

STATUTE LAW (MISCELLANEOUS PROVISIONS) ACT 1988 No. 20

NEW SOUTH WALES



Act No. 20, 1988

An Act to repeal certain Acts and to amend certain other Acts in various respects and for the purpose of effecting statute law revision; and to make certain savings. [Assented to 28 June 1988]

Statute Law (Miscellaneous Provisions) 1988

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Statute Law (Miscellaneous Provisions) Act 1988.

Commencement

2. (1) This Act commences on the date of assent, except as provided by this section.

(2) Schedules 4, 10, 11 (2), 16 (7) and 18 (2) and (3) commence on a day or days to be appointed by proclamation.

(3) Schedules 3 and 18 (1) and (4) shall be taken to have commenced on 18 December 1987.

(4) Schedule 14 (3) shall be taken to have commenced on 1 January 1988.

(5) Schedule 16 (1)–(6) commence on the commencement of the Real Property (Caveats) Amendment Act 1986.

(6) The provisions of Schedule 20 relating to—

(a) the Business Franchise Licences (Tobacco) Act 1987 shall be taken to have commenced on 26 June 1987; and

(b) the Strata Titles (Leasehold) Act 1986 commence—

(i) on the date of assent to this Act; or

(ii) on the commencement of the Strata Titles (Leasehold) Act 1986,

whichever is the later; and

(c) the Trustee Companies Act 1964 shall be taken to have commenced on 4 May 1988.

Amendments

3. Each Act specified in Schedules 1–20 is amended as set out in those Schedules.

Repeals

4. Each Act specified in Schedule 21 is repealed.

Savings, transitional and other provisions

5. Schedule 22 has effect.

SCHEDULE 1—AMENDMENTS TO THE CHILDREN (EQUALITY OF STATUS) ACT 1976 No. 97

(Sec. 3)

(1) Section 12 (Effect of orders for maintenance etc. relating to fathers of exnuptial children)—**(a) Section 12 (1) (a)—**

After “1964”, insert “(or any Act in force before the commencement of that Act)”.

(b) Section 12 (1) (c)—

Omit “annulled under section 39 of that Act”, insert instead “annulled or otherwise discharged on the ground, or on grounds including the ground, that the man is not, or may not be, the father of the child”.

(c) Section 12 (7) (a)—

Omit “annulled under section 39 of the Maintenance Act 1964”, insert instead “annulled or otherwise discharged on the ground, or on grounds including the ground, that the man is not, or may not be, the father of the child”.

(d) Section 12 (7)—

After “annulment”, insert “or discharge”.

(2) Section 14 (Effect of orders for maintenance etc. relating to mothers of exnuptial children)—**Section 14 (1) (a)—**

After “1964”, insert “(or any Act in force before the commencement of that Act)”.

SCHEDULE 2—AMENDMENTS TO THE CRIMES ACT 1900 No. 40

(Sec. 3)

(1) Section 428E (Time at which question of unfitness may be raised)—**Section 428E (2A)—**

After section 428E (2), insert:

(2A) The Attorney General may, at any time before the inquiry is commenced, determine that there is no longer any need for such an inquiry to be conducted.

(2) Section 428F (Procedure on raising question of unfitness)—**Section 428F (1) (a)—**

Omit the paragraph, insert instead:

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**SCHEDULE 2—AMENDMENTS TO THE CRIMES ACT 1900 No.
40—continued**

- (a) the Attorney General determines that an inquiry should be conducted and does not subsequently determine, before the inquiry is commenced, that there is no longer any need for such an inquiry to be conducted; or
- (3) **Section 428M (Functions of Attorney General following determination of Mental Health Review Tribunal)—**
 Section 428M (1)—
 Omit “consultation with”, insert instead “receiving and considering the advice of”.

**SCHEDULE 3—AMENDMENTS TO THE CRIMINAL APPEAL ACT
1912 No. 16**

(Sec. 3)

Section 5F (Appeal against interlocutory judgment or order)—

- (1) Section 5F (2)—
 Omit “and to which the Crown is a party”.
- (2) Section 5F (3) (b)—
 After “judge”, insert “, justice, justices or magistrate”.
- (3) Section 5F (4)—
 Omit “Supreme Court or District Court”, insert instead “proceedings to which the appeal relates”.

**SCHEDULE 4—AMENDMENTS TO THE DISTRICT COURT ACT
1973 No. 9**

(Sec. 3)

- (1) Part 3, Division 1, Subdivision 2 (**Bailiffs**)—

Omit the Subdivision, insert instead:

Subdivision 2—Sheriff and bailiffs

Sheriff and Sheriff's officers

25. (1) The Sheriff shall have and may exercise the functions conferred or imposed on the Sheriff by this Act and the rules.

(2) Unless the rules provide otherwise, the Sheriff may delegate to any Sheriff's officer any of the Sheriff's functions under this Act, except this power of delegation.

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**SCHEDULE 4—AMENDMENTS TO THE DISTRICT COURT ACT
1973 No. 9—continued**

(3) Subject to the rules, the Sheriff and any Sheriff's officers to whom functions are delegated shall exercise their functions under this Act in accordance with any orders and directions given by a Judge.

Bailiffs and assistant bailiffs—appointment etc.

26. (1) The Chief Judge may, by order in writing, appoint persons to be bailiffs of the Court for the proclaimed places specified in the order and may suspend or remove from office any person so appointed.

(2) The Sheriff, or a bailiff for the proclaimed place, may by instrument in writing appoint a sufficient number of persons to be assistant bailiffs for a proclaimed place.

(3) An assistant bailiff may be dismissed or suspended from office by the Chief Judge, the Sheriff or a bailiff for the proclaimed place concerned.

Functions of bailiffs and assistant bailiffs

27. (1) Bailiffs and assistant bailiffs shall have and may exercise the functions conferred or imposed on them by this Act and the rules.

(2) Without limiting subsection (1), it is the duty of an assistant bailiff for a proclaimed place to assist the Sheriff or a bailiff for that place, in accordance with the directions of the Sheriff or bailiff, as the case may be.

(3) Subject to the rules, a bailiff and an assistant bailiff shall exercise their functions under this Act in accordance with any orders and directions given by a Judge.

Liability of bailiffs

28. A bailiff who undertakes or is required to undertake the execution or service of any warrant, writ or other document relating to any proceedings is responsible to any party to those proceedings for all the acts and omissions of the bailiff and any assistant bailiff assisting him or her in the same manner as the Sheriff is responsible for the acts and omissions of the Sheriff and Sheriff's officers.

Remuneration of bailiffs

29. A bailiff and an assistant bailiff are entitled, in respect of any service performed by them under this Act, to receive and retain, out of the Consolidated Fund, the amount of the appropriate fee prescribed by the regulations as payable by a party in respect of that service.

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SCHEDULE 4—AMENDMENTS TO THE DISTRICT COURT ACT
1973 No. 9—*continued*

Obstruction of Sheriff, bailiff etc.

30. A person shall not—

- (a) assault, resist, interrupt or obstruct the Sheriff, a Sheriff's officer, a bailiff or an assistant bailiff exercising a function under this Act; or
- (b) rescue or attempt to rescue any property seized or taken by the Sheriff, a Sheriff's officer, a bailiff or an assistant bailiff in accordance with this Act.

Penalty: 10 penalty units or imprisonment for 6 months, or both.

(2) Section 65 (**Attendance**)—

Section 65 (1) (c)—

Before “a bailiff”, insert “the Sheriff or”.

(3) Section 92 (**Failure to attend in answer to examination summons**)—

Section 92 (5), (6)—

Before “bailiff” wherever occurring, insert “Sheriff or”.

(4) Section 108 (**Priority and duration of writs of execution**)—

Section 108 (1)—

Omit “bailiff for a proclaimed place”, insert instead “Sheriff or bailiff”.

(5) Section 109 (**Seizing and taking under writ of execution**)—

(a) Section 109 (1)—

Omit “bailiff for a proclaimed place”, insert instead “Sheriff or bailiff”.

(b) Section 109 (2), (9)—

Omit “A bailiff” wherever occurring, insert instead “The Sheriff or a bailiff”.

(c) Section 109 (3), (4), (5), (8), (10)—

Before “bailiff” wherever occurring, insert “Sheriff or”.

(d) Section 109 (7)—

Before “a bailiff”, insert “the Sheriff or”.

(e) Section 109 (7)—

Before “that bailiff”, insert “the Sheriff or by”.

(6) Section 110 (**Special provisions as to execution against land**)—

(a) Section 110 (1)–(4)—

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SCHEDULE 4—AMENDMENTS TO THE DISTRICT COURT ACT
1973 No. 9—*continued*

Omit “the bailiff” wherever occurring, insert instead “the Sheriff or bailiff”.

(b) Section 110 (3)—

Omit “A bailiff”, insert instead “The Sheriff or a bailiff”.

(c) Section 110 (5)—

Omit “by the bailiff for a proclaimed place, the registrar for that place”, insert instead “, the registrar for the proclaimed place that is nearest to the place of sale”.

(7) Section 111 (**Auctioneers**)—

Omit “bailiff” wherever occurring, insert instead “Sheriff or bailiff”.

(8) Section 113 (**Writ against the person**)—

(a) Section 113 (2), (2A), (3)—

Omit “the bailiff” wherever occurring, insert instead “the Sheriff or bailiff”.

(b) Section 113 (2) (c)—

Omit “a bailiff”, insert instead “the Sheriff or a bailiff”

(9) Section 114 (**Discharge of judgment debtor**)—

(a) Section 114 (1)—

Omit “any bailiff”, insert instead “the Sheriff, and any bailiff”.

(b) Section 114 (2), (3)—

Before “bailiff” wherever occurring, insert “Sheriff or”.

(10) Section 115 (**Interpleader by defendant, Sheriff or bailiff**)—

Section 115 (1)—

Before “a bailiff” wherever occurring, insert “the Sheriff or”.

(11) Section 116 (**Claim to property taken or intended to be taken in execution**)—

(a) Section 116 (1), (3), (4)—

Before “bailiff” wherever occurring, insert “Sheriff or”.

(b) Section 116 (4)—

Omit “bailiff’s application”, insert instead “application by the Sheriff or bailiff”.

(12) Section 161 (**Civil procedure rules**)—

Section 161 (2) (a)—

After “Court” insert “, and the Sheriff,”.

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**SCHEDULE 4—AMENDMENTS TO THE DISTRICT COURT ACT
1973 No. 9—*continued***

(13) Section 185 (Savings as to places, sittings, Judges and officers etc.)—

Section 185 (7)—

Omit “appointed under section 25 (3) of this Act as a bailiff, or under section 26 (1) of this Act as an assistant bailiff”, insert instead “appointed under this Act as a bailiff or as an assistant bailiff”.

(14) Section 199 (Contempt)—

Section 199 (6)—

Before “a bailiff”, insert “the Sheriff or”.

**SCHEDULE 5—AMENDMENTS TO THE ENVIRONMENTAL
PLANNING AND ASSESSMENT ACT 1979 No. 203**

(Sec. 3)

Section 13 (Director of Planning)—

(1) Section 13 (1)—

Omit “Environment and”.

(2) Section 13 (4)—

After section 13 (3), insert:

(4) In any Act or statutory instrument, or in any other instrument, or in any contract or agreement, a reference to the Director of Environment and Planning shall be read as a reference to the Director of Planning.

**SCHEDULE 6—AMENDMENTS TO THE JUDGES’ PENSIONS ACT
1953 No. 41**

(Sec. 3)

Section 5 (Pension for judge who retired, or retires, on account of ill-health)—

(1) Section 5 (1)—

Omit “the appropriate authority”, insert instead “an appropriate authority”.

(2) Section 5 (2) (b)—

Omit the paragraph, insert instead:

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**SCHEDULE 6—AMENDMENTS TO THE JUDGES' PENSIONS ACT
1953 No. 41—*continued***

- (b) retires on or after the day on which Schedule 6 to the Statute Law (Miscellaneous Provisions) Act 1988 commences and, within the period of 3 months before appointment as a judge, was certified by an appropriate authority not to be suffering from any impairment of health likely to affect capacity for judicial office,
- (3) Section 5 (4) (c)—
After “the Secretary of the Department of Health”, insert “or a person authorised by the Secretary to be an appropriate authority”.

SCHEDULE 7—AMENDMENTS TO THE JURY ACT 1977 No. 18

(Sec. 3)

- (1) Section 63 (**Failure to attend for jury service**)—
Omit “sections 64, 65 and 66”, insert instead “sections 64 and 66”.
- (2) Section 65 (**Imposition of penalty by judge for failure to attend for jury service at a court or jury pool**)—
Omit the section.
- (3) Section 66 (**Summary prosecution for failure to attend for jury service**)—
 - (a) Section 66 (1)—
Omit “Subject to subsection (1A), where”, insert instead “If”.
 - (b) Section 66 (1A)—
Omit the subsection.
 - (c) Section 66 (2) (a)—
After “service;”, insert “or”.
 - (d) Section 66 (2) (b)—
Omit “section 64; or”, insert instead “section 64,”.
 - (e) Section 66 (2) (c)—
Omit the paragraph.

**SCHEDULE 8—AMENDMENTS TO THE JUSTICES ACT 1902
No. 27**

(Sec. 3)

- (1) Section 48E (**Witness may be called**)—
Section 48E (2)—

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SCHEDULE 8—AMENDMENTS TO THE JUSTICES ACT 1902 No.
27—continued

Omit “, and shall do so”, insert instead “if satisfied that it is in the interests of justice to do so, and shall (if so satisfied) give the direction”.

(2) Section 100ZA (Consideration of applications)—

Section 100ZA (1)—

Omit “the Local Court nearest to the place where the offence was allegedly committed”, insert instead “any Local Court”.

**SCHEDULE 9—AMENDMENTS TO THE LEGAL PROFESSION
 ACT 1987 No. 109**

(Sec. 3)

(1) Section 25 (Practising as barrister)—

Section 25 (2)—

Omit “the barrister”, insert instead “a barrister”.

(2) Section 61 (Money received by solicitor on behalf of another)—

(a) Section 61 (3) (b)—

Omit the paragraph, insert instead:

(b) to prevent a solicitor from withdrawing or receiving, from trust money or controlled money—

(i) reimbursement for disbursements paid by the solicitor; or

(ii) money for disbursements to be paid by the solicitor; or

(iii) money due, or to accrue due, to the solicitor for costs, if the prescribed procedure is followed.

(b) Section 61 (8)—

From the definition of “trust money”, omit “that is for the time being held in a general trust account at a bank in New South Wales”.

(3) Section 117 (Limitation on general legal work and probate work)—

Section 117 (2)—

After “not”, insert “directly or indirectly”.

(4) Section 163 (Determinations of the Tribunal)—

Section 163 (3)—

After “conduct” where secondly occurring, insert “or misconduct”.

*Statute Law (Miscellaneous Provisions) 1988***SCHEDULE 9—AMENDMENTS TO THE LEGAL PROFESSION ACT
1987 No. 109—continued****(5) Schedule 2 (The Admission Boards)—****(a) Clause 2 (2)—**

Omit “8”, insert instead “6”.

(b) Clause 8—

After clause 7, insert:

Reserve members

8. (1) For each member of an Admission Board, one or more reserve members may be nominated to act in the office of the member during the member's illness or absence.

(2) A reserve member, while so acting, shall have and may exercise all the functions of the member and shall be taken to be a member of the Admission Board concerned.

(3) For a member who is the Attorney General or a nominee of the Attorney General, the reserve member or members may be nominated by the Attorney General.

(4) For any other member, the reserve member or members—

(a) shall be nominated by the person or body that nominated the member; and

(b) must be qualified for nomination in the same way as the member.

(5) A person may be removed, by the nominating person or body, from any office for which the person was nominated under this clause.

(6) For the purposes of this clause, a vacancy in the office of a member of an Admission Board shall be taken to be an absence from office of the member.

**SCHEDULE 10—AMENDMENTS TO THE LOCAL COURTS (CIVIL
CLAIMS) ACT 1970 No. 11**

(Sec. 3)

(1) Section 8A—

After section 8, insert:

Sheriff and Sheriff's officers

8A. (1) The Sheriff shall have and may exercise the functions conferred or imposed on the Sheriff by this Act and the rules.

SCHEDULE 10—AMENDMENTS TO THE LOCAL COURTS (CIVIL CLAIMS) ACT 1970 No. 11—*continued*

(2) Unless the rules provide otherwise, the Sheriff may delegate to any Sheriff's officer any of the Sheriff's functions under this Act, except this power of delegation.

(3) Subject to the rules, the Sheriff and any Sheriff's officers to whom functions are delegated shall exercise their functions under this Act in accordance with any orders and directions given by the Chief Magistrate.

(2) Section 9—

Omit the section, insert instead:

Bailiffs

9. (1) The Chief Magistrate may, by order in writing, appoint persons to be bailiffs of the courts specified in the order and may suspend or remove from office any person so appointed.

(2) Bailiffs shall have and may exercise the functions conferred or imposed on them by this Act and the rules.

(3) Subject to the rules, a bailiff shall exercise his or her functions under this Act in accordance with any orders and directions given by the Chief Magistrate.

(4) A bailiff who undertakes or is required to undertake the execution or service of any warrant, writ or other document relating to any proceedings in a court is responsible to any party to those proceedings for all the acts and omissions of the bailiff and any other bailiff assisting him or her in the same manner as the Sheriff is responsible for the acts and omissions of the Sheriff and the Sheriff's officers.

(3) Section 42 (Failure to attend in answer to examination summons)—

(a) Section 42 (5) (d)—

Before "all bailiffs", insert "the Sheriff and".

