



New South Wales

Better Regulation Legislation Amendment Bill 2020

Explanatory note

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

Overview of Bill

The object of this Bill is to amend various Acts and regulations, and to repeal a regulation, administered by the Minister for Better Regulation and Innovation, including as follows—

- (a) to amend the *Motor Dealers and Repairers Act 2013*—
 - (i) to allow the Secretary to cancel licences issued due to misrepresentations or in error, and
 - (ii) to ensure that repair work for transport service vehicles is carried out by the holder of a motor vehicle repairer's licence, and
 - (iii) to allow the regulations to specify the maximum amount of compensation payable from the Motor Dealers and Repairers Compensation Fund, and
 - (iv) to ensure that a person is not required to be licensed as a motor dealer to sell a trailer in connection with the sale of a second-hand boat,
- (b) to amend the *Gas and Electricity (Consumer Safety) Act 2017*—
 - (i) to expand investigation powers under that Act to include investigations into autogas installations, and
 - (ii) to enable the Minister to grant exemptions from the Act for certain gas appliances, gas installations and autogas installations, and
 - (iii) to make it clear that a person must hold the relevant trade certificate to carry out autogas work on an installation that is designed for use with liquefied natural gas,
- (c) to amend the *Pawnbrokers and Second-hand Dealers Act 1996* to allow the Secretary to grant exemptions from provisions of that Act,

- (d) to amend the *Contract Cleaning Industry (Portable Long Service Leave Scheme) Act 2010* with respect to the membership of the Long Service Leave Committee under that Act,
- (e) to amend the *Retail Trading Act 2008* with respect to the granting of exemptions from provisions of that Act,
- (f) to amend the *Charitable Fundraising Act 1991*, *Community Gaming Act 2018*, *Entertainment Industry Act 2013*, *Home Building Act 1989*, *Motor Dealers and Repairers Act 2013*, *Residential (Land Lease) Communities Act 2013* and *Residential Tenancies Act 2010* with respect to the execution of search warrants,
- (g) to amend the *Storage Liens Act 1935* to provide that unclaimed proceeds from the sale of goods under that Act are to be dealt with under the *Unclaimed Money Act 1995*,
- (h) to amend the *Residential Tenancies Act 2010* to require a landlord to disclose the jurisdiction in which they ordinarily reside,
- (i) to amend the *Property, Stock and Business Agents Act 2002* to ensure that proceedings for an indictable offence under the Act are not subject to the time limit in that Act for summary offences,
- (j) to make other amendments of a minor or consequential nature.

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.

Schedule 1 Amendments relating to motor dealers and repairers licences, repairs on transport service vehicles and the Motor Dealers and Repairers Compensation Fund

Schedule 1.1[1] provides that a person is not required to be a licensed as a motor dealer in order to sell a boat trailer in connection with the sale of a second-hand boat.

Schedule 1.1[3] defines *transport service vehicle* as a motor vehicle used for the carriage of passengers or goods in connection with a business. **Schedule 1.1[2]** makes a consequential amendment.

Schedule 1.1[5] provides that it is an offence for the owner of a transport service vehicle or other person having control of a transport service vehicle to enter into an agreement for repair work to be done on the vehicle by a person who is not a licensed motor vehicle repairer. **Schedule 1.1[4] and [9]** make consequential amendments.

Schedule 1.1[7] provides that it is an offence for the owner of a transport service vehicle or other person having control of a transport service vehicle to permit an employee to do repair work on the vehicle, unless the person is qualified to do that work. **Schedule 1.1[6] and [9]** make consequential amendments.

Schedule 1.1[8] provides that the Secretary may cancel a licence issued under the Act if the Secretary is satisfied that the licence was issued as a result of a misrepresentation or error.

Schedule 1.1[10] removes the maximum amount of loss that may be certified by the Secretary in respect of a claim for compensation from the Motor Dealers and Repairers Compensation Fund, and provides that the maximum amount may be prescribed by the regulations.

Schedule 1.2 amends the *Motor Dealers and Repairers Regulation 2014* to prescribe the maximum amount of loss that may be certified by the Secretary in respect of a claim for compensation from the Motor Dealers and Repairers Compensation Fund to be \$40,000.

Schedule 2 Amendments relating to search warrants

Schedule 2.1–2.4 and 2.6–2.8 amend the *Charitable Fundraising Act 1991*, *Community Gaming Act 2018*, *Entertainment Industry Act 2013*, *Home Building Act 1989*, *Motor Dealers and Repairers Act 2013*, *Residential (Land Lease) Communities Act 2013* and *Residential Tenancies Act 2010*, respectively, by—

- (a) removing the requirement that a person executing a search warrant under those Acts must be accompanied by a police officer when doing so, and
- (b) making it clear that a police officer may accompany a person executing a search warrant under those Acts as if the police officer were named in the warrant.

