

Passed by both Houses



New South Wales

# Statute Law (Miscellaneous Provisions) Bill (No 2) 2001

## Contents

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	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
Schedules	
1 Minor amendments	3
Administrative Decisions Legislation Amendment Act 1997 No 77	
Adoption Act 2000 No 75	
Building and Construction Industry Long Service Payments Act 1986 No 19	
Children and Young Persons (Care and Protection) Act 1998 No 157	
Coal Ownership (Restitution) Act 1990 No 19	
Community Land Management Act 1989 No 202	
Companion Animals Act 1998 No 87	

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Statute Law (Miscellaneous Provisions) Bill (No 2) 2001

Contents

---

	Page
Co-operatives Act 1992 No 18	
Defamation Act 1974 No 18	
Employment Agents Act 1996 No 18	
Fines Act 1996 No 99	
Geographical Names Act 1966 No 13	
Guardianship Act 1987 No 257	
Health Administration Act 1982 No 135	
Home Building Act 1989 No 147	
Independent Pricing and Regulatory Tribunal Act 1992 No 39	
Law and Justice Foundation Act 2000 No 97	
Legal Profession Act 1987 No 109	
Local Government Act 1993 No 30	
Mining Act 1992 No 29	
Motor Accidents Compensation Act 1999 No 41	
Occupational Health and Safety Act 2000 No 40	
Petroleum (Onshore) Act 1991 No 84	
Protected Disclosures Act 1994 No 92	
Stock (Chemical Residues) Act 1975 No 26	
Tow Truck Industry Act 1998 No 111	
Travel Agents Act 1986 No 5	
Valuers Registration Act 1975 No 92	
2 Amendments by way of statute law revision	31
3 Amendments to facilitate implementation of SGML as a markup language for legislation	43
4 Amendments transferring provisions	48
5 Repeals	53
6 General savings, transitional and other provisions	55
Notes	58

*I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

*Clerk of the Legislative Assembly.  
Legislative Assembly,  
Sydney, , 2001*



New South Wales

## **Statute Law (Miscellaneous Provisions) Bill (No 2) 2001**

Act No , 2001

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

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*I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.*

*Chairman of Committees of the Legislative Assembly.*

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**The Legislature of New South Wales enacts:****1 Name of Act**

This Act is the *Statute Law (Miscellaneous Provisions) Act (No 2) 2001*.

**2 Commencement**

- (1) This Act commences on the date of assent, except as provided by subsection (2).
- (2) The amendments made by Schedules 1 and 2 commence on the day or days specified in those Schedules in relation to the amendments concerned. If a commencement day is not specified, the amendments commence on the date of assent.

**3 Amendments**

Each Act and statutory rule specified in Schedules 1–4 is amended as set out in those Schedules.

**4 Repeals**

Each Act and regulation specified in Schedule 5 is repealed.

**5 General savings, transitional and other provisions**

Schedule 6 has effect.

**6 Explanatory notes**

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

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## Schedule 1 Minor amendments

(Section 3)

### 1.1 Administrative Decisions Legislation Amendment Act 1997 No 77

#### Schedule 1 Amendments concerning abolished Community Services Appeals Tribunal

Omit Schedule 1.10.

##### Explanatory note

The proposed amendment omits the following uncommenced amendments:

- (a) an amendment to the definition of **Community Services Appeals Tribunal** in section 3 (1) of the *Guardianship Act 1987*,
- (b) a provision repealing and re-enacting section 97 of that Act as presently enacted.

Both section 97 as presently enacted (which has not been commenced) and the definition concerned are repealed by amendments to the *Guardianship Act 1987* proposed to be made elsewhere in this Schedule.

### 1.2 Adoption Act 2000 No 75

#### Section 53 Ways in which parent or guardian can give consent

Insert at the end of the section:

- (2) Nothing in this section prevents the Director-General or principal officer from selecting an adoptive parent or parents for the purposes of subsection (1) (a) from one or more of the classes of persons referred to in subsection (1) (b).

##### Explanatory note

Section 53 of the *Adoption Act 2000* allows a parent or guardian to give **general consent** to a child's adoption (by an adoptive parent selected by the Director-General of the Department of Community Services or the principal officer of an accredited adoption agency), or to give **specific consent** to adoption by a relation or foster parent of the child specified in section 53 (b).

The proposed amendment will make it clear that the giving of a general consent does not prevent the Director-General or officer from selecting a person specified in section 53 (b) as the adoptive parent.

### 1.3 Building and Construction Industry Long Service Payments Act 1986 No 19

#### [1] Section 8 Constitution of Committee

Omit "the Employers' Federation of New South Wales" from section 8 (2) (c).  
Insert instead "Employers First".

**[2] Section 37 Person liable to pay long service levy**

Omit section 37 (1) (a). Insert instead:

- (a) in a case where development consent, a construction certificate or a complying development certificate is required to be obtained under the *Environmental Planning and Assessment Act 1979* for the erection of the building:
  - (i) if development consent is granted and a construction certificate is not required to be obtained—the person to whom the development consent is granted, or
  - (ii) if a construction certificate is required to be obtained—the person to whom the construction certificate is issued, or
  - (iii) if a complying development certificate is issued—the person to whom the complying development certificate is issued, or

**[3] Section 40 Determination of cost of erecting building for purposes of this Part**

Omit section 40 (1) (a). Insert instead:

- (a) the cost as determined by:
  - (i) the consent authority granting the development consent referred to in section 37 (1) (a) (if a construction certificate is not required to be obtained), or
  - (ii) the certifying authority issuing the construction certificate referred to in section 37 (1) (a) (if a construction certificate is required to be obtained), or
  - (iii) the certifying authority issuing the complying development certificate referred to in section 37 (1) (a) (if a complying development certificate is issued), or

**[4] Section 40 (2)**

Omit “council”. Insert instead “consent authority or certifying authority”.

**[5] Section 49 Appeal against refusal or cancellation of registration**

Omit “19 (1)” from section 49 (4) (a). Insert instead “19 (1A)”.

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**[6] Schedule 1 Provisions relating to members and procedure of Committee**

Omit “the Employers’ Federation of New South Wales” from clause 7 (2) (b).  
Insert instead “Employers First”.

**Explanatory note**

At present, section 37 of the *Building and Construction Industry Long Service Payments Act 1986* provides that, if a development consent or complying development certificate is required to be obtained under the *Environmental Planning and Assessment Act 1979* in respect of the erection of a building, the person liable to pay the long service levy is the person to whom the development consent or complying development certificate is granted. Section 40 provides for the determination of the cost of erecting a building (in relation to long service levies) by “the consent authority or person granting or issuing the relevant development consent or complying development certificate referred to in section 37 (1) (a)”, and has a subsequent reference to “the determination of a council of the cost of erecting a building”.

Item [2] of the proposed amendments amends section 37 in respect of cases where a construction certificate is required to be obtained under the *Environmental Planning and Assessment Act 1979*. In those cases, the levy is to be payable by the person to whom the construction certificate is issued.

Item [3] of the proposed amendments makes a similar amendment to section 40, so as to provide that the determination of the cost of erecting a building in cases where a construction certificate is required to be obtained is to be made by the certifying authority issuing the construction certificate. Item [4] replaces the reference to “a council”, since a consent authority or a certifying authority is not necessarily a council.

Items [1] and [6] of the proposed amendments update references to a body that has changed its name.

Item [5] corrects an incorrect cross-reference.

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

**[1] Section 45 Prompt application to Children’s Court for care order**

Omit section 45 (1) (b). Insert instead:

- (b) an assessment order (within the meaning of Division 6 of this Part),

**[2] Section 79 Order allocating parental responsibility**

Insert “the Minister or” before “another” in section 79 (1) (a) (ii).

**[3] Section 156 Review of voluntary out-of-home care arrangements**

Omit “held” from section 156 (4).

Insert instead “conducted by the Director-General”.

**[4] Section 161 Financial assistance for children and young persons in out-of-home care**

Omit “in out-of-home care” from section 161 (2) (a).

**Explanatory note**

At present, section 45 (1) (b) of the Act, which is in Division 1 of Part 1 of Chapter 5, refers to “an examination and assessment order”. Division 6 of that Part effectively defines **assessment order** to include an examination order. Item [1] of the proposed amendments repeals section 45 (1) (b) and replaces it with a reference to an assessment order within the meaning of Division 6.

Item [2] of the proposed amendments makes it clear that the Minister can be one of the persons amongst whom parental responsibility for a child can be shared under section 79.

Item [3] of the proposed amendments makes it clear that all periodic reviews under section 156 must be conducted by the Director-General, and not merely the first such review.

Item [4] of the proposed amendments omits unnecessary words.

**1.5 Coal Ownership (Restitution) Act 1990 No 19**

**[1] Section 3 Definitions**

Omit the definition of *Coal Compensation Fund Account*.

**[2] Section 6 Eligible claimant must refund compensation**

Omit section 6 (2).

**Explanatory note**

The Coal Compensation Board is a statutory body for the purposes of Division 3 of Part 3 (Audit) of the *Public Finance and Audit Act 1983*. It is required under that Act to keep proper accounts and records in relation to all of its operations and to prepare annual financial statements for auditing by the Auditor-General.

The effect of the proposed amendments is to require the Board to pay all money that it receives under section 6 of the *Coal Ownership (Restitution) Act 1990* to the Consolidated Fund instead of to the Coal Compensation Fund Account (which no longer exists).

Currently, section 6 (2) of the *Coal Ownership (Restitution) Act 1990* requires the money (which comprises refunds of compensation that was paid in respect of the acquisition of coal by the Crown under the *Coal Acquisition Act 1981*) to be paid into the **Coal Compensation Fund Account** (which is defined in section 3). Section 6 (2) is the only provision of the Act that makes use of the defined term.

Item [1] of the proposed amendments repeals the definition and item [2] omits section 6 (2).



## 1.6 Community Land Management Act 1989 No 202

### Section 75 Service of copy of order

Omit “certified” from section 75 (2).

#### Explanatory note

At present, the Registrar of the Residential Tribunal (which is to be replaced by the Consumer, Trader and Tenancy Tribunal) is required to serve a certified copy of an order made by a Community Schemes Adjudicator under Division 3 of Part 4 of the *Community Land Management Act 1989* on each of the persons specified in section 75 (2) of that Act.

The proposed amendment removes the requirement that the copy be certified.

## 1.7 Companion Animals Act 1998 No 87

### [1] Section 5 Definitions

Omit the definition of *registration tag*.

### [2] Section 12 Dog to wear collar and tag

Omit section 12 (1) (b).

### [3] Section 12 (3)

Omit “The regulations may provide that a registration tag can show the information required to be shown on a name tag and for that to be sufficient compliance with the requirement to have a name tag attached to a dog’s collar.”.

### [4] Section 29 Cat to wear form of identification

Omit section 29 (1) (b).

### [5] Section 73 Registration tag

Omit the section.

### [6] Section 77 Offence of interfering with registration tag

Omit the section.

### [7] Section 96 Regulations

Omit “or replacement identification tags” from section 96 (2) (c).

### [8] Schedule 3 Savings and transitional provisions

Insert after clause 3 (6):

- (6A) Sections 12 (1) (b) and 77 (and the definition of *registration tag*), as in force immediately before their repeal by the *Statute Law (Miscellaneous Provisions) Act (No 2) 2001*, continue to apply

during the transition period in relation to a dog to which this clause applies as if those provisions had not been repealed. However (and despite subclause (6)), section 12 (1) (b) does not apply if the dog is identified in accordance with the regulations.

- (6B) Without limiting subclause (6A), and for avoidance of doubt, it is declared that a person may be prosecuted (and a penalty notice may be served) for an offence committed during the transition period under section 12 or 77 in relation to a dog, or the registration tag of a dog, to which this clause applies.

**Note.** The *Statute Law (Miscellaneous Provisions) Act (No 2) 2001* repealed the provisions of this Act (including sections 12 (1) (b) and 77) that deal with registration tags for companion animals.

**Explanatory note**

The proposed amendments repeal the provisions of the *Companion Animals Act 1998* that relate to registration tags for companion animals registered under the Act. The information that a registration tag must contain is also contained in the microchip that all companion animals that are required to be identified for the purposes of section 8 of the Act must have implanted.