(b) Section 42 (8)—

Omit "Any bailiff", insert instead "The Sheriff or any bailiff".

(c) Section 42 (8)—

Before "a bailiff", insert "the Sheriff or".

(4) Section 59 (Sheriff or bailiff to take under writ of execution)—

(a) Section 59 (1), (2), (6)—

Omit "A bailiff" wherever occurring, insert instead "The Sheriff or a bailiff".

(b) Section 59 (3)—

SCHEDULE 10—AMENDMENTS TO THE LOCAL COURTS (CIVIL CLAIMS) ACT 1970 No. 11—*continued*

- (i) Omit “a bailiff”, insert instead “the Sheriff or bailiff”.
 - (ii) Omit “that bailiff”, insert instead “the Sheriff or bailiff”.
 - (iii) Omit “the bailiff”, insert instead “the Sheriff or bailiff”.
- (c) Section 59 (4), (5), (7)—
 Omit “the bailiff” wherever occurring, insert instead “the Sheriff or bailiff”.
- (5) Section 59A—
 After section 59, insert:
Auctioning of seized property
 59A. (1) The rules may make provision for or with respect to—
 - (a) the appointment of an auctioneer licensed under the Auctioneers and Agents Act 1941 to sell any property under a writ of execution; and
 - (b) the respective functions of the auctioneer and the bailiff.
 (2) Without limiting the generality of this section, the rules may authorise or require the auctioneer to exercise any function of the bailiff in connection with the sale of the property.
- (6) Section 65 (**Interpleader by defendant, Sheriff or bailiff**)—
 Section 65 (1) (b)—
 Before “a bailiff”, insert “the Sheriff or”.
- (7) Section 66 (**Claim by third party to property seized under writ of execution**)—
 - (a) Section 66 (1)—
 Before “a bailiff”, insert “the Sheriff or”.
 - (b) Section 66 (1)—
 Omit “that bailiff”, insert instead “the Sheriff or bailiff”.
 - (c) Section 66 (1), (2), (3)—
 Omit “the bailiff” wherever occurring, insert instead “the Sheriff or bailiff”.
 - (d) Section 66 (3A) (as inserted by Act No. 281, 1987)—
 Omit “the bailiff” wherever occurring, insert instead “the Sheriff or bailiff”.
- (8) Section 67 (**Registrar to issue summons and record commencement of interpleader action**)—
 - (a) Section 67 (3) (b)—

*Statute Law (Miscellaneous Provisions) 1988***SCHEDULE 10—AMENDMENTS TO THE LOCAL COURTS (CIVIL CLAIMS) ACT 1970 No. 11—*continued***

Before “a bailiff”, insert “the Sheriff or”.

(b) Section 67 (5)—

Omit “the bailiff” wherever occurring, insert instead “the Sheriff or bailiff”.

(9) Section 79 (**Obstructing Sheriff or bailiff**)—

(a) Before “a bailiff” wherever occurring, insert “the Sheriff, a Sheriff’s officer or”.

(b) Omit “the bailiff’s”, insert instead “his or her”.

SCHEDULE 11—AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919 No. 41

(Sec. 3)

(1) Section 93A (**Appointment of health surveyors**)—

Section 93A (5)—

After “holding” insert “, or qualified for appointment to,”.

(2) Section 161 (**Abandonment of rates**)—

Omit “, and then only upon the certificate of the auditor of the council that the abandonment or writing off is in accordance with such ordinance”.

(3) Section 546 (**Various powers**)—

Section 546 (3) (b1)—

After section 546 (3) (b), insert:

(b1) declare that land has ceased to form part of an urban area;

SCHEDULE 12—AMENDMENTS TO THE MARKETING OF PRIMARY PRODUCTS ACT 1983 No. 176

(Sec. 3)

(1) Section 117 (**Agency may employ staff**)—

Section 117 (2)—

Omit “are are agreed”, insert instead “as are agreed”.

(2) Section 144 (**Power to compromise with creditors**)—

(a) Section 144 (7) (b)—

Omit “that persons”, insert instead “that person”.

(b) Section 144 (9) (a)—

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**SCHEDULE 12—AMENDMENTS TO THE MARKETING OF
PRIMARY PRODUCTS ACT 1983 No. 176—*continued***

Omit “soon practicable”, insert instead “soon as practicable”.

(3) Section 163 (**Regulations**)—

Section 163 (3) (b)—

Omit “a producer”, insert instead “persons (whether producers or not)”.

**SCHEDULE 13—AMENDMENT TO THE MOTOR VEHICLES
(TAXATION) ACT 1980 No. 119**

(Sec. 3)

Schedule 1 (**Motor vehicles tax**)—

After clause 7 (3), insert:

(4) The day appointed and notified in accordance with this clause shall be taken to have been 27 October 1987.

**SCHEDULE 14—AMENDMENTS TO THE PAY-ROLL TAX ACT
1971 No. 22**

(Sec. 3)

(1) Section 3 (**Definitions**)—

Section 3 (1)—

After the definition of “corporation”, insert:

“corresponding law”, in relation to another State, means a law in force in that State relating to the imposition upon employers of a tax on wages paid or payable by them and the assessment and collection of that tax, but does not include the Commonwealth Act;

(2) Section 13 (**Returns**)—

Section 13 (1) (b)—

Omit “the form and in the manner prescribed”, insert instead “a form and in a manner approved by the Chief Commissioner”.

(3) Section 16J (**“Prescribed amount” for purposes of sections 16K and 16L**)—

Section 16J (2) (b)—

Omit “3/10”, insert instead “4/10”.

**SCHEDULE 15—AMENDMENTS TO THE PREVENTION OF
CRUELTY TO ANIMALS ACT 1979 No. 200**

(Sec. 3)

(1) Section 4 (Definitions)—**(a) Section 4 (1), definition of “charitable organisation”—**

From paragraph (b), omit “as a charity”, insert instead “, or exempted from registration, as a charity, by or”.

(b) Section 4 (1), definition of “officer”—

Omit paragraph (b), insert instead:

- (b) an officer of a charitable organisation who is a special constable within the meaning of the Police Offences Act 1901; or

(2) Section 25 (Powers of officers in respect of certain places)—

Renumber section 25 (4) (as inserted by Act No. 160, 1987) as section 25 (5).

**SCHEDULE 16—AMENDMENTS TO THE REAL PROPERTY ACT
1900 No. 25**

(Sec. 3)

(1) Section 74H (Effect of caveat lodged under section 74F)—**(a) Section 74H (5) (g)—**

Omit “or chargee”, insert instead “, chargee or covenant chargee”.

(b) Section 74H (5) (i)—

Omit the paragraph, insert instead:

- (i) in relation to a mortgage, charge, covenant charge or lease to the recording of which the caveator has consented or in respect of the recording of which the caveat has lapsed—a dealing effected by the mortgagee, chargee, covenant chargee or lessee, including a dealing effected in the exercise of a power of sale or other power or right conferred by the mortgage, charge, covenant charge or lease or by or under law;

(2) Section 74I (Lapse of caveat where dealing etc. subsequently lodged for recording)—

Section 74I (1), (2)—

After “lapse” wherever occurring, insert “to the extent provided by that subsection”.

**SCHEDULE 16—AMENDMENTS TO THE REAL PROPERTY ACT
1900 No. 25—*continued***

(3) Section 74J (Lapse of caveat on application of proprietor of estate or interest)—

(a) Section 74J (1)—

Omit “(subsection (2) excepted)”.

(b) Section 74J (1)—

Omit “the estate or interest affected by”, insert instead “an estate or interest in the land described in”.

(4) Section 74K (Power of Supreme Court to extend operation of a caveat lodged under section 74F)—

Section 74K (2)—

After “Court” where secondly occurring, insert “, or may make such other orders as it thinks fit”.

(5) Section 74MA—

After section 74M, insert:

Application to Court for withdrawal of caveat

74MA. (1) Any person who is or claims to be entitled to an estate or interest in the land described in a caveat lodged under section 74B or 74F may apply to the Supreme Court for an order that the caveat be withdrawn by the caveator or another person who by virtue of section 74M is authorised to withdraw the caveat.

(2) After being satisfied that a copy of the application has been served on the person who would be required to withdraw the caveat if the order sought were made or after having made an order dispensing with service, the Supreme Court may—

(a) order the caveator or another person, who by virtue of section 74M is authorised to withdraw the caveat to which the proceedings relate, to withdraw the caveat within a specified time; and

(b) make such other or further orders as it thinks fit.

(3) If an order for the withdrawal of a caveat is made under subsection (2) and a withdrawal of the caveat is not, within the time limited by the order, lodged with the Registrar-General, the caveat lapses when an office copy of the order is lodged with the Registrar-General after that time expires.

(6) Section 74N (Service of notices on the caveator for the purposes of this Part)—

Section 74N (1) (f)—

After section 74N (1) (e), insert:

**SCHEDULE 16—AMENDMENTS TO THE REAL PROPERTY ACT
1900 No. 25—*continued***

(f) the notice is served in such other manner as the Supreme Court, on application being made to it, directs.

(7) Section 105A (Effect of recording of writ)—

Section 105A (1) (b), (3) (c), (4) (c)—

After “District Court Act, 1973” wherever occurring, insert “or section 98A (3) of the Supreme Court Act 1970”.

**SCHEDULE 17—AMENDMENT TO THE REVENUE LAWS
(RECIPROCAL POWERS) ACT 1987 No. 86**

(Sec. 3)

Section 8 (Obstruction etc. of an authorised revenue officer)—

Section 8 (2) (b)—

Omit the paragraph, insert instead:

(b) if, where the offence arises under subsection (1) (b), the court hearing the charge is satisfied—

(i) that the defendant could not, by the exercise of reasonable diligence, have complied with the requirement to which the charge relates; or

(ii) that the defendant complied with that requirement to the extent of the defendant’s ability to do so.

**SCHEDULE 18—AMENDMENTS TO THE SUPREME COURT ACT
1970 No. 52**

(Sec. 3)

(1) Section 17 (Criminal proceedings)—

Section 17 (1)—

After “Schedule”, insert “, and no claim for relief lies to the Court against an interlocutory judgment or order given or made in proceedings referred to in paragraph (a1) or (a2) of that Schedule”.

(2) Section 98A—

After section 98, insert:

Sale or mortgage by judgment debtor of land affected by writ

98A. (1) In this section—

“notice of consent” means the notice referred to in subsection (2) (a).

SCHEDULE 18—AMENDMENTS TO THE SUPREME COURT ACT
1970 No. 52—*continued*

(2) Where land is affected by a writ of execution particulars of which have been recorded in accordance with section 105 of the Real Property Act 1900, or which has been registered in the register of causes, writs, and orders affecting land in accordance with section 186 of the Conveyancing Act 1919, and—

- (a) the judgment creditor consents, by notice in writing, to the sale or mortgage of the land by the judgment debtor; and
- (b) the judgment creditor stipulates, in the notice of consent, the minimum amount that should be paid to the Sheriff out of the proceeds of the sale or the money advanced in respect of the mortgage; and
- (c) the notice of consent is filed with the Sheriff; and
- (d) the Sheriff, after due inquiry, endorses the notice of consent with a certificate to the effect that the land has not been sold under the writ,

the endorsement of the notice with that certificate operates to prohibit the sale of the land under the writ during the prescribed period.

(3) Where during that prescribed period—

- (a) the judgment debtor sells or mortgages the land; and
- (b) in the case of a sale—the amount of the deposit (if any) is paid to the Sheriff, to be held by the Sheriff as stakeholder; and
- (c) an amount (including any deposit paid to the Sheriff as referred to in paragraph (b)) that is not less than—
 - (i) the minimum amount referred to in subsection (2) (b); or
 - (ii) if the judgment creditor notifies the Sheriff in writing that he or she consents to payment of a specified amount that is less than that minimum amount—that specified amount,

is paid to the Sheriff out of the proceeds of the sale or money advanced in respect of the mortgage,

any liability of the purchaser or mortgagee for payment to the judgment debtor of those proceeds or that money is extinguished to the extent of the amount so paid to the Sheriff, and the Sheriff shall, upon production to the Sheriff of the instrument evidencing the sale or mortgage, and if satisfied as to the matters referred to in paragraphs (a), (b) and (c), endorse the instrument with his or her consent to the sale or mortgage.

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**SCHEDULE 18—AMENDMENTS TO THE SUPREME COURT ACT
1970 No. 52—continued**

(4) The interest of the purchaser or mortgagee evidenced by the instrument endorsed with the Sheriff's consent shall not, in relation to the land, be affected by anything done or purporting to have been done, whether before or after the endorsement of the consent, under the writ of execution.

(5) The amount paid to the Sheriff, as referred to in subsection (3) (c), shall, subject to and in accordance with the rules—

- (a) be paid to or at the direction of the judgment creditor; and
- (b) be in reduction of the judgment debt.

(3) Section 99A—

After section 99, insert:

Removal of goods under writ of possession

99A. For the purposes of executing a writ of possession the Sheriff need not remove any goods found on the land.

(4) Third Schedule (**Criminal proceedings**)—

(a) Paragraph (a)—

Omit “that are for, or that relate to proceedings in the District Court for, ”, insert instead “for”.

(b) Paragraphs (a1), (a2)—

Omit paragraph (a1), insert instead:

- (a1) proceedings (including committal proceedings) for the prosecution of offenders on indictment (“indictment” including any information presented or filed as provided by law for the prosecution of offenders) in the Court or in the District Court;
- (a2) proceedings (whether in the Court or the District Court) under section 51A of the Justices Act 1902;

**SCHEDULE 19—AMENDMENTS TO THE VICTIMS
COMPENSATION ACT 1987 No. 237**

(Sec. 3)

(1) Section 20 (**Reasons for not making award or for reducing amount of compensation payable**)—

Section 20 (1)—

Omit “for the benefit of”, insert instead “in relation to”.

*Statute Law (Miscellaneous Provisions) 1988***SCHEDULE 19—AMENDMENTS TO THE VICTIMS
COMPENSATION ACT 1987 No. 237—continued****(2) Section 41 (Costs)—****(a) Section 41 (1)—**

Omit “(not exceeding \$1,000)”.

(b) Section 41 (5)—

After section 41 (4), insert:

(5) An award of costs under this section may be made payable—

(a) to the applicant in the proceedings; or

(b) to any other person for the benefit of the applicant.

(3) Section 52 (Definitions)—

Section 52, definition of “aggrieved person”—

In paragraph (a), after “injury”, insert “or loss”.

(4) Section 60 (Definitions)—

Section 60, definition of “aggrieved person”—

After “injury”, insert “or loss”.

**SCHEDULE 20—AMENDMENTS TO OTHER ACTS BY WAY OF STATUTE
LAW REVISION**

(Sec. 3)

Builders Licensing Act 1971 No. 16—**Section 52A (2) (a)—**

Omit “a servant”, insert instead “an officer”.

Building Services Corporation Act 1987 No. 59—**Section 9 (7)—**

After “this”, insert “or any other”.

Business Franchise Licences (Tobacco) Act 1987 No. 93—**Section 39 (Duration of licences)—**

Omit “was granted” wherever occurring, insert instead “took effect”.

Coal and Oil Shale Mine Workers (Superannuation) Act 1941 No. 45—**(1) Section 33—**

After section 32, insert:

Savings and transitional provisions

33. Schedule 2 has effect.

(2) Schedule 2—

After Schedule 1, insert:

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**SCHEDULE 20—AMENDMENTS TO OTHER ACTS BY WAY OF STATUTE
LAW REVISION—continued**

SCHEDULE 2—SAVINGS AND TRANSITIONAL PROVISIONS

(Sec. 33)

References to Superannuation Tribunal

1. A reference in any other Act or statutory instrument, or in any other instrument (enacted, made or executed before the date of assent to the Coal and Oil Shale Mine Workers (Superannuation) Amendment Act 1983) to the Superannuation Tribunal constituted by this Act as in force before that date, shall be read as a reference to the Tribunal.

Colleges of Advanced Education Act 1975 No. 11—**Section 8 (Vacation of office of member of a council)—****Section 8 (1) (k)—**

Omit the paragraph, insert instead:

(k) being a member appointed under section 7 (2) (c)—

(i) becomes a servant (other than a servant whose service with the college is, in the terms of his or her employment by the college, expressed to be casual service) or student of the college; or

(ii) is removed from office under section 47 of the Interpretation Act 1987.

Co-operation (Amendment) Act 1987 No. 19—**Schedule 2 (Miscellaneous amendments to the Principal Act)—****Schedule 2 (2) (d)—**

Omit “whether of not”, insert instead “whether or not”.

Energy Administration Act 1987 No. 103—**Section 33 (Obstruction etc. of inspectors)—****Section 33 (1) (a)—**

Omit “section 33”, insert instead “section 32”.

Gaming and Betting (Amendment) Act 1987 No. 200—**Schedule 3 (Miscellaneous amendments)—****Schedule 3 (7)—**

Omit “Division 5—Unlawful games”, insert instead “Division 5—Avoidance of contracts”.

Irrigation Act 1912 No. 73—**Section 8BA (Sinking of bores or wells etc. on payment therefor being made in advance)—****Section 8BA (4)—**

Omit “Commission”.

Jury (Amendment) Act 1987 No. 286—**Schedule 2 (Amendments to the Jury Act 1977 by way of statute law revision)—****(1) Schedule 2 (4) (a)—**

Omit “a Local”, insert instead “Local”.

