



New South Wales

Statute Law (Miscellaneous Provisions) Bill 2023

Explanatory note

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

Overview of Bill

The objects of this Bill are to—

- (a) make minor amendments to various Acts (Schedule 1), and
- (b) amend certain other Acts and instruments for the purpose of effecting statute law revision (Schedule 2), and
- (c) amend the *Interpretation Act 1978* and other Acts and instruments for the purpose of effecting statute law revision (Schedule 3), and
- (d) make other provisions of a consequential or ancillary nature (Schedule 4).

Outline of provisions

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

Clause 2 provides for the commencement of the proposed Act on 14 July 2023.

Schedule 1 Minor amendments

Schedule 1.1[1] and [2] amend the *Community Land Management Act 2021* to correct inconsistent wording to reflect the wording of the *Community Land Management Act 2021*, section 194, which provides that the Tribunal may make an order that a schedule of unit entitlements for a community scheme, precinct scheme or neighbourhood scheme be “replaced”, rather than “substituted” or “allocated”.

Schedule 1.1[3] amends the *Community Land Management Act 2021* to correct inconsistent wording to clarify that the *Community Land Management Act 2021*, section 206(1)(a) applies to orders replacing the schedule of unit entitlements for community schemes, precinct schemes and neighbourhood schemes. This wording is consistent with the power of the Tribunal under the *Community Land Management Act 2021*, section 194.

Schedule 1.1[4] amends the *Community Land Management Act 2021* to remove incorrect wording which describes that the schedule of unit entitlements is found in the folio of the Register for the common property. For community schemes, precinct schemes and neighbourhood schemes, the schedule of unit entitlements is included as part of the scheme plan, rather than in the folio of the Register for common property.

Schedule 1.2[1] and [3] amend the *Community Services (Complaints, Reviews and Monitoring) Act 1993* to update references to the Minister.

Schedule 1.2[2] amends the *Community Services (Complaints, Reviews and Monitoring) Act 1993* to update references to the Minister and clarifies that, for the purposes of the *Community Services (Complaints, Reviews and Monitoring) Act 1993*, a service provider includes a person or organisation funded, authorised or licensed by a public service agency responsible to the Minister.

Schedule 1.3 amends the *Contaminated Land Management Act 1994* to omit a reference to a repealed guideline.

Schedule 1.4[1] and [2] amend the *Conveyancers Licensing Act 2003* to relocate an existing provision to a new section and omit an obsolete reference to a statutory declaration no longer required to be provided in certain circumstances under the *Conveyancers Licensing Act 2003*, section 77.

Schedule 1.5 amends the *Criminal Procedure Act 1986* to make a necessary consequential amendment arising from the amendment made by Schedule 1.12[3].

Schedule 1.6[1] amends the *District Court Act 1973* to update the name of a court.

Schedule 1.6[2] amends the *District Court Act 1973* to update the jurisdictional limits that apply to actions at the time an action was commenced to reflect the amendments made to the District Court's jurisdictional limits by the *District Court Amendment Act 2022*.

Schedule 1.6[3] amends the *District Court Act 1973* to replace a reference to provisions of the repealed *Victims Compensation Act 1996* with a reference to the equivalent provisions of the *Victims Rights and Support Act 2013*.

Schedule 1.7 amends the *Drug Misuse and Trafficking Act 1985* to remove particular words that provided an exception that anabolic and androgenic steroidal agents, testosterone and trenbolone could be used in the implant preparations for use in animals. The exception is not required in the Schedule because the exception is dealt with by the *Drug Misuse and Trafficking Act 1985*, section 8 and other legislation authorising the use of these drugs in animals.

Schedule 1.8[1] amends the *Fisheries Management Act 1994* to omit an entitlement that has not been used for many years. Fishing licences are as a matter of course issued based on the entitlements under section 103(2)(a) or (c). The proposed repeal of section 103(2)(b) is expected to have no impact on persons who hold or are eligible to hold a licence.

Schedule 1.8[2] amends the *Fisheries Management Act 1994* to update a reference to a form.

Schedule 1.8[3] amends the *Fisheries Management Act 1994* to allow the charging of an administrative fee if the holder of an aquaculture permit applies to the Minister for revocation or variation of the conditions of the holder's permit.