Item [5] of the proposed amendments repeals section 73 of the Act. That section requires the Director-General of the Department of Local Government to provide the registered owner of a companion animal with a registration tag for the animal.

Item [2] of the proposed amendments repeals section 12 (1) (b), which requires a dog that is registered under the Act to wear a collar with the current registration tag attached.

Item [4] of the proposed amendments repeals section 29 (1) (b), which imposes the same requirement in respect of a cat that is registered under the Act.

Item [1] of the proposed amendments repeals the now superfluous definition of **registration tag**.

Items [3] and [7] of the proposed amendments repeal regulation-making powers in respect of registration tags. (The reference in section 96 (2) (c) to “identification” tags is a typographical mistake. The reference should be to “registration” tags, as the Act does not provide for identification tags.)

Item [6] of the proposed amendments omits the provision that creates the offence of interfering with a registration tag.

Item [8] of the proposed amendments inserts transitional provisions in relation to dogs registered under the *Dog Act 1966*. The transitional provisions provide that the repealed sections 12 (1) (b) and 77 (and the repealed definition of **registration tag**) continue to apply in respect of those dogs during the **transition period** (which is currently scheduled to end on 30 September 2002).

## 1.8 Co-operatives Act 1992 No 18

### [1] Section 141 Set-off of amounts repaid etc on forfeited shares

Omit “section 140” from section 141 (2). Insert instead “section 139”.

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**[2] Schedule 6 Savings and transitional provisions**

Insert “, and any other loan made in accordance with a proposal referred to in section 268 that was approved before that commencement,” after “before the commencement of section 268A” in clause 31A.

**Commencement**

Item [2] of the amendments to the *Co-operatives Act 1992* commences, or is taken to have commenced, on the commencement of clause 31A of Schedule 6 to that Act.

**Explanatory note**

**Interest payable on compulsory loans**

Section 268 of the *Co-operatives Act 1992* (the Act) enables a co-operative to require its members to lend money to it in accordance with a proposal approved by special resolution of the co-operative. Section 268A, which commenced on 1 December 1997, provides for the rate of interest payable on such a loan.

Clause 31A of Schedule 6 to the Act (which is to be inserted by the *Co-operatives Legislation Amendment Act 2001*) is a savings provision to the effect that a loan made before the commencement of section 268A continues to be payable at the same rate of interest as that in relation to which it was made as if section 268A had not been enacted.

Item [2] of the proposed amendments extends the operation of clause 31A to loans arising from proposals approved before the commencement of section 268A, even if the loans were or are made after the commencement of that section.

**Statute law revision**

Item [1] of the proposed amendments corrects an incorrect cross-reference.

**1.9 Defamation Act 1974 No 18**

**[1] Section 17QA Matters relating to the Protected Disclosures Act 1994**

Insert “or local government money” after “public money”.

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

Insert at the end of section 17QA:

- (2) In this section, *local government money* includes all revenue, loans and other money collected, received or held by, for or on account of:
- (a) a council, or
  - (b) a county council,
- within the meaning of the *Local Government Act 1993*.

**Explanatory note**

The proposed amendments are consequential on amendments to the *Protected Disclosures Act 1994* proposed to be made elsewhere in this Schedule. Those amendments afford the protection of that Act to certain disclosures made in relation to serious and substantial waste of local government money.

## 1.10 Employment Agents Act 1996 No 18

### Section 25 Performance of Director-General's functions

Omit "Department of Industrial Relations".  
Insert instead "Department of Fair Trading".

#### Explanatory note

The proposed amendment omits a reference to the Department that formerly administered the *Employment Agents Act 1996* and replaces it with a reference to the Department that currently does so.

## 1.11 Fines Act 1996 No 99

### Schedule 1 Statutory provisions under which penalty notices issued

Insert in alphabetical order:

Mining Act 1992, section 375A

Petroleum (Onshore) Act 1991, section 137A

#### Explanatory note

The proposed amendment provides for the enforcement of penalty notices ("on-the-spot fines") issued under the *Mining Act 1992* and the *Petroleum (Onshore) Act 1991*.

## 1.12 Geographical Names Act 1966 No 13

### [1] Section 2 Definitions

Omit the definitions of *Prescribed* and *Regulations*.

### [2] Section 3 Geographical Names Board

Omit "eight members" from section 3 (2). Insert instead "9 members".

### [3] Section 3 (2) (b)

Omit the paragraph. Insert instead:

- (b) one is to be the person for the time being holding the office of Director-General of the Department of Urban Affairs and Planning, or an officer of that Department nominated by the Director-General,

### [4] Section 3 (2) (e)

Omit "four persons". Insert instead "5 people".

**[5] Section 3 (4) (e)**

Insert at the end of section 3 (4) (d):

, and

- (e) one is to be a person nominated by the Chairperson of the Community Relations Commission.

**[6] Section 3 (6)**

Omit “a period of five years”.

Insert instead “such period (not exceeding 5 years) as is specified in the member’s instrument of appointment”.

**[7] Section 3 (12) (b)**

Omit “Governor may”.

Insert instead “board may, by instrument in writing.”.

**[8] Section 9 Submissions in relation to proposed name or alteration**

Omit section 9 (1). Insert instead:

- (1) Any person may, within a period of one month after the date of publication of the notice referred to in section 8 or within any further period that the board may allow either in the notice or afterwards, make a written submission to the secretary of the board in relation to the proposed name or alteration.

**[9] Section 9 (2)**

Omit “objections”. Insert instead “submissions”.

**[10] Section 9 (3)**

Omit “objections to”. Insert instead “submissions in relation to”.

**[11] Section 9 (3) (b)**

Omit “the objections”.

Insert instead “any objections to the proposed name or alteration contained in the submissions”.

**[12] Section 10 Publication of geographical names**

Omit “no objection” from section 10 (1) (a).

Insert instead “no submission objecting”.

**[13] Section 10 (1) (b)**

Omit “objection has been made”.

Insert instead “a submission has been made objecting”.

**[14] Section 15 Names in geographical manuscripts, tourist publications, maps and other publications**

Omit “0.5 penalty unit” from section 15 (2). Insert instead “5 penalty units”.

**[15] Section 15 (5)**

Insert after section 15 (4):

(5) In this section:

*published* includes published in electronic form.

**[16] Section 20**

Insert after section 19:

**20 Transitional provision**

The persons holding office as appointed members of the board on the commencement of the amendment made to section 3 (6) by the *Statute Law (Miscellaneous Provisions) Act (No 2) 2001* continue to hold that office (subject to section 3) for the balance of the period of 5 years for which they were appointed.

**Explanatory note**

Item [1] of the proposed amendments omits superfluous definitions.

Item [2] increases the number of members of the Geographical Names Board.

Item [4] makes a consequential amendment.

Item [3] updates references to an office holder and a Department.

Item [5] provides for the additional member of the board to be a nominee of the Chairperson of the Community Relations Commission.

Item [6] provides for the term of office of a member of the board to be up to 5 years (at present, the term must be for 5 years).

Item [7] provides for the board, rather than the Governor, to appoint a deputy of an appointed member of the board who is ill or absent.

Item [8] provides for the making of submissions in relation to a proposed name or alteration (at present, only objections may be made).

Items [9]–[13] make consequential amendments.

Item [15] makes it clear that the prohibition on publishing or causing to be published certain material applies whether the publication is in hard copy or electronic form.

Item [14] increases the penalty for breaching that prohibition.

Item [16] inserts a transitional provision relating to the appointed members of the board.

**1.13 Guardianship Act 1987 No 257**

**[1] Section 3 Definitions**

Omit the definitions of *Community Services Appeals Tribunal*, *licence*, *licensed manager*, *licensed occupational centre*, *licensed residential centre*, *maintenance*, *occupational centre* and *residential centre* from section 3 (1).

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**[2] Section 31A Definitions**

Omit “*Adoption Information Act 1990*”.  
Insert instead “*Adoption Act 2000*”.

**[3] Section 31D Tribunal may give directions**

Omit “*Adoption Information Act 1990*” from section 31D (2) (b).  
Insert instead “*Adoption Act 2000*”.

**[4] Section 33A Person responsible**

Omit “the person having parental responsibility for the child within the meaning of the *Children and Young Persons (Care and Protection) Act 1998*” from section 33A (2).  
Insert instead “the person having parental responsibility (within the meaning of the *Children and Young Persons (Care and Protection) Act 1998*) for the child”.

**[5] Part 8 Licensing of residential centres and occupational centres (sections 81–96)**

Omit the Part.

**[6] Section 97 Appeals to the Community Services Appeals Tribunal**

Omit the section.

**[7] Section 99 Notices etc to be written in other languages**

Omit the section.

**[8] Section 108 Regulations**

Omit section 108 (1) (e).

**[9] Section 108 (1) (g)**

Omit “and the issue of licences”.

**[10] Schedule 2 Provisions relating to licences**

Omit the Schedule.

**Commencement**

Items [2] and [3] of the proposed amendments commence (or are taken to have commenced) on the commencement of Schedule 3 to the *Adoption Act 2000*.

**Explanatory note**

Part 8 of the *Guardianship Act 1987* requires residential centres and occupational centres (as defined in that Act) to be licensed, and makes general provision in respect of those centres. Schedule 2 to the Act contains provisions relating to the licences. Section 97 of the Act provides for appeals against certain decisions made under Part 8 or Schedule 2. Part 8, section 97 and Schedule 2 have not commenced. Section 99 of the Act deals with certain notices and other instruments required, by or under the Act, to be served on any person. The only such

notices or instruments are those under Part 8 and Schedule 2. It is not now intended that residential centres or occupational centres be established under the *Guardianship Act 1987*. Accordingly:

- (a) item [1] of the proposed amendments repeals the definitions relating to such centres (including the definition of the body to whom appeals were to be made under section 97), and
- (b) item [5] repeals Part 8, and
- (c) item [6] repeals section 97, and
- (d) item [7] repeals section 99, and
- (e) item [8] repeals a power to make regulations for or with respect to “the establishment, operation and management of residential centres and occupational centres”, and
- (f) item [9] repeals a power to make regulations for or with respect to the imposition, waiver and remission of fees and charges in relation to “the issue of licences”, and
- (g) item [10] repeals Schedule 2.

Item [1] also repeals the definition of a term (“maintenance”) that is no longer used in the Act. Items [2] and [3] of the proposed amendments update references to an Act that is to be repealed by the *Adoption Act 2000*.

Item [4] of the proposed amendments removes a possible ambiguity in section 33A of the Act by making it clear that the term “parental responsibility” (rather than the word “child”) carries the same meaning in that section as it does in the *Children and Young Persons (Care and Protection) Act 1998*.

## 1.14 Health Administration Act 1982 No 135

### Section 20B Establishment of Medical Services Committee

Omit “the New South Wales Branch of the Australian Association of Consultant Physicians” from section 20B (2) (b) (v).

Insert instead “the Internal Medicine Society of Australia & New Zealand Incorporated”.

#### Explanatory note

The proposed amendment:

- (a) updates the name of a body (the Australian Association of Consultant Physicians) that has amalgamated with another body (the New Zealand Society of Consultant Physicians), and
- (b) omits a now superfluous reference to the “New South Wales Branch” of the earlier body.

## 1.15 Home Building Act 1989 No 147

### [1] Section 3 Definitions

Omit the bullet points from the definitions of *dwelling*, *gasfitting work*, *kit home*, *plumbing work* and *residential building work* in section 3 (1) and move the matter following each of the bullet points to the left margin.



**[2] Section 10 Enforceability of contracts and other rights**

Omit section 10 (1)–(3). Insert instead:

- (1) A person who contracts to do any residential building work, or any specialist work, and who so contracts:
  - (a) in contravention of section 4 (Unlicensed contracting), or
  - (b) under a contract to which the requirements of section 7 apply that is not in writing or that does not have sufficient description of the work to which it relates (not being a contract entered into in the circumstances described in section 6 (2)), or
  - (c) in contravention of any other provision of this Act or the regulations that is prescribed for the purposes of this paragraph,

is not entitled to damages or to enforce any other remedy in respect of a breach of the contract committed by any other party to the contract, and the contract is unenforceable by the person who contracted to do the work. However, the person is liable for damages and subject to any other remedy in respect of a breach of the contract committed by the person.

