



New South Wales

# Property Services Council Bill 2023

## Explanatory note

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

## Overview of Bill

The object of this Bill is to establish and confer functions on the Property Services Council for New South Wales.

## Outline of provisions

### Part 1 Preliminary

**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 the date of assent to the proposed Act.

**Clause 3** defines certain words and expressions used in the proposed Act.

### Part 2 Constitution and management of Property Services Council

**Clause 4** constitutes the Property Services Council (the *Council*) as a body corporate.

**Clause 5** provides that the Council is a NSW Government agency.

**Clause 6** provides that the Council is subject to the control and direction of the Minister administering the proposed Act (the *Minister*) in the exercise of its functions, except in relation to the contents of any advice, report or recommendation given to the Minister.

**Clause 7** provides for the establishment of a Board of the Council (the *Board*).

The Board is to consist of the following members—

- (a) 1 person appointed by the Minister as the Chairperson of the Board,
- (b) 1 person appointed by the Minister from a panel of 3 persons nominated by the Owners Corporation Network of Australia Ltd,
- (c) 1 person appointed by the Minister from a panel of 3 persons nominated by the Australian Consumers' Association,
- (d) 3 persons appointed by the Minister from a panel of 5 persons nominated by The Real Estate Institute of New South Wales Limited,
- (e) 1 person appointed by the Minister from a panel of 3 persons nominated by the Australian Livestock and Property Agents Association Ltd,
- (f) 1 person appointed by the Minister from a panel of 3 persons nominated by the Head of School, School of Built Environment, Faculty of Design, Architecture and Building, University of Technology Sydney (after consulting with the senior members of that school),
- (g) 1 person appointed by the Minister from a panel of 3 persons nominated by the Tenants' Union of NSW, being the Tenants' Union of NSW Co-operative Limited ABN 88 984 223 164,
- (h) 1 person appointed by the Minister from a panel of 3 persons nominated by the Strata Community Association (NSW), being the Strata Community Association (NSW) Limited ACN 001 767 997,
- (i) the Property Services Commissioner.

**Clause 8** enables the Board to establish other committees. The members of a committee need not be members of the Board.

**Clause 9** provides for the appointment of a Property Services Commissioner (the *Commissioner*) by the Governor, on the recommendation of the Council.

**Clause 10** allows staff to be employed in the Public Service to enable the Council to exercise its functions.

### **Part 3 Objects and functions of Property Services Council**

**Clause 11** sets out the objects of the Council, being—

- (a) to promote appropriate standards of conduct and competency for agents, and
- (b) to protect the interests of persons who deal with agents, and
- (c) to facilitate the resolution of disputes between agents and persons who deal with them.

**Clause 12** sets out the functions of the Council, being—

- (a) to provide advice, reports or recommendations to the Minister relating to the following—
  - (i) the business of agents,
  - (ii) the education, training and continuing professional development of agents,
  - (iii) consumer protection,
  - (iv) the management of strata properties and community schemes,
  - (v) other matters requested by the Minister, and
- (b) to provide public information and guidance programs, and
- (c) other functions conferred or imposed on it by or under the proposed Act or any other Act.

### **Part 4 Miscellaneous**

**Clause 13** deals with the recovery of amounts due to the Council.

**Clause 14** deals with the service of documents.

**Clause 15** protects persons involved in the administration of the proposed Act from personal liability if acting in good faith.

**Clause 16** enables the Council and the Commissioner to delegate their functions to specified other persons.

**Clause 17** makes it an offence for a person to disclose information obtained in connection with the administration or execution of the proposed Act except in certain circumstances. The maximum penalty is 20 penalty units (currently, \$2,200).

**Clause 18** provides that proceedings for an offence under the proposed Act may be dealt with summarily before the Local Court.

**Clause 19** enables the Governor to make regulations.

## **Schedule 1 Savings, transitional and other provisions**

**Schedule 1** contains savings, transitional and other provisions consequent on the enactment of the proposed Act.

## **Schedule 2 Constitution and procedure of Board**

**Schedule 2** sets out the provisions relating to the appointed members of the Board, including their appointment, term of office and vacancy and removal. The schedule also deals with the procedure of meetings of the Board.