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SCHEDULE 20—AMENDMENTS TO OTHER ACTS BY WAY OF STATUTE
LAW REVISION—*continued*

- (2) Schedule 2 (4) (b)—

Omit “the”.

Legal Profession (Amendment) Act 1987 No. 263—

Schedule 6 (**Amendments relating to receivers**)—

- Schedule 6 (1) (b)—

Omit “referred to in paragraph (a)”.

Mines Inspection Act 1901 No. 75—

- (1) Section 82—

After section 81, insert:

Savings and transitional provisions

82. Schedule 3 has effect.

- (2) Schedule 3—

After Schedule 2, insert:

SCHEDULE 3—SAVINGS AND TRANSITIONAL PROVISIONS

(Sec. 82)

References to inspector for the district, inspector of the district

1. A reference in any other Act or statutory instrument, or in any other instrument, however expressed, to an inspector for the district or an inspector of the district within the meaning of this Act, as in force immediately before the commencement of the Mines Inspection (Amendment) Act 1962, shall be read as a reference to an inspector.

Miscellaneous Acts (Community Welfare) Repeal and Amendment Act 1987 No. 58—

Schedule 3 (**Amendments**)—

- (1) Omit the matter relating to the Public Instruction (Amendment) Act 1916.
- (2) From item (2) of the matter relating to the Statutory and Other Offices Remuneration Act 1975, omit “Full-time President of the Children’s Review Panel”, insert instead “Full-time President of the Boards of Review”.

Nurses Registration Act 1953 No. 10—

- (1) Section 5 (**Members of the Board**)—

Section 5 (5) (a)—

Omit “subclause (4)”, insert instead “subsection (4)”.

- (2) Section 15 (**Qualifications for registration**)—

- (a) Section 15 (1) (e)—

Omit “satisfied”, insert instead “satisfies”.

- (b) Section 15 (2) (e)—

Omit “satisfies”, insert instead “satisfies”.

- (3) Section 19 (**Cancellation, suspension etc. of registration on account of misconduct etc.**)—

Section 19 (5)—

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SCHEDULE 20—AMENDMENTS TO OTHER ACTS BY WAY OF STATUTE
LAW REVISION—*continued*

Omit "Chairman or", insert instead "President or".

Parliamentary Electorates and Elections Act 1912 No. 41—

(1) Section 114ZR (**Procedure for voting at declared institutions**)—

(a) Section 114ZR (10) (a)—

Omit "for district", insert instead "for the district".

(b) Section 114ZR (10) (b)—

Omit "for district", insert instead "for a district".

(2) Section 151A (**Printing etc. false information**)—

Section 151A (1)—

(a) Omit "(a) if", insert instead "(d) if".

(b) Omit "(b) in", insert instead "(e) in".

Parliamentary Electorates and Elections (Amendment) Act 1987 No. 132—

Schedule 1 (**Amendments to the Principal Act**)—

(1) Schedule 1 (18)—

Omit "wherever", insert instead "wherever".

(2) Schedule 1 (29) (a)—

Omit "any", insert instead "an".

(3) Schedule 1 (40) (c)—

Omit "wherever occurring".

Pastures Protection Act 1934 No. 35—

Section 3 (**Repeal and savings etc.**)—

Section 3 (9)—

After section 3 (8), insert:

(9) A reference in any other Act or statutory instrument, or in any other instrument or document of any kind to an inspector of stock appointed under section 21, as in force immediately before the commencement of the Pastures Protection (Amendment) Act 1957, shall be read as a reference to a veterinary inspector appointed under section 21.

Poisons (Amendment) Act 1987 No. 246—

Schedule 4 (**Amendments relating to drugs of addiction**)—

Schedule 4 (4) (a)—

Omit "29 (1)", insert instead "29 (2)".

Stamp Duties (Further Amendment) Act 1987 No. 227—

Schedule 3 (**Statute law revision**)—

Schedule 3 (1)—

After "furnish", insert "where firstly occurring".

State Public Service Superannuation Act 1985 No. 45—

Section 23 (**Costs of administration**)—

Omit the section.

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SCHEDULE 20—AMENDMENTS TO OTHER ACTS BY WAY OF STATUTE
LAW REVISION—*continued*

Statute Law (Miscellaneous Provisions) Act (No. 2) 1987 No. 209—**Schedule 17 (Amendment to the Irrigation Act 1912)—**

Omit "17BA", insert instead "17AB".

Statutory and Other Offices Remuneration Act 1975 (1976 No. 4)—**Schedule 2 (Public offices)—**

(1) From Part 1, omit:

(c) the senior member of the Children's Court;

Insert instead:

(c) the Senior Children's Magistrate;

(2) From Part 1, omit:

(d) a member of the Children's Court;

Insert instead:

(d) a Children's Magistrate;

Strata Titles Act 1973 No. 68—**Section 58 (By-laws)—**

(a) Section 58 (7) (b)—

After "amending", insert " , adding to".

(b) Section 58 (7B) (b)—

Omit "under subsection (2)", insert instead "in accordance with subsection (7)".

Strata Titles (Leasehold) Act 1986 No. 219—

(1) Section 53 (Duties of Registrar-General (1973 Act, s. 28M))—

Section 53 (d)—

Omit the paragraph, insert instead:

(d) such other documents as may be prescribed,

the Registrar-General may make such recordings in the Register as the Registrar-General considers to be appropriate to give effect to the order.

(2) Section 87 (By-laws)—

(a) Section 87 (7) (b)—

After "amending", insert " , adding to".

(b) Section 87 (9) (b)—

Omit "under subsection (2)", insert instead "in accordance with subsection (7)".

Trustee Companies Act 1964 No. 6—

Third Schedule, First Part—

Omit "National Trustees Executors and Agency Company of Australasia Limited", insert instead "National Mutual Trustees Limited".

Statute Law (Miscellaneous Provisions) 1988

**SCHEDULE 20—AMENDMENTS TO OTHER ACTS BY WAY OF STATUTE
LAW REVISION—*continued***

Wilderness Act 1987 No. 196—**Section 8 (Declaration of wilderness areas)—****Section 8 (1) (b)—**

Omit the paragraph, insert instead:

(b) subject to a conservation agreement referred to in section 16,
to be a wilderness area.

Workers Compensation Act 1987 No. 70—**Schedule 1 (Deemed employment of workers)—****Clause 17 (2)—**

Omit “order”, insert instead “regulation”.

SCHEDULE 21—REPEALS

(Sec. 4)

Municipalities (Incorporation Validating) Act 1901 (1902 No. 14)
 Police Offences (Amendment) Act 1908 No. 12
 Conveyancing (Amendment) Act 1920 No. 23
 Public Roads (Amendment) Act 1923 No. 12
 Crimes (Amendment) Act 1924 No. 10
 Banks and Bank Holidays (Amendment) Act 1924 No. 25
 Housing (Amendment) Act 1924 No. 27
 Administration of Justice Act 1925 No. 15
 Fair Rents (Amendment) Act 1926 No. 2
 Workmen's Compensation (Broken Hill) (Amendment) Act 1927 No. 22
 Local Government (Amendment) Act 1927 No. 33
 Main Roads (Amendment) Act 1927 No. 51
 Conveyancing (Amendment) Act 1927 No. 56
 Real Property (Amendment) Act 1928 No. 25
 Local Government (Amendment) Act 1928 No. 41
 Workmen's Compensation (Broken Hill) (Amendment) Act 1929 No. 43
 Sydney Harbour Trust (Amendment) Act 1930 No. 32
 Irrigation (Amendment) Act 1931 No. 36
 Friendly Societies (Further Amendment) Act 1931 No. 72
 Bookmakers (Taxation) Amendment Act 1932 No. 20
 Friendly Societies (Amendment) Act 1932 No. 43
 Constitution Further Amendment (Referendum) Act 1932 (1933 No. 1)
 University and University Colleges (Amendment) Act 1937 No. 30
 Theatres, Public Halls and Cinematograph Films (Amendment) Act 1938 No. 35
 Parliamentary Electorates and Elections (Amendment) Act 1941 No. 6
 Irrigation and Water (Amendment) Act 1944 No. 26
 Cattle Slaughtering and Diseased Animals and Meat (Amendment) Act 1947 No. 8
 Transport (Division of Functions) Amendment Act 1956 No. 38
 Coal and Oil Shale Mine Workers (Superannuation) Further Amendment Act 1957 No.
 54
 Pastures Protection (Amendment) Act 1957 No. 68
 Government Railways and Transport (Amendment) Act 1958 No. 41
 University and University Colleges (Amendment) Act 1959 No. 6

*Statute Law (Miscellaneous Provisions) 1988*SCHEDULE 21—REPEALS—*continued*

Racing (Amendment) Act 1959 No. 26
 Maritime Services (Amendment) Act 1960 No. 51
 Government Railways and Transport (Amendment) Act 1961 No. 19
 Mines Inspection (Amendment) Act 1962 No. 8
 War Service Land Settlement and Closer Settlement (Amendment) Act 1963 No. 27
 Lord Howe Island (Amendment) Act 1967 No. 66
 Co-operation (Amendment) Act 1970 No. 82
 Private Hospitals (Amendment) Act 1971 No. 10
 Theatres and Public Halls and Cinematograph Films (Amendment) Act 1971 No. 12
 Supreme Court (Amendment) Act 1972 No. 41
 Aborigines (Amendment) Act 1973 No. 35
 Maritime Services (Amendment) Act 1974 No. 40
 Technical and Further Education (Amendment) Act 1975 No. 50
 Constitution and Other Acts (Amendment) Act 1975 No. 67
 Fire Brigades (Amendment) Act 1977 No. 28
 Poisons (Regulations) Amendment Act 1977 No. 96
 Stamp Duties (Further Amendment) Act 1977 No. 135
 Land Vendors (Amendment) Act 1978 No. 2
 Cattle Compensation (Amendment) Act 1978 No. 7
 National Relief Fund (Repeal) Act 1978 No. 17
 Constitution (Referendum) Act 1978 No. 44
 Co-operation (Amendment) Act 1979 No. 86
 Electricity Development (Energy Authority) Amendment Act 1979 No. 104
 Statutory and Other Offices Remuneration (Energy Authority) Amendment Act 1979 No. 105
 Adoption of Children (Domicile) Amendment Act 1979 No. 119
 Superannuation (Amendment) Act 1980 No. 50
 Valuation of Land (Amendment) Act 1980 No. 137
 Closer Settlement (Land Titles) Amendment Act 1980 No. 195
 Clean Air (Amendment) Act 1981 No. 92
 Constitution (Referendum) Act 1981 No. 96
 Plumbers, Gasfitters and Drainers (Amendment) Act 1982 No. 13
 Miscellaneous Acts (Financial Accommodation) Amendment Act 1982 No. 22
 Local Government and Other Authorities (Superannuation) Amendment Act 1982 No. 27
 Legal Services Commission (Amendment) Act 1982 No. 40
 Stock Diseases (Amendment) Act 1982 No. 70
 Parliamentary Electorates and Elections (Amendment) Act 1982 No. 112
 Crimes (Road Safety) Amendment Act 1982 No. 124
 Royal Botanic Gardens and Domain Trust (Amendment) Act 1983 No. 9
 Crimes (Domestic Violence) Amendment Act 1983 No. 116
 Coal and Oil Shale Mine Workers (Superannuation) Amendment Act 1983 No. 150
 Transport Authorities (Amendment) Act 1983 No. 151
 Crimes (Mental Disorder) Amendment Act 1983 No. 180
 Gaming and Betting (Amusement Devices) Amendment Act 1984 No. 58
 Parliamentary Remuneration Tribunal (Amendment) Act 1984 No. 61
 Statutory and Other Offices Remuneration (Amendment) Act 1984 No. 62
 Transport Authorities (Further Amendment) Act 1984 No. 122
 Motor Traffic (Amendment) Act 1984 No. 128
 Land Tax (Amendment) Act 1984 No. 130
 Pesticides (Amendment) Act 1985 No. 4
 Second-hand Dealers and Collectors (Amendment) Act 1985 No. 8

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SCHEDULE 21—REPEALS—*continued*

Pawnbrokers (Amendment) Act 1985 No. 10
Totalizator (Amendment) Act 1985 No. 29
Local Government and Other Authorities (Superannuation) (Fund Closure) Amendment Act 1985 No. 42
Superannuation (Amendment) Act 1985 No. 46
Superannuation (Scheme Closure) Amendment Act 1985 No. 47
Factories, Shops and Industries (Amendment) Act 1985 No. 76
Prevention of Cruelty to Animals (Amendment) Act 1985 No. 79
Trustee Companies (Amendment) Act 1985 No. 88
Public Service (Government Insurance Office) Amendment Act 1985 No. 98
Land Tax (Flood Liable Land) Amendment Act 1985 No. 102
Prevention of Cruelty to Animals (Further Amendment) Act 1985 No. 130
Forestry (Clearing Licences) Amendment Act 1985 No. 134
Land Tax (Amendment) Act 1985 No. 146
Crimes (Child Assault) Amendment Act 1985 No. 149
Evidence (Children) Amendment Act 1985 No. 152
Superannuation (Further Amendment) Act 1985 No. 155
Gaming and Betting (Further Amendment) Act 1985 No. 177
Land Tax (Further Amendment) Act 1985 No. 216
Land Tax Management (Administration) Amendment Act 1985 No. 223
Justices (Clean Air) Amendment Act 1986 No. 27
State Pollution Control Commission (Mobile Plant and Equipment) Amendment Act 1986 No. 28
Crimes (Release on Licence Board) Amendment Act 1986 No. 36
Crimes (Remissions) Amendment Act 1986 No. 44
Prevention of Cruelty to Animals (Prescribed Defences) Amendment Act 1986 No. 56
Parliamentary Electorates and Elections (Amendment) Act 1986 No. 58
Land Tax Management (Amendment) Act 1986 No. 90
Crimes (Mental Illness) Amendment Act 1986 No. 93
Public Hospitals (Disposition of Land) Amendment Act 1986 No. 97
Constitution (Local Government) Amendment Act 1986 No. 111
Evidence (Amendment) Act 1986 No. 112
Periodic Detention of Prisoners (Amendment) Act 1986 No. 115
Trustee Companies (Amendment) Act 1986 No. 121
Crimes (Photographic Evidence) Amendment Act 1986 No. 162
Crimes (Remissions) Further Amendment Act 1986 No. 189
Dried Fruits (Amendment) Act 1987 No. 1
Crimes (Radar Detected Offences) Amendment Act 1987 No. 32
Crimes (Road Safety) Amendment Act 1987 No. 45
Factories, Shops and Industries (Workers Compensation) Amendment Act 1987 No. 76
Land Tax Management (Information Disclosure) Amendment Act 1987 No. 88
Private Hospitals (Amendment) Act 1987 No. 122
Election Funding (Amendment) Act 1987 No. 133
Land Tax (Amendment) Act 1987 No. 228
Land Tax Management (Amendment) Act 1987 No. 229
Legal Profession (Amendment) Act 1987 No. 263

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Trustee Companies (Amendment) Act 1985 No. 88
Trustee Companies (Amendment) Act 1986 No. 121
University and University Colleges (Amendment) Act 1937 No. 30
University and University Colleges (Amendment) Act 1959 No. 6
Valuation of Land (Amendment) Act 1980 No. 137
War Service Land Settlement and Closer Settlement (Amendment) Act 1963 No. 27
Workmen's Compensation (Broken Hill) (Amendment) Act 1927 No. 22
Workmen's Compensation (Broken Hill) (Amendment) Act 1929 No. 43

*Statute Law (Miscellaneous Provisions) 1988***SCHEDULE 22—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS**

(Sec. 5)

Effect of amendment of amending provisions

1. An amendment made by Schedule 20 to an amending provision (as defined by the Reprints Act 1972) contained in an Act shall, if the amending provision has commenced before the date of assent to this Act, be taken to have taken effect as from the commencement of the amending provision.

Effect of transfer of referential provisions

2. (1) An amendment made by this Act to include in another Act a provision in or to the effect of a referential provision repealed by Schedule 21 shall be taken to have had effect on and from the commencement of the repealed provision, subject to any other Act passed since that commencement.

(2) In this clause—

“referential provision” means a provision requiring a reference in an Act or statutory instrument or in any other document to be read or construed as, or taken to be, or deemed to be, or otherwise treated as, a reference to—

- (a) an act, matter, person or thing; or
- (b) an act, matter, person or thing by a particular description or title.

Effect of repeals

3. The repeal by this Act of any enactment does not affect any saving of a statutory instrument made by the enactment.

Effect of amendment or repeal on acts done or decisions made

4. Except where it is expressly provided to the contrary, where this Act—

- (a) amends a provision of an Act; or
- (b) repeals and re-enacts (with or without modifications) a provision of an Act, 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.

District Court and Local Court bailiffs

5. (1) A person (other than a Sheriff's officer) who was a bailiff of the District Court immediately before the commencement of Schedule 4 shall, on that commencement, be regarded as having been appointed as a bailiff of that Court (on the same terms as applied to his or her office as bailiff immediately before that commencement).

(2) For the purpose of the effectual operation of the District Court Act 1973 in relation to anything commenced to be done before the commencement of Schedule 4, a Sheriff's officer who was a bailiff under that Act may, after that commencement, exercise as Sheriff's officer any function which he or she could have exercised had he or she remained a bailiff.

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SCHEDULE 22—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—
continued

(3) The provisions of this clause also apply in respect of bailiffs under the Local Courts (Civil Claims) Act 1970 and for that purpose references to that Act and the commencement of Schedule 10 shall be substituted as appropriate.