**[3] Section 16G Enforceability of contracts**

Omit section 16G (1) and (2). Insert instead:

- (1) A person who contracts to supply a kit home, and who so contracts:
  - (a) in contravention of section 16A (Unlicensed contracting or supplying), or
  - (b) under a contract to which the requirements of section 16D apply that is not in writing or that does not have sufficient description of the kit home to which it relates, or
  - (c) in contravention of any other provision of this Act or the regulations that is prescribed for the purposes of this paragraph,

is not entitled to damages or to enforce any other remedy in respect of a breach of the contract committed by any other party to the contract, and the contract is unenforceable by the person who contracted to supply the kit home. However, the person is liable for damages and subject to any other remedy in respect of a breach of the contract committed by the person.

**[4] Section 18R Enforceability of contracts and other rights (as inserted by Schedule 3 to the Home Building Legislation Amendment Act 2001)**

Omit section 18R (1) and (2). Insert instead:

- (1) A person who contracts to do any building consultancy work, and who so contracts:
  - (a) in contravention of section 18H (Unlicensed contracting), or
  - (b) under a contract to which the requirements of section 18K apply that is not in writing or that does not have sufficient description of the work to which it relates, or
  - (c) in contravention of any other provision of this Act or the regulations that is prescribed for the purposes of this subsection,

is not entitled to damages or to enforce any other remedy in respect of a breach of the contract committed by any other party to the contract, and the contract is unenforceable by the person who contracted to do the building consultancy work. However, the person is liable for damages and subject to any other remedy in respect of a breach of the contract committed by the person.

**[5] Section 48K Jurisdiction of Tribunal in relation to building claims (as inserted by Schedule 4 to the Home Building Legislation Amendment Act 2001)**

Insert “to which none of subsections (3), (4), (6) and (7) applies” after “services” in section 48K (8) (a).

**Commencement**

Item [4] of the amendments to the *Home Building Act 1989* commences (or is taken to have commenced) on the commencement of section 18R of that Act.

Item [5] of the amendments to the *Home Building Act 1989* commences (or is taken to have commenced) on the commencement of section 48K of that Act.

**Explanatory Note**

**Enforcement of contracts**

Items [2]–[4] of the proposed amendments repeal and re-enact sections 10 and 16G of the *Home Building Act 1989* (and section 18R, which is to be inserted in that Act by the *Home Building Legislation Amendment Act 2001*) so as to clarify the operation of those sections and ensure that they do not have the unintended effect of rendering a building contract wholly unenforceable at the suit of the building contractor merely because of that contractor’s very minor contravention of certain provisions of the Act.

**Jurisdiction of Fair Trading Tribunal in relation to building claims**

Section 48K (which is to be inserted in the *Home Building Act 1989* by the *Home Building Legislation Amendment Act 2001*) sets out the jurisdiction of the Fair Trading Tribunal (which

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is to be replaced by the Consumer, Trader and Tenancy Tribunal) in relation to building claims. Section 48K to a large extent mirrors the current section 89B (which is to be repealed) as follows:

- (a) section 48K (3) mirrors section 89B (2),
- (b) section 48K (4) mirrors section 89B (3) (with one addition),
- (c) section 48K (6) mirrors section 89B (4),
- (d) section 48K (7) mirrors section 89B (5),
- (e) section 48K (8) mirrors section 89B (6) (with one inadvertent omission).

Item [5] of the proposed amendments inserts the matter omitted from section 48K (8). The matter is necessary to remove contradictions between that subsection and section 48K (3), (4), (6) and (7).

**Removal of bullet points**

Item [1] of the proposed amendments removes bullet points from certain definitions in connection with the design of legislation.

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

### **Section 4 Government monopoly services**

Omit “provided by the Water Administration Ministerial Corporation.” from section 4 (6).

Insert instead “. The Water Administration Ministerial Corporation is taken to be the supplier of any such service.”.

**Explanatory note**

The proposed amendment amends section 4 (6) of the *Independent Pricing and Regulatory Tribunal Act 1992* to make it perfectly clear that services (such as the granting of licences and approvals) provided under Chapter 3 of the *Water Management Act 2000* are to be taken to be provided by the Water Administration Ministerial Corporation (despite the fact that, under that Act, they are provided by the Minister administering that Act).

The amendment will ensure that section 4 (6) will have its intended effect of allowing such services to be made the subject of standing references to the Independent Pricing and Regulatory Tribunal (by the inclusion of the Water Administration Ministerial Corporation in Schedule 1 to the Act).

## **1.17 Law and Justice Foundation Act 2000 No 97**

### **[1] Schedule 1 Constitution and procedure of Board**

Insert in alphabetical order in clause 1:

*Aboriginal person* means a person who:

- (a) is a member of the Aboriginal race of Australia, and
- (b) identifies as an Aboriginal person, and
- (c) is accepted by the Aboriginal community as an Aboriginal person.

*Torres Strait Islander* means a person who:

- (a) is descended from a Torres Strait Islander, and
- (b) identifies as a Torres Strait Islander, and
- (c) is accepted as a Torres Strait Islander by a Torres Strait Islander community.

**[2] Schedule 1, clause 2 (1)**

Omit “7 members”. Insert instead “8 members”.

**[3] Schedule 1, clause 2 (2)**

Omit “Six”. Insert instead “Seven”.

**[4] Schedule 1, clause 2 (2) (a)**

Omit “3”. Insert instead “4”.

**[5] Schedule 1, clause 2 (4)**

Omit the subclause. Insert instead:

- (4) Not more than 3 of the 4 persons referred to in subclause (2) (a) may be a legal practitioner, and at least one of the 4 persons must be an Aboriginal person or a Torres Strait Islander.

**[6] Schedule 1, clause 10**

Omit “4 members”. Insert instead “5 members”.

**Commencement**

The amendments to the *Law and Justice Foundation Act 2000* commence on a day or days to be appointed by proclamation.

**Explanatory note**

The proposed amendments provide for the appointment of an indigenous person to the Board of the Law and Justice Foundation and make consequential amendments.

Item [1] inserts definitions of **Aboriginal person** and **Torres Strait Islander** in Schedule 1 (Constitution and procedure of Board) to the *Law and Justice Foundation Act 2000*.

Item [2] increases the membership of the Board from 7 to 8.

Item [3] provides that 7 (rather than 6) of the members are to be appointed by the Attorney General, and item [4] requires 4 (rather than 3) of those appointees to have **special expertise** (as defined in Schedule 1).

Item [5] requires one of the appointees with special expertise to be an Aboriginal person or a Torres Strait Islander and increases from 2 to 3 the number of those appointees who may (but need not) be legal practitioners.

Item [6] increases the quorum for a meeting of the Board from 4 to 5 in consequence of the additional member.

## 1.18 Legal Profession Act 1987 No 109

### [1] Section 69G Payment of certain costs and expenses from Fund

Insert after section 69G (1) (f):

- (f1) the costs of the Commissioner in exercising functions under Division 1AA of Part 3,

### [2] Section 171F Appeals against decisions and orders of Tribunal

Omit “or” from section 171F (3) (a).

Insert instead “and”.

#### Commencement

Item [2] of the amendments to the *Legal Profession Act 1987* commences (or is taken to have commenced) on the commencement of Schedule 1 [18] to the *Legal Profession Amendment (Disciplinary Provisions) Act 2001*.

#### Explanatory note

Amendments made by the *Legal Profession Amendment (Disciplinary Provisions) Act 2001* conferred additional functions on the Bar Council, Law Society Council and the Legal Services Commissioner in relation to the issue, suspension and cancellation of practising certificates (see Division 1AA of Part 3 of the *Legal Profession Act 1987*). Those amendments also provided for the costs of those Councils in carrying out the new functions to be met from the Public Purpose Fund under the *Legal Profession Act 1987*.

Item [1] of the proposed amendments provides for the costs of the Legal Services Commissioner in carrying out those additional functions to be met from the Public Purpose Fund.

The amendments made by the *Legal Profession Amendment (Disciplinary Provisions) Act 2001* also provided for direct appeals to the Supreme Court from certain decisions and orders made by the Legal Services Division of the Administrative Decisions Tribunal.

Item [2] makes a minor amendment to ensure that the grounds for such an appeal are the same as the grounds for an appeal to the Appeal Panel of the Administrative Decisions Tribunal from other decisions and orders made by the Legal Services Division of the Tribunal.

## 1.19 Local Government Act 1993 No 30

### Section 429A

Insert after section 429:

#### 429A Complaints about councils and officers of councils

- (1) A public official within the meaning of the *Protected Disclosures Act 1994* may complain to the Director-General about the conduct of a council or an officer of a council.
- (2) A complaint may be made orally or in writing.

- (3) The Director-General may deal with a complaint made under this section:
- (a) by means of an investigation authorised under section 430, or
  - (b) in such other manner as the Director-General considers appropriate.

**Explanatory note**

The proposed amendment provides for the making to the Director-General of the Department of Local Government of complaints, by certain persons, about the conduct of councils and officers of councils.

Related amendments to the *Protected Disclosures Act 1994* proposed to be made elsewhere in this Schedule specify (among other things) the kinds of complaints (“disclosures”) that will attract the protection of that Act—that is, complaints in relation to serious and substantial waste of local government money.

## **1.20 Mining Act 1992 No 29**

### **[1] Schedule 4 Regulation making powers**

Omit clause 11.

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

Omit clauses 40 and 41.

**Explanatory note**

The *Mining and Petroleum Legislation Amendment Act 2000* repealed Part 16 of the *Mining Act 1992*. That Part established the Geological and Mining Museum Trust, which no longer functioned at the time of that repeal.

Item [1] of the proposed amendments repeals provisions of the *Mining Act 1992* that confer on the Governor regulation-making powers in respect of the Trust.

Item [2] repeals savings and transitional provisions of that Act that relate to the Museum and the Trust and to the repealed *Geological and Mining Museum Regulation 1990*.

## **1.21 Motor Accidents Compensation Act 1999 No 41**

### **Section 69 Claims Assessment Guidelines of Authority**

Omit “with respect to the procedures to be followed by claims assessors in” from section 69 (1).

Insert instead “for or with respect to procedures for”.

**Explanatory note**

Section 69 of the *Motor Accidents Compensation Act 1999* enables the making of guidelines with respect to the procedures to be followed by claims assessors in the assessment of claims under Part 4.4 of that Act and related matters.

The proposed amendment makes it clear that guidelines may be made generally with respect to procedures for claims assessments.

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## 1.22 Occupational Health and Safety Act 2000 No 40

### [1] Section 4 Definitions

Insert “but, despite the definition of *mine* in the latter Act, does include a coal preparation plant that is a declared plant under Part 5A of that Act” after “the *Coal Mines Regulation Act 1982*” in the definition of *mine*.

### [2] Section 133 Application of Act to mines: references to WorkCover

Insert “, or a reference to the Minister administering any of those Acts” after “*Coal Mines Regulation Act 1982*”.

#### Explanatory Note

##### Meaning of “mine”

Division 2 of Part 5 (Powers of inspectors), sections 86 (Notification of accidents and other matters) and 87 (Non-disturbance of plant etc) and Part 6 (Investigation, improvement and prohibition notices) of the *Occupational Health and Safety Act 2000 (the Act)* do not apply to mines (because provisions with respect to the matters dealt with by the non-applicable provisions are contained in other legislation, such as the *Coal Mines Regulation Act 1982*).

The Act defines *mine* as meaning “a mine within the meaning of the *Mines Inspection Act 1901* or the *Coal Mines Regulation Act 1982*”. The definition of *mine* in the latter Act specifically excludes “a coal preparation plant that is a declared plant under Part 5A”. As such plants are not mines for the purposes of the Act, the provisions of the Act that do not apply to mines do apply to the plants. The plants are also regulated under Part 5A of the *Coal Mines Regulation Act 1982*. Consequently, there is a duplication of certain investigative and enforcement provisions in relation to the plants.