## **Schedule 3 Provisions relating to Property Services Commissioner**

**Schedule 3** contains provisions relating to the office of Commissioner, including provisions dealing with the term of office, vacancy and removal from that office. The schedule also makes provision for an Acting Commissioner.

## **Schedule 4 Amendment of Acts**

**Schedule 4** makes amendments to the following Acts—

- (a) the *Community Land Management Act 2021*, the *Property and Stock Agents Act 2002* and the *Strata Schemes Management Act 2015* to transfer to the Council certain functions under those Acts currently exercised by the Commissioner for Fair Trading,
- (b) the *Statutory and Other Offices Remuneration Act 1975* regarding the determination of the remuneration of the Commissioner.



New South Wales

# Property Services Council Bill 2023

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New South Wales

# Property Services Council Bill 2023

No. , 2023

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## **A Bill for**

An Act to constitute and confer functions on the Property Services Council; and for related purposes.

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The Legislature of New South Wales enacts—	1
<b>Part 1 Preliminary</b>	2
<b>1 Name of Act</b>	3
This Act is the <i>Property Services Council Act 2023</i> .	4
<b>2 Commencement</b>	5
This Act commences on the date of assent to this Act.	6
<b>3 Definitions</b>	7
In this Act—	8
<b>agent</b> has the same meaning as in the <i>Property and Stock Agents Act 2002</i> .	9
<b>Note—</b> The <i>Property and Stock Agents Act 2002</i> , section 3(1) defines agent to be—	10
(a) a real estate agent, or	11
(b) a stock and station agent, or	12
(c) a strata managing agent.	13
<b>Board</b> means the Board of the Council established under this Act.	14
<b>Commissioner</b> means the Property Services Commissioner appointed under this Act.	15
<b>Council</b> means the Property Services Council constituted under this Act.	16
<b>exercise</b> a function includes perform a duty.	17
<b>function</b> includes a power, authority or duty.	18
<b>Note—</b> The <i>Interpretation Act 1987</i> contains definitions and other provisions that affect the interpretation and application of this Act.	19
	20

<b>Part 2</b>	<b>Constitution and management of Property Services Council</b>	1
		2
<b>4</b>	<b>Constitution of Council</b>	3
	There is constituted by this Act a body corporate with the corporate name of the Property Services Council.	4 5
<b>5</b>	<b>Status of Council</b>	6
	The Council is a NSW Government agency.	7
<b>6</b>	<b>Ministerial control</b>	8
	The Council is subject to the control and direction of the Minister in the exercise of its functions, except in relation to the contents of any advice, report or recommendation given to the Minister.	9 10 11
<b>7</b>	<b>Board of Council</b>	12
(1)	There is to be a Board of the Council.	13
(2)	The Board is to consist of the following members—	14
(a)	1 person appointed by the Minister as the Chairperson of the Board,	15
(b)	1 person appointed by the Minister from a panel of 3 persons nominated by the Owners Corporation Network of Australia Ltd,	16 17
(c)	1 person appointed by the Minister from a panel of 3 persons nominated by the Australian Consumers' Association,	18 19
(d)	3 persons appointed by the Minister from a panel of 5 persons nominated by The Real Estate Institute of New South Wales Limited,	20 21
(e)	1 person appointed by the Minister from a panel of 3 persons nominated by the Australian Livestock and Property Agents Association Ltd,	22 23
(f)	1 person appointed by the Minister from a panel of 3 persons nominated by the Head of School, School of Built Environment, Faculty of Design, Architecture and Building, University of Technology Sydney, after the Head of School has consulted with the senior members of the school,	24 25 26 27
(g)	1 person appointed by the Minister from a panel of 3 persons nominated by the Tenants' Union of NSW, being the Tenants' Union of NSW Co-operative Limited ABN 88 984 223 164,	28 29 30
(h)	1 person appointed by the Minister from a panel of 3 persons nominated by the Strata Community Association (NSW), being the Strata Community Association (NSW) Limited ACN 001 767 997,	31 32 33
(i)	the Commissioner.	34
	<b>Note</b> — Schedule 2 sets out the provisions relating to the members and procedure of the Board.	35 36
<b>8</b>	<b>Other committees of Council</b>	37
(1)	The Board may establish other committees to assist it in connection with the exercise of its functions.	38 39
(2)	The members of a committee need not be members of the Board.	40
(3)	The procedure for the calling of meetings of a committee and for the conduct of business at those meetings is to be decided by the Council or, subject to the decisions of the Council, by the committee.	41 42 43



