



New South Wales

# Statute Law (Miscellaneous Provisions) Bill (No 2) 2022

## 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 and instruments (Schedule 1), and
- (b) amend certain other Acts and instruments for the purpose of effecting statute law revision (Schedule 2), and
- (c) amend certain other Acts and instruments for the purpose of effecting statute law revision in relation to machinery of government changes arising from administrative changes orders (Schedule 3), and
- (d) repeal an Act and an instrument (Schedule 4), and
- (e) make other provisions of a consequential or ancillary nature (Schedule 5).

## Outline of provisions

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

**Clause 2** provides for the commencement of the proposed Act.

## Schedule 1 Minor amendments

Schedules 1.1, 1.13, 1.17, 1.20[11] and [12], 1.30, 1.34 and 1.35[3] and [4] amend the *Animal Research Act 1985*, the *Exhibited Animals Protection Act 1986*, the *Food Act 2003*, the *Hemp Industry Act 2008*, the *Poppy Industry Act 2016*, the *Rural Assistance Act 1989* and the *Stock*

*Medicines Act 1989* to enable notices to be served on persons by electronic transmission, including by email and other digital means.

**Schedule 1.2[1] and [2]** amend the *Associations Incorporation Act 2009* to clarify that an application for the voluntary cancellation of an association's registration under that Act may be made only if the application is approved by a special resolution of the association. **Schedule 1.2[3]** makes a consequential amendment to that Act.

**Schedule 1.3[1]** amends the *Biosecurity Act 2015* to adopt a defined term for consistency with other references to a manner approved, not required, by the Secretary of the Department of Regional NSW.

**Schedule 1.3[2]** amends the *Biosecurity Act 2015* to update the scientific and common names of an aquatic pest to reflect current taxonomy.

**Schedule 1.4** relocates a provision currently in the *City of Sydney Regulation 2016*, clause 4 in relation to the enrolment of non-residential electors on the roll of electors for the City of Sydney. The proposed amendment provides that, where a firm of partners is taken to be a corporation by operation of the *City of Sydney Act 1988*, section 16A, each partner of the firm is taken to be a director of the corporation and the managing partner or chief executive of the firm, however styled, is taken to be the company secretary of the corporation. The Regulation is repealed by the proposed Act, Schedule 4, as a result of the relocation of the provision.

**Schedules 1.5[1] and [4] and 1.6[1], [2] and [4]** remove obsolete references to certificates of title from the *Community Land Development Act 2021* and the *Community Land Management Act 2021*. The *Real Property Amendment (Certificates of Title) Act 2021* abolished the requirement for certificates of title in NSW.

**Schedule 1.5[2] and [3]** correct errors in the *Community Land Management Act 2021* in relation to the way in which a community association may vary or release interests in association property or a scheme parcel.

**Schedule 1.6[3]** makes it clear that the *Community Land Management Act 2021*, section 138(3) is intended to apply to a contravention of a by-law made under that Act, section 129, relating to occupancy limits.

**Schedule 1.7[1]** amends the *Companion Animals Act 1998* to enable the disclosure of the address, as well as the name, of the owner of a companion animal if a person seeks the information for the purpose of bringing legal proceedings against the owner for the animal's behaviour.

**Schedule 1.7[2]** amends the *Companion Animals Act 1998* to provide that the requirement for a permit to own a cat that is 4 months old or older and not desexed does not apply if the cat was registered before 1 July 2020. Currently, the requirement does not apply if the cat was registered before 1 July 2019.

**Schedule 1.8** amends the *Dams Safety Act 2015* to update the permitted ways of serving documents on individuals and bodies corporate under that Act by—

- (a) removing facsimile transmission as a way of serving documents, and
- (b) including email as a way of serving documents.

**Schedule 1.9[1]** enables a registered practitioner under the *Design and Building Practitioners Act 2020* to apply for the practitioner's registration to be varied. This is currently provided for in the *Design and Building Practitioners Regulation 2021*. **Schedule 1.10** amends the *Design and Building Practitioners Regulation 2021*, consequential to the amendment.

**Schedule 1.9[2]** amends the *Design and Building Practitioners Act 2020* to make it clear that the regulations may make provision, including different provision, about the same matters in relation to an application for variation of registration as in relation to an application for registration. The amendment also provides that the Secretary of the Department of Customer Service may specify the period for which the registration of an additional class remains in force.