Item [1] of the proposed amendments removes that duplication by providing (in effect) that the provisions of the Act that do not apply to mines also do not apply to coal preparation plants that are declared plant under Part 5A of the *Coal Mines Regulation Act 1982*.

##### References to WorkCover in application of Act to mines

Section 133 of the Act currently allows the regulations to provide that, in connection with the application of any provision of the Act to a mine, a reference in the provision to WorkCover is taken to be or include a reference to a specified government department or agency, or an officer of a government department or agency, exercising functions in connection with the administration of the *Mines Inspection Act 1901* or the *Coal Mines Regulation Act 1982*.

Item [2] of the proposed amendments allows the regulations also to deem such a reference to be a reference to the Minister administering the *Mines Inspection Act 1901* or the *Coal Mines Regulation Act 1982*.

## 1.23 Petroleum (Onshore) Act 1991 No 84

### [1] Section 3A

Insert after section 3:

#### 3A Notes

Notes in the text of this Act do not form part of this Act.

**[2] Section 9 Grant of petroleum titles**

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

- (c) an area included in another application for a petroleum title:
  - (i) that was made before the applicant's application, and
  - (ii) that has not been withdrawn or otherwise finally disposed of.

**[3] Section 19A**

Insert after section 19:

**19A Withdrawal of application for grant or renewal of petroleum title**

- (1) An application for a petroleum title, or for the renewal of a petroleum title, may be withdrawn by means of a written notice of withdrawal signed by the applicant and lodged with the Director-General.
- (2) An application ceases to have effect when a notice of withdrawal is lodged under this section.
- (3) The withdrawal of an application under this section is irrevocable.

**[4] Section 20**

Omit the section. Insert instead:

**20 Continuation of title pending renewal**

If an application for the renewal of a title has not been withdrawn or otherwise finally disposed of before the date on which the title would, but for this section, expire, the title continues in force until the date on which the application is withdrawn or otherwise finally disposed of.

**[5] Section 22 Cancellation or operational suspension of titles**

Insert after section 22 (2):

- (2AA) A request for cancellation of a petroleum title may be withdrawn by means of a written notice of withdrawal signed by the holder of the title and lodged with the Director-General. The request ceases to have effect when the notice of withdrawal is lodged.



**[6] Section 22 (4) and (4A)**

Omit the subsections. Insert instead:

- (4) Cancellation of, or suspension of operations under, a petroleum title takes effect on the date on which written notice of the cancellation or suspension concerned is served on the holder of the title, or on such later date as is specified in the notice.
- (4A) Notice of a cancellation of a petroleum title is to be published in the Gazette as soon as practicable after the cancellation takes effect.

**[7] Section 32 Direction to holder of exploration licence to apply for lease**

Insert at the end of the section:

**Note.** Section 22 (4) specifies the time at which cancellation of a petroleum title (which includes an exploration licence) takes effect.

**[8] Section 37 Direction to holder of assessment lease to apply for production lease**

Insert at the end of the section:

**Note.** Section 22 (4) specifies the time at which cancellation of a petroleum title (which includes an assessment lease) takes effect.

**[9] Section 96 Applications for transfer of title**

Insert after section 96 (4):

- (5) An application for approval of the transfer of a petroleum title may be withdrawn by means of a written notice of withdrawal signed by the applicant and lodged with the Director-General. The application ceases to have effect when the notice of withdrawal is lodged.
- (6) The withdrawal of an application under this section is irrevocable.

**Transitional**

Sections 19A, 22 (2AA) and 96 (5) and (6) of the *Petroleum (Onshore) Act 1991*, as inserted by this Act, extend to apply to and in respect of an application or request made, but not finally disposed of, before the commencement of those sections.

**Explanatory Note**

**Grants of petroleum titles**

Section 9 (1) (c) of the *Petroleum (Onshore) Act 1991* (**the Act**) currently prevents the Minister from granting a petroleum title over "an area included in an application made by another person for a petroleum title, where the application has not yet been determined".

Item [2] of the proposed amendments repeals and re-enacts that paragraph so as to make it clear that the paragraph prevents the granting of an application for a petroleum title only if there is still outstanding an earlier application relating to the same area of land.

**Withdrawals of applications and requests relating to petroleum titles**

Items [3], [5] and [9] of the proposed amendments provide for the withdrawal of the following:

- (a) applications for grants or renewals of petroleum titles,
- (b) requests for cancellation of petroleum titles,
- (c) applications for approval of transfers of petroleum titles.

**Continuation in force of petroleum titles**

Section 20 of the Act currently provides for the continuation in force of a petroleum title pending the determination of an application for its renewal. The section provides that the title continues in force “until the date on which the title is renewed or on which notification of refusal of renewal is published in the Gazette or until the title is cancelled”.

Item [4] of the proposed amendments repeals and re-enacts that section so as to provide (consistently with certain other mining legislation) that the title remains in force until the application for renewal is “finally disposed of”.

**Cancellation and suspension of petroleum titles**

Section 22 of the Act specifies certain circumstances in which a petroleum title may be cancelled or operations under a petroleum title may be suspended. Section 22 (4) currently provides that a cancellation under section 22 takes effect “on the date of notification of the cancellation in the Gazette”. Section 22 (4A) provides that a suspension under section 22 takes effect “on the date on which written notice of the suspension is served on the holder of the title or on such later date as is specified in the notice”.

Item [6] of the proposed amendments repeals and re-enacts section 22 (4) and (4A) so as to provide that all cancellations of, and suspensions of operation under, petroleum titles (not merely cancellations and suspensions under section 22) take effect on the date on which written notice of the cancellation or suspension concerned is served on the holder of the title, or on such later date as is specified in the notice. Notice of a cancellation is also required to be published in the Gazette.

Items [7] and [8] add notes referring to section 22 (4) to sections 32 and 37. Those sections provide for the cancellation, in other circumstances, of particular kinds of petroleum titles.

**Statute law revision**

Item [1] of the proposed amendments inserts a section regarding notes in the Act.

**1.24 Protected Disclosures Act 1994 No 92**

**[1] Section 4 Definitions**

Insert at the end of the definition of *investigating authority*:

- , or
- (f) the Director-General of the Department of Local Government.

**[2] Section 4, definition of “investigation Act”**

Insert at the end of the definition:

- , or
- (e) the *Local Government Act 1993*.

**[3] Section 4**

Insert in alphabetical order:

*local government authority* means:

- (a) a council, or
- (b) a county council,

within the meaning of the *Local Government Act 1993*.

**[4] Section 4, definition of “public authority”**

Insert “(including a local government authority)” after “any public authority”.

**[5] Section 4, definition of “relevant investigation Act”**

Omit the definition. Insert instead:

*relevant investigation Act* means:

- (a) in relation to an investigating authority other than the Director-General of the Department of Local Government—the Act that appoints or constitutes the investigating authority, and
- (b) in relation to the investigating authority that is the Director-General of the Department of Local Government—the *Local Government Act 1993*.

**[6] Section 12B**

Insert after section 12A:

**12B Disclosure to Director-General of Department of Local Government concerning serious and substantial waste in local government**

- (1) To be protected by this Act, a disclosure by a public official to the Director-General of the Department of Local Government must:
  - (a) be made in accordance with the *Local Government Act 1993*, and
  - (b) be a disclosure of information that shows or tends to show that a local government authority or an officer of a local government authority has seriously and substantially wasted local government money.
- (2) In this section, *local government money* includes all revenue, loans and other money collected, received or held by, for or on account of a local government authority.

**[7] Section 17 Disclosures concerning merits of government policy**

Insert at the end of the section:

- (2) In this section, *government policy* includes the policy of the governing body of a local government authority.

**[8] Section 20 Protection against reprisals**

Insert after section 20 (2):

- (3) Proceedings for an offence against this section may be instituted at any time within 2 years after the offence is alleged to have been committed.

**[9] Schedule 2 Savings, transitional and other provisions**

Insert at the end of clause 1 (1):

*Statute Law (Miscellaneous Provisions) Act (No 2) 2001* (but only in so far as Schedule 1 to that Act amends this Act, the *Defamation Act 1974* and the *Local Government Act 1993*)

**[10] Schedule 2, clauses 5 and 6**

Insert after clause 4:

**5 Disclosures to Director-General of Department of Local Government concerning serious and substantial waste in local government**

A disclosure referred to in section 12B is protected by this Act even if it relates to conduct or activities engaged in, or matters arising, before the commencement of that section.

**6 Proceedings for certain offences**

Section 20 (3) extends to apply to proceedings for offences against section 20 committed less than 6 months before the commencement of that subsection.

**Explanatory note**

**Disclosures concerning waste in local government**

The effect of items [1]–[7] of the proposed amendments is to extend the protection of the *Protected Disclosures Act 1994* to disclosures by certain persons about serious and substantial waste of local government money.

Under the Act, a disclosure is a *protected disclosure* if it satisfies the relevant requirements of Part 2 of that Act—one of which is that the disclosure is made to an investigating authority (or to certain other persons).

Item [1] of the proposed amendments amends the definition of *investigating authority* so as to include the Director-General of the Department of Local Government.

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Item [6] of the proposed amendments specifies the kinds of disclosures to the Director-General of the Department of Local Government that will attract the protection of the Act.

Items [2]–[5] and [7] make consequential amendments by inserting new definitions in the Act or amending existing definitions.

Related amendments to the *Defamation Act 1974* and the *Local Government Act 1993* are proposed to be made elsewhere in this Schedule.

**Time for instituting certain proceedings**

Item [8] of the proposed amendments extends from 6 months (in accordance with the *Justices Act 1902*) to 2 years the time within which proceedings may be brought for an offence against section 20. This is for consistency with section 206 of the *Police Service Act 1990*, which was amended by the *Police Service Amendment (Complaints) Act 2001* to reflect section 20 in other respects.

**Savings and transitional provisions**

Items [9] and [10] of the proposed amendments insert savings and transitional provisions arising out of the amendments referred to above.

## 1.25 Stock (Chemical Residues) Act 1975 No 26

### [1] Section 8 Notice for detention of chemically affected stock

Insert after section 8 (3):

- (3A) The Minister may give the further notice referred to in subsection (3) either personally or by an authorised agent, regardless of the manner in which the notice under subsection (1) was given.

### [2] Section 8 (4)

Omit “subsection (1)”. Insert instead “this section”.

### [3] Section 8 (5) (a)

Omit “him”. Insert instead “the person”.

**Explanatory note**

Section 8 (1) of the *Stock (Chemical Residues) Act 1975* enables the Minister, either personally or by an authorised agent, to issue a notice (a **detention notice**) to detain chemically affected stock. Section 8 (3) enables the Minister, by a further notice, to revoke the detention notice or release any of the stock from being bound by it.

Item [1] of the proposed amendments makes it clear that the second notice may also be issued either by the Minister personally or by an authorised agent.

Item [2] of the proposed amendments makes a consequential amendment.

Item [3] of the proposed amendments replaces gender-specific language with gender-neutral language.

## 1.26 Tow Truck Industry Act 1998 No 111

### [1] Section 3 Definitions

Insert in alphabetical order:

*appointed member*, in relation to the Board, means a member other than the Director-General or the Director-General's nominee.

*Director-General* means the Director-General of the Department of Transport.

### [2] Section 9 Board of TTA

Omit section 9 (2). Insert instead:

(2) The Board is to consist of the following members:

- (a) the Director-General or a nominee of the Director-General (being an officer of the Department of Transport),
- (b) 4 members appointed by the Minister.

### [3] Section 9 (4)

Omit "the other". Insert instead "another".

### [4] Schedule 1 Members and procedure of Board and Advisory Council

Omit the definition of *appointed member* from clause 1.

### [5] Schedule 2 Savings and transitional provisions

Insert after clause 8:

## Part 3 Miscellaneous

### 9 Continuity of office of appointed members of Board

A person holding office as an appointed member of the Board immediately before the repeal and re-enactment of section 9 (2) by the *Statute Law (Miscellaneous Provisions) Act (No 2) 2001* is taken to have been appointed under that subsection (as re-enacted) for the balance of the member's term of office.