<b>9</b>	<b>Property Services Commissioner</b>	1
(1)	The Governor, on the recommendation of the Council, other than an incumbent Commissioner, may appoint a Property Services Commissioner.	2 3
(2)	The Commissioner is responsible for the day-to-day management of the affairs of the Council in accordance with the policies and general directions of the Board.	4 5
(3)	Any act, matter or thing done in the name of, or on behalf of, the Council by the Commissioner is taken to have been done by the Council.	6 7
	<b>Note—</b> Schedule 3 sets out further provisions relating to the Commissioner.	8
<b>10</b>	<b>Staff</b>	9
	Persons may be employed in the Public Service under the <i>Government Sector Employment Act 2013</i> to enable the Council to exercise its functions.	10 11
	<b>Note—</b> The <i>Government Sector Employment Act 2013</i> , section 59 provides that the persons employed to enable the Council to exercise its functions, or whose services the Council makes use of, may be referred to as officers or employees, or members of staff, of the Council.	12 13 14
	The <i>Constitution Act 1902</i> , section 47A precludes the Council from employing staff.	15

<b>Part 3</b>	<b>Objects and functions of Property Services Council</b>	1
<b>11</b>	<b>Object of Council</b>	2
(1)	The objects of the Council are as follows—	3
(a)	to promote appropriate standards of conduct and competency for agents,	4
(b)	to protect the interests of persons who deal with agents,	5
(c)	to facilitate the resolution of disputes between agents and persons who deal with agents.	6
(2)	The Council is to exercise its functions with a view to achieving these objects.	7
<b>12</b>	<b>Functions of Council</b>	9
	The Council has the following functions—	10
(a)	to provide advice, reports or recommendations to the Minister relating to the following—	11
(i)	the business of agents,	12
(ii)	the education, training and continuing professional development of agents,	13
(iii)	consumer protection,	14
(iv)	the management of strata properties and community schemes,	15
(v)	other matters requested by the Minister,	16
(b)	to provide public information and guidance programs,	17
(c)	other functions conferred or imposed on the Council by or under this or any other Act.	18
		19
		20
		21

<b>Part 4</b>	<b>Miscellaneous</b>	1
<b>13</b>	<b>Recovery of amounts due to Council</b>	2
	A charge, fee or other money due to the Council may be recovered by the Council as a debt in a court of competent jurisdiction.	3 4
<b>14</b>	<b>Service of documents</b>	5
(1)	A document that is authorised or required by this Act or the regulations to be served on a person may be served by the following methods—	6 7
(a)	for an individual—by personal delivery to the person,	8
(b)	by post to the address specified by the person for the service of documents of that kind,	9 10
(c)	for an individual who has not have a specified address—by post to the residential or business address of the person last known to the person serving the document,	11 12 13
(d)	for a corporation—by post to the registered office or another office of the corporation or by leaving it at the office with a person apparently over the age of 16 years,	14 15 16
(e)	by email to an email address specified by the person for the service of documents of that kind,	17 18
(f)	by another method authorised by the regulations for the service of documents of that kind.	19 20
(2)	A document may be served on the Council by any of the following methods—	21
(a)	by post to the address specified by the Council for the service of documents of that kind,	22 23
(b)	by post to an office of the Council or by leaving it at the office with a person apparently over the age of 16 years,	24 25
(c)	by email to an email address specified by the Council for the service of documents of that kind,	26 27
(d)	by another method authorised by the regulations for the service of documents of that kind.	28 29
(3)	Nothing in this section affects the operation of any provision of a law or of the rules of a court authorising a document to be served on a person or the Council by another method.	30 31 32
(4)	In this section— <i>serve</i> includes give or send.	33 34
<b>15</b>	<b>Personal liability</b>	35
(1)	A protected person is not personally subject to liability for anything done or omitted to be done—	36 37
(a)	in good faith, and	38
(b)	for the purpose of exercising a function under this Act.	39
(2)	The liability attaches instead to the Crown.	40
(3)	In this section— <i>liability</i> —	41 42
(a)	means civil liability, and	43