**Schedule 1.11[1]** amends the *Duties Act 1997* to update an obsolete reference to the *National Health Act 1953* of the Commonwealth, Part V to refer to the *Aged Care Act 1997* of the Commonwealth, Chapter 3A instead, which deals with aged care accommodation fees that may attract duty as a premium for a lease.

**Schedule 1.11[2]** amends the *Duties Act 1997* to make clear that duty is payable by a person granted the right under a call option to require another person to sell land in New South Wales, being a transaction that results in a change in beneficial ownership of dutiable property.

**Schedule 1.11[3]** requires the register of insurers registered under the *Duties Act 1997*, Chapter 8, Part 3 to be made publicly available on the website of Revenue NSW instead of being available for inspection at the Chief Commissioner's principal office, which is no longer open to the public.

**Schedule 1.12** amends the *Electricity Supply Act 1995* to correct terminology.

**Schedules 1.14[1], [7] and [9] and 1.15** omit redundant matter, relating to noxious fish and noxious marine vegetation, from the *Fisheries Management Act 1994* and the *Fisheries Management (Aquaculture) Regulation 2017*. The *Biosecurity Act 2015* now deals with noxious fish and noxious marine vegetation.

**Schedule 1.14[2] and [3]** provide that, in regulations and other instruments made under the *Fisheries Management Act 1994*, a scientific description of a fish species is not limited by, and prevails over, a reference to the common name of the species. **Schedule 1.16** amends the *Fisheries Management (General) Regulation 2019* consequent to these amendments.

**Schedule 1.14[4]** provides that under the *Fisheries Management Act 1994*, possession of a photo of an official receipt for payment of a recreational fishing fee, including a photo on a smartphone or other mobile device, is sufficient compliance with the requirement that a fisher have the official receipt in the fisher's immediate possession when taking fish.

**Schedule 1.14[5]** removes words from the *Fisheries Management Act 1994* that may incorrectly imply that forfeited shares in share management fisheries cease to have effect.

**Schedule 1.14[6]** omits a redundant provision from the *Fisheries Management Act 1994*.

**Schedule 1.14[8]** provides for the register of aquaculture permits kept under the *Fisheries Management Act 1994* to be made available on the website of the Department.

**Schedule 1.14[10] and [11]** require the publication in the Gazette of instruments notifying a delegation of functions of the Minister for Agriculture and Secretary of the Department of Regional NSW under the *Fisheries Management Act 1994*, sections 227 and 228.

**Schedule 1.14[12]** updates public consultation procedures in relation to certain matters under the *Fisheries Management Act 1994* to replace physical exhibition at the Head Office of the Department of Regional NSW and at its regional offices, with publication on the Department of Regional NSW's website.

**Schedule 1.18** amends the *Game and Feral Animal Control Act 2002* to correct the scientific name for the native game bird Grey Teal.

**Schedule 1.19[1] and [2]** relocate Schedule 1, clause 16 of the *Health Records and Information Privacy Act 2002* to form part of Schedule 1, clauses 10 and 11. These amendments provide that the restrictions on health information used or disclosed in an emergency are located in the same Health Privacy Principles to which the restrictions apply. **Schedule 1.19[3]** omits the relocated clause.

**Schedule 1.20[1], [2] and [8]** update references from inspectors to authorised officers in the *Hemp Industry Act 2008*.

**Schedules 1.20[3]–[7] and 1.21** amend the *Hemp Industry Act 2008* and the *Hemp Industry Regulation 2016* to update terms to refer to cancelling a licence instead of revoking a licence.

**Schedule 1.20[9] and [10]** replace references in the *Hemp Industry Act 2008*, section 28 to an “authorised officer” with “issuing officer” to make it clear that, for the section, the officer referred to has the same authority as an authorised officer under the *Law Enforcement (Powers and Responsibilities) Act 2002*.

**Schedule 1.20[13]** amends the definition of *authorised officer* for the *Hemp Industry Act 2008*, section 45 to include a police officer and remove an outdated reference to “inspector”. The amendment inserts a note to make it clear the definition in section 45 expands the existing definition of *authorised officer* for the Act.

**Schedule 1.22** omits a reference in the *Local Government Act 1993* to a repealed provision and updates the provision to refer to information that councils are required to make publicly available under the *Government Information (Public Access) Act 2009*.

**Schedule 1.23** amends the *Local Land Services Act 2013* to enable a document to be served on Local Land Services by electronic transmission.

**Schedule 1.24** requires a request for a partial cancellation of an authority under the *Mining Act 1992* to include a description of the land that will continue to be subject to the authority, rather than the land to which the cancellation relates.