#### Explanatory note

At present, section 9 (2) of the *Tow Truck Industry Act 1998* provides that the Board of the Tow Truck Authority consists of the General Manager of that Authority and 2 members appointed by the Minister. The appointed members are part-time members.

Item [2] of the proposed amendments repeals and re-enacts section 9 (2) so as to provide, instead, that the Board consists of the Director-General of the Department of Transport (or an

officer of that Department nominated by the Director-General) and 4 members appointed by the Minister. The appointed members will continue to be part-time members (as provided by section 9 (3)).

Items [1] and [3]–[5] of the proposed amendments make consequential amendments and insert a transitional provision.

## **1.27 Travel Agents Act 1986 No 5**

### **Section 17 Annual fee and annual statement**

Insert “(if any)” after “prescribed late fee” in section 17 (8).

#### **Explanatory note**

At present, section 17 (8) of the *Travel Agents Act 1986* requires the Director-General of the Department of Fair Trading to give to a licensee who has failed to pay an annual fee, or lodge a statement, or pay a fee and lodge a statement, in accordance with section 17 and the regulations, notice in writing that, unless the fee is paid or the statement lodged (or the fee is paid and the statement lodged) “together with the prescribed late fee”, before a day specified in the notice, the licence will be cancelled.

The proposed amendment makes it clear that it is not essential that a late fee be prescribed (and, therefore, imposed).

## **1.28 Valuers Registration Act 1975 No 92**

### **[1] Section 16 Renewal of registration under this Part**

Insert “and on payment of the prescribed fee,” before “be renewed for a like period” in section 16 (1) (b).

### **[2] Section 16 (3A)**

Insert after section 16 (3):

- (3A) However, an application for renewal of registration under subsection (1), whenever made, is taken not to have been duly made unless the prescribed fee is paid.

**[3] Section 17 Certificate of registration under this Part**

Insert at the end of the section:

- (4) If the Director-General is satisfied that a certificate of registration has been lost, stolen, damaged or destroyed, the Director-General may issue a replacement certificate on payment of the prescribed fee.

**Explanatory note**

Item [1] of the proposed amendments removes any doubt as to the power of the Director-General of the Department of Fair Trading to charge a fee for the annual renewal, under the *Valuers Registration Act 1975*, of a person's registration as a real estate valuer.

Item [2] makes it clear that an application for renewal of registration under the Act is not duly made unless the prescribed fee is paid.

Item [3] enables the Director-General to replace lost, stolen, damaged or destroyed certificates of registration on payment of the prescribed fee.



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## Schedule 2 Amendments by way of statute law revision

(Section 3)

### 2.1 Agricultural Industry Services Act 1998 No 45

#### [1] Section 21

Renumber subsections (3) and (4) (as inserted by the *Corporations (Consequential Amendments) Act 2001*) as subsections (2A) and (2B) respectively.

#### [2] Section 21 (2B) (as renumbered by item [1])

Omit “subsection (3)”. Insert instead “subsection (2A)”.

**Explanatory note**

The proposed amendments correct a duplication of subsection numbers.

### 2.2 Associations Incorporation Act 1984 No 143

#### Section 3

Omit “Commissioner” from the definition of *approved*.  
Insert instead “Director-General”.

**Explanatory note**

The proposed amendment updates a reference to an office holder.

### 2.3 Bail Regulation 1999

#### Clause 23 Prescribed information respecting forfeiture of bail money

Omit the clause.

**Explanatory note**

The proposed amendment omits a redundant clause in a regulation, the empowering provision for which has been repealed.

### 2.4 Betting Tax Act 2001 No 43

#### [1] Section 12 Rebate of tax to racing clubs

Omit “section 6” from section 12 (1). Insert instead “Part 2”.

**[2] Schedule 3 Amendment of Totalizator Act 1997**

Omit “section 71 (4)” from Schedule 3 [5]. Insert instead “section 71 (3)”.

**Explanatory note**

Item [1] of the proposed amendments corrects a cross-reference.

Item [2] of the proposed amendments corrects an incorporating direction.

**2.5 Business Names Act 1962 No 11**

**Section 4**

Omit “Commissioner” from the definition of *approved* in section 4 (1).  
Insert instead “Director-General”.

**Explanatory note**

The proposed amendment updates a reference to an office holder.

**2.6 Confiscation of Proceeds of Crime Act 1989 No 90**

**Section 4**

Omit “State Drug Crime Commission” from paragraph (b) of the definition of *prescribed authority* in section 4 (1).  
Insert instead “New South Wales Crime Commission”.

**Explanatory note**

The proposed amendment updates a reference to a statutory body.

**2.7 Conveyancing (Sale of Land) Regulation 2000**

**Schedule 3**

Omit “*Energy Services Corporation Act 1995*” from item 3 of Part 3.  
Insert instead “*Energy Services Corporations Act 1995*”.

**Explanatory note**

The proposed amendment corrects the citation of an Act.

**2.8 Co-operative Housing and Starr-Bowkett Societies Act 1998 No 11**

**Section 129**

Omit “entities” from section 129 (a). Insert instead “entities”.

**Explanatory note**

The proposed amendment corrects a typographical error.

## 2.9 Co-operatives Regulation 1997

### Clause 15

Omit “*Corporations (Ancillary Provision) Act 2001*” from clause 15 (1).  
Insert instead “*Corporations (Ancillary Provisions) Act 2001*”.

#### Explanatory note

The proposed amendment corrects the citation of an Act.

## 2.10 Corporations (Consequential Amendments) Act 2001 No 34

### [1] Schedule 4

Omit “articles or association” from Schedule 4.58 [22].  
Insert instead “articles of association”.

### [2] Schedule 4.62

Omit “53” wherever occurring and in the Explanatory note to the Schedule item.  
Insert instead “58”.

#### Explanatory note

The proposed amendments correct incorporating directions.

## 2.11 Crimes (Administration of Sentences) Act 1999 No 93

### Schedule 5

Re-number Part 3 and clause 60 (as inserted by the *Crimes (Administration of Sentences) Amendment Act 2000*) as Part 2A and clause 59A respectively.

#### Explanatory note

The proposed amendment rectifies a duplication of numbers.

## 2.12 Criminal Assets Recovery Act 1990 No 23

### Section 4

Omit the definition of *Commission* from section 4 (1). Insert instead:

*Commission* means the New South Wales Crime Commission constituted under the *New South Wales Crime Commission Act 1985*.

#### Explanatory note

The proposed amendment updates a reference to a statutory body and the Act under which it is constituted.

## 2.13 Criminal Records Act 1991 No 8

### Section 13

Omit “State Drug Crime Commission” from paragraph (h) of the definition of *law enforcement agency* in section 13 (5).  
Insert instead “New South Wales Crime Commission”.

#### Explanatory note

The proposed amendment updates a reference to a statutory body.

## 2.14 Crown Lands (General Reserves) By-law 2001

### [1] Schedule 1 Reserves to which this By-law applies

Insert “Reserve” after “Moonee Beach” in the matter relating to Moonee Beach in the column headed “Reserve name” in Part 1 of Schedule 1.

### [2] Schedule 1, matter relating to Moonee Beach

Omit “Reserve” where secondly occurring in the column headed “Corporate name”.

#### Explanatory note

The proposed amendments correct errors arising from the transposition of a word.

## 2.15 Dust Diseases Tribunal Act 1989 No 63

### Section 10 Jurisdiction and functions of the Tribunal

Insert “declared to be” after “following matters are” in section 10 (6).

#### Commencement

The proposed amendment is taken to have commenced on 15 July 2001.

#### Explanatory note

The proposed amendment ensures that consistent terminology is used in provisions that invoke section 5F of the *Corporations Act 2001* of the Commonwealth.

## 2.16 Entertainment Industry Act 1989 No 230

### Section 4

Omit “mean” from the definition of *director* in section 4 (1).  
Insert instead “meaning”.

#### Explanatory note

The proposed amendment corrects a typographical error.

## 2.17 Environmental Planning and Assessment Regulation 2000

### Clause 3

Renumber paragraphs (d) and (e) of the definition of *fire safety schedule* as paragraphs (a) and (b).

#### Explanatory note

The proposed amendment corrects an error in paragraph numbering.

## 2.18 Exotic Diseases of Animals Act 1991 No 73

### Section 3

Omit the section. Insert instead:

#### 3 Definitions

Words and expressions that are defined in the Dictionary at the end of this Act have the meanings set out in that Dictionary.

#### Explanatory note

The proposed amendment removes a listing of terms defined in the Dictionary.

## 2.19 Forestry Act 1916 No 55

### [1] Section 27

Omit “or, or” from section 27 (3) (a) (v).

### [2] Section 27 (3) (a) (vi)

Renumber the subparagraph (as inserted by the *Rural Lands Protection Act 1998*) as subparagraph (va) and insert “or” at the end of the subparagraph.

#### Explanatory note

Item [1] of the proposed amendments omits redundant words.

Item [2] of the proposed amendments corrects paragraph numbering.

## 2.20 Freight Rail Corporation (Sale) Act 2001 No 35

### [1] Section 2

Omit the section. Insert instead:

#### 2 Commencement

- (1) This Act (other than section 53 and Schedule 3) is taken to have commenced on 13 July 2001.

- (2) Section 53 and Schedule 3 to this Act commence on a day or days to be appointed by proclamation.

**Explanatory note**

A proclamation commencing the *Freight Rail Corporation (Sale) Act 2001* (other than section 53 and Schedule 3) on 13 July 2001 was published in Gazette No 111 of 13 July 2001 at page 5369. An earlier proclamation purporting to commence the whole of the Act on 6 July 2001 should not have been published. The mistake was corrected by an erratum notice published in Gazette No 111 of 13 July 2001 at page 5370. The amendment confirms the effect of the proclamation published on 13 July 2001.

**[2] Schedule 1 clause 1**

Omit “from whom any assets” from the definition of *transferee*.

Insert instead “to whom any assets”.

Omit “to whom any assets” from the definition of *transferor*.

Insert instead “from whom any assets”.

**Explanatory note**

Schedule 1 to the *Freight Rail Corporation (Sale) Act 2001* deals with the transfer of assets, rights and liabilities (under transfer orders to be made pursuant to the sale of FreightCorp) from the transferor to the transferee. The amendment corrects a mistake in the definitions of *transferee* and *transferor* caused by the transposition of the terms “to whom” and “from whom”.

**2.21 Funeral Funds Act 1979 No 106**

**[1] Section 74A**

Omit “Registrar of Funeral Funds” from section 74A (1) (a).

Insert instead “Director-General of the Department of Fair Trading”.

**[2] Section 74A (1) (a)**

Omit “Registrar” where secondly occurring.

Insert instead “Director-General”.

**[3] Section 74A (1) (b)**

Omit “Registrar of Funeral Funds” where firstly occurring.

Insert instead “Director-General of the Department of Fair Trading”.

**[4] Section 74A (1) (b)**

Omit “Registrar of Funeral Funds” where secondly occurring.

Insert instead “Director-General”.

**Explanatory note**

The proposed amendments update references to an office holder.

## **2.22 Home Building Legislation Amendment Act 2001 No 51**

### **[1] Schedule 7**

Omit “from” from Schedule 7 [8]. Insert instead “wherever occurring in”.

### **[2] Schedule 9**

Omit so much of Schedule 9 [2] as inserts clause 56 into Part 8 of Schedule 4 to the *Home Building Act 1989*.

#### **Explanatory note**

Item [1] of the proposed amendments clarifies an incorporation direction.

Item [2] of the proposed amendments omits an uncommenced provision that validates certain certificates of insurance provided under insurance contracts issued by HIH Casualty and General Insurance Limited or FAI General Insurance Company Limited. The clause is now redundant as the certificates of insurance concerned have been validated by clause 67 of Schedule 4 to the *Home Building Act 1989* as inserted by the *Insurance (Policyholders Protection) Legislation Amendment Act 2001*.

## **2.23 Hunters Hill Congregational Church Act 1977 No 30**

### **Section 9**

Omit “persn” from section 9 (1) (b). Insert instead “person”.

#### **Explanatory note**

The proposed amendment corrects a typographical error.

