

SCHEDULE 1—MINOR AMENDMENTS—*continued***BUILDING AND CONSTRUCTION INDUSTRY LONG
SERVICE PAYMENTS ACT 1986 No. 19****Amendments**

- (1) Section 21 (**Subcontract workers—claims for service credits**):
 - (a) From section 21 (2), omit “3 months” wherever occurring, insert instead “12 months”.
 - (b) After “particular case” in section 21 (3), insert “or class of cases”.
- (2) Section 28 (**Entitlement to long service payments**):

From section 28 (1), omit “leave”.
- (3) Section 32 (**Payments to employers**):

From section 32 (1), omit “3 months after those benefits were provided or within such longer period (not exceeding 12 months)”, insert instead “12 months after those benefits were provided or within such longer period (not exceeding 2 years)”.

Explanatory note**Claims for service credits (item (1))**

Section 21 of the Building and Construction Industry Long Service Payments Act 1986 enables a subcontract worker to claim service credits in the building industry on which entitlement to long service payments are based.

The proposed amendments will extend the periods within which such a claim may be made by 9 months. A claim will be able to be made within 12 months after the end of the financial year during which the worker performed building and construction work or, if the worker has permanently ceased such work, within 12 months after the cessation of work.

The proposed amendments will also enable the Building and Construction Industry Long Service Payments Corporation (“the Corporation”) to extend the period in which claims may be lodged in any class of cases (at present, it may only do so in a particular case).

Statute law revision (item (2))

Section 28 of the Act provides for “long service payments”. The proposed amendment will correct a reference to “long service *leave* payments” by omitting the word “leave”.

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SCHEDULE 1—MINOR AMENDMENTS—*continued*

Payments to employers (item (3))

Section 32 requires the Corporation to reimburse an employer who provides a registered worker under the Act with any benefits arising under the Long Service Leave Act 1955 or under reciprocal arrangements. Reimbursement is to be made on application by the employer. The proposed amendment will extend the period in which the employer may make an application by 9 months and enable the Corporation to extend the period by up to 2 years (at present, it may extend it by up to 12 months).

**BUSINESS FRANCHISE LICENCES (PETROLEUM
PRODUCTS) ACT 1987 No. 94**

Amendments

Schedule 1 (The Tribunal):

- (a) Omit clause 2 (Age).
- (b) After “Minister;” in clause 6 (1) (e), insert “or”.
- (c) Omit clause 6 (1) (f) and (g) and (2).

Explanatory note

The proposed amendments:

- (a) remove the restriction that prevents a person who is of or above the age of 70 years from being eligible to be appointed as, or from continuing to hold office as, the person designated as the Business Franchise Licence Fees (Petroleum Products) Appeals Tribunal; and
 - (b) remove the provision which enables the Governor to retire the person designated as that Tribunal after the person reaches the age of 60 years.
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SCHEDULE 1—MINOR AMENDMENTS—*continued*

(2) Section 71B:

Before section 72, insert:

Definition

71B. In this Division:

“**cultural**” includes ethnic, religious and linguistic.

(3) Section 74 (**Assessment reports**):

After section 74 (4), insert:

(5) A person who fails to comply with an order made under subsection (4) is guilty of an offence.

(4) Schedule 2 (**Constitution of the Children’s Review Panel**):

(a) After “resignation;” in clause 7 (1) (a), insert “and”.

(b) From clause 7 (1) (b) (ii), omit “body; and”, insert instead “body,”.

(c) Omit clause 7 (1) (c).

Commencement

The amendments to the Children (Care and Protection) Act 1987 commence on a day or days to be appointed by proclamation.

Explanatory note**Statute law revision (item (1))**

Section 21 (12) of the Act defines “special medical examination” as “a vaginal or anal examination or a penile examination involving the insertion of any thing into the penis”. The proposed amendment recasts the definition to make it clear that the reference to a vaginal or anal examination includes an examination involving the insertion of any thing into the vagina or anus (the specific reference to the insertion of a thing into the penis might otherwise be read as implying that such an examination is excluded in the case of a vagina or anus).