Judges' pensions—certificate concerning health

6. Section 5 (2) of the Judges' Pensions Act 1953 applies to a judge certified (before the commencement of Schedule 6) as referred to in that provision as if that Schedule had not been enacted.

Regulations

7. (1) The Governor may make regulations containing other 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.

NOTE

Alphabetical list of Acts repealed by Schedule 21

Aborigines (Amendment) Act 1973 No. 35
Administration of Justice Act 1925 No. 15
Adoption of Children (Domicile) Amendment Act 1979 No. 119
Banks and Bank Holidays (Amendment) Act 1924 No. 25
Bookmakers (Taxation) Amendment Act 1932 No. 20
Cattle Compensation (Amendment) Act 1978 No. 7
Cattle Slaughtering and Diseased Animals and Meat (Amendment) Act 1947 No. 8
Clean Air (Amendment) Act 1981 No. 92
Closer Settlement (Land Titles) Amendment Act 1980 No. 195
Co-operation (Amendment) Act 1970 No. 82
Co-operation (Amendment) Act 1979 No. 86
Coal and Oil Shale Mine Workers (Superannuation) Amendment Act 1983 No. 150
Coal and Oil Shale Mine Workers (Superannuation) Further Amendment Act 1957 No. 54
Constitution and Other Acts (Amendment) Act 1975 No. 67
Constitution Further Amendment (Referendum) Act 1932 (1933 No. 1)
Constitution (Local Government) Amendment Act 1986 No. 111

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- Constitution (Referendum) Act 1978 No. 44
- Constitution (Referendum) Act 1981 No. 96
- Conveyancing (Amendment) Act 1920 No. 23
- Conveyancing (Amendment) Act 1927 No. 56
- Crimes (Amendment) Act 1924 No. 10
- Crimes (Child Assault) Amendment Act 1985 No. 149
- Crimes (Domestic Violence) Amendment Act 1983 No. 116
- Crimes (Mental Disorder) Amendment Act 1983 No. 180
- Crimes (Mental Illness) Amendment Act 1986 No. 93
- Crimes (Photographic Evidence) Amendment Act 1986 No. 162
- Crimes (Radar Detected Offences) Amendment Act 1987 No. 32
- Crimes (Release on Licence Board) Amendment Act 1986 No. 36
- Crimes (Remissions) Amendment Act 1986 No. 44
- Crimes (Remissions) Further Amendment Act 1986 No. 189
- Crimes (Road Safety) Amendment Act 1982 No. 124
- Crimes (Road Safety) Amendment Act 1987 No. 45
- Dried Fruits (Amendment) Act 1987 No. 1
- Election Funding (Amendment) Act 1987 No. 133
- Electricity Development (Energy Authority) Amendment Act 1979 No. 104
- Evidence (Amendment) Act 1986 No. 112
- Evidence (Children) Amendment Act 1985 No. 152
- Factories, Shops and Industries (Amendment) Act 1985 No. 76
- Factories, Shops and Industries (Workers Compensation) Amendment Act 1987 No. 76
- Fair Rents (Amendment) Act 1926 No. 2
- Fire Brigades (Amendment) Act 1977 No. 28
- Forestry (Clearing Licences) Amendment Act 1985 No. 134
- Friendly Societies (Amendment) Act 1932 No. 43
- Friendly Societies (Further Amendment) Act 1931 No. 72
- Gaming and Betting (Amusement Devices) Amendment Act 1984 No. 58
- Gaming and Betting (Further Amendment) Act 1985 No. 177
- Government Railways and Transport (Amendment) Act 1958 No. 41
- Government Railways and Transport (Amendment) Act 1961 No. 19
- Housing (Amendment) Act 1924 No. 27
- Irrigation (Amendment) Act 1931 No. 36
- Irrigation and Water (Amendment) Act 1944 No. 26
- Justices (Clean Air) Amendment Act 1986 No. 27
- Land Tax (Amendment) Act 1984 No. 130
- Land Tax (Amendment) Act 1985 No. 146
- Land Tax (Amendment) Act 1987 No. 228
- Land Tax (Flood Liable Land) Amendment Act 1985 No. 102
- Land Tax (Further Amendment) Act 1985 No. 216
- Land Tax Management (Administration) Amendment Act 1985 No. 223
- Land Tax Management (Amendment) Act 1986 No. 90
- Land Tax Management (Amendment) Act 1987 No. 229
- Land Tax Management (Information Disclosure) Amendment Act 1987 No. 88
- Land Vendors (Amendment) Act 1978 No. 2
- Legal Profession (Amendment) Act 1987 No. 263
- Legal Services Commission (Amendment) Act 1982 No. 40
- Local Government (Amendment) Act 1927 No. 33
- Local Government (Amendment) Act 1928 No. 41
- Local Government and Other Authorities (Superannuation) Amendment Act 1982 No. 27
- Local Government and Other Authorities (Superannuation) (Fund Closure) Amendment Act 1985 No. 42

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Lord Howe Island (Amendment) Act 1967 No. 66
 Main Roads (Amendment) Act 1927 No. 51
 Maritime Services (Amendment) Act 1960 No. 51
 Maritime Services (Amendment) Act 1974 No. 40
 Mines Inspection (Amendment) Act 1962 No. 8
 Miscellaneous Acts (Financial Accommodation) Amendment Act 1982 No. 22
 Motor Traffic (Amendment) Act 1984 No. 128
 Municipalities (Incorporation Validating) Act 1901 (1902 No. 14)
 National Relief Fund (Repeal) Act 1978 No. 17
 Parliamentary Electorates and Elections (Amendment) Act 1941 No. 6
 Parliamentary Electorates and Elections (Amendment) Act 1982 No. 112
 Parliamentary Electorates and Elections (Amendment) Act 1986 No. 58
 Parliamentary Remuneration Tribunal (Amendment) Act 1984 No. 61
 Pastures Protection (Amendment) Act 1957 No. 68
 Pawnbrokers (Amendment) Act 1985 No. 10
 Periodic Detention of Prisoners (Amendment) Act 1986 No. 115
 Pesticides (Amendment) Act 1985 No. 4
 Plumbers, Gasfitters and Drainers (Amendment) Act 1982 No. 13
 Poisons (Regulations) Amendment Act 1977 No. 96
 Police Offences (Amendment) Act 1908 No. 12
 Prevention of Cruelty to Animals (Amendment) Act 1985 No. 79
 Prevention of Cruelty to Animals (Further Amendment) Act 1985 No. 130
 Prevention of Cruelty to Animals (Prescribed Defences) Amendment Act 1986 No. 56
 Private Hospitals (Amendment) Act 1971 No. 10
 Private Hospitals (Amendment) Act 1987 No. 122
 Public Hospitals (Disposition of Land) Amendment Act 1986 No. 97
 Public Roads (Amendment) Act 1923 No. 12
 Public Service (Government Insurance Office) Amendment Act 1985 No. 98
 Racing (Amendment) Act 1959 No. 26
 Real Property (Amendment) Act 1928 No. 25
 Royal Botanic Gardens and Domain Trust (Amendment) Act 1983 No. 9
 Second-hand Dealers and Collectors (Amendment) Act 1985 No. 8
 Stamp Duties (Further Amendment) Act 1977 No. 135
 State Pollution Control Commission (Mobile Plant and Equipment) Amendment Act 1986 No. 28
 Statutory and Other Offices Remuneration (Amendment) Act 1984 No. 62
 Statutory and Other Offices Remuneration (Energy Authority) Amendment Act 1979 No. 105
 Stock Diseases (Amendment) Act 1982 No. 70
 Superannuation (Amendment) Act 1980 No. 50
 Superannuation (Amendment) Act 1985 No. 46
 Superannuation (Further Amendment) Act 1985 No. 155
 Superannuation (Scheme Closure) Amendment Act 1985 No. 47
 Supreme Court (Amendment) Act 1972 No. 41
 Sydney Harbour Trust (Amendment) Act 1930 No. 32
 Technical and Further Education (Amendment) Act 1975 No. 50
 Theatres and Public Halls and Cinematograph Films (Amendment) Act 1971 No. 12
 Theatres, Public Halls and Cinematograph Films (Amendment) Act 1938 No. 35
 Totalizator (Amendment) Act 1985 No. 29
 Transport Authorities (Amendment) Act 1983 No. 151
 Transport Authorities (Further Amendment) Act 1984 No. 122
 Transport (Division of Functions) Amendment Act 1956 No. 38

STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL 1988

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The objects of this Bill are—

- (a) to make amendments to various Acts (Schedules 1–19); and
- (b) to amend certain other Acts for the purpose of effecting statute law revision (Schedule 20); and
- (c) to repeal certain Acts containing only—
 - (i) amendments to other Acts that have been incorporated in a reprint under the Reprints Act 1972; or
 - (ii) spent or unnecessary provisions of a saving or transitional nature; or
 - (iii) validation or referential provisions (Schedule 21); and
- (d) to make other provisions of a minor, consequential or ancillary nature.

Schedule 1 amends sections 12 and 14 of the Children (Equality of Status) Act 1976. The effect of these sections is that orders made by a court under the Maintenance Act 1964 for the maintenance of exnuptial children (or ancillary matters) are conclusive evidence of paternity or maternity. (Such orders are not made except in the light of an admission or finding as to paternity or maternity.)

The purpose of the amendments is to widen the class of orders that may be regarded as furnishing conclusive evidence of this kind, by including similar orders made under Acts (such as the Infant Protection Act 1904) that were in force before the Maintenance Act.

Schedule 2 amends the Crimes Act 1900—

- (a) so as to ensure that where an inquiry is to be conducted into the question of a person's fitness to be tried for an offence as a result of a determination made under section 428E of that Act, the inquiry need not be conducted if, before the inquiry commences, the Attorney General subsequently determines that there is no longer any need for such an inquiry to be conducted (Schedule 2 (1) and (2)); and

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- (b) to make it clear that the Attorney General's functions under section 428M of the Act (following notification of a determination of the Mental Health Review Tribunal as to the fitness of a person to be tried for an offence) may be exercised not only after consultation with the Director of Public Prosecutions but also after consideration of the written advice of the Director (Schedule 2 (3)).

Schedule 3 amends section 5F of the Criminal Appeal Act 1912 (as inserted by the Criminal Appeal (Amendment) Act 1987) to ensure that the section operates in the manner intended when it was enacted. Section 5F (2) was inserted to enable the Attorney General or Director of Public Prosecutions to appeal as of right to the Court of Criminal Appeal against an interlocutory judgment or order in proceedings (including committal proceedings) for the prosecution of offenders on indictment in the Supreme Court or the District Court. The recent decision of the High Court of Australia in *John L Pty Ltd v. Attorney-General (NSW)* (1987 (73 ALR 545)) interpreted the phrase "proceedings to which the Crown was a party" in section 5C of the Act in a manner which, if applied to section 5F, might prevent the Attorney General or Director of Public Prosecutions appealing as of right in committal proceedings.

The amended section 5F (2) will read:

- (2) The Attorney General or the Director of Public Prosecutions may appeal to the Court of Criminal Appeal against an interlocutory judgment or order given or made in proceedings to which this section applies [*and to which the Crown is a party*].

Matter to be omitted is shown in italics.

The proposed amendments to section 5F (3) are by way of statute law revision.

The proposed amendment to section 5F (4) corrects a printing error that occurred in the late stages of preparation of the Criminal Appeal (Amendment) Act 1987.

Schedule 4 amends the District Court Act 1973 to confer on the Sheriff functions currently conferred only on bailiffs of the District Court. The Sheriff will be empowered to delegate those functions to Sheriff's officers. (Currently, all Sheriff's officers are bailiffs under the Act.) Sheriff's officers will in future exercise their functions under the Act as "Sheriff's officer" rather than as "bailiff" as at present. The amendments will also enable functions to be conferred on the Sheriff by District Court rules. Current provisions concerning bailiffs are retained with minor and consequential amendments.

Parallel amendments are made to the Local Courts (Civil Claims) Act 1970 by Schedule 10.

Schedule 5 amends section 13 of the Environmental Planning and Assessment Act 1979 to change the name of the Director of Environment and Planning to the Director of Planning.

Schedule 6 amends section 5 of the Judges' Pensions Act 1953 which provides for pensions of judges who retire because of ill-health. The proposed amendments will—

- (a) enable the Secretary of the Department of Health to authorise another person to provide certificates under section 5; and
- (b) require a certificate that a person is not suffering from any impairment of health likely to affect capacity for judicial office to be given before the person's appointment as a judge (at present, such a certificate may be given after appointment).

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Schedule 7 amends the Jury Act 1977 to streamline the procedure for taking proceedings against a person who has failed to attend for jury service at a court or jury pool and declined to be dealt with under the penalty notice procedure. The proposed amendment repeals a provision requiring the approval of a judge before proceedings can be taken against such a person and permitting a judge to summarily impose a penalty for the failure to attend.

Schedule 8 amends the Justices Act 1902 in the following respects:

Section 48E (2) of the Act requires a Justice to reject a paper committal and direct the relevant prosecution witness to give evidence orally if the defendant makes the necessary application before the paper committal is received in evidence. The provision must be read in the light of the mandatory paper committal provisions introduced by the Justices (Paper Committals) Amendment Act 1987, and, in particular, the amendment to section 48E (1) (b) which limited the obligation of a Justice to grant such an application to cases in which it was in the interests of justice to do so. The proposed consequential amendment to section 48E (2) (Schedule 8 (1)) will put the matter beyond doubt.

Section 100ZA (1) of the Act requires applications under section 100Y and references from the Minister under section 100Z relating to certain traffic offences to be dealt with by the Clerk of the Local Court nearest to the place where the offence was allegedly committed. The proposed amendment to the subsection (Schedule 8 (2)) will overcome the inconvenience this requirement can cause by enabling the application or reference to be dealt with by the Clerk of any Local Court.

Schedule 9 amends the Legal Profession Act 1987—

- (a) to make the language of sections 25 and 163 consistent with that used in parallel provisions of the Act (Schedule 9 (1) and (4)); and
- (b) to enable a solicitor to withdraw money from a general trust account for disbursements yet to be paid (Schedule 9 (2) (a)); and
- (c) to ensure that the requirements of that Act in relation to the keeping of trust account records extend to all trust money, whether or not it is for the time being held in a general trust account (Schedule 9 (2) (b)); and
- (d) to amend section 117 (2) of the Act so that it provides (as did the former section 40c (1) of the Legal Practitioners Act 1898 on which it is based) that it is an offence for a person to directly or indirectly do any general legal work, or any probate work, for a fee unless the person is a legal practitioner (Schedule 9 (3)); and
- (e) to decrease from 8 to 6 members the quorum required for a joint sitting of the Barristers Admission Board and the Solicitors Admission Board (Schedule 9 (5) (a)); and
- (f) to enable one or more reserve members to be nominated to act in the office of a member of an Admission Board during the member's illness or absence (the reserve member is to hold the same qualification and be nominated in the same manner as the member for whom he or she is to act) (Schedule 9 (5) (b)).

Schedule 10 amends the Local Courts (Civil Claims) Act 1970 in 2 respects.

Firstly, to enable rules to be made to authorise and provide for the auctioning by a licensed auctioneer of goods and other personal property seized under a writ of execution issued by a Local Court. Currently, seized property can only be sold by the bailiff. The amendment brings Local Courts into line with the Supreme and District Courts.

Statute Law (Miscellaneous Provisions) 1988

Secondly, to confer on the Sheriff functions currently conferred only on bailiffs of Local Courts. The Sheriff will be empowered to delegate those functions to Sheriff's officers. (The Act currently provides that all Sheriff's officers are bailiffs.) Sheriff's officers will in future exercise their functions under the Act as "Sheriff's officer" rather than as "bailiff" as at present. The amendments will also enable functions to be conferred on the Sheriff by Local Court rules. Current provisions concerning bailiffs are retained with minor and consequential amendments. Parallel amendments are made to the District Court Act 1973 by Schedule 4.

Schedule 11 amends the Local Government Act 1919 in the following respects:

Under section 93A of the Act a person holding the position of a health surveyor of a council under the section before its substitution by the Local Government (General Revision) Amendment Act 1986 is taken to be qualified to hold the position of chief health surveyor or assistant health surveyor of the council. The proposed amendment to the section (Schedule 11 (1)) will provide for persons who were qualified for appointment to the position of a health surveyor before the substitution to be treated in the same way. (A person was qualified for appointment if the person held a certificate as prescribed or was exempted from doing so.)

Under section 161 of the Act rates cannot be abandoned or written off the books of account of a council unless the auditor of the council certifies that the abandonment or writing off complies with the relevant ordinance. The proposed amendment to the section (Schedule 11(2)) omits this obsolete requirement. The ordinance will be appropriately amended to take into account modern auditing practice.

Under section 546 (Various powers) of the Act a shire council may, by resolution, alter the boundaries of adjoining urban areas, add to the area of an urban area, constitute a new urban area or unite an urban area. The proposed amendment to section 546 (Schedule 11 (3)) will make it clear that a shire council may also declare that land has ceased to form part of an urban area.

Schedule 12 amends the Marketing of Primary Products Act 1983 to widen the existing power in section 163 (3) (b) of the Act to make regulations for or with respect to the making and keeping of records by a producer so that regulations may be made to require other persons involved in the marketing of primary products to make or keep records (Schedule 12 (3)). The Schedule also includes amendments to sections 117 and 144 of the Act by way of statute law revision (Schedule 12 (1) and (2)).

Schedule 13 amends the Motor Vehicles (Taxation) Act 1980 so as to ratify the collection of a tax which has been paid since 27 October 1987 on heavy motor vehicles not used substantially for private purposes.