Schedule 1.9 amends the *Game and Feral Animal Control Act 2002* to permit the Secretary of the Department of Regional NSW to waive or refund fees for game hunting licences and applications for game hunting licences. The waiver and refund of the fees was authorised under the *Game and Feral Animal Control Regulation 2012* before its repeal on 26 August 2022.

Schedule 1.10[1] amends the *Hemp Industry Act 2008* to make it clear that the definition of *low-THC hemp*, which includes plants with a concentration of THC of no more than 1%, extends to resins derived from those plants. **Schedule 1.10[2]** amends the *Hemp Industry Act 2008* to substitute a note consequent on item [1] and the enactment of the *Narcotic Drugs Amendment (Medicinal Cannabis) Act 2021*.

Schedule 1.11 amends the *Human Tissue Act 1983* to remove redundant provisions. In accordance with the *Human Tissue Act 1983*, section 34(4), the Minister published a notice in the Gazette specifying 1 November 2021 as the date the relevant provisions ceased to have effect.

Schedule 1.12 amends the *Hunter Water Act 1991* to enable the regulations to provide for the Secretary of the Department of Planning and Environment to issue approvals or give directions in relation to activities in special areas and to delegate the functions to certain persons.

Schedule 1.13[1] and [2] amend the *Law Enforcement (Powers and Responsibilities) Act 2002* to correct cross-references in provisions relating to the terms of a digital evidence access order issued on an application made by telephone. **Schedule 1.13[3]** makes consequential amendments that should have been made by the *Law Enforcement (Powers and Responsibilities) Amendment (Digital Evidence Access Orders) Act 2022* and the *Dedicated Encrypted Criminal Communication Device Prohibition Orders Act 2022*. **Schedule 1.13[4]** inserts a missing word.

Schedule 1.14[1] and [2] amend the *Medicines, Poisons and Therapeutic Goods Act 2022* to ensure that the offence of prescribing, supplying or administering prescribed Schedule 8 substances and other prescribed therapeutic goods without an approval of the Health Secretary applies to veterinary practitioners in the same way as it applies to health practitioners.

Schedule 1.15 amends the *Mental Health and Cognitive Impairment Forensic Provisions Act 2020* to recast the language of section 96(3) for greater consistency with the language of that Act, sections 94 and 95 and involves no change in policy.

Schedule 1.16[1] and [2] amend the *Pesticides Act 1999* to make changes consequential to the renaming of the National Registration Authority as the Australian Pesticides and Veterinary Medicines Authority (the *APVMA*) in 2004.

Schedule 1.17[1], [2], [4], [6], [9] and [11] amend the *Plantations and Reafforestation Act 1999* to update references to the repealed *Threatened Species Conservation Act 1995* with equivalent references to the *Biodiversity Conservation Act 2016*. **Schedule 1.17[5]** makes a consequential amendment to the *Plantations and Reafforestation Act 1999*.

Schedule 1.17[3], [7] and [8] amend the *Plantations and Reafforestation Act 1999* to replace references to the Minister administering the *National Parks and Wildlife Act 1974* with the Minister administering the *Biodiversity Conservation Act 2016*, following the repeal of parts of the *National Parks and Wildlife Act 1974* and the commencement of the *Biodiversity Conservation Act 2016*.

Schedule 1.17[10] amends the *Plantations and Reafforestation Act 1999* to replace references to repealed provisions of the *National Parks and Wildlife Act 1974* with the equivalent provisions of the *Biodiversity Conservation Act 2016*.

Schedule 1.18[1] and [2] amend the *Plastic Reduction and Circular Economy Act 2021* to clarify that the requirement for a prohibited plastic item to be either unnecessary or problematic applies only to items prescribed by the regulations and not to items listed in that Act, Schedule 1, Part 1. **Schedule 1.18[3]** is consequential to the amendment made by Schedule 1.17[1].

Schedule 1.19[1] and [2] amend the *Property and Stock Agents Act 2002* to relocate an existing provision to a new section and omit an obsolete reference to a statutory declaration no longer required to be provided in certain circumstances under a repealed provision of the *Property and Stock Agents Act 2002*, Part 8, Division 2.

Schedule 1.20[1] amends the *Protection of the Environment Operations Act 1997* to remove a reference to an agency which has ceased to exist.

Schedule 1.20[2] amends the *Protection of the Environment Operations Act 1997* to correct an internal inconsistency in that Act, section 167A.

Schedule 1.20[3] and [4] amend the *Protection of the Environment Operations Act 1997* to recast the current section 287(1) to clarify its effect and make it clear that a person whose licence application is deemed to be refused may appeal within 21 days of the deemed refusal.