Care application (item (2))

In considering a care application in respect of a child, the Children’s Court is required to have regard (in addition to various other matters) to “the importance of preserving the particular cultural environment of the child” (section 72 (2)(d)). Associated provisions in sections 73 and 74 make reference to the Court taking into account a child’s “cultural group” and possible conflicts of “cultural factors”. Proposed section 71B will insert a definition of “cultural” to make it clear that the references to “cultural” in these provisions include also ethnic, religious and linguistic elements. The amendment will ensure consistency with the Convention on the Rights of the Child which was adopted by the General Assembly of the United Nations on 20 November 1989.

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SCHEDULE 1—MINOR AMENDMENTS—*continued*

- (4) This section applies to the following orders:
- (a) an order under section 92, 92B or 93 for the payment of money due;
 - (b) an order under section 12 (2) or 13 of the Annual Holidays Act 1944 with respect to any remuneration or payment due to a worker under that Act;
 - (c) an order under section 11 (2) or 12 of the Long Service Leave Act 1955 with respect to any payment due to a worker under that Act;
 - (d) an order under section 11 (2) or 12 of the Long Service Leave (Metalliferous Mining Industry) Act 1963 with respect to any payment due to a worker under that Act.
- (6) Section 127 (**Appointment and powers of inspectors**):
From section 127 (1) (d), omit “, on obtaining the authority of the Minister.”.
- (7) Section 130 (**Regulations**):
- (a) Before “committee” in section 130 (1) (a), insert “conciliation commissioner.”.
 - (b) After “commission” in section 130 (1) (h), insert “or a conciliation commissioner, committee or tribunal”.

Commencement

The proposed amendments to the Industrial Arbitration Act 1940 commence on a day or days to be appointed by proclamation.

Transitional

Item (5) of the amendments to the Industrial Arbitration Act 1940 does not apply to proceedings (being proceedings in respect of an order for the payment of money due) commenced before that item commences.

Explanatory note**Orders for interest (items (2) (b) and (5))**

At present under the Act, certain orders for the payment of money due (e.g. for the recovery of wages) are enforced as if the order were a judgment for a debt in a court of competent jurisdiction. Proposed section 118A provides that if an order is made for the payment of money, the industrial magistrate may order that interest on the amount of money due is to be included in the amount ordered to be paid (this being similar to proceedings for the recovery of money before a Local Court—see section 39A of the Local Courts (Civil Claims) Act 1970).

Statute Law (Miscellaneous Provisions) 1991

SCHEDULE 1—MINOR AMENDMENTS—*continued*

Breach of orders relating to assessment reports (item (3))

Under section 74 of the Act, the Children's Court may make orders to prevent a child from becoming aware of information contained in an assessment report if the prejudicial effect of the child being unaware of the information would be outweighed by the likely psychological harm to the child if the child became aware of the information. The proposed amendment will make it an offence against the Act to fail to comply with such an order.

Removal of age restrictions (item (4))

The proposed amendments provide that the full-time President of the Children's Review Panel, who at present is entitled to return to public sector employment in certain circumstances, is not prevented from doing so because of his or her age.

CHILDREN (CRIMINAL PROCEEDINGS) ACT 1987 No. 55

Amendments

- (1) Section 31 (**Hearing of charges in the Children's Court**):
From section 31 (4), omit "and to the Attorney General".
- (2) Section 33 (**Penalties**):
From section 33 (1) (c), omit "\$500", insert instead "10 penalty units".

Explanatory note

The proposed amendment to section 31 removes the requirement for the Children's Court to furnish to the Attorney General a statement of the reasons for its decision to commit a person for trial instead of dealing with the matter summarily. The provision is superfluous as the Attorney General no longer exercises the functions which formerly necessitated its inclusion in section 31 (item (1)).

The proposed amendment to section 33 increases, from \$500 to 10 penalty units (which is currently \$1,000), the maximum fine that the Children's Court can impose on a person found by the court to be guilty of an offence (item (2)).

SCHEDULE 1—MINOR AMENDMENTS—*continued*

COAL MINING ACT 1973 No. 81

AmendmentSection 76 (**Liability to pay royalty**):

Omit section 76 (2), insert instead:

(2) If royalty is paid or recovered in respect of coal or a mineral (being, in either case, coal or a mineral neither owned by nor reserved to the Crown), the Minister is to pay to the owner of the coal or mineral the amount of the royalty (together with any interest on the royalty that has been paid or recovered), less an amount equal to one-eighth of the amount of the royalty, which is to be paid into the Consolidated Fund.