**Schedule 1.25[1] and [2]** correct cross-references in the *Mining and Petroleum Legislation Amendment Act 2022*.

**Schedule 1.25[3], [6] and [7]** correct paragraph numbering in the *Mining and Petroleum Legislation Amendment Act 2022*.

**Schedule 1.25[4] and [5]** correct terminology used in proposed clause 190(2) to ensure the provision reflects the terminology used in the Act, proposed section 396(1), to which the proposed clause relates. Proposed section 396 is inserted by *Mining and Petroleum Legislation Amendment Act 2022*.

**Schedule 1.25[8]–[11]** correct terminology to ensure that the provision reflects the terminology used in the *Petroleum (Onshore) Act 1991*, proposed Part 14, Division 2, to which the provisions relate. Proposed Part 14, Division 2 is inserted by the *Mining and Petroleum Legislation Amendment Act 2022*.

**Schedule 1.26[1]** changes the membership of the Board of the Natural Resources Access Regulator constituted under the *Natural Resources Access Regulator Act 2017* from 3 members to at least 3, but not more than 5, members.

**Schedule 1.26[2]** modifies the quorum for a meeting of the Board from all members to 3 members under the *Natural Resources Access Regulator Act 2017*.

**Schedule 1.27[1]** makes it clear regulations may be made under the *Passenger Transport Act 1990* in relation to driver authority cards issued to persons authorised to drive public passenger vehicles.

**Schedule 1.27[2]** omits a redundant regulation-making power relating to the wearing of badges by drivers of public passenger vehicles from the *Passenger Transport Act 1990*.

**Schedule 1.28[1]** updates the reference to a repealed regulation in the *Payroll Tax Act 2007*.

**Schedule 1.28[2]** updates a reference in the *Payroll Tax Act 2007* to the number of days after the end of a financial year within which a payroll tax return must be lodged. The amendment is consequential to the amendment of a cross-referenced provision.

**Schedule 1.29** amends the *Plantations and Reafforestation Act 1999* to enable notices to be given or served to persons by electronic transmission.

**Schedule 1.31** amends the *Property and Stock Agents Act 2002* to correct an incorrect cross-reference and make it clear that the Secretary of the Department of Customer Service may

suspend a licence or certificate of registration until an audit required under that Act, section 111 is carried out and the report of the audit is provided to the Secretary.

**Schedule 1.32** amends the *Public Holidays Act 2010* to update the public holiday commonly known as the Queen's Birthday to the King's Birthday following the death of Her Late Majesty Queen Elizabeth II.

**Schedule 1.33[1]** updates the definition of **GVM (gross vehicle mass)** in the *Road Transport Act 2013*. This amendment is consequential to the commencement of the *Road Vehicle Standards Act 2018* of the Commonwealth. **Schedule 1.33[2] and [4]** make consequential amendments.

**Schedule 1.33[3]** updates terminology in the *Road Transport Act 2013*, definition of **vehicle identifier**, to refer to an identification plate, or as stated on the RAV for the vehicle, following legislative changes to vehicle terminology made under Commonwealth legislation.

**Schedule 1.35[1]** omits a redundant provision from the *Stock Medicines Act 1989*. The provision provides for the Secretary of the Department of Regional NSW to cancel the registration of a registered stock medicine on the recommendation of the Stock Medicines Board. However, registered stock medicines are now regulated by a national uniform legislative scheme and the Stock Medicines Board has been dissolved.

**Schedule 1.35[2]** amends the *Stock Medicines Act 1989* to provide that an authorised officer under the *Biosecurity Act 2015* is an authorised officer, with the authority to issue penalty notices, under the *Stock Medicines Act 1989*.

**Schedule 1.36** clarifies that a person who has possession of uncollected goods under the *Uncollected Goods Act 1995* may, if the goods are sold, recover costs associated with transporting the goods for storage or sale.

**Schedule 1.37** amends the *Veterinary Practice Act 2003* to enable notices to be served on persons, and certain documents to be served on the Veterinary Practitioners Board, by electronic transmission, including by email and other digital means.

**Schedule 1.38[1]** ensures that the *Interpretation Act 1987*, section 36(1), which provides that a period of time dating from a given day is to be calculated exclusive of that day, does not apply to the duration of management plans under the *Water Management Act 2000*, section 43.