Schedule 1.21 amends the *Public Works and Procurement Act 1912* to enable a government agency head to delegate to a member of staff of the agency the power to issue a public interest certificate under that Act, section 176G.

Schedule 1.22[1] amends the *Subordinate Legislation Act 1989* to correct the name of an instrument. **Schedule 1.22[2]** amends the *Subordinate Legislation Act 1989* to postpone the date on which several regulations are automatically repealed by the *Subordinate Legislation Act 1989*. As the automatic repeal of each regulation has been postponed at least 5 times, it cannot be further postponed by order under the *Subordinate Legislation Act 1989*, section 11.

The regulations are currently due to be repealed on 1 September 2023 but they continue to be required. Their repeal is proposed to be further postponed for the following reasons—

- (a) A Bill is being prepared to repeal and replace the *Boarding Houses Act 2012*. The *Boarding Houses Regulation 2013* is required until the new Act and accompanying Regulation commence.
- (b) A review of the expenditure growth rate target is expected to occur in 2023. It is considered premature to remake the *Fiscal Responsibility Regulation 2013* before the conclusion of the review.
- (c) Heritage NSW is undertaking a significant review of the *Heritage Act 1997*. It is considered premature to remake the *Heritage Regulation 2012* before the conclusion of the review.
- (d) The NSW Government is in the process of reforming the animal welfare regulatory framework and has made public commitments to introduce new legislation and work towards the development of new supporting regulations. It is recommended that the staged repeal of the *Prevention of Cruelty to Animals Regulation 2012* and the *Veterinary Practice Regulation 2013* be deferred to allow time to develop the new regulations.
- (e) On 1 October 2023, the *Public Interest Disclosures Act 2022* will commence and will repeal both the *Public Interest Disclosures Act 1994* and the *Public Interest Disclosures Regulation 2011*. New regulations will be made pursuant to the *Public Interest Disclosures Act 2022*. It would be premature to remake the regulation prior to the commencement of the new legislation.
- (f) In December 2021, a report on the review of the *Radiation Control Act 1990* was tabled in Parliament. The review found that securing the objectives of the Act would be improved by adopting several recommended changes. The review noted that some of the recommendations could be appropriately addressed as part of the remake of the *Radiation Control Regulation 2013*. Cabinet approval has been given to amend the Act and the Bill is likely to be introduced to Parliament in mid-2023. Postponing the repeal of the *Radiation Control Regulation 2013* will enable the EPA to identify the necessary Regulation changes for the remake following the Act amendments.
- (g) The *Statutory and Other Offices Remuneration (Judicial and Other Office Holders) Regulation 2013* should be postponed to allow consideration of amendments related to the NSW Public Sector Wages Policy.
- (h) The Office of the Children's Guardian will be commencing a review of the *Child Protection (Working with Children) Act 2012* in 2023. It is therefore considered premature to remake the *Child Protection (Working with Children) Regulation 2013*.

Schedule 1.22[2] also re-enacts an existing postponement of the automatic repeal of the *Explosives Regulation 2013*.

Schedule 1.23[1] amends the *Victims Rights and Support Act 2013* to update out of date cross-references to the repealed *Victims Rights and Support Regulation 2013*, which has been repealed and remade. **Schedule 1.23[2]** amends the *Victims Rights and Support Act 2013*, section 113 to insert a definition of *applicant* to make it clear who is an applicant for the purpose of the section.

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

Schedule 2.1 amends the *Aboriginal Land Rights Act 1983* to correct numbering errors.

Schedule 2.2[1] and [3] amend the *Casino Control Act 1992* to correct typographical errors. **Schedule 2.2[2]** amends that Act to insert a missing word.

Schedule 2.3 amends the *Child Protection (Working with Children) Regulation 2013* to omit a redundant provision.

Schedule 2.4[1] amends the *Children and Young Persons (Care and Protection) Act 1998* to remove unnecessary punctuation. **Schedule 2.4[2]** amends that Act to update the name of a court.

Schedule 2.5[1] and [2] amend the *Children (Community Service Orders) Act 1987* to omit expired provisions relating to the response to the COVID-19 pandemic. **Schedule 2.6** makes a consequential amendment to the *Children (Community Services Orders) Regulation 2020*.