## **2.24 Innovation Council Act 1996 No 77**

### **Schedule 1**

Omit “renumeration” from clause 4 (4). Insert instead “remuneration”.

#### **Explanatory note**

The proposed amendment corrects a typographical error.

## **2.25 Motor Accidents Compensation Regulation (No 2) 1999**

### **Clause 16AA Third-party insurance policies issued under Motor Accidents Act 1988 where insurer becomes insolvent**

Omit the clause.

#### **Explanatory note**

The proposed amendment omits a provision of a savings and transitional nature that is transferred to the *Motor Accidents Compensation Act 1999* by an amendment made in Schedule 4.

## **2.26 Ombudsman Act 1974 No 68**

### **Schedule 1**

Omit item 19. Insert instead:

- 19** Conduct of a public authority where acting as a member of the New South Wales Crime Commission, or the New South Wales Crime Commission Management Committee, under the *New South Wales Crime Commission Act 1985*.

#### **Explanatory note**

The proposed amendment updates references to statutory bodies and to an Act.

## **2.27 Passenger Transport (Private Hire Vehicle Services) Regulation 2001**

### **Schedule 1**

Omit “employer” from Column 3 of the matter relating to clause 24 (2) in Part 2.

Insert instead “employee”.

#### **Explanatory note**

The proposed amendment corrects a typographical error.

## **2.28 Prevention of Cruelty to Animals Act 1979 No 200**

### **Section 8**

Omit “*Rural Lands Protection Act 1989*” from section 8 (4).

Insert instead “*Rural Lands Protection Act 1998*”.

#### **Explanatory note**

The proposed amendment updates a reference to an Act.

## **2.29 Protection of the Environment Operations Act 1997 No 156**

### **Section 146D Littering reports**

Omit “or the State Waste Advisory Council” from section 146D (5).

#### **Explanatory note**

The proposed amendment omits a reference to a body that was abolished by the *Waste Avoidance and Resource Recovery Act 2001*.



## **2.30 Racing Administration Act 1998 No 114**

### **Section 26I**

Omit “Mininster” from section 26I (6). Insert instead “Minister”.

#### **Explanatory note**

The proposed amendment corrects a typographical error.

## **2.31 Rural Lands Protection (General) Regulation 2001**

### **Schedule 6**

Omit “18 (2)” from Column 1 of Part 2. Insert instead “18 (3)”.

#### **Explanatory note**

The proposed amendment corrects a cross reference.

## **2.32 State Owned Corporations Act 1989 No 134**

### **[1] Schedule 6**

Insert “of any requirement” after “contravention” in clause 2 (2).

### **[2] Schedule 7**

Insert “of any requirement” after “contravention” in clause 2 (2).

#### **Explanatory note**

The proposed amendments give effect to amendments made by the *Statute Law (Miscellaneous Provisions) Act 2001* that were unincorporable because the Schedules were replaced before that Act came into force. Those amendments inserted omitted words.

## **2.33 Statute Law (Miscellaneous Provisions) Act 2001 No 56**

### **[1] Schedule 1**

Insert “where firstly occurring” after “controlled activity” in Schedule 1.22 [2].

### **[2] Schedule 4**

Omit “Consumer Credit (New South Wales) Act 1993 No 7”.

Insert instead “Consumer Credit (New South Wales) Act 1995 No 7”.

#### **Commencement**

Item [2] of the amendments to the *Statute Law (Miscellaneous Provisions) Act 2001* is taken to have commenced on 17 July 2001.

#### **Explanatory note**

Item [1] of the proposed amendments clarifies an incorporation direction.

Item [2] of the proposed amendments corrects the citation of an Act.

**2.34 Superannuation Administration (Electricity Superannuation Scheme Transitional Provisions) Regulation 1997**

**[1] Part 5 (where firstly occurring)**

Re-number the Part as Part 6 and insert it after clause 39.

**[2] Part 6 (as renumbered)**

Re-number clauses 18 and 19 as clauses 40 and 41.

**Explanatory note**

The proposed amendments correct duplicated numbering.

**2.35 Superannuation Administration (Local Government Superannuation Scheme Transitional Provisions) Regulation 1997**

**[1] Part 5 (where firstly occurring)**

Re-number the Part as Part 6 and insert it after clause 40.

**[2] Part 6 (as renumbered)**

Re-number clauses 18 and 19 as clauses 41 and 42.

**Explanatory note**

The proposed amendments correct duplicated numbering.

**2.36 Telecommunications (Interception) (New South Wales) Act 1987 No 290**

**[1] Section 3**

Omit “State Drug Crime Commission” wherever occurring.  
Insert instead “New South Wales Crime Commission”.

**[2] Section 21**

Omit “*State Drug Crime Commission Act 1985*” from paragraph (b) (iv).  
Insert instead “*New South Wales Crime Commission Act 1985*”.

**Explanatory note**

The proposed amendments update references to a statutory body and the Act under which it is constituted.

## **2.37 Trade Measurement Administration Act 1989 No 234**

### **Section 5**

Omit “Commissioner” in section 5 (2). Insert instead “Director-General”.

#### **Explanatory note**

The proposed amendment updates a reference to an office holder.

## **2.38 Victims Compensation Rule 1997**

### **Clause 12E**

Omit “*Local Court (Civil Claims) Act 1970*” from clause 12E (2).  
Insert instead “*Local Courts (Civil Claims) Act 1970*”.

#### **Explanatory note**

The proposed amendment corrects the citation of an Act.

## **2.39 Warnervale Airport (Restrictions) Act 1996 No 57**

### **Section 8**

Omit “in cease” from section 8 (4). Insert instead “increase”.

#### **Explanatory note**

The proposed amendment corrects a typographical error.

## **2.40 Waste Avoidance and Resource Recovery Act 2001 No 58**

### **[1] Section 18**

Omit the last sentence of section 18 (2).

### **[2] Section 18 (4)**

Insert after section 18 (3):

- (4) The EPA is, not later than 3 months after the closing date for submissions, to publish a report on any submissions received by the EPA and to make the report available to the public.

### **[3] Section 19**

Insert “Waste” before “Fund” in section 19 (3).

#### **Explanatory note**

Items [1] and [2] of the proposed amendments transfer a provision to a more appropriate part of a section.

Item [3] of the proposed amendments inserts an omitted word.

## **2.41 Water Management Act 2000 No 92**

### **[1] Section 198**

Omit the definitions of *ratable land* and *ratable person*.

### **[2] Section 201**

Omit “members” from section 201 (4) (a). Insert instead “directors”.

#### **Explanatory note**

Item [1] of the proposed amendments omits defined terms that are not used in the Act.  
Item [2] of the proposed amendments corrects a reference to office holders.

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

### **Section 147**

Insert “declared to be” after “following matters are” in section 147 (5).

#### **Commencement**

The proposed amendment is taken to have commenced on 15 July 2001.

#### **Explanatory note**

The proposed amendment ensures that consistent terminology is used in provisions that invoke section 5F of the *Corporations Act 2001* of the Commonwealth.

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## **Schedule 3 Amendments to facilitate implementation of SGML as a markup language for legislation**

(Section 3)

### **3.1 Associations Incorporation Act 1984 No 143**

#### **Section 21A Register of committee members**

Omit “(subsections (1)–(5))” from the matter setting out the maximum penalty for offences.

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

#### **Section 214 Information to be provided**

Omit “(subsections (1)–(3))” from the matter setting out the maximum penalty for offences.

### **3.3 Chiropractors and Osteopaths Act 1991 No 7**

#### **Schedule 3 Proceedings before a Committee and the Tribunal**

Omit “(subclauses (4) and (5))” from the matter setting out the maximum penalty for offences in clause 2.

### **3.4 Classification (Publications, Films and Computer Games) Enforcement Act 1995 No 63**

#### **[1] Section 15 Films to display determined markings and consumer advice**

Omit “(subsections (1)–(3))” from the matter setting out the maximum penalty for offences and transfer that matter to the end of the section.

#### **[2] Section 18 Possession or copying of films for purpose of sale or exhibition**

Omit “(subsections (1) and (2))” from the matter setting out the maximum penalty for offences and transfer that matter to the end of the section.

**[3] Section 23 Misleading or deceptive markings**

Omit “(subsections (1) and (2))” from the matter setting out the maximum penalty for offences and transfer that matter to the end of the section.

**[4] Section 34 Computer games to display determined markings and consumer advice**

Omit “(subsections (1)–(4))” from the matter setting out the maximum penalty for offences and transfer that matter to the end of the section.

**[5] Section 37 Possession or copying of computer games for purpose of sale or demonstration**

Omit “(subsections (1) and (2))” from the matter setting out the maximum penalty for offences and transfer that matter to the end of the section.

**[6] Section 40 Advertisements with feature films**

Insert at the end of section 40 (1):

Maximum penalty: 50 penalty units for an individual, 100 penalty units for a corporation.

**[7] Section 40 (2)**

Omit “(subsections (1) and (2))” from the matter setting out the maximum penalty for offences.

**[8] Section 43 Misleading or deceptive advertisements**

Insert at the end of section 43 (1):

Maximum penalty: 50 penalty units for an individual, 100 penalty units for a corporation.

**[9] Section 43 (2)**

Omit “(subsections (1) and (2))” from the matter setting out the maximum penalty for offences.

**3.5 Co-operatives Act 1992 No 18**

**Section 287 Notice required to be given of substantial share interest**

Omit “(subsections (1)–(3))” from the matter setting out the maximum penalty for offences and transfer that matter to the end of the section.

### **3.6 Firearms Act 1996 No 46**

#### **[1] Sections 37 and 48**

Omit “(subsections (1) and (2))” from the matter setting out the maximum penalty for offences wherever occurring.

#### **[2] Section 44 Information about close associates of firearms dealers**

Omit “(subsections (2)–(4))” from the matter setting out the maximum penalty for offences.

#### **[3] Section 45 Recording of transactions**

Omit “(subsections (2)–(7))” from the matter setting out the maximum penalty for offences.

#### **[4] Sections 52 and 65**

Omit “(subsections (1)–(3))” from the matter setting out the maximum penalty for offences wherever occurring and transfer the matter concerned to the end of the relevant section.

### **3.7 Grain Marketing Act 1991 No 15**

#### **[1] Section 50 Delivery of commodity**

Omit “(subsections (2) and (3))” from the matter setting out the maximum penalty for offences.

#### **[2] Section 86 Information to be furnished**

Omit “(subsections (2) and (4))” from the matter setting out the maximum penalty for offences.

### **3.8 Navigation Act 1901 No 60**

#### **Section 3 Definitions**

Omit “any reference to failure to do any act or thing shall include a reference to refusal to do that act or thing”.

Insert instead:

- (2) In this Act, a reference to a failure to do any act or thing includes a reference to a refusal to do that act or thing.

Schedule 3 Amendments to facilitate implementation of SGML as a markup language for legislation

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### **3.9 Nurses Act 1991 No 9**

#### **Schedule 2 Proceedings before a Committee and the Tribunal**

Omit “(subclauses (4) and (5))” from the matter setting out the maximum penalty for offences in clause 2.

### **3.10 Physiotherapists Registration Act 1945 No 9**

#### **Section 28A Power to summon witnesses, take evidence and obtain documents at inquiries**

Omit the matter setting out the maximum penalty for offences under subsections (4) and (5).

### **3.11 Plant Diseases Act 1924 No 38**

#### **Schedules 1 and 2**

Omit the bullet points wherever occurring.

### **3.12 Podiatrists Act 1989 No 23**

#### **Section 15A Power to summon witnesses, take evidence and obtain documents at inquiries**

Omit the matter setting out the maximum penalty for offences under subsections (4) and (5).

### **3.13 Psychologists Act 1989 No 51**

#### **Section 15A Power to summon witnesses, take evidence and obtain documents at inquiries**

Omit the matter setting out the maximum penalty for offences under subsections (4) and (5).



Statute Law (Miscellaneous Provisions) Bill (No 2) 2001

Amendments to facilitate implementation of SGML as a markup language  
for legislation

Schedule 3

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### **3.14 Public Authorities (Financial Arrangements) Act 1987 No 33**

#### **Schedule 4**

Omit the heading “Preliminary” occurring before clause 1 in Schedule 4.  
Insert instead “Part 1A Preliminary”.