Schedule 14 amends the Pay-roll Tax Act 1971—

- (a) to restore a definition ("corresponding law") repealed by the Pay-roll Tax (Information Disclosure) Amendment Act 1987 so that any uncertainty as to the effect of provisions of the Act using the definition is avoided (Schedule 14 (1)); and
- (b) to provide for the approval rather than prescription of forms referred to in section 13 of the Act (Schedule 14 (2)); and
- (c) to correct a typographical error contained in a formula (relating to the calculation of the amount of pay-roll tax payable by the members of a group of employers from 1 July 1987) inserted by the Pay-roll Tax (Amendment) Act 1987 (Schedule 14 (3)).

(The relevant provision will only apply to the annual adjustment of pay-roll tax from 30 June 1988.)

Statute Law (Miscellaneous Provisions) 1988

Schedule 15 amends the definition of "charitable organisation" in section 4 of the Prevention of Cruelty to Animals Act 1979 to enable persons who are officers of certain organisations or associations which are exempted from registration as a charity by or under the Charitable Collections Act 1934 to be officers for the purposes of the Prevention of Cruelty to Animals Act 1979.

The Schedule also includes amendments by way of statute law revision to the definition of "officer" in section 4, and to section 25, of the Act.

Schedule 16 amends the Real Property Act 1900—

- (a) to make it clear that the Registrar-General can record certain dealings (such as a transfer pursuant to the exercise of a mortgagee's power of sale) effected by the registered proprietor of a mortgage, lease, charge or covenant charge which was able to be registered because a caveat lapsed (Schedule 16 (1)); and
- (b) to make it clear that if a caveator is given notice of the lodging of a dealing for registration and does not take the required action to prevent the dealing from being registered the caveat lapses only in respect of that particular dealing (Schedule 16 (2)); and
- (c) to allow the registered proprietor of an estate or interest in the land described in a caveat to apply to the Registrar-General to have notice sent to the caveator that the caveat will lapse if no further action is taken (Schedule 16 (3)); and
- (d) to declare that the Supreme Court, on hearing an application for an order extending the operation of a caveat, may make any orders it thinks fit (Schedule 16 (4)); and
- (e) to permit a person having an estate or interest in land the subject of a caveat to apply to the Supreme Court for an order that the caveat be withdrawn (Schedule 16 (5)); and
- (f) to enable the Supreme Court to determine the manner of service of a notice on a caveator (Schedule 16 (6)).

It is also proposed to amend section 105A of the Act as a consequence of the amendment of the Supreme Court Act 1970 by Schedule 18 (2) which will authorise (in certain circumstances) the sale or mortgage by a judgment debtor of land affected by a Supreme Court writ. The amendments to the Real Property Act will authorise the Registrar-General to register certain dealings affecting the land free of the writ. The proposed arrangements currently exist in respect of the District Court.

Schedule 17 amends section 8 of the Revenue Laws (Reciprocal Powers) Act 1987 to widen the defences available to a person who fails or refuses to comply with a requirement made under section 6 (Investigation powers) of the Act so that they are consistent with those available under section 11 for a failure or refusal to comply with a requirement made under section 9 or 10 of the Act (relating to the powers of the relevant principal New South Wales revenue officer and designated Commonwealth and State revenue officer to obtain information and evidence). When amended, section 8 will provide that if a person charged with an offence under the section satisfies the court hearing the charge that he or she could not, by the exercise of reasonable diligence, have complied with a requirement made under section 6 (or that the person complied with it to the extent of the person's ability) the person will not be guilty of the offence. Under the existing provision a defence is available only in relation to the failure or refusal to answer certain questions and does not extend to, for example, a failure to produce records for inspection or to produce a statement in English of any records produced not written in the English language.

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Schedule 18 amends the Supreme Court Act 1970 in the following respects:

The proposed amendments to section 17 and the Third Schedule (Schedule 18 (1) and (4)) clarify the effect of amendments made by the Supreme Court (Appeals) Amendment Act 1987. The latter amendments excluded the making of an application or appeal to the Court of Appeal against the refusal of an interlocutory judgment or order in criminal proceedings in the District Court. The proposed amendments make it clear that the exclusion applies to an order made in committal proceedings.

Proposed section 98A (Schedule 18 (2)) will introduce a procedure (the same as currently exists in the District Court Act 1973) to enable the sale or mortgage by a judgment debtor of land affected by a Supreme Court writ. The procedure embodies appropriate safeguards for judgment creditors and the purchaser or mortgagee.

Proposed section 99A will make it clear that the Sheriff is under no obligation to remove goods from land when executing a writ of possession (Schedule 18 (3)).

Schedule 19 amends the Victims Compensation Act 1987 so as—

- (a) to effect minor statute law revision (Schedule 19 (1)); and
- (b) to remove the existing \$1,000 limit relating to the scale of costs that may be prescribed by the rules of the Victims Compensation Tribunal (Schedule 19 (2) (a)); and
- (c) to enable an award of costs in proceedings before the Victims Compensation Tribunal to be made payable to the applicant in the proceedings or to any other person for the benefit of the applicant (Schedule 19 (2) (b)); and
- (d) to ensure that the provisions of Part 6 (Compensation awarded by a court) enable a court to give directions for compensation for loss as well as for injury (Schedule 19 (3) and (4)).

Schedule 20 amends certain other Acts for the purpose of effecting statute law revision. A number of amendments are made relating to formal drafting matters, such as the ranging of provisions and cross-references within Acts and minor corrections. The Schedule also contains amendments for the following purposes:

To amend the following Acts to transfer referential provisions in amending Acts to be repealed by this Act that are not saved by the Interpretation Act 1987 to the Principal Acts to which they relate:

Coal and Oil Shale Mine Workers (Superannuation) Act 1941
 Mines Inspection Act 1901
 Pastures Protection Act 1934.

To amend section 39 (Duration of licences) of the Business Franchise Licences (Tobacco) Act 1987 to ensure that the period of a licence is defined as being from the 28th day of one month (or such other day as is specified in the licence) until the end of the 27th day of the following month. (In its present form the section could, in some instances, have the unintended effect of providing that a licence ceases to be in force before it takes effect.)

To amend section 8 of the Colleges of Advanced Education Act 1975 to make it clear that a member of the council of a corporate college is taken to have vacated office if the member is removed from office under section 47 of the Interpretation Act 1987. The proposed amendment removes any doubt that might have been raised in this respect by the repeal of section 7 (6) of the Act consequent on the enactment of the Interpretation Act 1987.

To repeal a superfluous section of the State Public Service Superannuation Act 1985 (relating to a provision repealed by the State Public Service Superannuation (Amendment) Act 1987).

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To amend section 58 of the Strata Titles Act 1973 and section 87 of the Strata Titles (Leasehold) Act 1986 to alter cross-references that should have been altered consequentially on amendments made to the sections by the Statute Law (Miscellaneous Provisions) Act (No. 2) 1987.

To amend the Third Schedule to the Trustee Companies Act 1964 to up-date a reference to a trustee company which changed its name on 4 May 1988.

Schedule 21 repeals a number of Acts. Since the Statute Law (Miscellaneous Provisions) Act 1985 the number of Acts in force has been gradually reduced by repealing amending Acts once the amendments contained in the Act have been incorporated in a reprint. The Schedule continues this process.

Schedule 22 contains savings, transitional and other provisions.

STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL 1988

NEW SOUTH WALES



TABLE OF PROVISIONS

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- SCHEDULE 16—AMENDMENTS TO THE REAL PROPERTY ACT 1900 No. 25
- SCHEDULE 17—AMENDMENT TO THE REVENUE LAWS (RECIPROCAL POWERS) ACT 1987 No. 86
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SCHEDULE 21—REPEALS

SCHEDULE 22—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

**STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL
1988**

NEW SOUTH WALES



No. , 1988

A BILL FOR

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

Statute Law (Miscellaneous Provisions) 1988

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Statute Law (Miscellaneous Provisions) Act 1988.

5 Commencement

2. (1) This Act commences on the date of assent, except as provided by this section.

(2) Schedules 4, 10, 11 (2), 16 (7) and 18 (2) and (3) commence on a day or days to be appointed by proclamation.

10 (3) Schedules 3 and 18 (1) and (4) shall be taken to have commenced on 18 December 1987.

(4) Schedule 14 (3) shall be taken to have commenced on 1 January 1988.

(5) Schedule 16 (1)–(6) commence on the commencement of the Real Property (Caveats) Amendment Act 1986.

15 (6) The provisions of Schedule 20 relating to—

(a) the Business Franchise Licences (Tobacco) Act 1987 shall be taken to have commenced on 26 June 1987; and

(b) the Strata Titles (Leasehold) Act 1986 commence—

(i) on the date of assent to this Act; or

20 (ii) on the commencement of the Strata Titles (Leasehold) Act 1986,

whichever is the later; and

(c) the Trustee Companies Act 1964 shall be taken to have commenced on 4 May 1988.

25 Amendments

3. Each Act specified in Schedules 1–20 is amended as set out in those Schedules.

Repeals

4. Each Act specified in Schedule 21 is repealed.

30 Savings, transitional and other provisions

5. Schedule 22 has effect.

**SCHEDULE 1—AMENDMENTS TO THE CHILDREN (EQUALITY
OF STATUS) ACT 1976 No. 97**

(Sec. 3)

- 5 (1) Section 12 (**Effect of orders for maintenance etc. relating to fathers of
exnuptial children**)—
- (a) Section 12 (1) (a)—
After “1964”, insert “(or any Act in force before the
commencement of that Act)”.
- 10 (b) Section 12 (1) (c)—
Omit “annulled under section 39 of that Act”, insert instead
“annulled or otherwise discharged on the ground, or on grounds
including the ground, that the man is not, or may not be, the
father of the child”.
- 15 (c) Section 12 (7) (a)—
Omit “annulled under section 39 of the Maintenance Act 1964”,
insert instead “annulled or otherwise discharged on the ground,
or on grounds including the ground, that the man is not, or may
not be, the father of the child”.
- 20 (d) Section 12 (7)—
After “annulment”, insert “or discharge”.
- (2) Section 14 (**Effect of orders for maintenance etc. relating to mothers of
exnuptial children**)—
- Section 14 (1) (a)—
25 After “1964”, insert “(or any Act in force before the
commencement of that Act)”.

SCHEDULE 2—AMENDMENTS TO THE CRIMES ACT 1900 No. 40

(Sec. 3)

- (1) Section 428E (**Time at which question of unfitness may be raised**)—
Section 428E (2A)—
30 After section 428E (2), insert:
(2A) The Attorney General may, at any time before the inquiry
is commenced, determine that there is no longer any need for such
an inquiry to be conducted.
- (2) Section 428F (**Procedure on raising question of unfitness**)—
35 Section 428F (1) (a)—
Omit the paragraph, insert instead:

Statute Law (Miscellaneous Provisions) 1988

**SCHEDULE 2—AMENDMENTS TO THE CRIMES ACT 1900 No.
40—continued**

- (a) the Attorney General determines that an inquiry should be conducted and does not subsequently determine, before the inquiry is commenced, that there is no longer any need for such an inquiry to be conducted; or

5 **(3) Section 428M (Functions of Attorney General following determination of Mental Health Review Tribunal)—**

Section 428M (1)—

Omit “consultation with”, insert instead “receiving and considering the advice of”.

10 **SCHEDULE 3—AMENDMENTS TO THE CRIMINAL APPEAL ACT
1912 No. 16**

(Sec. 3)

Section 5F (**Appeal against interlocutory judgment or order**)—

(1) Section 5F (2)—

15 Omit “and to which the Crown is a party”.

(2) Section 5F (3) (b)—

After “judge”, insert “, justice, justices or magistrate”.

(3) Section 5F (4)—

20 Omit “Supreme Court or District Court”, insert instead
“proceedings to which the appeal relates”.

**SCHEDULE 4—AMENDMENTS TO THE DISTRICT COURT ACT
1973 No. 9**

(Sec. 3)

(1) Part 3, Division 1, Subdivision 2 (**Bailiffs**)—

25 Omit the Subdivision, insert instead:

Subdivision 2—Sheriff and bailiffs

Sheriff and Sheriff's officers

25. (1) The Sheriff shall have and may exercise the functions conferred or imposed on the Sheriff by this Act and the rules.

30 (2) Unless the rules provide otherwise, the Sheriff may delegate to any Sheriff's officer any of the Sheriff's functions under this Act, except this power of delegation.

SCHEDULE 4—AMENDMENTS TO THE DISTRICT COURT ACT
1973 No. 9—*continued*

(3) Subject to the rules, the Sheriff and any Sheriff's officers to whom functions are delegated shall exercise their functions under this Act in accordance with any orders and directions given by a Judge.

5 **Bailiffs and assistant bailiffs—appointment etc.**

26. (1) The Chief Judge may, by order in writing, appoint persons to be bailiffs of the Court for the proclaimed places specified in the order and may suspend or remove from office any person so appointed.

10 (2) The Sheriff, or a bailiff for the proclaimed place, may by instrument in writing appoint a sufficient number of persons to be assistant bailiffs for a proclaimed place.

15 (3) An assistant bailiff may be dismissed or suspended from office by the Chief Judge, the Sheriff or a bailiff for the proclaimed place concerned.

Functions of bailiffs and assistant bailiffs

27. (1) Bailiffs and assistant bailiffs shall have and may exercise the functions conferred or imposed on them by this Act and the rules.

20 (2) Without limiting subsection (1), it is the duty of an assistant bailiff for a proclaimed place to assist the Sheriff or a bailiff for that place, in accordance with the directions of the Sheriff or bailiff, as the case may be.

25 (3) Subject to the rules, a bailiff and an assistant bailiff shall exercise their functions under this Act in accordance with any orders and directions given by a Judge.

Liability of bailiffs

30 28. A bailiff who undertakes or is required to undertake the execution or service of any warrant, writ or other document relating to any proceedings is responsible to any party to those proceedings for all the acts and omissions of the bailiff and any assistant bailiff assisting him or her in the same manner as the Sheriff is responsible for the acts and omissions of the Sheriff and Sheriff's officers.

35 **Remuneration of bailiffs**

40 29. A bailiff and an assistant bailiff are entitled, in respect of any service performed by them under this Act, to receive and retain, out of the Consolidated Fund, the amount of the appropriate fee prescribed by the regulations as payable by a party in respect of that service.

**SCHEDULE 4—AMENDMENTS TO THE DISTRICT COURT ACT
1973 No. 9—continued**

Obstruction of Sheriff, bailiff etc.

30. A person shall not—

- (a) assault, resist, interrupt or obstruct the Sheriff, a Sheriff's officer, a bailiff or an assistant bailiff exercising a function under this Act; or
- (b) rescue or attempt to rescue any property seized or taken by the Sheriff, a Sheriff's officer, a bailiff or an assistant bailiff in accordance with this Act.

Penalty: 10 penalty units or imprisonment for 6 months, or both.

(2) Section 65 (Attendance)—

Section 65 (1) (c)—

Before "a bailiff", insert "the Sheriff or".

(3) Section 92 (Failure to attend in answer to examination summons)—

Section 92 (5), (6)—

Before "bailiff" wherever occurring, insert "Sheriff or".

(4) Section 108 (Priority and duration of writs of execution)—

Section 108 (1)—

Omit "bailiff for a proclaimed place", insert instead "Sheriff or bailiff".

(5) Section 109 (Seizing and taking under writ of execution)—

(a) Section 109 (1)—

Omit "bailiff for a proclaimed place", insert instead "Sheriff or bailiff".

(b) Section 109 (2), (9)—

Omit "A bailiff" wherever occurring, insert instead "The Sheriff or a bailiff".

(c) Section 109 (3), (4), (5), (8), (10)—

Before "bailiff" wherever occurring, insert "Sheriff or".

(d) Section 109 (7)—

Before "a bailiff", insert "the Sheriff or".

(e) Section 109 (7)—

Before "that bailiff", insert "the Sheriff or by".

(6) Section 110 (Special provisions as to execution against land)—

(a) Section 110 (1)–(4)—

SCHEDULE 4—AMENDMENTS TO THE DISTRICT COURT ACT
1973 No. 9—*continued*

Omit “the bailiff” wherever occurring, insert instead “the Sheriff or bailiff”.

(b) Section 110 (3)—

Omit “A bailiff”, insert instead “The Sheriff or a bailiff”.

5 (c) Section 110 (5)—

Omit “by the bailiff for a proclaimed place, the registrar for that place”, insert instead “, the registrar for the proclaimed place that is nearest to the place of sale”.

(7) Section 111 (**Auctioneers**)—

10 Omit “bailiff” wherever occurring, insert instead “Sheriff or bailiff”.

(8) Section 113 (**Writ against the person**)—

(a) Section 113 (2), (2A), (3)—

15 Omit “the bailiff” wherever occurring, insert instead “the Sheriff or bailiff”.

(b) Section 113 (2) (c)—

Omit “a bailiff”, insert instead “the Sheriff or a bailiff”.

(9) Section 114 (**Discharge of judgment debtor**)—

(a) Section 114 (1)—

20 Omit “any bailiff”, insert instead “the Sheriff, and any bailiff”.

(b) Section 114 (2), (3)—

Before “bailiff” wherever occurring, insert “Sheriff or”.

(10) Section 115 (**Interpleader by defendant, Sheriff or bailiff**)—

Section 115 (1)—

25 Before “a bailiff” wherever occurring, insert “the Sheriff or”.

(11) Section 116 (**Claim to property taken or intended to be taken in execution**)—

(a) Section 116 (1), (3), (4)—

Before “bailiff” wherever occurring, insert “Sheriff or”.