(b)	includes an action, claim or demand.	1
	<b><i>protected person</i></b> means—	2
(a)	the Commissioner, or	3
(b)	a member of the Board,	4
(c)	a person acting under the direction of 1 of the following—	5
(i)	the Council,	6
(ii)	the Board,	7
(iii)	the Commissioner.	8
<b>16</b>	<b>Delegation</b>	9
(1)	The Council may delegate the exercise of a function of the Council under this Act, other than this power of delegation, to—	10 11
(a)	a member of staff of the Council, or	12
(b)	a person, or a class of persons, authorised for this section by the regulations.	13
(2)	The Commissioner may delegate the exercise of any function of the Commissioner under this Act, other than this power of delegation, to—	14 15
(a)	a member of staff of the Council, or	16
(b)	a person, or a class of persons, authorised for this section by the regulations.	17
<b>17</b>	<b>Disclosure of information</b>	18
(1)	A person must not disclose information obtained in connection with the administration or execution of this Act, unless that disclosure is made—	19 20
(a)	with the consent of the person from whom the information was obtained, or	21
(b)	in connection with the administration or execution of this Act, or	22
(c)	for the purposes of any legal proceedings arising out of this Act or of a report of legal proceedings arising out of this Act, or	23 24
(d)	in accordance with a requirement imposed under the <i>Ombudsman Act 1974</i> , or	25
(e)	with other lawful excuse.	26
	Maximum penalty—20 penalty units.	27
(2)	In this section—	28
	<b><i>this Act</i></b> includes another Act conferring or imposing functions on the Council.	29
<b>18</b>	<b>Nature of proceedings for offences</b>	30
	Proceedings for an offence under this Act or the regulations may be dealt with summarily before the Local Court.	31 32
<b>19</b>	<b>Regulations</b>	33
	The Governor may make regulations, not inconsistent with this Act, about a matter that is—	34 35
(a)	required or permitted by this Act to be prescribed, or	36
(b)	necessary or convenient to be prescribed for carrying out or giving effect to this Act.	37 38

<b>Schedule 1</b>	<b>Savings, transitional and other provisions</b>	1
<b>Part 1</b>	<b>General</b>	2
<b>1</b>	<b>Savings and transitional regulations</b>	3
(1)	The regulations may contain provisions of a savings or transitional nature consequent on the commencement of—	4 5
(a)	a provision of this Act, or	6
(b)	a provision amending this Act.	7
(2)	A savings or transitional provision consequent on the commencement of a provision must not be made more than 2 years after that commencement.	8 9
(3)	A savings or transitional provision made consequent on the commencement of a provision is repealed 2 years after that commencement.	10 11
(4)	A savings or transitional provision made consequent on the commencement of a provision may take effect before that commencement but not before—	12 13
(a)	for a provision of this Act—the date of assent to this Act, or	14
(b)	for a provision amending this Act—the date of assent to the amending Act.	15
(5)	A savings or transitional provision taking effect before its publication on the NSW legislation website does not, before its publication—	16 17
(a)	affect the rights of a person in a way prejudicial to the person, or	18
(b)	impose liabilities on a person for anything done or omitted to be done.	19
(6)	In this section—	20
	<i>person</i> does not include—	21
(a)	the State, or	22
(b)	an authority of the State.	23