### **3.15 Retail Leases Act 1994 No 46**

#### **Section 25A Limits on sinking funds**

Omit “(subsections (2), (3) and (4))” from the matter setting out the maximum  
penalty for offences.

## Schedule 4 Amendments transferring provisions

(Section 3)

### 4.1 Heritage Act 1977 No 136

#### Schedule 1 Savings and transitional provisions

Insert after Part 1:

### Part 1A Provisions consequent on enactment of Heritage (Amendment) Act 1987

#### 1A Application of amendments

- (1) Sections 146A–146C, as inserted by the amending Act, do not apply to or in respect of a relic obtained from an excavation carried out pursuant to an excavation permit issued before 3 April 1987.
- (2) This clause is taken to have commenced on 3 April 1987 (the date of commencement of the amending Act).
- (3) Subclause (1) re-enacts (with minor modifications) clause 4 of Schedule 5 to the amending Act. Subclause (1) is a transferred provision to which section 30A of the *Interpretation Act 1987* applies.
- (4) In this clause:

*amending Act* means the *Heritage (Amendment) Act 1987*.

#### Explanatory note

The proposed amendment inserts in Schedule 1 (Savings and transitional provisions) to the *Heritage Act 1977* the substance of transitional provisions (of possible ongoing effect) contained in the *Heritage (Amendment) Act 1987*. The enactment of the amendment enables the repeal, by Schedule 5 to this Act, of that Act. In accordance with section 30A of the *Interpretation Act 1987*, the transfer of the provisions does not affect the operation (if any) or meaning of the provisions.

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## 4.2 Motor Accidents Compensation Act 1999 No 41

### Schedule 5 Savings, transitional and other provisions

Insert after clause 15:

#### 15A Third-party insurance policies issued under Motor Accidents Act 1988 where insurer becomes insolvent

- (1) Part 7.3 extends to any claim made under a third-party policy of insurance issued under the *Motor Accidents Act 1988* in respect of a motor accident occurring before the commencement of that Part as if the policy had been issued under this Act.
- (2) Part 7.3 extends as referred to in subclause (1):
  - (a) whether or not the third-party policy of insurance has had effect for any period after the commencement of that Part, and
  - (b) whether the claim was made before or after the commencement of that Part, and
  - (c) whether the relevant insurer became an insolvent insurer before or after the commencement of this clause.

#### Explanatory note

The proposed amendment transfers a provision of a savings and transitional nature from the *Motor Accidents Compensation Regulation (No 2) 1999* into its parent Act.

## 4.3 National Crime Authority (State Provisions) Act 1984 No 157

### Section 35 and Schedule 1

Insert after section 34:

#### 35 Savings and transitional provisions

Schedule 1 has effect.

### Schedule 1 Savings and transitional provisions

(Section 35)

#### 1 Transitional provision consequent on enactment of National Crime Authority (State Provisions) Amendment Act 1994

- (1) Section 6 (as amended by Schedule 1 (2) to the amending Act) applies to investigations started before 1 January 1995 as well as to investigations started after that date.

- (2) This clause is taken to have commenced on 1 January 1995 (the date of commencement of the amending Act).
- (3) Subclause (1) re-enacts (with minor modifications) section 4 of the amending Act. Subclause (1) is a transferred provision to which section 30A of the *Interpretation Act 1987* applies.
- (4) In this clause:  
*amending Act* means the *National Crime Authority (State Provisions) Amendment Act 1994*.

**Explanatory note**

The proposed amendment inserts Schedule 1 (Savings and transitional provisions) into the *National Crime Authority (State Provisions) Act 1984*. The Schedule includes the substance of a transitional provision (of possible ongoing effect) contained in the *National Crime Authority (State Provisions) Amendment Act 1994*. The enactment of the amendment enables the repeal, by Schedule 5 to this Act, of that Act. In accordance with section 30A of the *Interpretation Act 1987*, the transfer of the provision does not affect the operation (if any) or meaning of the provision.

#### **4.4 Transport Employees Retirement Benefits Act 1967 No 96**

**[1] Section 65**

Insert after section 64:

**65 Savings and transitional provisions**

Schedule 7 has effect.

**[2] Schedule 7**

Insert after Schedule 6:

### **Schedule 7 Savings and transitional provisions**

(Section 65)

**1 Transitional provision consequent on enactment of Transport Employees Retirement Benefits (Amendment) Act 1979**

- (1) Part 3, as amended by the amending Act, applies in respect of a contributor who died on or after 25 May 1979 (the date of commencement of the amending Act).
- (2) Part 3, as in force before the commencement of the amending Act, applies in respect of a contributor who died before 25 May 1979 as if the amending Act had not been enacted.
- (3) This clause is taken to have commenced on 25 May 1979 (the date of commencement of the amending Act).

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- (4) Subclauses (1) and (2) re-enact (with minor modifications) section 3 of the amending Act. Subclauses (1) and (2) are transferred provision to which section 30A of the *Interpretation Act 1987* applies.
- (5) In this clause:  
**amending Act** means the *Transport Employees Retirement Benefits (Amendment) Act 1979*.

**Explanatory note**

The proposed amendments insert Schedule 7 (Savings and transitional provisions) into the *Transport Employees Retirement Benefits Act 1967*. The Schedule includes the substance of a transitional provision (of possible ongoing effect) contained in the *Transport Employees Retirement Benefits (Amendment) Act 1979*. The enactment of the amendments enables the repeal, by Schedule 5 to this Act, of that Act. In accordance with section 30A of the *Interpretation Act 1987*, the transfer of the provision does not affect the operation (if any) or meaning of the provision.

## **4.5 Valuers Registration Act 1975 No 92**

### **[1] Part 5**

Omit the heading to Part 5.

### **[2] Section 31**

Insert before Schedule 1:

#### **31 Savings and transitional provisions**

Schedule 2 has effect.

### **[3] Schedule 2**

Insert after Schedule 1:

## **Schedule 2 Savings and transitional provisions**

(Section 31)

### **1 Savings provision consequent on enactment of Valuers Registration (Amendment) Act 1981**

- (1) Subject to this Act, as amended by the amending Act, a person who, immediately before 12 February 1982, was registered as:
- (a) a practising real estate valuer, on and from that day continues to be registered as a practising real estate valuer, and

- (b) a non-practising real estate valuer, on and from that day continues to be registered as a non-practising real estate valuer.
- (2) The practising real estate valuers subdivision of the register as in existence immediately before 12 February 1982 is, subject to this Act, as amended by the amending Act, taken on and from that day to be the practising real estate valuers division of the register.
- (3) The non-practising real estate valuers subdivision of the register as in existence immediately before 12 February 1982 is, subject to this Act, as amended by the amending Act, taken on and from that day to be the non-practising real estate valuers division of the register.
- (4) A limitation, in force immediately before 12 February 1982, imposed by the board under section 15 (2) (c), as so in force, or varied by the board under section 16A, as so in force, is, subject to this Act as amended by the amending Act, on and from that day, taken to be a limitation imposed by the board under section 15 (2) (c), as amended by the amending Act.
- (5) This clause is taken to have commenced on 12 February 1982 (the date of commencement of the amending Act).
- (6) Subclauses (1)–(4) re-enact (with minor modifications) clauses 3–5 of Schedule 2 to the amending Act. Subclauses (1)–(4) are transferred provisions to which section 30A of the *Interpretation Act 1987* applies.
- (7) In this clause:  
*amending Act* means the *Valuers Registration (Amendment) Act 1981*.

**Explanatory note**

Items [2] and [3] of the proposed amendments insert Schedule 2 (Savings and transitional provisions) into the *Valuers Registration Act 1975*. The Schedule includes the substance of savings and transitional provisions (of possible ongoing effect) contained in the *Valuers Registration (Amendment) Act 1981*. The enactment of the amendments enables the repeal, by Schedule 5 to this Act, of that Act. In accordance with section 30A of the *Interpretation Act 1987*, the transfer of the provisions does not affect the operation (if any) or meaning of the provisions.

Item [1] of the proposed amendments makes a consequential amendment.

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## Schedule 5 Repeals

(Section 4)

Federal Aid Roads (Further Agreement) Act 1931 No 49<sup>1</sup>  
Finances Adjustment (Further Provisions) Act 1932 No 64<sup>3</sup>  
Civil Service (Amendment) Act 1957 No 2<sup>1</sup>  
Health Commission and Other Acts (Amendment) Act 1975 No 8<sup>3</sup>  
Coal Mines Regulation (Postponement of Commencement) Regulation 1984<sup>1</sup>  
Heritage (Amendment) Act 1987 No 11<sup>5</sup>  
Children (Community Service Orders) Amendment Act 1988 No 9<sup>3</sup>  
Drug Misuse and Trafficking (Amendment) Act 1988 No 17<sup>3</sup>  
Judicial Officers Legislation (Amendment) Act 1990 No 56<sup>3</sup>  
Courts Legislation (Civil Procedure) Amendment Act 1991 No 12<sup>3</sup>  
Criminal Procedure (Police Custody of Property) Amendment Act 1991 No 44<sup>3</sup>  
Corporations (New South Wales) Amendment Act 1991 No 52<sup>3</sup>  
Letona Co-operative (Financial Assistance) Act 1993 No 85<sup>1</sup>  
First State Superannuation Transitional Regulation 1994<sup>1</sup>  
Exhibited Animals Protection Amendment Act 1996 No 11<sup>3</sup>  
Forests and Flora Reserves Revocation Act 1996 No 36<sup>1</sup>  
City of Sydney Planning (Repeal) Regulation 1997<sup>1</sup>  
Education Reform Amendment Act 1997 No 127<sup>3</sup>  
Environmental Planning and Assessment Amendment Act 1999 No 72<sup>3</sup>  
Liquor and Registered Clubs (Olympic and Paralympic Games) Act 1999  
No 95<sup>2</sup>  
Liquor and Registered Clubs (Olympic and Paralympic Games)  
Regulation 2000<sup>2</sup>  
Conveyancers Licensing Amendment (Professional Indemnity Insurance)  
Act 2000 No 3<sup>4</sup>  
Appropriation (Budget Variations) Act 2000 No 10<sup>1</sup>  
Liquor (Rugby League Grand Final Special Provisions) Act 2001 No 63<sup>1</sup>  
Miscellaneous Acts (Fine Default) Amendment Act 1987 No 266<sup>3</sup>  
National Crime Authority (State Provisions) Amendment Act 1994 No 62<sup>5</sup>  
Occupational Health and Safety Amendment (Police Officers) Act 2000 No 11<sup>4</sup>  
Olympic Arrangements Act 2000 No 1<sup>2</sup>  
Olympic Arrangements (Penalty Notice Offences) Regulation 2000<sup>2</sup>  
Olympic Arrangements Regulation 2000<sup>2</sup>  
Parliamentary Supply Act 1994 No 52<sup>1</sup>  
Police Service Amendment (Complaints and Management Reform) Act 1998  
No 123<sup>3</sup>  
Retail Leases (Sydney Airport) Regulation 1999<sup>2</sup>  
Roads Amendment (Tolls) Act 1999 No 83<sup>3</sup>  
Royal Botanic Gardens and Domain Trust Amendment Act 1997 No 131<sup>3</sup>  
Royal North Shore Hospital of Sydney Act 1910 No 20<sup>1</sup>  
Search Warrants (Amendment) Act 1991 No 92<sup>3</sup>

Security Industry (Olympic and Paralympic Games) Act 1999 No 90<sup>2</sup>  
Standard Time Amendment Act 1999 No 13<sup>2</sup>  
State Revenue Legislation (Amendment) Act 1992 No 48<sup>3</sup>  
State Revenue Legislation Amendment Act 1999 No 10<sup>3</sup>  
State Revenue Legislation Further Amendment Act 1998 No 81<sup>3</sup>  
Timber Industry (Interim Protection) Act 1992 No 1<sup>2</sup>  
Transport Employees Retirement Benefits (Amendment) Act 1979 No 35<sup>5</sup>  
Valuers Registration (Amendment) Act 1981 No 79<sup>5</sup>  
Water Legislation Amendment Act 1997 No 128<sup>3</sup>  
Workers Compensation Legislation (Amendment) Act 1991 No 100<sup>3</sup>  
Zoological Parks Board Amendment Act 2000 No 7<sup>4</sup>  
Zoological Parks Board (Conservation and Environmental Objectives)  
Amendment Act 1992 No 44<sup>3</sup>

**Notes**

- <sup>1</sup> Acts or regulations that are no longer of practical utility.
- <sup>2</sup> Acts or regulations that have expired.
- <sup>3</sup> Acts passed in 1999 or earlier that contain only amendments or spent provisions.
- <sup>4</sup> Acts passed in 2000 that contain only amendments that have been incorporated in reprints or spent provisions.
- <sup>5</sup> Acts that contain only amendments and savings or transitional provisions that have been transferred to the relevant Principal Act by Schedule 4.