Schedule 2.7[1] amends the *Children (Criminal Proceedings) Act 1987* to omit a redundant part. **Schedule 2.7[2]** makes a consequential amendment to that Act.

Schedule 2.8 amends the *Children (Detention Centres) Act 1987* to omit an expired provision relating to the response to the COVID-19 pandemic. **Schedule 2.9** makes a consequential amendment to the *Children (Detention Centres) Regulation 2015*.

Schedule 2.10[1] amends the *Civil and Administrative Tribunal Act 2013* to omit expired provisions relating to the response to the COVID-19 pandemic. **Schedule 2.10[2]** makes a consequential amendment.

Schedule 2.11 amends the *Co-operative Schemes (Administrative Actions) Act 2001* to update the name of a court.

Schedule 2.12 amends the *Corporations (Administrative Actions) Act 2001* to update the name of a court.

Schedule 2.13 amends the *Court Security Regulation 2021* to omit an expired provision relating to the response to the COVID-19 pandemic.

Schedule 2.14 amends the *Crimes Act 1900* to correct a cross-reference.

Schedule 2.15[1] amends the *Crimes (Administration of Sentences) Act 1999* to update the name of a court. **Schedule 2.15[2]** omits provisions expired provisions relating to the response to the COVID-19 pandemic.

Schedule 2.16 amends the *Crimes (Domestic and Personal Violence) Act 2007* to omit expired provisions relating to the response to the COVID-19 pandemic.

Schedule 2.17 amends the *Crimes (Domestic and Personal Violence) Regulation 2019* to omit an expired provision relating to the response to the COVID-19 pandemic.

Schedule 2.18 amends the *Crimes (Sentencing Procedure) Act 1999* to correct a cross-reference.

Schedule 2.19[1] and [2] amend the *Criminal Procedure Act 1986* to update cross-references. **Schedule 2.19[3]** omits a reference to a unit within the Department of Communities and Justice.

Schedule 2.20[1] amends the *Criminal Procedure Regulation 2017* to omit a reference to a unit within the Department of Communities and Justice. **Schedule 2.20[2]** omits an expired provision relating to the response to the COVID-19 pandemic.

Schedule 2.21 amends the *Crown Land Management Act 2016* to update the name of a court.

Schedule 2.22 amends the *Drug Misuse and Trafficking Act 1985* to correct a typographical error.

Schedule 2.23 amends the *Drug Supply Prohibition Order Pilot Scheme Act 2020* to correct a grammatical error.

Schedule 2.24 amends the *Electronic Transactions (ECM Courts) Order 2005* to correct terminology.

Schedule 2.25 amends the *Electronic Transactions Regulation 2017* to omit an expired provision relating to the response to the COVID-19 pandemic.

Schedule 2.26 amends the *Environmental Planning and Assessment Act 1979* to correct a cross-reference.

Schedule 2.27[1] amends the *Environmental Planning and Assessment Regulation 2021* to omit a redundant word. **Schedule 2.27[2]** amends that regulation to correct numbering errors.

Schedule 2.28 amends the *Evidence (Audio and Audio Visual Links) Act 1998* to omit a redundant provision relating to the 2007 APEC meeting in Sydney and an expired provision relating to the response to the COVID-19 pandemic.

Schedule 2.29 amends the *Evidence (Audio and Audio Visual Links) Regulation 2015* to expired provisions relating to the response to the COVID-19 pandemic.

Schedule 2.30 amends the *Government Sector Finance Act 2018* to correct numbering errors.

Schedule 2.31 amends the *Health Practitioner Regulation National Law Regulation 2018* to update the name of a court.

Schedule 2.32 amends the *Interpretation Act 1987* to update the name of a court.

Schedule 2.33[1] and [2] amend the *Jurisdiction of Courts (Cross-vesting) Act 1987* to update the name of a court.

Schedule 2.34 amends the *Law Enforcement Conduct Commission Act 2016* to update the name of a court.

Schedule 2.35[1] and [2] amend the *Local Government Act 1993* to correct cross-references.

Schedule 2.36 amends the *Mining Act 1992* to correct a numbering error.

Schedule 2.37[1] amends the *NSW Reconstruction Authority Act 2022* to correct a typographical error. **Schedule 2.37[2]** updates wording in that Act to be consistent with the *Land Acquisition (Just Terms Compensation) Act 1991*.

Schedule 2.38[1] and [2] amend the *Oaths Act 1900* to update the name of a court and a reference to a Judge of that court.