<b>Schedule 2</b>	<b>Constitution and procedure of Board</b>	1
<b>Part 1</b>	<b>Preliminary</b>	2
<b>1</b>	<b>Definitions</b>	3
	In this schedule—	4
	<i>appointed member</i> means a person who is appointed by the Minister as a member of the Board.	5
	<i>Chairperson</i> means the Chairperson of the Board.	6
		7
<b>Part 2</b>	<b>Constitution</b>	8
<b>2</b>	<b>Terms of office of members</b>	9
(1)	An appointed member holds office for the period of not more than 3 years specified in the member's instrument of appointment, subject to this schedule and the regulations.	10
		11
		12
(2)	An appointed member is eligible, if otherwise qualified, for reappointment.	13
<b>3</b>	<b>Part-time appointments</b>	14
	Appointed members hold office as part-time members.	15
<b>4</b>	<b>Remuneration</b>	16
	Appointed members and are entitled to be paid remuneration, including travelling and subsistence allowances, as determined by the Minister from time to time.	17
		18
<b>5</b>	<b>Acting members</b>	19
(1)	An appointed member may, from time to time, appoint a person to act for member during the member's absence.	20
		21
(2)	The person, while acting—	22
(a)	is taken to be a member, and	23
(b)	has all the functions of the member.	24
(3)	The appointed member may revoke an appointment made under this section at any time.	25
		26
(4)	This section does not operate to confer on a person acting for an appointed member who is the Chairperson or Deputy Chairperson the appointed member's functions as Chairperson or Deputy Chairperson.	27
		28
		29
<b>6</b>	<b>Vacancy in office</b>	30
(1)	The office of an appointed member becomes vacant if the member—	31
(a)	dies, or	32
(b)	completes a term of office and is not reappointed, or	33
(c)	resigns from office by written notice addressed to the Minister, or	34
(d)	is removed from office by the Minister under this section, or	35
(e)	is absent from 3 consecutive meetings of the Board of which reasonable notice has been given to the member personally or by post, unless—	36
		37
(i)	the member is on leave granted by the Board, or	38

(ii)	within 6 weeks of the third meeting, the member is excused by the Board for having been absent from the meetings, or	1 2
(f)	becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with the member's creditors or makes an assignment of the member's remuneration for the benefit of the member's creditors, or	3 4 5 6
(g)	becomes a mentally incapacitated person, or	7
(h)	is convicted in New South Wales of, or convicted elsewhere of an offence that, if committed in New South Wales, would be, an offence that is punishable by imprisonment for 12 months or more.	8 9 10
(2)	The Minister may remove an appointed member from office at any time.	11
(3)	If the office of an appointed member becomes vacant, a person must be appointed to fill the vacancy.	12 13
<b>7</b>	<b>Chairperson</b>	14
(1)	A member vacates office as Chairperson if the member—	15
(a)	ceases to be a member, or	16
(b)	resigns from the office by written notice addressed to the Minister, or	17
(c)	is removed from the office by the Minister under this section.	18
(2)	The Minister may remove a member from office as Chairperson at any time.	19
(3)	If the office of Chairperson becomes vacant, a member must be appointed to fill the vacancy.	20 21
(4)	For the purposes of subsection (1)(a), a member does not cease to be a member on the expiry of the member's term of office if the member is reappointed as a member for a term commencing immediately after the expiration of the previous term.	22 23 24
<b>8</b>	<b>Effect of certain other Acts</b>	25
(1)	The provisions of the <i>Government Sector Employment Act 2013</i> relating to the employment of Public Service employees do not apply to a member.	26 27
(2)	A provision of another Act does not disqualify a person from holding a specified office and also the office of a member, or from accepting and retaining remuneration payable to the person under this Part, section 3, merely because the provision—	28 29 30
(a)	requires a person who is the holder of the specified office to devote the whole of the person's time to the duties of the office, or	31 32
(b)	prohibits the person from engaging in employment outside the duties of the office.	33 34
<b>Part 3</b>	<b>Procedure</b>	35
<b>9</b>	<b>General procedure</b>	36
	The procedure for calling a meeting of the Board and for conducting business at meetings is, subject to this Act and the regulations, to be as decided by the Board.	37 38
<b>10</b>	<b>First meeting</b>	39
	The Minister may call the first meeting of the Board in the way the Minister thinks fit.	40
<b>11</b>	<b>Quorum</b>	41
	The quorum for a meeting of the Board is a majority of members for the time being.	42