Schedule 2.4 also amends the *Home Building Act 1989* to ensure that the provision of that Act relating to search warrants is consistent with equivalent provisions of the other Acts amended by Schedule 2. **Schedule 2.5** makes a consequential amendment.

Schedule 3 Amendments relating to unclaimed money under Storage Liens Act 1935

Schedule 3.1[1] amends the *Storage Liens Act 1935* to provide that the surplus (if any) remaining after the storer of goods sells the goods to settle a debt owed to the storer is to be dealt with as unclaimed money under the *Unclaimed Money Act 1995*, if it is not claimed within 14 days after the sale. **Schedule 3.2** makes a consequential amendment to the *Storage Liens Regulation 2019*.

Schedule 3.1[2] provides for the making of savings and transitional regulations consequent on the amendment of the *Storage Liens Act 1935* and provides that the amendment made by **Schedule 3.1[1]** does not extend to a surplus arising from goods sold before that amendment was made.

Schedule 4 Amendments relating to exemptions under Retail Trading Act 2008

Schedule 4.1[1] amends the *Retail Trading Act 2008* to provide that an application for an exemption from trading restrictions under that Act is to be in the form approved by the Secretary, rather than the form prescribed by the regulations.

Schedule 4.1[2] provides for the public exhibition of an application for an exemption from a trading restriction before the application is determined by the Secretary. **Schedule 4.2** repeals the *Retail Trading Regulation 2014* as a consequence.

Schedule 4.1[3] provides that clause 6 of the *Retail Trading Regulation 2014* continues to apply in respect of an application for an exemption made, but not finally determined, before the repeal of that Regulation.

Schedule 5 Amendments relating to landlords not ordinarily residing in New South Wales and standard form agreement

Schedule 5.1 amends the *Residential Tenancies Act 2010* to require a landlord who does not ordinarily reside in New South Wales to disclose the State, Territory or, if not in Australia, country in which the landlord ordinarily resides. **Schedule 5.2[1] and [2]** make consequential amendments to the standard form agreement under the *Residential Tenancies Regulation 2019*.

Schedule 5.2[3] and [4] make minor amendments in the nature of statute law revision.

Schedule 6 Amendments relating to exemptions under Pawnbrokers and Second-hand Dealers Act 1996

Schedule 6.1[1] amends the *Pawnbrokers and Second-hand Dealers Act 1996* to authorise the Secretary to grant exemptions from the operation of that Act or of specified provisions of that Act. **Schedule 6.1[2]** and **6.2** make consequential amendments.

Schedule 6.1[3] provides that existing exemptions, prescribed by the regulations, continue to apply.

Schedule 7 Miscellaneous amendments to other Acts

Contract Cleaning Industry (Portable Long Service Leave Scheme) Act 2010 No 122

Schedule 7.1[1] updates a reference to the United Workers Union (NSW Branch).

Schedule 7.1[2] provides that 2 of the members of the Long Service Leave Committee are to be persons who, in the opinion of the Minister, have knowledge of, and experience in, the contract cleaning industry. **Schedule 7.1[3]** makes a consequential amendment.

Gas and Electricity (Consumer Safety) Act 2017 No 15

Schedule 7.2[1] provides that an electrical installation under the *Gas and Electricity (Consumer Safety) Act 2017* (*the Act*) does not include meters that are used, or intended for use, in the generation, transmission or distribution of electricity and are owned by an electricity supply authority and located at a place owned or occupied by the authority.

Schedule 7.2[2] provides that regulations under the Act relating to the examination and testing of gas meters extend to gas meters associated with certain autogas installations or gas appliances in a workplace.

Schedule 7.2[3] authorises the Secretary to exempt persons from the operation of provisions of the Act relating to the sale and connection of gas appliances that have not been certified. **Schedule 7.2[5]** makes a consequential amendment.

Schedule 7.2[4] makes it clear that a person must hold the relevant trade certificate to carry out autogas work on an autogas installation that is designed for use with liquefied natural gas.

Schedule 7.2[6]–[25] expand the investigation and inspection powers set out in Division 2 of Part 7 of the Act to include the inspection and investigation of autogas installations.

Property, Stock and Business Agents Act 2002 No 66

Schedule 7.3 amends the *Property, Stock and Business Agents Act 2002* to ensure that the time limit for commencing proceedings for summary offences under that Act does not extend to the commencement of proceedings for an indictable offence (whether or not the proceedings are taken on indictment).