Commencement

The amendment is taken to have commenced on 22 June 1990 (the day on which the Coal Ownership (Restitution) Act 1990 commenced).

Explanatory note

Section 76 (2) of the Coal Mining Act 1973 originally provided (in terms similar to those of the proposed provision) for the payment of royalty to owners of privately owned coal. The original provision was amended as a consequence of the enactment of the Coal Acquisition Act 1981 to reflect the fact that all privately owned coal was, by that Act, vested in the Crown. The Coal Ownership (Restitution) Act 1990 provides that coal may now be granted back to certain of the persons by whom it was previously owned. For those persons who are granted coal to receive royalty in respect of the mining of the coal, it is necessary to amend section 76 (2) of the Coal Mining Act 1973 to restore its original effect.

SCHEDULE 1—MINOR AMENDMENTS—*continued***COMMERCIAL VESSELS ACT 1979 No. 41****Amendment****Section 30I (Revalidation of certificates):**

After section 30I (5), insert:

(6) The regulations may provide for the payment of specified fees in respect of an application for revalidation of a certificate of competency and may provide for different fees according to such different factors as are prescribed.

Explanatory note

The proposed amendment makes it clear that regulations may be made with respect to fees for revalidation of certificates of competency by the Maritime Services Board. The provision is similar to section 30G of the Act which enables such regulations to be made with respect to applications for certificates of competency.

COMPENSATION COURT ACT 1984 No. 89**Amendment****Section 32 (Appeals from Court):**

From section 32 (3) (b), omit "\$5,000", insert instead "\$10,000".

Transitional

The amendment to the Compensation Court Act 1984 does not apply to an appeal commenced before the date of assent to this Act.

Explanatory note

At present, if an appeal to the Supreme Court from a decision of the Compensation Court involves an amount of compensation less than \$5,000, the appeal lies by leave of the Supreme Court rather than as of right. The proposed amendment increases that amount so that it will be necessary to obtain the leave of the Supreme Court if the amount of compensation involved in the appeal is less than \$10,000.

SCHEDULE 1—MINOR AMENDMENTS—*continued*

CONSTITUTION ACT 1902 No. 32

Amendments

Section 9I (Governor's salary):

- (a) From section 9I (2), omit “, but may be made only on the advice of a majority of the members present at a meeting of the full Executive Council”.
- (b) Omit section 9I (3).

Explanatory note

Section 9I of the Constitution Act 1902 provides that the annual salary of the Governor is \$80,000 or such greater amount as is determined by regulation. At present, such a regulation can be made only on the advice of a majority of the members present at a meeting of the full Executive Council, with no more than 3 members absent. The proposed amendment will omit this requirement.

CRIMES ACT 1900 No. 40

Amendments

- (1) Section 405D (Closed-circuit television may be used for giving child victim's evidence):

Omit section 405D (2), insert instead:

(2) If the court is not equipped with closed-circuit television facilities or it otherwise considers it appropriate to do so, the court may, for the purpose of permitting the child's evidence to be given by means of such facilities, adjourn the proceedings or any part of them to a court that is equipped with such facilities.

(2A) If, pursuant to an order under subsection (1), a child's evidence is permitted to be given from other premises:

- (a) the court may also order a court officer to be present at those other premises, or any other person to be present with the child as a support or interpreter, or both; and
- (b) those other premises are taken to be part of the court in which the proceedings are being held.

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SCHEDULE 1—MINOR AMENDMENTS—*continued*

(2) Section 405F (**Alternative arrangements for child victim's evidence**):

- (a) After "adjournment of" in section 405F (2) (c), insert "the proceedings or".
- (b) After section 405F (2), insert:

(2A) Any premises to which proceedings are adjourned for the purposes of subsection (2) are taken to be part of the court in which the proceedings are being held.

(3) Section 405G (**Premises to be considered part of court**):

Omit the section.

Commencement

The proposed amendments to the Crimes Act 1900 commence on a day or days to be appointed by proclamation.

Explanatory note

At present, in criminal proceedings in which it is alleged that the accused person has committed a prescribed sexual offence on a child, the court may make an order under section 405D of the Crimes Act 1900 permitting the child's evidence to be given by means of closed-circuit television facilities.