**Schedule 1.38[2]** provides that a Ministerial review of a management plan under the *Water Management Act 2000*, other than provisions dealing with water sharing, must be conducted in the 5 years before the plan's expiry, rather than within the fifth year after the plan was made. The amendment does not affect the requirement for the Natural Resources Commission to audit a management plan within the first 5 years of the plan.

**Schedule 1.38[3]** amends the *Water Management Act 2000* to provide that the power of the Minister for Lands and Water to amend the share component of a specific purpose access licence, because the share component is no longer necessary, does not extend to a power to grant a new access licence. **Schedule 1.38[6]** makes a consequential amendment.

**Schedule 1.38[4]** enables certain prescribed decisions made by the Minister for Lands and Water relating to bore driller licensing under the *Water Management Act 2000* to be appealed to the Land and Environment Court.

**Schedule 1.38[5]** inserts a regulation-making power allowing regulations under the *Water Management Act 2000* to provide for the regulation of river traffic on the Murray River and the management of locks, weirs and other works located on or along the Murray River to continue the effect of a repealed provision.

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

**Schedule 2.1** amends the *Bathurst Regional Local Environmental Plan 2014* to correct a grammatical error.

**Schedule 2.2** amends the *Building and Development Certifiers Act 2018* to update references to a repealed regulation.

**Schedule 2.3** amends the *Casino Control Act 1992* to correct numbering errors.

**Schedule 2.4** amends the *Cemeteries and Crematoria Act 2013* to omit a redundant definition.

**Schedule 2.5** amends the *Centennial Park and Moore Park Trust Act 1983* to omit a redundant definition.

**Schedule 2.6** amends the *Child Protection (Working with Children) Act 2012* to correct a cross-reference.

**Schedule 2.7** amends the *Children's Guardian Act 2019* to update references from a single register to registers, consequential to the *Children's Guardian Amendment Act 2022* commencing.

**Schedule 2.8** amends the *Contract Cleaning Industry (Portable Long Service Leave Scheme) Act 2010* to update terminology as a consequence of amendments made to the *Corporations Act 2001* of the Commonwealth by the *Insolvency Law Reform Act 2016* of the Commonwealth.

**Schedule 2.9** amends the *Conveyancers Licensing Act 2003* to update terminology as a consequence of amendments made to the *Corporations Act 2001* of the Commonwealth by the *Insolvency Law Reform Act 2016* of the Commonwealth.

**Schedule 2.10** amends the *Credit (Commonwealth Powers) Act 2010* to update the name of an Office.

**Schedule 2.11** amends the *Dams Safety Regulation 2019* to correct numbering errors.

**Schedule 2.12** amends the *Design and Building Practitioners Act 2020* to correct a cross-reference.

**Schedule 2.13** amends the *Destination NSW Act 2011* to insert a missing word.

**Schedule 2.14** amends the *Disability Inclusion Act 2014* to correct a cross-reference.

**Schedule 2.15[1]** amends the *Duties Act 1997* to update a cross-reference. **Schedule 2.15[2]** amends the *Duties Act 1997* to correct a spelling error.

**Schedule 2.16** amends the *Electric Vehicles (Revenue Arrangements) Act 2021* to correct word placement.

**Schedule 2.17** amends the *Electricity Supply Act 1995* to omit a redundant word.

**Schedule 2.18[1]** amends the *Environmental Planning and Assessment Act 1979* to correct a cross-reference.

**Schedule 2.18[2]** amends the *Environmental Planning and Assessment Act 1979* to correct a cross-reference following the repeal of the *Mine Subsidence Compensation Act 1961*.

**Schedule 2.19** amends the *Fisheries Management Act 1994* to correct cross-references following the relocation of provisions of the *Environmental Planning and Assessment Act 1979* to the *Fisheries Management Act 1994*, Schedule 1AA.

**Schedule 2.20** amends the *Greater Sydney Parklands Trust Act 2022* to correct a typographical error.

**Schedule 2.21** amends the *Home Building Act 1989* to update terminology as a consequence of amendments made to the *Corporations Act 2001* of the Commonwealth by the *Insolvency Law Reform Act 2016* of the Commonwealth.

**Schedule 2.22[1]** amends the *Industrial Relations Advisory Council Act 2010* to update the name of an Office.

**Schedule 2.22[2]** omits a provision of the *Industrial Relations Advisory Council Act 2010* consequent on administrative changes which created duplicative references to the Secretary of the Department of Premier and Cabinet.