<b>12 Presiding member</b>	1
(1) The Chairperson must preside at a meeting of the Board, unless the Chairperson is absent.	2 3
(2) If the Chairperson is absent, 1 of the members present at the meeting, as elected by the other members present, must preside	4 5
(3) The person presiding at a meeting has—	6
(a) a deliberative vote, and	7
(b) in the event of an equality of votes—a second or casting vote.	8
<b>13 Voting</b>	9
A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present is the decision of the Board.	10 11
<b>14 Minutes</b>	12
The Board must keep full and accurate minutes of the proceedings of each meeting of the Board.	13 14
<b>15 Disclosure of pecuniary interests</b>	15
(1) A member must disclose the nature of a pecuniary interest at a meeting of the Board as soon as possible after the relevant facts have come to the member’s knowledge.	16 17
(2) A member has a pecuniary interest if—	18
(a) the member has a direct or indirect pecuniary interest in a matter being considered, or about to be considered, at a meeting of the Board, and	19 20
(b) the interest appears to raise a conflict with the proper performance of the member’s duties in relation to the consideration of the matter.	21 22
(3) A disclosure is a sufficient disclosure of the nature of an interest in a matter relating to a corporation or other body, or to a person, which may arise after the date of the disclosure and which is required to be disclosed under subsection (1), if the disclosure is that the member—	23 24 25 26
(a) is a member of, or employed by, a specified corporation or other body, or	27
(b) is a partner of, or employed by, a specified person, or	28
(c) has another interest relating to a specified corporation or other body, or to a specified person.	29 30
(4) Particulars of a disclosure made under this section must be recorded by the Board in a book that is—	31 32
(a) kept for the purpose of recording disclosures, and	33
(b) open to inspection at all reasonable hours by a person on payment of the fee determined by the Board.	34 35
(5) After a member has disclosed the nature of an interest in a matter, the member must not, unless the Board otherwise determines—	36 37
(a) be present during a deliberation of the Board about the matter, or	38
(b) take part in a decision of the Board about the matter.	39
(6) For the purposes of the making of a determination under subsection (5), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not—	40 41 42



(a)	be present during a deliberation of the Board for the purpose of making the determination, or	1
(b)	take part in the making of the determination.	2
(7)	A contravention of this section does not invalidate a decision of the Board.	3
(8)	This section applies to a committee member and the advisory committee in the same way it applies to a member and the Board.	4
<b>16</b>	<b>Transaction of business outside meetings or by telephone or other means</b>	5
(1)	The Board may transact its business by the circulation of papers, including by electronic means, among all members for the time being.	6
(2)	If the Board transacts business by the circulation of papers, a written resolution, approved in writing by a majority of members, is taken to be a decision of the Board made at a meeting of the Board.	7
(3)	The Board may transact its business at a meeting at which 1 or more members participate by telephone or other electronic means, provided a member who speaks on a matter can be heard by the other members.	8
(4)	The Chairperson, Deputy Chairperson and each other member have the same voting rights as they would have at an ordinary meeting of the Board for the purposes of—	9
(a)	the approval of a resolution under subsection (2), or	10
(b)	a meeting held in accordance with subsection (3).	11
(5)	A resolution approved under subsection (2) must be recorded in the minutes of the meetings of the Board.	12