The proposed amendment to section 405D makes it clear that if the court is not equipped with closed-circuit television facilities or it is otherwise appropriate to do so, the court may adjourn the whole of the proceedings (and not just part of them) to another court for the purpose of the child giving evidence by means of closed-circuit television facilities. The proposed amendment to that section also restates the existing provision that other premises from which a child's evidence can be given are taken to be part of the court (item (1)).

The proposed amendments to section 405F enable a court to adjourn all of the proceedings (instead of just part of them) to other premises if the court gives a direction under that section for alternative arrangements to be made for the giving of evidence by a child victim and also restate the existing provision that those premises are taken to be part of the court (item (2)).

Section 405G is to be repealed as a consequence of the proposed amendments to sections 405D and 405F (item (3)).

SCHEDULE 1—MINOR AMENDMENTS—*continued*

CRIMINAL APPEAL ACT 1912 No. 16

Amendments(1) Section 2 (**Definitions**):

From the definition of “**Sentence**” in section 2 (1), omit “, or his”, insert instead “or any”.

(2) Section 10 (**Time for appealing**):

(a) From section 10 (1), omit “ten”, insert instead “28”.

(b) From section 10 (4), omit “10”, insert instead “28”.

Transitional

The amendments to section 10 of the Criminal Appeal Act 1912 do not apply to an appeal in respect of which the period for giving notice has expired before the date of assent to this Act.

Explanatory note**Definition of “sentence” (item (1))**

At present, the definition of “sentence” includes any order made by the court of trial on conviction with reference to the person convicted, or his property. The proposed amendment to section 2 makes it clear that the order can refer to any property and not just that of the person to whom the conviction relates.

Time for appealing (item (2))

The proposed amendments to section 10 extend, from 10 to 28 days, the time within which a person is required to give notice of an appeal, or notice of an application for leave to appeal, to the Court of Criminal Appeal against a conviction or sentence.

SCHEDULE 1—MINOR AMENDMENTS—*continued***CRIMINAL PROCEDURE ACT 1986 No. 209****Amendments****Section 8 (Listing):**

In section 8 (1) and (1A), after “criminal proceedings” wherever occurring, insert “that are to be heard and determined”.

Explanatory note

At present, the Criminal Listing Director can make arrangements for the listing of criminal proceedings “before” the Supreme Court or the District Court. The proposed amendments make it clear that the proceedings concerned are proceedings that are to be heard and determined before those courts.

CROWN AND OTHER ROADS ACT 1990 No. 54**Amendments****(1) Section 6 (Notice to be given of an intention to open a road over prescribed land):**

From section 6 (2) (c), omit “at that office on or before that date or within that period”, insert instead “with the relevant compensating authority in accordance with section 14”.

(2) Section 19 (Compensation to be determined by the local land board when the parties cannot agree):

From section 19 (1), omit “accepting the claimant’s claim in principle”, insert instead “informing the claimant that the Minister has determined to acquire the interest in land”.

(3) Section 38 (Power of Minister to re-mark road):

From section 38 (2), omit “section 37”, insert instead “subsection (1)”.

(4) Section 46 (Disposal of land that formerly constituted a closed road):

After “Acts” in section 46 (1), insert “or may provide the land as compensation under Division 2 of Part 2”.

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SCHEDULE 1—MINOR AMENDMENTS—*continued*

(5) Schedule 2 (Savings and transitional provisions):

- (a) From clause 11 (1), omit “lease or reserve”, insert instead “lease, reserve or dedication”.
- (b) After “the reserve” in clause 11 (1), insert “or dedication”.

Explanatory note**Compensation (items (1), (2) and (4))**

Section 6 sets out the matters included in a notice of the Minister’s intention to open a road over prescribed land. The proposed amendment to the section more clearly describes a reference to the lodging of a claim for compensation in the section.

The proposed amendment to section 19 makes it clear that it is only after the Minister has determined to acquire an interest in land that the claimant for compensation concerned may (if there is a dispute over the amount of compensation) apply to the local land board to determine that compensation.

The proposed amendment to section 46 enables the Minister to provide, as compensation to a person who has an interest in land to be acquired, land that formerly constituted a road or that has become Crown land.

Miscellaneous (items (3) and (5))

The proposed amendment to section 38 rectifies an incorrect cross-reference.