30 (b) Section 116 (4)—

Omit “bailiff’s application”, insert instead “application by the Sheriff or bailiff”.

(12) Section 161 (**Civil procedure rules**)—

Section 161 (2) (a)—

35 After “Court” insert “, and the Sheriff”.

**SCHEDULE 4—AMENDMENTS TO THE DISTRICT COURT ACT
1973 No. 9—continued**

(13) Section 185 (Savings as to places, sittings, Judges and officers etc.)—

Section 185 (7)—

- 5 Omit “appointed under section 25 (3) of this Act as a bailiff, or under section 26 (1) of this Act as an assistant bailiff”, insert instead “appointed under this Act as a bailiff or as an assistant bailiff”.

(14) Section 199 (Contempt)—

Section 199 (6)—

Before “a bailiff”, insert “the Sheriff or”.

**10 SCHEDULE 5—AMENDMENTS TO THE ENVIRONMENTAL
PLANNING AND ASSESSMENT ACT 1979 No. 203**

(Sec. 3)

Section 13 (Director of Planning)—

(1) Section 13 (1)—

- 15 Omit “Environment and”.

(2) Section 13 (4)—

After section 13 (3), insert:

- 20 (4) In any Act or statutory instrument, or in any other instrument, or in any contract or agreement, a reference to the Director of Environment and Planning shall be read as a reference to the Director of Planning.

**SCHEDULE 6—AMENDMENTS TO THE JUDGES’ PENSIONS ACT
1953 No. 41**

(Sec. 3)

25 Section 5 (Pension for judge who retired, or retires, on account of ill-health)—

(1) Section 5 (1)—

Omit “the appropriate authority”, insert instead “an appropriate authority”.

30 (2) Section 5 (2) (b)—

Omit the paragraph, insert instead:

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**SCHEDULE 6—AMENDMENTS TO THE JUDGES' PENSIONS ACT
1953 No. 41—*continued***

5 (b) retires on or after the day on which Schedule 6 to the Statute Law (Miscellaneous Provisions) Act 1988 commences and, within the period of 3 months before appointment as a judge, was certified by an appropriate authority not to be suffering from any impairment of health likely to affect capacity for judicial office,

10 (3) Section 5 (4) (c)—
After “the Secretary of the Department of Health”, insert “or a person authorised by the Secretary to be an appropriate authority”.

SCHEDULE 7—AMENDMENTS TO THE JURY ACT 1977 No. 18

(Sec. 3)

15 (1) Section 63 (**Failure to attend for jury service**)—
Omit “sections 64, 65 and 66”, insert instead “sections 64 and 66”.

(2) Section 65 (**Imposition of penalty by judge for failure to attend for jury service at a court or jury pool**)—
Omit the section.

20 (3) Section 66 (**Summary prosecution for failure to attend for jury service**)—

(a) Section 66 (1)—

Omit “Subject to subsection (1A), where”, insert instead “If”.

(b) Section 66 (1A)—

Omit the subsection.

25 (c) Section 66 (2) (a)—

After “service;”, insert “or”.

(d) Section 66 (2) (b)—

Omit “section 64; or”, insert instead “section 64,”.

30 (e) Section 66 (2) (c)—

Omit the paragraph.

**SCHEDULE 8—AMENDMENTS TO THE JUSTICES ACT 1902
No. 27**

(Sec. 3)

35 (1) Section 48E (**Witness may be called**)—
Section 48E (2)—

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SCHEDULE 8—AMENDMENTS TO THE JUSTICES ACT 1902 No.
27—continued

Omit “, and shall do so”, insert instead “if satisfied that it is in the interests of justice to do so, and shall (if so satisfied) give the direction”.

(2) Section 100ZA (**Consideration of applications**)—

5 Section 100ZA (1)—

Omit “the Local Court nearest to the place where the offence was allegedly committed”, insert instead “any Local Court”.

**SCHEDULE 9—AMENDMENTS TO THE LEGAL PROFESSION
ACT 1987 No. 109**

10

(Sec. 3)

(1) Section 25 (**Practising as barrister**)—

Section 25 (2)—

Omit “the barrister”, insert instead “a barrister”.

(2) Section 61 (**Money received by solicitor on behalf of another**)—

15 (a) Section 61 (3) (b)—

Omit the paragraph, insert instead:

(b) to prevent a solicitor from withdrawing or receiving, from trust money or controlled money—

20 (i) reimbursement for disbursements paid by the solicitor; or

(ii) money for disbursements to be paid by the solicitor; or

(iii) money due, or to accrue due, to the solicitor for costs, if the prescribed procedure is followed.

25 (b) Section 61 (8)—

From the definition of “trust money”, omit “that is for the time being held in a general trust account at a bank in New South Wales”.

(3) Section 117 (**Limitation on general legal work and probate work**)—

30 Section 117 (2)—

After “not”, insert “directly or indirectly”.

(4) Section 163 (**Determinations of the Tribunal**)—

Section 163 (3)—

After “conduct” where secondly occurring, insert “or misconduct”.

*Statute Law (Miscellaneous Provisions) 1988***SCHEDULE 9—AMENDMENTS TO THE LEGAL PROFESSION ACT
1987 No. 109—continued****(5) Schedule 2 (The Admission Boards)—****(a) Clause 2 (2)—**

Omit “8”, insert instead “6”.

(b) Clause 8—

5 After clause 7, insert:

Reserve members

8. (1) For each member of an Admission Board, one or more reserve members may be nominated to act in the office of the member during the member’s illness or absence.

10 (2) A reserve member, while so acting, shall have and may exercise all the functions of the member and shall be taken to be a member of the Admission Board concerned.

15 (3) For a member who is the Attorney General or a nominee of the Attorney General, the reserve member or members may be nominated by the Attorney General.

(4) For any other member, the reserve member or members—

(a) shall be nominated by the person or body that nominated the member; and

20 (b) must be qualified for nomination in the same way as the member.

(5) A person may be removed, by the nominating person or body, from any office for which the person was nominated under this clause.

25 (6) For the purposes of this clause, a vacancy in the office of a member of an Admission Board shall be taken to be an absence from office of the member.

**SCHEDULE 10—AMENDMENTS TO THE LOCAL COURTS (CIVIL
CLAIMS) ACT 1970 No. 11**

(Sec. 3)

30 (1) Section 8A—

After section 8, insert:

Sheriff and Sheriff’s officers

8A. (1) The Sheriff shall have and may exercise the functions conferred or imposed on the Sheriff by this Act and the rules.

SCHEDULE 10—AMENDMENTS TO THE LOCAL COURTS (CIVIL CLAIMS) ACT 1970 No. 11—*continued*

(2) Unless the rules provide otherwise, the Sheriff may delegate to any Sheriff's officer any of the Sheriff's functions under this Act, except this power of delegation.

(3) Subject to the rules, the Sheriff and any Sheriff's officers to whom functions are delegated shall exercise their functions under this Act in accordance with any orders and directions given by the Chief Magistrate.

(2) Section 9—

Omit the section, insert instead:

Bailiffs

9. (1) The Chief Magistrate may, by order in writing, appoint persons to be bailiffs of the courts specified in the order and may suspend or remove from office any person so appointed.

(2) Bailiffs shall have and may exercise the functions conferred or imposed on them by this Act and the rules.

(3) Subject to the rules, a bailiff shall exercise his or her functions under this Act in accordance with any orders and directions given by the Chief Magistrate.

(4) A bailiff who undertakes or is required to undertake the execution or service of any warrant, writ or other document relating to any proceedings in a court is responsible to any party to those proceedings for all the acts and omissions of the bailiff and any other bailiff assisting him or her in the same manner as the Sheriff is responsible for the acts and omissions of the Sheriff and the Sheriff's officers.

(3) Section 42 (**Failure to attend in answer to examination summons**)—

(a) Section 42 (5) (d)—

Before “all bailiffs”, insert “the Sheriff and”.

(b) Section 42 (8)—

Omit “Any bailiff”, insert instead “The Sheriff or any bailiff”.

(c) Section 42 (8)—

Before “a bailiff”, insert “the Sheriff or”.

(4) Section 59 (**Sheriff or bailiff to take under writ of execution**)—

(a) Section 59 (1), (2), (6)—

Omit “A bailiff” wherever occurring, insert instead “The Sheriff or a bailiff”.

(b) Section 59 (3)—

SCHEDULE 10—AMENDMENTS TO THE LOCAL COURTS (CIVIL CLAIMS) ACT 1970 No. 11—continued

- (i) Omit “a bailiff”, insert instead “the Sheriff or bailiff”.
 - (ii) Omit “that bailiff”, insert instead “the Sheriff or bailiff”.
 - (iii) Omit “the bailiff”, insert instead “the Sheriff or bailiff”.
- (c) Section 59 (4), (5), (7)—
 - 5 Omit “the bailiff” wherever occurring, insert instead “the Sheriff or bailiff”.
- (5) Section 59A—
 - After section 59, insert:
 - Auctioning of seized property**
 - 10 59A. (1) The rules may make provision for or with respect to—
 - (a) the appointment of an auctioneer licensed under the Auctioneers and Agents Act 1941 to sell any property under a writ of execution; and
 - (b) the respective functions of the auctioneer and the bailiff.
 - 15 (2) Without limiting the generality of this section, the rules may authorise or require the auctioneer to exercise any function of the bailiff in connection with the sale of the property.
- (6) Section 65 (**Interpleader by defendant, Sheriff or bailiff**)—
 - Section 65 (1) (b)—
 - 20 Before “a bailiff”, insert “the Sheriff or”.
- (7) Section 66 (**Claim by third party to property seized under writ of execution**)—
 - (a) Section 66 (1)—
 - Before “a bailiff”, insert “the Sheriff or”.
 - 25 (b) Section 66 (1)—
 - Omit “that bailiff”, insert instead “the Sheriff or bailiff”.
 - (c) Section 66 (1), (2), (3)—
 - Omit “the bailiff” wherever occurring, insert instead “the Sheriff or bailiff”.
 - 30 (d) Section 66 (3A) (as inserted by Act No. 281, 1987)—
 - Omit “the bailiff” wherever occurring, insert instead “the Sheriff or bailiff”.
- (8) Section 67 (**Registrar to issue summons and record commencement of interpleader action**)—
 - 35 (a) Section 67 (3) (b)—

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SCHEDULE 10—AMENDMENTS TO THE LOCAL COURTS (CIVIL CLAIMS) ACT 1970 No. 11—*continued*

Before “a bailiff”, insert “the Sheriff or”.

(b) Section 67 (5)—

Omit “the bailiff” wherever occurring, insert instead “the Sheriff or bailiff”.

5 (9) Section 79 (**Obstructing Sheriff or bailiff**)—

(a) Before “a bailiff” wherever occurring, insert “the Sheriff, a Sheriff’s officer or”.

(b) Omit “the bailiff’s”, insert instead “his or her”.

SCHEDULE 11—AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919 No. 41

10

(Sec. 3)

(1) Section 93A (**Appointment of health surveyors**)—

Section 93A (5)—

After “holding” insert “, or qualified for appointment to,”.

15 (2) Section 161 (**Abandonment of rates**)—

Omit “, and then only upon the certificate of the auditor of the council that the abandonment or writing off is in accordance with such ordinance”.

(3) Section 546 (**Various powers**)—

20

Section 546 (3) (b1)—

After section 546 (3) (b), insert:

(b1) declare that land has ceased to form part of an urban area;

SCHEDULE 12—AMENDMENTS TO THE MARKETING OF PRIMARY PRODUCTS ACT 1983 No. 176

25

(Sec. 3)

(1) Section 117 (**Agency may employ staff**)—

Section 117 (2)—

Omit “are are agreed”, insert instead “as are agreed”.

(2) Section 144 (**Power to compromise with creditors**)—

30

(a) Section 144 (7) (b)—

Omit “that persons”, insert instead “that person”.

(b) Section 144 (9) (a)—

*Statute Law (Miscellaneous Provisions) 1988***SCHEDULE 12—AMENDMENTS TO THE MARKETING OF
PRIMARY PRODUCTS ACT 1983 No. 176—continued**

Omit “soon practicable”, insert instead “soon as practicable”.

(3) Section 163 (Regulations)—

Section 163 (3) (b)—

Omit “a producer”, insert instead “persons (whether producers or not)”.

**SCHEDULE 13—AMENDMENT TO THE MOTOR VEHICLES
(TAXATION) ACT 1980 No. 119**

(Sec. 3)

Schedule 1 (Motor vehicles tax)—

After clause 7 (3), insert:

(4) The day appointed and notified in accordance with this clause shall be taken to have been 27 October 1987.

**SCHEDULE 14—AMENDMENTS TO THE PAY-ROLL TAX ACT
1971 No. 22**

(Sec. 3)

(1) Section 3 (Definitions)—

Section 3 (1)—

After the definition of “corporation”, insert:

“corresponding law”, in relation to another State, means a law in force in that State relating to the imposition upon employers of a tax on wages paid or payable by them and the assessment and collection of that tax, but does not include the Commonwealth Act;

(2) Section 13 (Returns)—

Section 13 (1) (b)—

Omit “the form and in the manner prescribed”, insert instead “a form and in a manner approved by the Chief Commissioner”.

(3) Section 16J (“Prescribed amount” for purposes of sections 16K and 16L)—

Section 16J (2) (b)—

Omit “3/10”, insert instead “4/10”.

**SCHEDULE 15—AMENDMENTS TO THE PREVENTION OF
CRUELTY TO ANIMALS ACT 1979 No. 200**

(Sec. 3)

(1) Section 4 (Definitions)—5 **(a) Section 4 (1), definition of “charitable organisation”—**

From paragraph (b), omit “as a charity”, insert instead “, or exempted from registration, as a charity, by or”.

(b) Section 4 (1), definition of “officer”—

Omit paragraph (b), insert instead:

10 (b) an officer of a charitable organisation who is a special constable within the meaning of the Police Offences Act 1901; or

(2) Section 25 (Powers of officers in respect of certain places)—

15 Renumber section 25 (4) (as inserted by Act No. 160, 1987) as section 25 (5).

**SCHEDULE 16—AMENDMENTS TO THE REAL PROPERTY ACT
1900 No. 25**

(Sec. 3)

(1) Section 74H (Effect of caveat lodged under section 74F)—20 **(a) Section 74H (5) (g)—**

Omit “or chargee”, insert instead “, chargee or covenant chargee”.

(b) Section 74H (5) (i)—

Omit the paragraph, insert instead:

25 (i) in relation to a mortgage, charge, covenant charge or lease to the recording of which the caveator has consented or in respect of the recording of which the caveat has lapsed—a dealing effected by the mortgagee, chargee, covenant chargee or lessee, including a dealing effected in the exercise of a power of sale or other power or right conferred by the mortgage, charge, covenant charge or lease or by or under law;

30

(2) Section 74I (Lapse of caveat where dealing etc. subsequently lodged for recording)—

Section 74I (1), (2)—

35 After “lapse” wherever occurring, insert “to the extent provided by that subsection”.

**SCHEDULE 16—AMENDMENTS TO THE REAL PROPERTY ACT
1900 No. 25—continued**

- (3) Section 74J (**Lapse of caveat on application of proprietor of estate or interest**)—
- (a) Section 74J (1)—
Omit “(subsection (2) excepted)”.
- 5 (b) Section 74J (1)—
Omit “the estate or interest affected by”, insert instead “an estate or interest in the land described in”.
- (4) Section 74K (**Power of Supreme Court to extend operation of a caveat lodged under section 74F**)—
- 10 Section 74K (2)—
After “Court” where secondly occurring, insert “, or may make such other orders as it thinks fit”.
- (5) Section 74MA—
After section 74M, insert:
- 15 **Application to Court for withdrawal of caveat**
74MA. (1) Any person who is or claims to be entitled to an estate or interest in the land described in a caveat lodged under section 74B or 74F may apply to the Supreme Court for an order that the caveat be withdrawn by the caveator or another person
- 20 who by virtue of section 74M is authorised to withdraw the caveat.
(2) After being satisfied that a copy of the application has been served on the person who would be required to withdraw the caveat if the order sought were made or after having made an order dispensing with service, the Supreme Court may—
- 25 (a) order the caveator or another person, who by virtue of section 74M is authorised to withdraw the caveat to which the proceedings relate, to withdraw the caveat within a specified time; and
(b) make such other or further orders as it thinks fit.
- 30 (3) If an order for the withdrawal of a caveat is made under subsection (2) and a withdrawal of the caveat is not, within the time limited by the order, lodged with the Registrar-General, the caveat lapses when an office copy of the order is lodged with the Registrar-General after that time expires.
- 35 (6) Section 74N (**Service of notices on the caveator for the purposes of this Part**)—
Section 74N (1) (f)—
After section 74N (1) (e), insert:

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**SCHEDULE 16—AMENDMENTS TO THE REAL PROPERTY ACT
1900 No. 25—*continued***

(f) the notice is served in such other manner as the Supreme Court, on application being made to it, directs.

(7) Section 105A (Effect of recording of writ)—

Section 105A (1) (b), (3) (c), (4) (c)—

5 After “District Court Act, 1973” wherever occurring, insert “or section 98A (3) of the Supreme Court Act 1970”.

**SCHEDULE 17—AMENDMENT TO THE REVENUE LAWS
(RECIPROCAL POWERS) ACT 1987 No. 86**

(Sec. 3)

10 **Section 8 (Obstruction etc. of an authorised revenue officer)—**

Section 8 (2) (b)—

Omit the paragraph, insert instead:

(b) if, where the offence arises under subsection (1) (b), the court hearing the charge is satisfied—

- 15 (i) that the defendant could not, by the exercise of reasonable diligence, have complied with the requirement to which the charge relates; or
- (ii) that the defendant complied with that requirement to the extent of the defendant’s ability to do so.