**Schedule 2.23** amends the *Infrastructure NSW Act 2011* to insert a missing word.

**Schedule 2.24** amends the *Land Tax Act 1956* to correct a cross-reference.

**Schedule 2.25** amends the *Land Tax Management Act 1956* to correct a cross-reference.

**Schedule 2.26** amends the *Local Government Amendment Act 2021* to correct a typographical error.

**Schedule 2.27** amends the *Local Land Services Act 2013* to insert a missing word.

**Schedule 2.28** amends the *Long Service Leave (Metalliferous Mining Industry) Regulation 2021* to omit a redundant word.

**Schedule 2.29** amends the *Long Service Leave Regulation 2021* to omit a redundant word.

**Schedule 2.30** amends the *Mining Regulation 2016* to correct a cross-reference.

**Schedule 2.31** amends the *Pawnbrokers and Second-hand Dealers Act 1996* to clarify the operation of the section by relocating a requirement prescribed by the regulations to the Act.

**Schedule 2.32** amends the *Pawnbrokers and Second-hand Dealers Regulation 2021* to omit a redundant provision.

**Schedule 2.33** amends the *Photo Card Act 2005* to omit a redundant section.

**Schedule 2.34** amends the *Plantations and Reafforestation (Code) Regulation 2001* to update the name of an Office.

**Schedule 2.35** amends the *Property and Stock Agents Act 2002* to update terminology as a consequence of amendments made to the *Corporations Act 2001* of the Commonwealth by the *Insolvency Law Reform Act 2016* of the Commonwealth.

**Schedule 2.36** amends the *Protection of the Environment Operations (General) Regulation 2022* to correct a spelling error.

**Schedule 2.37** amends the *Public Interest Disclosures Act 1994* to update the name of an Office.

**Schedule 2.38[1] and [2]** amends the *Public Spaces (Unattended Property) Act 2021* to correct word placement.

**Schedule 2.38[3]** corrects terminology in the *Public Spaces (Unattended Property) Act 2021*.

**Schedule 2.39** amends the *Retail Trading Act 2008* to omit a redundant section.

**Schedule 2.40** amends the *Retirement Villages Act 1999* to update terminology as a consequence of amendments made to the *Corporations Act 2001* of the Commonwealth by the *Insolvency Law Reform Act 2016* of the Commonwealth.

**Schedule 2.41** amends the *Road Transport (Vehicle Registration) Regulation 2017* to remove unnecessary punctuation.

**Schedule 2.42** amends the *Rural Fires Regulation 2022* to omit redundant matter. The sections referred to have been repealed.

**Schedule 2.43** amends the *Statutory and Other Offices Remuneration Act 1975* to update the name of an Office.

**Schedule 2.44** amends the *Strata Schemes Management Act 2015* to omit a redundant savings provision inserted by the *Strata Schemes Management Amendment (Sustainability Infrastructure) Act 2021*. The provision referred to in the clause does not exist.

**Schedule 2.45** amends the *Subordinate Legislation Act 1989* to correct terminology.

**Schedule 2.46** amends the *Sydney Olympic Park Authority Act 2001* to correct a cross-reference.

**Schedule 2.47** amends the *Transport Administration Act 1988* to insert a missing word.

**Schedule 2.48** amends the *Warringah Local Environmental Plan 2011* to correct the ordering of paragraphs.

**Schedule 2.49** amends the *Water Management Act 2000* to update the name of a Commission, consequent on changes made by the *Environmental Planning and Assessment Amendment Act 2017*.

**Schedule 2.50** amends the *Water Sharing Plan for the Hunter Unregulated and Alluvial Water Sources 2022* to correct numbering errors.

### **Schedule 3 Amendments by way of statute law revision— amendments relating to machinery of government changes**

**Schedule 3** amends each of the Acts and instruments mentioned in the Schedule for the purpose of effecting statute law revision in relation to machinery of government changes consequent on recent administrative changes.

### **Schedule 4 Repeals**

**Schedule 4** repeals the *Stock Medicines Amendment Act 2004* No 89 and the *City of Sydney Regulation 2016*. The *City of Sydney Regulation 2016* is redundant due to the relocation of the only provision of that regulation by the amendment in Schedule 1.

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

**Schedule 5** contains savings, transitional and other provisions of general effect. The purpose of each provision set out in Schedule 5 is as follows—

- (a) 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,
- (b) 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,
- (c) 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,
- (d) proposed section 4 has the effect of enabling the Governor, by proclamation, to revoke the repeal of an 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,
- (e) proposed section 5 enables the making of regulations of a savings or transitional nature relating to incidental matters arising out of the proposed Act.