**Explanatory note**

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.

Section 30 (2) of the *Interpretation Act 1987* ensures that, when an Act or a statutory rule (such as a regulation) is amended or repealed, no amendment made by the Act or statutory rule is affected. Section 30 (2) also ensures that the following matters are not affected:

- (a) the proof of any past act or thing,
- (b) any right, privilege, obligation or liability saved by the operation of the Act or statutory rule,
- (c) any validation made by the Act or statutory rule,
- (d) the operation of any savings or transitional provision contained in the Act or statutory rule.



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## Schedule 6 General savings, transitional and other provisions

(Section 5)

### 1 Effect of amendment of amending provisions

(1) An amendment made by Schedule 1 or 2 to an amending provision contained in an Act is, if the amending provision has commenced before the date of assent to this Act, taken to have effect as from the commencement of the amending provision.

(2) In this clause:

**amending provision** means a provision of an Act, or of any other instrument, being a provision that has commenced and that makes a direct amendment to an Act by:

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

whether the provision was enacted before or after the commencement of the *Reprints Act 1972*.

**Explanatory note**

This clause ensures that certain amendments, including amendments correcting errors in the 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 commence on the date the amendments to which they relate commenced.

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

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

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

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

**Explanatory note**

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

**3 Effect of amendment on statutory rules**

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

**Explanatory note**

This clause ensures that, unless expressly provided, any statutory rule 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.

**4 Revocation of repeal**

*Hunter Regional Environmental Plan 1989 (Heritage)* is taken to have been, and always to have been, repealed by *Gloucester Local Environmental Plan 2000* only to the extent to which it applied to land in the Gloucester local government area.

**Explanatory note**

This clause revokes the repeal of *Hunter Regional Environmental Plan 1989 (Heritage)* in so far as that Plan applies to land other than land in the Gloucester local government area.

**5 Regulations**

- (1) The Governor may make regulations containing provisions of a savings or transitional nature consequent on the enactment of this Act.
- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to this Act or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication 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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## Notes

### Index of Acts and regulations amended by Schedules 1–4

Administrative Decisions Legislation Amendment Act 1997 No 77—Schedule 1  
Adoption Act 2000 No 75—Schedule 1  
Agricultural Industry Services Act 1998 No 45—Schedule 2  
Associations Incorporation Act 1984 No 143—Schedules 2 and 3  
Bail Regulation 1999—Schedule 2  
Betting Tax Act 2001 No 43—Schedule 2  
Building and Construction Industry Long Service Payments Act 1986 No 19—  
Schedule 1  
Business Names Act 1962 No 11—Schedule 2  
Children and Young Persons (Care and Protection) Act 1998 No 157—Schedules 1  
and 3  
Chiropractors and Osteopaths Act 1991 No 7—Schedule 3  
Classification (Publications, Films and Computer Games) Enforcement Act 1995  
No 63—Schedule 3  
Coal Ownership (Restitution) Act 1990 No 19—Schedule 1  
Community Land Management Act 1989 No 202—Schedule 1  
Companion Animals Act 1998 No 87—Schedule 1  
Confiscation of Proceeds of Crime Act 1989 No 90—Schedule 2  
Conveyancing (Sale of Land) Regulation 2000—Schedule 2  
Co-operative Housing and Starr-Bowkett Societies Act 1998 No 11—Schedule 2  
Co-operatives Act 1992 No 18—Schedules 1 and 3  
Co-operatives Regulation 1997—Schedule 2  
Corporations (Consequential Amendments) Act 2001 No 34—Schedule 2  
Crimes (Administration of Sentences) Act 1999 No 93—Schedule 2  
Criminal Assets Recovery Act 1990 No 23—Schedule 2  
Criminal Records Act 1991 No 8—Schedule 2  
Crown Lands (General Reserves) By-law 2001—Schedule 2  
Defamation Act 1974 No 18—Schedule 1  
Dust Diseases Tribunal Act 1989 No 63—Schedule 2  
Employment Agents Act 1996 No 18—Schedule 1  
Entertainment Industry Act 1989 No 230—Schedule 2  
Environmental Planning and Assessment Regulation 2000—Schedule 2  
Exotic Diseases of Animals Act 1991 No 73—Schedule 2  
Fines Act 1996 No 99—Schedule 1  
Firearms Act 1996 No 46—Schedule 3  
Forestry Act 1916 No 55—Schedule 2  
Freight Rail Corporation (Sale) Act 2001 No 35—Schedule 2  
Funeral Funds Act 1979 No 106—Schedule 2  
Geographical Names Act 1966 No 13—Schedule 1  
Grain Marketing Act 1991 No 15—Schedule 3

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Guardianship Act 1987 No 257—Schedule 1  
Health Administration Act 1982 No 135—Schedule 1  
Heritage Act 1977 No 136—Schedule 4  
Home Building Act 1989 No 147—Schedule 1  
Home Building Legislation Amendment Act 2001 No 51—Schedule 2  
Hunters Hill Congregational Church Act 1977 No 30—Schedule 2  
Independent Pricing and Regulatory Tribunal Act 1992 No 39—Schedule 1  
Innovation Council Act 1996 No 77—Schedule 2  
Law and Justice Foundation Act 2000 No 97—Schedule 1  
Legal Profession Act 1987 No 109—Schedule 1  
Local Government Act 1993 No 30—Schedule 1  
Mining Act 1992 No 29—Schedule 1  
Motor Accidents Compensation Act 1999 No 41—Schedules 1 and 4  
Motor Accidents Compensation Regulation (No 2) 1999—Schedule 2  
National Crime Authority (State Provisions) Act 1984 No 157—Schedule 4  
Navigation Act 1901 No 60—Schedule 3  
Nurses Act 1991 No 9—Schedule 3  
Occupational Health and Safety Act 2000 No 40—Schedule 1  
Ombudsman Act 1974 No 68—Schedule 2  
Passenger Transport (Private Hire Vehicle Services) Regulation 2001—Schedule 2  
Petroleum (Onshore) Act 1991 No 84—Schedule 1  
Physiotherapists Registration Act 1945 No 9—Schedule 3  
Plant Diseases Act 1924 No 38—Schedule 3  
Podiatrists Act 1989 No 23—Schedule 3  
Prevention of Cruelty to Animals Act 1979 No 200—Schedule 2  
Protected Disclosures Act 1994 No 92—Schedule 1  
Protection of the Environment Operations Act 1997 No 156—Schedule 2  
Psychologists Act 1989 No 51—Schedule 3  
Public Authorities (Financial Arrangements) Act 1987 No 33—Schedule 3  
Racing Administration Act 1998 No 114—Schedule 2  
Retail Leases Act 1994 No 46—Schedule 3  
Rural Lands Protection (General) Regulation 2001—Schedule 2  
State Owned Corporations Act 1989 No 134—Schedule 2  
Statute Law (Miscellaneous Provisions) Act 2001 No 56—Schedule 2  
Stock (Chemical Residues) Act 1975 No 26—Schedule 1  
Superannuation Administration (Electricity Superannuation Scheme Transitional Provisions) Regulation 1997—Schedule 2  
Superannuation Administration (Local Government Superannuation Scheme Transitional Provisions) Regulation 1997—Schedule 2  
Telecommunications (Interception) (New South Wales) Act 1987 No 290—Schedule 2  
Tow Truck Industry Act 1998 No 111—Schedule 1  
Trade Measurement Administration Act 1989 No 234—Schedule 2  
Transport Employees Retirement Benefits Act 1967 No 96—Schedule 4  
Travel Agents Act 1986 No 5—Schedule 1

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Valuers Registration Act 1975 No 92—Schedules 1 and 4  
Victims Compensation Rule 1997—Schedule 2  
Warnervale Airport (Restrictions) Act 1996 No 57—Schedule 2  
Waste Avoidance and Resource Recovery Act 2001 No 58—Schedule 2  
Water Management Act 2000 No 92—Schedule 2  
Workers Compensation Act 1987 No 70—Schedule 2

**Index of Acts and regulations repealed by Schedule 5**

Appropriation (Budget Variations) Act 2000 No 10  
Children (Community Service Orders) Amendment Act 1988 No 9  
City of Sydney Planning (Repeal) Regulation 1997  
Civil Service (Amendment) Act 1957 No 2  
Coal Mines Regulation (Postponement of Commencement) Regulation 1984  
Conveyancers Licensing Amendment (Professional Indemnity Insurance) Act 2000 No 3  
Corporations (New South Wales) Amendment Act 1991 No 52  
Courts Legislation (Civil Procedure) Amendment Act 1991 No 12  
Criminal Procedure (Police Custody of Property) Amendment Act 1991 No 44  
Drug Misuse and Trafficking (Amendment) Act 1988 No 17  
Education Reform Amendment Act 1997 No 127  
Environmental Planning and Assessment Amendment Act 1999 No 72  
Exhibited Animals Protection Amendment Act 1996 No 11  
Federal Aid Roads (Further Agreement) Act 1931 No 49  
Finances Adjustment (Further Provisions) Act 1932 No 64  
First State Superannuation Transitional Regulation 1994  
Forests and Flora Reserves Revocation Act 1996 No 36  
Health Commission and Other Acts (Amendment) Act 1975 No 8  
Heritage (Amendment) Act 1987 No 11  
Judicial Officers Legislation (Amendment) Act 1990 No 56  
Letona Co-operative (Financial Assistance) Act 1993 No 85  
Liquor and Registered Clubs (Olympic and Paralympic Games) Act 1999 No 95  
Liquor and Registered Clubs (Olympic and Paralympic Games) Regulation 2000  
Liquor (Rugby League Grand Final Special Provisions) Act 2001 No 63  
Miscellaneous Acts (Fine Default) Amendment Act 1987 No 266  
National Crime Authority (State Provisions) Amendment Act 1994 No 62  
Occupational Health and Safety Amendment (Police Officers) Act 2000 No 11  
Olympic Arrangements Act 2000 No 1  
Olympic Arrangements (Penalty Notice Offences) Regulation 2000  
Olympic Arrangements Regulation 2000  
Parliamentary Supply Act 1994 No 52  
Police Service Amendment (Complaints and Management Reform) Act 1998 No 123  
Retail Leases (Sydney Airport) Regulation 1999  
Roads Amendment (Tolls) Act 1999 No 83  
Royal Botanic Gardens and Domain Trust Amendment Act 1997 No 131  
Royal North Shore Hospital of Sydney Act 1910 No 20

Search Warrants (Amendment) Act 1991 No 92  
Security Industry (Olympic and Paralympic Games) Act 1999 No 90  
Standard Time Amendment Act 1999 No 13  
State Revenue Legislation (Amendment) Act 1992 No 48  
State Revenue Legislation Amendment Act 1999 No 10  
State Revenue Legislation Further Amendment Act 1998 No 81  
Timber Industry (Interim Protection) Act 1992 No 1  
Transport Employees Retirement Benefits (Amendment) Act 1979 No 35  
Valuers Registration (Amendment) Act 1981 No 79  
Water Legislation Amendment Act 1997 No 128  
Workers Compensation Legislation (Amendment) Act 1991 No 100  
Zoological Parks Board Amendment Act 2000 No 7  
Zoological Parks Board (Conservation and Environmental Objectives) Amendment Act 1992 No 44