<b>Schedule 3</b>	<b>Provisions relating to Property Services Commissioner</b>	1
		2
<b>1</b>	<b>Appointment of Property Services Commissioner</b>	3
(1)	The Commissioner holds office for the term, not exceeding 5 years, specified in the Commissioner's instrument of appointment, but is eligible for re-appointment.	4 5
(2)	The office of Commissioner is a statutory office and the provisions of the <i>Government Sector Employment Act 2013</i> relating to the employment of Public Service employees do not apply to the office.	6 7 8
(3)	A person is not eligible to be appointed for more than 2 terms of office as Commissioner, whether or not consecutive terms.	9 10
(4)	The office of Commissioner is a full-time office and the holder of the office must hold the office on that basis, except to the extent permitted by the Minister.	11 12
<b>2</b>	<b>Remuneration and allowances</b>	13
(1)	The Commissioner is entitled to the amount of remuneration determined in accordance with the <i>Statutory and Other Offices Remuneration Act 1975</i> .	14 15
(2)	The Minister may, from time to time, determine the amount of travelling and subsistence allowances for the office of Commissioner.	16 17
<b>3</b>	<b>Vacancy in office</b>	18
(1)	The office of Commissioner becomes vacant if the Commissioner—	19
(a)	dies, or	20
(b)	completes a term of office and is not re-appointed, or	21
(c)	resigns by written notice addressed to the Minister, or	22
(d)	is removed from office by the Governor under section 4, or	23
(e)	becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with the Commissioner's creditors or makes an assignment of the Commissioner's remuneration for the benefit of the Commissioner's creditors, or	24 25 26 27
(f)	becomes a mentally incapacitated person, or	28
(g)	is convicted in New South Wales of, or convicted elsewhere of an offence that, if committed in New South Wales, would be, an offence that is punishable by imprisonment for 12 months or more.	29 30 31
(2)	If the office of Commissioner becomes vacant, a person must be appointed to fill the vacancy.	32 33
<b>4</b>	<b>Removal from office</b>	34
	The Governor may, on the recommendation of the Council, other than an incumbent Commissioner, remove the Commissioner from office for incompetence, incapacity or misbehaviour.	35 36 37
<b>5</b>	<b>Acting Commissioner</b>	38
(1)	The Minister, on the recommendation of the Council, may appoint a person to act as the Commissioner during the illness or absence of the Commissioner or during a vacancy in the office of Commissioner.	39 40 41
(2)	A person, while acting as Commissioner, has the functions of the Commissioner and is taken to be the Commissioner.	42 43

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|----------|---|--------|
| (3)      | The Minister may, on the recommendation of the Council, remove a person from office as acting Commissioner.                                 | 1<br>2 |
| (4)      | An acting Commissioner is entitled to be paid the remuneration, including travelling and subsistence allowances, that the Minister decides. | 3<br>4 |
| <b>6</b> | <b>Leave</b>  | 5      |
| (1)      | The entitlement of the Commissioner to annual and other leave is the entitlement stated in the Commissioner's instrument of appointment.    | 6<br>7 |
| (2)      | The Commissioner may be granted leave by the Board.   | 8      |

<b>Schedule 4</b>	<b>Amendment of Acts</b>	1
<b>4.1</b>	<b>Community Land Management Act 2021 No 7</b>	2
[1]	<b>Whole Act, other than section 210 and Dictionary, definition of “Secretary”</b>	3
	Omit “Secretary” and “Secretary’s” wherever occurring.	4
	Insert instead “Council” and “Council’s”, respectively.	5
[2]	<b>Dictionary</b>	6
	Omit the definition of <i>Secretary</i> . Insert in alphabetical order—	7
	<i>Council</i> means the Property Services Council constituted under the <i>Property Services Council Act 2023</i> .	8
		9
<b>4.2</b>	<b>Property and Stock Agents Act 2002 No 66</b>	10
[1]	<b>Whole Act, other than section 3(1) and Parts 10 and 11</b>	11
	Omit “Secretary” and “Secretary’s” wherever occurring.	12
	Insert instead “Council” and “Council’s”, respectively.	13
[2]	<b>Section 3 Definitions</b>	14
	Insert in alphabetical order in section 3(1)—	15
	<i>Council</i> means the Property Services Council constituted under the <i>Property Services Council Act 2023</i> .	16
		17
<b>4.3</b>	<b>Statutory and Other Offices Remuneration Act 1975 (1976 No 4)</b>	18
	<b>Schedule 2 Public offices</b>	19
	Insert at the end of Part 1—	20
	Property Services Commissioner	21
<b>4.4</b>	<b>Strata Schemes Management Act 2015 No 50</b>	22
[1]	<b>Whole Act, other than section 4(1), definition of “Secretary” and Schedule 3</b>	23
	Omit “Secretary” and “Secretary’s” wherever occurring.	24
	Insert instead “Council” and “Council’s”, respectively.	25
[2]	<b>Section 4 Definitions</b>	26
	Omit the definition of <i>Secretary</i> from section 4(1). Insert in alphabetical order—	27
	<i>Council</i> means the Property Services Council constituted under the <i>Property Services Council Act 2023</i> .	28
		29
[3]	<b>Sections 211B, 213(6), 250(6)(b) and 257(a)</b>	30
	Omit “Department” wherever occurring. Insert instead “Council”.	31