The proposed amendment to Schedule 2 makes it clear that a savings provision preserving the rights in respect of a lease or reserve which includes a Crown road also applies to rights in respect of a dedication which includes a Crown road.

SCHEDULE 1—MINOR AMENDMENTS—*continued***CROWN LANDS ACT 1989 No. 6****Amendments**

- (1) Section 100 (**Estate of trust**):
After “licences” in section 100 (2), insert “or easements”.
- (2) Section 101 (**Purchase etc. of other land**):
 - (a) After “lease of” in section 101 (1) (a), insert “, or acquire the benefit of an easement in respect of,”.
 - (b) After “the trust” in section 101 (2), insert “or in respect of which the trust has the benefit under an easement”.
- (3) Section 102 (**Consent of Minister to sale, lease, easement, licence or mortgage**):
 - (a) Before “a licence” in section 102 (1), insert “an easement or”.
 - (b) After “lease” in section 102 (4), insert “, easement”.
 - (c) After “lease,” in section 102 (6), insert “easement,”.
- (4) Section 103 (**Sale, lease, easement, licence or mortgage in accordance with consent**):
 - (a) After “grant” in section 103 (1), insert “an easement or”.
 - (b) After “lease” in section 103 (2) wherever occurring, insert “easement”.
 - (c) After “reserved” in section 103 (2), insert “, the terms of the easement”.
- (5) Section 105 (**Execution of conveyances etc.**):
 - (a) After “lessee,” in section 105 (2) and (4) wherever occurring, insert “grantee,”.
 - (b) After “lease,” in section 105 (2), insert “, easement,”.
 - (c) After “lease of land” in section 105 (3), insert “, or an instrument creating an easement in respect of land,”.
- (6) Section 106 (**Proceeds**):
After “lease” in section 106 (1), insert “, easement”.

SCHEDULE 1—MINOR AMENDMENTS—*continued*(7) Section 138 (**Certain land may be declared to be Crown land**):

From section 138 (1), omit “that the land may be dealt with as if it were Crown land”, insert instead “the land to be Crown land”.

(8) Section 139 (**Alteration of conditions or purposes and suspension etc. of conditions**):

After “exemption” in section 139 (4), insert “, alteration, modification, addition or revocation”.

Explanatory note**Granting of easements by reserve trusts (items (1)–(6))**

At present, a reserve trust has the power to deal with land comprising the whole or any part of the reserve by way of sale, lease, licence or mortgage. This power is subject to the consent of the Minister. The proposed amendments to sections 100–103, 105 and 106 enable a reserve trust to grant an easement in respect of the land and provide that this power is also subject to the consent of the Minister. The proposed amendments also enable a reserve trust to acquire the benefit of an easement in respect of land required by the trust for use in connection with the reserve.

Declaration of certain Crown land (item (7))

At present, the Minister may declare (by notification published in the Gazette) that land vested in the Crown or acquired by or on behalf of the Crown or appropriated or resumed or vested in a public authority may be dealt with as if it were Crown land. The proposed amendment makes it clear that such a notification may declare the land to be Crown land.

Conditions on holdings (item (8))

The proposed amendment to section 139 makes it clear that if the conditions attaching to a holding (or the purpose of a holding) are altered, modified, added to or revoked, the Minister may redetermine the rent for the remainder of the current rent redetermination period applicable to the holding.

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SCHEDULE 1—MINOR AMENDMENTS—*continued*

CROWN PROSECUTORS ACT 1986 No. 208

Amendments

Schedule 1 (**Certain rights of Crown Prosecutors**):

- (a) After “resignation;” in clause 3 (1) (a), insert “and”.
- (b) From clause 3 (1) (b) (ii), omit “body; and”, insert instead “body,”.
- (c) Omit clause 3 (1) (c).

Explanatory note

The proposed amendments provide that a Crown Prosecutor, who at present is entitled to return to public sector employment in certain circumstances, is not prevented from doing so because of his or her age.

DRUG OFFENSIVE ACT 1987 No. 119

Amendments

(1) Section 3 (**Definitions**):

From the definition of “Directorate”, omit “Directorate of the Drug Offensive”, insert instead “Drug and Alcohol Directorate”.