20 **SCHEDULE 18—AMENDMENTS TO THE SUPREME COURT ACT
1970 No. 52**

(Sec. 3)

(1) Section 17 (Criminal proceedings)—

Section 17 (1)—

25 After “Schedule”, insert “, and no claim for relief lies to the Court against an interlocutory judgment or order given or made in proceedings referred to in paragraph (a1) or (a2) of that Schedule”.

(2) Section 98A—

After section 98, insert:

30 **Sale or mortgage by judgment debtor of land affected by writ**

98A. (1) In this section—

“notice of consent” means the notice referred to in subsection (2) (a).

**SCHEDULE 18—AMENDMENTS TO THE SUPREME COURT ACT
1970 No. 52—continued**

(2) Where land is affected by a writ of execution particulars of which have been recorded in accordance with section 105 of the Real Property Act 1900, or which has been registered in the register of causes, writs, and orders affecting land in accordance with section 186 of the Conveyancing Act 1919, and—

5

(a) the judgment creditor consents, by notice in writing, to the sale or mortgage of the land by the judgment debtor; and

10

(b) the judgment creditor stipulates, in the notice of consent, the minimum amount that should be paid to the Sheriff out of the proceeds of the sale or the money advanced in respect of the mortgage; and

(c) the notice of consent is filed with the Sheriff; and

15

(d) the Sheriff, after due inquiry, endorses the notice of consent with a certificate to the effect that the land has not been sold under the writ,

the endorsement of the notice with that certificate operates to prohibit the sale of the land under the writ during the prescribed period.

(3) Where during that prescribed period—

20

(a) the judgment debtor sells or mortgages the land; and

(b) in the case of a sale—the amount of the deposit (if any) is paid to the Sheriff, to be held by the Sheriff as stakeholder; and

25

(c) an amount (including any deposit paid to the Sheriff as referred to in paragraph (b)) that is not less than—

(i) the minimum amount referred to in subsection (2) (b); or

30

(ii) if the judgment creditor notifies the Sheriff in writing that he or she consents to payment of a specified amount that is less than that minimum amount—that specified amount,

is paid to the Sheriff out of the proceeds of the sale or money advanced in respect of the mortgage,

35

any liability of the purchaser or mortgagee for payment to the judgment debtor of those proceeds or that money is extinguished to the extent of the amount so paid to the Sheriff, and the Sheriff shall, upon production to the Sheriff of the instrument evidencing the sale or mortgage, and if satisfied as to the matters referred to in paragraphs (a), (b) and (c), endorse the instrument with his or her consent to the sale or mortgage.

40

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**SCHEDULE 18—AMENDMENTS TO THE SUPREME COURT ACT
1970 No. 52—continued**

(4) The interest of the purchaser or mortgagee evidenced by the instrument endorsed with the Sheriff's consent shall not, in relation to the land, be affected by anything done or purporting to have been done, whether before or after the endorsement of the consent, under the writ of execution.

(5) The amount paid to the Sheriff, as referred to in subsection (3) (c), shall, subject to and in accordance with the rules—

- (a) be paid to or at the direction of the judgment creditor; and
- (b) be in reduction of the judgment debt.

(3) Section 99A—

After section 99, insert:

Removal of goods under writ of possession

99A. For the purposes of executing a writ of possession the Sheriff need not remove any goods found on the land.

(4) Third Schedule (Criminal proceedings)—

(a) Paragraph (a)—

Omit "that are for, or that relate to proceedings in the District Court for, ", insert instead "for".

(b) Paragraphs (a1), (a2)—

Omit paragraph (a1), insert instead:

(a1) proceedings (including committal proceedings) for the prosecution of offenders on indictment ("indictment" including any information presented or filed as provided by law for the prosecution of offenders) in the Court or in the District Court;

(a2) proceedings (whether in the Court or the District Court) under section 51A of the Justices Act 1902;

**SCHEDULE 19—AMENDMENTS TO THE VICTIMS
COMPENSATION ACT 1987 No. 237**

(Sec. 3)

(1) Section 20 (Reasons for not making award or for reducing amount of compensation payable)—

Section 20 (1)—

Omit "for the benefit of", insert instead "in relation to".

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**SCHEDULE 19—AMENDMENTS TO THE VICTIMS
COMPENSATION ACT 1987 No. 237—*continued***

- (2) Section 41 (**Costs**)—
 - (a) Section 41 (1)—
Omit “(not exceeding \$1,000)”.
 - (b) Section 41 (5)—
 5 After section 41 (4), insert:
 (5) An award of costs under this section may be made
 payable—
 (a) to the applicant in the proceedings; or
 (b) to any other person for the benefit of the applicant.
- 10 (3) Section 52 (**Definitions**)—
 Section 52, definition of “aggrieved person”—
 In paragraph (a), after “injury”, insert “or loss”.
- (4) Section 60 (**Definitions**)—
 Section 60, definition of “aggrieved person”—
 15 After “injury”, insert “or loss”.

**SCHEDULE 20—AMENDMENTS TO OTHER ACTS BY WAY OF STATUTE
LAW REVISION**

(Sec. 3)

- Builders Licensing Act 1971 No. 16—**
 - 20 Section 52A (2) (a)—
 Omit “a servant”, insert instead “an officer”.
- Building Services Corporation Act 1987 No. 59—**
 - Section 9 (7)—
 After “this”, insert “or any other”.
- 25 **Business Franchise Licences (Tobacco) Act 1987 No. 93—**
 - Section 39 (**Duration of licences**)—
 Omit “was granted” wherever occurring, insert instead “took effect”.
- Coal and Oil Shale Mine Workers (Superannuation) Act 1941 No. 45—**
 - (1) Section 33—
 30 After section 32, insert:
 Savings and transitional provisions
 33. Schedule 2 has effect.
 - (2) Schedule 2—
 After Schedule 1, insert:

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**SCHEDULE 20—AMENDMENTS TO OTHER ACTS BY WAY OF STATUTE
LAW REVISION—*continued***

SCHEDULE 2—SAVINGS AND TRANSITIONAL PROVISIONS

(Sec. 33)

References to Superannuation Tribunal

- 5 1. A reference in any other Act or statutory instrument, or in any other instrument (enacted, made or executed before the date of assent to the Coal and Oil Shale Mine Workers (Superannuation) Amendment Act 1983) to the Superannuation Tribunal constituted by this Act as in force before that date, shall be read as a reference to the Tribunal.

Colleges of Advanced Education Act 1975 No. 11—

- 10 Section 8 (Vacation of office of member of a council)—

Section 8 (1) (k)—

Omit the paragraph, insert instead:

(k) being a member appointed under section 7 (2) (c)—

- 15 (i) becomes a servant (other than a servant whose service with the college is, in the terms of his or her employment by the college, expressed to be casual service) or student of the college; or
- (ii) is removed from office under section 47 of the Interpretation Act 1987.

Co-operation (Amendment) Act 1987 No. 19—

- 20 Schedule 2 (Miscellaneous amendments to the Principal Act)—

Schedule 2 (2) (d)—

Omit “whether of not”, insert instead “whether or not”.

Energy Administration Act 1987 No. 103—

Section 33 (Obstruction etc. of inspectors)—

- 25 Section 33 (1) (a)—

Omit “section 33”, insert instead “section 32”.

Gaming and Betting (Amendment) Act 1987 No. 200—

Schedule 3 (Miscellaneous amendments)—

Schedule 3 (7)—

- 30 Omit “Division 5—Unlawful games”, insert instead “Division 5—Avoidance of contracts”.

Irrigation Act 1912 No. 73—

Section 8BA (Sinking of bores or wells etc. on payment therefor being made in advance)—

- 35 Section 8BA (4)—

Omit “Commission”.

Jury (Amendment) Act 1987 No. 286—

Schedule 2 (Amendments to the Jury Act 1977 by way of statute law revision)—

- (1) Schedule 2 (4) (a)—

- 40 Omit “a Local”, insert instead “Local”.

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SCHEDULE 20—AMENDMENTS TO OTHER ACTS BY WAY OF STATUTE
LAW REVISION—*continued*

- (2) Schedule 2 (4) (b)—
Omit “the”.

Legal Profession (Amendment) Act 1987 No. 263—

Schedule 6 (Amendments relating to receivers)—

- 5 Schedule 6 (1) (b)—
Omit “referred to in paragraph (a)”.

Mines Inspection Act 1901 No. 75—

- (1) Section 82—
After section 81, insert:
10 **Savings and transitional provisions**
82. Schedule 3 has effect.

- (2) Schedule 3—
After Schedule 2, insert:

SCHEDULE 3—SAVINGS AND TRANSITIONAL PROVISIONS

- 15 (Sec. 82)

References to inspector for the district, inspector of the district

- 20 1. A reference in any other Act or statutory instrument, or in any other instrument, however expressed, to an inspector for the district or an inspector of the district within the meaning of this Act, as in force immediately before the commencement of the Mines Inspection (Amendment) Act 1962, shall be read as a reference to an inspector.

Miscellaneous Acts (Community Welfare) Repeal and Amendment Act 1987 No. 58—

Schedule 3 (Amendments)—

- 25 (1) Omit the matter relating to the Public Instruction (Amendment) Act 1916.
(2) From item (2) of the matter relating to the Statutory and Other Offices Remuneration Act 1975, omit “Full-time President of the Children’s Review Panel”, insert instead “Full-time President of the Boards of Review”.

Nurses Registration Act 1953 No. 10—

- 30 (1) Section 5 (Members of the Board)—
Section 5 (5) (a)—
Omit “subclause (4)”, insert instead “subsection (4)”.
- (2) Section 15 (Qualifications for registration)—
(a) Section 15 (1) (e)—
Omit “satisfied”, insert instead “satisfies”.
- 35 (b) Section 15 (2) (e)—
Omit “satisfies”, insert instead “satisfies”.
- (3) Section 19 (Cancellation, suspension etc. of registration on account of misconduct etc.)—
Section 19 (5)—

Statute Law (Miscellaneous Provisions) 1988

SCHEDULE 20—AMENDMENTS TO OTHER ACTS BY WAY OF STATUTE
LAW REVISION—*continued*

Omit “Chairman or”, insert instead “President or”.

Parliamentary Electorates and Elections Act 1912 No.41—

(1) Section 114ZR (**Procedure for voting at declared institutions**)—

(a) Section 114ZR (10) (a)—

5 Omit “for district”, insert instead “for the district”.

(b) Section 114ZR (10) (b)—

Omit “for district”, insert instead “for a district”.

(2) Section 151A (**Printing etc. false information**)—

Section 151A (1)—

10 (a) Omit “(a) if”, insert instead “(d) if”.

(b) Omit “(b) in”, insert instead “(e) in”.

Parliamentary Electorates and Elections (Amendment) Act 1987 No. 132—

Schedule 1 (**Amendments to the Principal Act**)—

(1) Schedule 1 (18)—

15 Omit “wherever”, insert instead “wherever”.

(2) Schedule 1 (29) (a)—

Omit “any”, insert instead “an”.

(3) Schedule 1 (40) (c)—

Omit “wherever occurring”.

20 **Pastures Protection Act 1934 No. 35—**

Section 3 (**Repeal and savings etc.**)—

Section 3 (9)—

After section 3 (8), insert:

25 (9) A reference in any other Act or statutory instrument, or in any other instrument or document of any kind to an inspector of stock appointed under section 21, as in force immediately before the commencement of the Pastures Protection (Amendment) Act 1957, shall be read as a reference to a veterinary inspector appointed under section 21.

Poisons (Amendment) Act 1987 No. 246—

30 Schedule 4 (**Amendments relating to drugs of addiction**)—

Schedule 4 (4) (a)—

Omit “29 (1)”, insert instead “29 (2)”.

Stamp Duties (Further Amendment) Act 1987 No. 227—

Schedule 3 (**Statute law revision**)—

35 Schedule 3 (1)—

After “‘furnish’ ”, insert “where firstly occurring”.

State Public Service Superannuation Act 1985 No. 45—

Section 23 (**Costs of administration**)—

Omit the section.

*Statute Law (Miscellaneous Provisions) 1988*SCHEDULE 20—AMENDMENTS TO OTHER ACTS BY WAY OF STATUTE
LAW REVISION—*continued***Statute Law (Miscellaneous Provisions) Act (No. 2) 1987 No. 209—**

Schedule 17 (Amendment to the Irrigation Act 1912)—

Omit “17BA”, insert instead “17AB”.

Statutory and Other Offices Remuneration Act 1975 (1976 No. 4)—

5 Schedule 2 (Public offices)—

(1) From Part 1, omit:

(c) the senior member of the Children’s Court;

Insert instead:

(c) the Senior Children’s Magistrate;

10 (2) From Part 1, omit:

(d) a member of the Children’s Court;

Insert instead:

(d) a Children’s Magistrate;

Strata Titles Act 1973 No. 68—

15 Section 58 (By-laws)—

(a) Section 58 (7) (b)—

After “amending”, insert “, adding to”.

(b) Section 58 (7B) (b)—

20 Omit “under subsection (2)”, insert instead “in accordance with subsection (7)”.

Strata Titles (Leasehold) Act 1986 No. 219—

(1) Section 53 (Duties of Registrar-General (1973 Act, s. 28M))—

Section 53 (d)—

Omit the paragraph, insert instead:

25 (d) such other documents as may be prescribed,

the Registrar-General may make such recordings in the Register as the Registrar-General considers to be appropriate to give effect to the order.

(2) Section 87 (By-laws)—

(a) Section 87 (7) (b)—

30 After “amending”, insert “, adding to”.

(b) Section 87 (9) (b)—

Omit “under subsection (2)”, insert instead “in accordance with subsection (7)”.

Trustee Companies Act 1964 No. 6—

35 Third Schedule, First Part—

Omit “National Trustees Executors and Agency Company of Australasia Limited”, insert instead “National Mutual Trustees Limited”.

Statute Law (Miscellaneous Provisions) 1988

SCHEDULE 20—AMENDMENTS TO OTHER ACTS BY WAY OF STATUTE
LAW REVISION—*continued*

Wilderness Act 1987 No. 196—**Section 8 (Declaration of wilderness areas)—****Section 8 (1) (b)—**

- 5 Omit the paragraph, insert instead:

(b) subject to a conservation agreement referred to in section 16,
to be a wilderness area.

Workers Compensation Act 1987 No. 70—**Schedule 1 (Deemed employment of workers)—**

- 10 Clause 17 (2)—

Omit “order”, insert instead “regulation”.

SCHEDULE 21—REPEALS

(Sec. 4)

- Municipalities (Incorporation Validating) Act 1901 (1902 No. 14)
- 15 Police Offences (Amendment) Act 1908 No. 12
Conveyancing (Amendment) Act 1920 No. 23
Public Roads (Amendment) Act 1923 No. 12
Crimes (Amendment) Act 1924 No. 10
Banks and Bank Holidays (Amendment) Act 1924 No. 25
- 20 Housing (Amendment) Act 1924 No. 27
Administration of Justice Act 1925 No. 15
Fair Rents (Amendment) Act 1926 No. 2
Workmen's Compensation (Broken Hill) (Amendment) Act 1927 No. 22
Local Government (Amendment) Act 1927 No. 33
- 25 Main Roads (Amendment) Act 1927 No. 51
Conveyancing (Amendment) Act 1927 No. 56
Real Property (Amendment) Act 1928 No. 25
Local Government (Amendment) Act 1928 No. 41
Workmen's Compensation (Broken Hill) (Amendment) Act 1929 No. 43
- 30 Sydney Harbour Trust (Amendment) Act 1930 No. 32
Irrigation (Amendment) Act 1931 No. 36
Friendly Societies (Further Amendment) Act 1931 No. 72
Bookmakers (Taxation) Amendment Act 1932 No. 20
Friendly Societies (Amendment) Act 1932 No. 43
- 35 Constitution Further Amendment (Referendum) Act 1932 (1933 No. 1)
University and University Colleges (Amendment) Act 1937 No. 30
Theatres, Public Halls and Cinematograph Films (Amendment) Act 1938 No. 35
Parliamentary Electorates and Elections (Amendment) Act 1941 No. 6
Irrigation and Water (Amendment) Act 1944 No. 26
- 40 Cattle Slaughtering and Diseased Animals and Meat (Amendment) Act 1947 No. 8
Transport (Division of Functions) Amendment Act 1956 No. 38
Coal and Oil Shale Mine Workers (Superannuation) Further Amendment Act 1957 No. 54
Pastures Protection (Amendment) Act 1957 No. 68
- 45 Government Railways and Transport (Amendment) Act 1958 No. 41
University and University Colleges (Amendment) Act 1959 No. 6