Schedule 2.39 amends the *Privacy and Personal Information Protection Act 1998* to insert a missing word.

Schedule 2.40 amends the *Private Health Facilities Regulation 2017* to omit an expired provision relating to the response to the COVID-19 pandemic.

Schedule 2.41[1] and [2] amend the *Property (Relationships) Act 1984* to update the name of a court.

Schedule 2.42 amends the *Protection of the Environment Operations (Clean Air) Regulation 2022* to correct a numbering error.

Schedule 2.43 amends the *Residential Tenancies Act 2010* to omit a duplicated word.

Schedule 2.44 amends the *Retirement Villages Act 1999* to correct a typographical error.

Schedule 2.45 amends the *Road Transport (Vehicle Registration) Regulation 2017* to correct punctuation.

Schedule 2.46 amends the *Sheriff Act 2005* to omit an expired provision relating to the response to the COVID-19 pandemic.

Schedule 2.47[1] and [2] amend *State Environmental Planning Policy (Precincts—Regional) 2021* to correct numbering errors.

Schedule 2.48[1] and [2] amend the *Succession Act 2006* to update the name of a court.

Schedule 2.49 amends the *Surveillance Devices Act 2007* to correct a grammatical error.

Schedule 2.50 amends the *Sydney Public Reserves (Public Safety) Act 2017* to update a reference to an Act.

Schedule 2.51[1] and [2] amend the *Victims Rights and Support Regulation 2019* to correct terminology.

Schedule 2.52[2] amends the *Voluntary Assisted Dying Act 2022* to correct a cross-reference. **Schedule 2.52[1]** corrects a grammatical error.

Schedule 2.53 amends the *Water Management (General) Regulation 2018* to correct numbering.

Schedule 2.54 amends the *Water Sharing Plan for the Barwon-Darling Unregulated River Water Source 2012* to correct formatting.

Schedule 2.55[1], [3], [4], [8], [11], [14], [17], [19] and [20] amend the *Water Sharing Plan for the Macquarie and Cudgegong Regulated Rivers Water Source 2016* to correct punctuation. **Schedule 2.55[2], [6], [7], [9], [10], [12], [13] and [18]** correct typographical errors. **Schedule 2.55[5]** omits a redundant word. **Schedule 2.55[15] and [16]** correct numbering.

Schedule 2.56[1] amends the *Water Sharing Plan for the Murrumbidgee Regulated River Water Source 2016* to insert a missing word. **Schedule 2.56[2]** corrects punctuation. **Schedule 2.56[3]** omits a redundant word.

Schedule 2.57[1] and [4] amends the *Water Sharing Plan for the New South Wales Murray and Lower Darling Regulated Rivers Water Sources 2016* to omit duplicate numbering. **Schedule 2.57[2], [3] and [5]** correct punctuation errors.

Schedule 3 Amendments relating to interpretation

Schedule 3 includes amendments to the *Interpretation Act 1987* to insert definitions for a number of frequently referenced courts, tribunals, statutory offices, bodies and officers to remove the need for these to be separately defined in individual Acts and instruments across the NSW statute book. The amendments also move the *Interpretation Act 1987*, section 21(1) to a Dictionary at the end of that Act to align with contemporary drafting practice. Schedule 3 also makes amendments to a number of Acts and instruments consequential on the relocation of the *Interpretation Act 1987*, section 21(1).

Schedule 4 General savings, transitional and other provisions

Proposed section 1 ensures that an amendment made by the proposed Act to a repealing or amending provision of an Act or instrument will, if the repealing or amending provision commences before the amendment made by the proposed Act, be taken to have commenced on the date the repealing or amending provision commences.

Proposed section 2 ensures the amendment or repeal of a provision will not, unless expressly provided, vitiate an act done or decision made under the provision as in force before the amendment or repeal.

Proposed section 3 ensures that, unless expressly provided, an instrument that is in force and made under a provision of an Act that is amended or substituted by the proposed Act will be taken to have been made under the Act as amended.

Proposed section 4 enables the Governor, by proclamation, to revoke the repeal of any Act or instrument, or a provision of an Act or instrument, by the proposed Act. The Act or instrument, or provision, the subject of the revocation of repeal is taken not to be, and never to have been, repealed.

Proposed section 5 enables the making of regulations of a savings or transitional nature relating to incidental matters arising out of the proposed Act.