
<i>Local Government and Valuation of Land Amendment (Water Rights) Act 2005 No 49</i>	9 10
<i>Marine Safety Amendment (Random Breath Testing) Act 2005 No 4</i>	11
<i>Occupational Health and Safety Amendment (Dangerous Goods) Act 2003 No 38</i>	12
<i>Occupational Health and Safety Amendment (Workplace Deaths) Act 2005 No 34</i>	13
<i>Passenger Transport Amendment (Maintenance of Bus Services) Act 2005 No 61</i>	14
<i>Pawnbrokers and Second-hand Dealers Amendment Act 2005 No 62</i>	15
<i>Petroleum (Submerged Lands) Amendment (Permits and Leases) Act 2005 No 35</i>	16
<i>Retail Leases Amendment Act 2004 No 84</i>	17
<i>Standard Time Amendment (Co-ordinated Universal Time) Act 2005 No 7</i>	18
<i>State Records Amendment Act 2005 No 8</i>	19
<i>State Revenue Legislation Amendment Act 2005 No 51</i>	20
<i>State Revenue Legislation Amendment (Budget Measures) Act 2005 No 42</i>	21
<i>State Revenue Legislation Further Amendment Act 2004 No 67</i>	22
<i>Surveying Amendment Act 2005 No 53</i>	23
<i>Workers Compensation and Other Legislation Amendment Act 2004 No 111</i>	24