*Statute Law (Miscellaneous Provisions) 1988*SCHEDULE 21—REPEALS—*continued*

- Racing (Amendment) Act 1959 No. 26
- Maritime Services (Amendment) Act 1960 No. 51
- Government Railways and Transport (Amendment) Act 1961 No. 19
- Mines Inspection (Amendment) Act 1962 No. 8
- 5 War Service Land Settlement and Closer Settlement (Amendment) Act 1963 No. 27
- Lord Howe Island (Amendment) Act 1967 No. 66
- Co-operation (Amendment) Act 1970 No. 82
- Private Hospitals (Amendment) Act 1971 No. 10
- Theatres and Public Halls and Cinematograph Films (Amendment) Act 1971 No. 12
- 10 Supreme Court (Amendment) Act 1972 No. 41
- Aborigines (Amendment) Act 1973 No. 35
- Maritime Services (Amendment) Act 1974 No. 40
- Technical and Further Education (Amendment) Act 1975 No. 50
- Constitution and Other Acts (Amendment) Act 1975 No. 67
- 15 Fire Brigades (Amendment) Act 1977 No. 28
- Poisons (Regulations) Amendment Act 1977 No. 96
- Stamp Duties (Further Amendment) Act 1977 No. 135
- Land Vendors (Amendment) Act 1978 No. 2
- Cattle Compensation (Amendment) Act 1978 No. 7
- 20 National Relief Fund (Repeal) Act 1978 No. 17
- Constitution (Referendum) Act 1978 No. 44
- Co-operation (Amendment) Act 1979 No. 86
- Electricity Development (Energy Authority) Amendment Act 1979 No. 104
- Statutory and Other Offices Remuneration (Energy Authority) Amendment Act 1979 No.
- 25 105
- Adoption of Children (Domicile) Amendment Act 1979 No. 119
- Superannuation (Amendment) Act 1980 No. 50
- Valuation of Land (Amendment) Act 1980 No. 137
- Closer Settlement (Land Titles) Amendment Act 1980 No. 195
- 30 Clean Air (Amendment) Act 1981 No. 92
- Constitution (Referendum) Act 1981 No. 96
- Plumbers, Gasfitters and Drainers (Amendment) Act 1982 No. 13
- Miscellaneous Acts (Financial Accommodation) Amendment Act 1982 No. 22
- Local Government and Other Authorities (Superannuation) Amendment Act 1982 No.
- 35 27
- Legal Services Commission (Amendment) Act 1982 No. 40
- Stock Diseases (Amendment) Act 1982 No. 70
- Parliamentary Electorates and Elections (Amendment) Act 1982 No. 112
- Crimes (Road Safety) Amendment Act 1982 No. 124
- 40 Royal Botanic Gardens and Domain Trust (Amendment) Act 1983 No. 9
- Crimes (Domestic Violence) Amendment Act 1983 No. 116
- Coal and Oil Shale Mine Workers (Superannuation) Amendment Act 1983 No. 150
- Transport Authorities (Amendment) Act 1983 No. 151
- Crimes (Mental Disorder) Amendment Act 1983 No. 180
- 45 Gaming and Betting (Amusement Devices) Amendment Act 1984 No. 58
- Parliamentary Remuneration Tribunal (Amendment) Act 1984 No. 61
- Statutory and Other Offices Remuneration (Amendment) Act 1984 No. 62
- Transport Authorities (Further Amendment) Act 1984 No. 122
- Motor Traffic (Amendment) Act 1984 No. 128
- 50 Land Tax (Amendment) Act 1984 No. 130
- Pesticides (Amendment) Act 1985 No. 4
- Second-hand Dealers and Collectors (Amendment) Act 1985 No. 8

*Statute Law (Miscellaneous Provisions) 1988*SCHEDULE 21—REPEALS—*continued*

- Pawnbrokers (Amendment) Act 1985 No. 10
- Totalizator (Amendment) Act 1985 No. 29
- Local Government and Other Authorities (Superannuation) (Fund Closure) Amendment Act 1985 No. 42
- 5 Superannuation (Amendment) Act 1985 No. 46
- Superannuation (Scheme Closure) Amendment Act 1985 No. 47
- Factories, Shops and Industries (Amendment) Act 1985 No. 76
- Prevention of Cruelty to Animals (Amendment) Act 1985 No. 79
- Trustee Companies (Amendment) Act 1985 No. 88
- 10 Public Service (Government Insurance Office) Amendment Act 1985 No. 98
- Land Tax (Flood Liable Land) Amendment Act 1985 No. 102
- Prevention of Cruelty to Animals (Further Amendment) Act 1985 No. 130
- Forestry (Clearing Licences) Amendment Act 1985 No. 134
- Land Tax (Amendment) Act 1985 No. 146
- 15 Crimes (Child Assault) Amendment Act 1985 No. 149
- Evidence (Children) Amendment Act 1985 No. 152
- Superannuation (Further Amendment) Act 1985 No. 155
- Gaming and Betting (Further Amendment) Act 1985 No. 177
- Land Tax (Further Amendment) Act 1985 No. 216
- 20 Land Tax Management (Administration) Amendment Act 1985 No. 223
- Justices (Clean Air) Amendment Act 1986 No. 27
- State Pollution Control Commission (Mobile Plant and Equipment) Amendment Act 1986 No. 28
- Crimes (Release on Licence Board) Amendment Act 1986 No. 36
- 25 Crimes (Remissions) Amendment Act 1986 No. 44
- Prevention of Cruelty to Animals (Prescribed Defences) Amendment Act 1986 No. 56
- Parliamentary Electorates and Elections (Amendment) Act 1986 No. 58
- Land Tax Management (Amendment) Act 1986 No. 90
- Crimes (Mental Illness) Amendment Act 1986 No. 93
- 30 Public Hospitals (Disposition of Land) Amendment Act 1986 No. 97
- Constitution (Local Government) Amendment Act 1986 No. 111
- Evidence (Amendment) Act 1986 No. 112
- Periodic Detention of Prisoners (Amendment) Act 1986 No. 115
- Trustee Companies (Amendment) Act 1986 No. 121
- 35 Crimes (Photographic Evidence) Amendment Act 1986 No. 162
- Crimes (Remissions) Further Amendment Act 1986 No. 189
- Dried Fruits (Amendment) Act 1987 No. 1
- Crimes (Radar Detected Offences) Amendment Act 1987 No. 32
- Crimes (Road Safety) Amendment Act 1987 No. 45
- 40 Factories, Shops and Industries (Workers Compensation) Amendment Act 1987 No. 76
- Land Tax Management (Information Disclosure) Amendment Act 1987 No. 88
- Private Hospitals (Amendment) Act 1987 No. 122
- Election Funding (Amendment) Act 1987 No. 133
- Land Tax (Amendment) Act 1987 No. 228
- 45 Land Tax Management (Amendment) Act 1987 No. 229
- Legal Profession (Amendment) Act 1987 No. 263

*Statute Law (Miscellaneous Provisions) 1988***SCHEDULE 22—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS**

(Sec. 5)

Effect of amendment of amending provisions

1. An amendment made by Schedule 20 to an amending provision (as defined by the Reprints Act 1972) contained in an Act shall, if the amending provision has commenced before the date of assent to this Act, be taken to have taken effect as from the commencement of the amending provision.

Effect of transfer of referential provisions

2. (1) An amendment made by this Act to include in another Act a provision in or to the effect of a referential provision repealed by Schedule 21 shall be taken to have had effect on and from the commencement of the repealed provision, subject to any other Act passed since that commencement.

(2) In this clause—

- “referential provision” means a provision requiring a reference in an Act or statutory instrument or in any other document to be read or construed as, or taken to be, or deemed to be, or otherwise treated as, a reference to—

- (a) an act, matter, person or thing; or
- (b) an act, matter, person or thing by a particular description or title.

Effect of repeals

3. The repeal by this Act of any enactment does not affect any saving of a statutory instrument made by the enactment.

Effect of amendment or repeal on acts done or decisions made

4. Except where it is expressly provided to the contrary, where this Act—
- (a) amends a provision of an Act; or
 - (b) repeals and re-enacts (with or without modifications) a provision of an Act, 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.

District Court and Local Court bailiffs

5. (1) A person (other than a Sheriff's officer) who was a bailiff of the District Court immediately before the commencement of Schedule 4 shall, on that commencement, be regarded as having been appointed as a bailiff of that Court (on the same terms as applied to his or her office as bailiff immediately before that commencement).

- (2) For the purpose of the effectual operation of the District Court Act 1973 in relation to anything commenced to be done before the commencement of Schedule 4, a Sheriff's officer who was a bailiff under that Act may, after that commencement, exercise as Sheriff's officer any function which he or she could have exercised had he or she remained a bailiff.

- (3) The provisions of this clause also apply in respect of bailiffs under the Local Courts (Civil Claims) Act 1970 and for that purpose references to that Act and the commencement of Schedule 10 shall be substituted as appropriate.

Statute Law (Miscellaneous Provisions) 1988

SCHEDULE 22—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—
continued

Judges' pensions—certificate concerning health

6. Section 5 (2) of the Judges' Pensions Act 1953 applies to a judge certified (before the commencement of Schedule 6) as referred to in that provision as if that Schedule had not been enacted.

5 Regulations

7. (1) The Governor may make regulations containing other 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.

- 10 (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
- 15 (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.

NOTE

Alphabetical list of Acts repealed by Schedule 21

- 20 Aborigines (Amendment) Act 1973 No. 35
- Administration of Justice Act 1925 No. 15
- Adoption of Children (Domicile) Amendment Act 1979 No. 119
- Banks and Bank Holidays (Amendment) Act 1924 No. 25
- Bookmakers (Taxation) Amendment Act 1932 No. 20
- 25 Cattle Compensation (Amendment) Act 1978 No. 7
- Cattle Slaughtering and Diseased Animals and Meat (Amendment) Act 1947 No. 8
- Clean Air (Amendment) Act 1981 No. 92
- Closer Settlement (Land Titles) Amendment Act 1980 No. 195
- Co-operation (Amendment) Act 1970 No. 82
- 30 Co-operation (Amendment) Act 1979 No. 86
- Coal and Oil Shale Mine Workers (Superannuation) Amendment Act 1983 No. 150
- Coal and Oil Shale Mine Workers (Superannuation) Further Amendment Act 1957 No. 54
- Constitution and Other Acts (Amendment) Act 1975 No. 67
- 35 Constitution Further Amendment (Referendum) Act 1932 (1933 No. 1)
- Constitution (Local Government) Amendment Act 1986 No. 111
- Constitution (Referendum) Act 1978 No. 44
- Constitution (Referendum) Act 1981 No. 96
- Conveyancing (Amendment) Act 1920 No. 23
- 40 Conveyancing (Amendment) Act 1927 No. 56
- Crimes (Amendment) Act 1924 No. 10
- Crimes (Child Assault) Amendment Act 1985 No. 149
- Crimes (Domestic Violence) Amendment Act 1983 No. 116
- Crimes (Mental Disorder) Amendment Act 1983 No. 180

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- Crimes (Mental Illness) Amendment Act 1986 No. 93
- Crimes (Photographic Evidence) Amendment Act 1986 No. 162
- Crimes (Radar Detected Offences) Amendment Act 1987 No. 32
- Crimes (Release on Licence Board) Amendment Act 1986 No. 36
- 5 Crimes (Remissions) Amendment Act 1986 No. 44
- Crimes (Remissions) Further Amendment Act 1986 No. 189
- Crimes (Road Safety) Amendment Act 1982 No. 124
- Crimes (Road Safety) Amendment Act 1987 No. 45
- Dried Fruits (Amendment) Act 1987 No. 1
- 10 Election Funding (Amendment) Act 1987 No. 133
- Electricity Development (Energy Authority) Amendment Act 1979 No. 104
- Evidence (Amendment) Act 1986 No. 112
- Evidence (Children) Amendment Act 1985 No. 152
- Factories, Shops and Industries (Amendment) Act 1985 No. 76
- 15 Factories, Shops and Industries (Workers Compensation) Amendment Act 1987 No. 76
- Fair Rents (Amendment) Act 1926 No. 2
- Fire Brigades (Amendment) Act 1977 No. 28
- Forestry (Clearing Licences) Amendment Act 1985 No. 134
- Friendly Societies (Amendment) Act 1932 No. 43
- 20 Friendly Societies (Further Amendment) Act 1931 No. 72
- Gaming and Betting (Amusement Devices) Amendment Act 1984 No. 58
- Gaming and Betting (Further Amendment) Act 1985 No. 177
- Government Railways and Transport (Amendment) Act 1958 No. 41
- Government Railways and Transport (Amendment) Act 1961 No. 19
- 25 Housing (Amendment) Act 1924 No. 27
- Irrigation (Amendment) Act 1931 No. 36
- Irrigation and Water (Amendment) Act 1944 No. 26
- Justices (Clean Air) Amendment Act 1986 No. 27
- Land Tax (Amendment) Act 1984 No. 130
- 30 Land Tax (Amendment) Act 1985 No. 146
- Land Tax (Amendment) Act 1987 No. 228
- Land Tax (Flood Liable Land) Amendment Act 1985 No. 102
- Land Tax (Further Amendment) Act 1985 No. 216
- Land Tax Management (Administration) Amendment Act 1985 No. 223
- 35 Land Tax Management (Amendment) Act 1986 No. 90
- Land Tax Management (Amendment) Act 1987 No. 229
- Land Tax Management (Information Disclosure) Amendment Act 1987 No. 88
- Land Vendors (Amendment) Act 1978 No. 2
- Legal Profession (Amendment) Act 1987 No. 263
- 40 Legal Services Commission (Amendment) Act 1982 No. 40
- Local Government (Amendment) Act 1927 No. 33
- Local Government (Amendment) Act 1928 No. 41
- Local Government and Other Authorities (Superannuation) Amendment Act 1982 No. 27
- 45 Local Government and Other Authorities (Superannuation) (Fund Closure) Amendment Act 1985 No. 42
- Lord Howe Island (Amendment) Act 1967 No. 66
- Main Roads (Amendment) Act 1927 No. 51
- Maritime Services (Amendment) Act 1960 No. 51
- 50 Maritime Services (Amendment) Act 1974 No. 40
- Mines Inspection (Amendment) Act 1962 No. 8
- Miscellaneous Acts (Financial Accommodation) Amendment Act 1982 No. 22
- Motor Traffic (Amendment) Act 1984 No. 128
- Municipalities (Incorporation Validating) Act 1901 (1902 No. 14)

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- National Relief Fund (Repeal) Act 1978 No. 17
 - Parliamentary Electorates and Elections (Amendment) Act 1941 No. 6
 - Parliamentary Electorates and Elections (Amendment) Act 1982 No. 112
 - Parliamentary Electorates and Elections (Amendment) Act 1986 No. 58
 - 5 Parliamentary Remuneration Tribunal (Amendment) Act 1984 No. 61
 - Pastures Protection (Amendment) Act 1957 No. 68
 - Pawnbrokers (Amendment) Act 1985 No. 10
 - Periodic Detention of Prisoners (Amendment) Act 1986 No. 115
 - Pesticides (Amendment) Act 1985 No. 4
 - 10 Plumbers, Gasfitters and Drainers (Amendment) Act 1982 No. 13
 - Poisons (Regulations) Amendment Act 1977 No. 96
 - Police Offences (Amendment) Act 1908 No. 12
 - Prevention of Cruelty to Animals (Amendment) Act 1985 No. 79
 - Prevention of Cruelty to Animals (Further Amendment) Act 1985 No. 130
 - 15 Prevention of Cruelty to Animals (Prescribed Defences) Amendment Act 1986 No. 56
 - Private Hospitals (Amendment) Act 1971 No. 10
 - Private Hospitals (Amendment) Act 1987 No. 122
 - Public Hospitals (Disposition of Land) Amendment Act 1986 No. 97
 - Public Roads (Amendment) Act 1923 No. 12
 - 20 Public Service (Government Insurance Office) Amendment Act 1985 No. 98
 - Racing (Amendment) Act 1959 No. 26
 - Real Property (Amendment) Act 1928 No. 25
 - Royal Botanic Gardens and Domain Trust (Amendment) Act 1983 No. 9
 - Second-hand Dealers and Collectors (Amendment) Act 1985 No. 8
 - 25 Stamp Duties (Further Amendment) Act 1977 No. 135
 - State Pollution Control Commission (Mobile Plant and Equipment) Amendment Act 1986 No. 28
 - Statutory and Other Offices Remuneration (Amendment) Act 1984 No. 62
 - Statutory and Other Offices Remuneration (Energy Authority) Amendment Act 1979 No.
 - 30 105
 - Stock Diseases (Amendment) Act 1982 No. 70
 - Superannuation (Amendment) Act 1980 No. 50
 - Superannuation (Amendment) Act 1985 No. 46
 - Superannuation (Further Amendment) Act 1985 No. 155
 - 35 Superannuation (Scheme Closure) Amendment Act 1985 No. 47
 - Supreme Court (Amendment) Act 1972 No. 41
 - Sydney Harbour Trust (Amendment) Act 1930 No. 32
 - Technical and Further Education (Amendment) Act 1975 No. 50
 - Theatres and Public Halls and Cinematograph Films (Amendment) Act 1971 No. 12
 - 40 Theatres, Public Halls and Cinematograph Films (Amendment) Act 1938 No. 35
 - Totalizator (Amendment) Act 1985 No. 29
 - Transport Authorities (Amendment) Act 1983 No. 151
 - Transport Authorities (Further Amendment) Act 1984 No. 122
 - Transport (Division of Functions) Amendment Act 1956 No. 38
 - 45 Trustee Companies (Amendment) Act 1985 No. 88
 - Trustee Companies (Amendment) Act 1986 No. 121
 - University and University Colleges (Amendment) Act 1937 No. 30
 - University and University Colleges (Amendment) Act 1959 No. 6
 - Valuation of Land (Amendment) Act 1980 No. 137
 - 50 War Service Land Settlement and Closer Settlement (Amendment) Act 1963 No. 27
 - Workmen's Compensation (Broken Hill) (Amendment) Act 1927 No. 22
 - Workmen's Compensation (Broken Hill) (Amendment) Act 1929 No. 43