(2) Part 3 (**Heading**):

Omit the heading, insert instead:

**PART 3—THE DRUG AND ALCOHOL
DIRECTORATE**

(3) Section 8 (**The Directorate**):

From section 8 (1), omit “Directorate of the Drug Offensive”, insert instead “Drug and Alcohol Directorate”.

Explanatory note

The proposed amendments change the name of the Directorate of the Drug Offensive (which is a division of the Department of Health) to the Drug and Alcohol Directorate.

SCHEDULE 1—MINOR AMENDMENTS—*continued***EDUCATION (ANCILLARY STAFF) ACT 1987 No. 240****Amendments**(1) Section 5 (**Classifications and positions**):

From section 5 (1), omit “senior clerical assistant and such other”, insert instead “such”.

(2) Section 33 (**Eligibility for appointment to Public Service**):

From section 33 (1), omit “with at least 5 years’ satisfactory service as such”.

Explanatory note

The proposed amendment to section 5 omits a specific reference to senior clerical assistant as a classification of the ancillary staff of the Department of School Education (item (1)).

The proposed amendment to section 33 removes the condition that a permanent employee (being a member of the ancillary staff of the Department of School Education employed on a permanent basis) is required to have had at least 5 years’ satisfactory service as a permanent employee before he or she may apply for a position in the Public Service as if he or she were a public servant (item (2)).

EDUCATION REFORM ACT 1990 No. 8**Amendments**(1) Section 58 (**Common registration cycles for schools in a system**):

Omit “registration of schools”, insert instead “registration of non-government schools”.

(2) Sections 85 (2), 87 (3), 91 (1) (b) and (4):

Omit “system of schools” wherever occurring, insert instead “system of non-government schools”.

(3) Section 98 (**Record of achievement**):

From section 98 (1), omit “accredited school”, insert instead “government school or accredited non-government school”.

SCHEDULE 1—MINOR AMENDMENTS—*continued*(4) Section 102 (**Functions of the Board**):

In section 102 (2) (g), before “courses of study”, insert “syllabuses for”.

(5) Schedule 2 (**Provisions relating to members and procedure of the Schools Appeals Tribunal**):

Omit clause 6 (1) (h) and “or” where lastly occurring in clause 6 (1) (g).

Explanatory note

Items (1), (2), (3) and (5) make consequential changes as a result of amendments approved in committee during the passage of the Act through Parliament.

Items (1) and (2) change a number of references to the registration of schools and to systems of schools to the registration of non-government schools and to systems of non-government schools as a consequence of the amendments in committee which removed the requirement for registration of government schools and the formation of a system of government schools.

Item (3) changes a reference to accredited schools to a reference to government and accredited non-government schools in connection with the issue of records of achievement to students. The reference originally covered all schools because both government and non-government schools were to be accredited for the presentation of candidates for the recognised certificates (the S.C. and the H.S.C.). However, the requirement for accreditation of government schools was removed by amendments in committee and accordingly the expression “accredited school” in connection with the grant of records achievement is no longer sufficient to describe all schools.

Item (5) omits an unnecessary provision which provides for the vacation of office of the presiding member of the Schools Appeals Tribunal in circumstances outlined in a proposed provision of the Act that was removed by amendment in committee.

Item (4) makes a minor change to the wording of the functions of the Board of Studies in relation to vocational courses of study for Years 11 and 12. For the sake of consistency, the relevant provision is being amended to refer to the Board’s role in developing or endorsing *syllabuses for* courses of study rather than developing or endorsing courses of study.

SCHEDULE 1—MINOR AMENDMENTS—*continued***ELECTION FUNDING ACT 1981 No. 78****Amendments**(1) Section 9 (**Eligibility for appointment**):

Omit section 9 (1) (a).

(2) Section 13 (**Vacation of office**):

(a) After “determined;” in section 13 (1) (l), insert “or”.

(b) From section 13 (1) (m), omit “member; or”, insert instead “member.”.

(c) Omit section 13 (1) (n).

Explanatory note

The proposed amendments remove the restriction that prevents a person who is of or above the age of 70 years from being eligible to be appointed as, or from continuing to hold office as, an appointed member or alternate member of the Election Funding Authority.

ELECTRICITY ACT 1945 (1946 No. 13)**Amendments**(1) Schedule 1 (**Provisions relating to the members of the Electricity Council of New South Wales**):

(a) After “Minister;” in clause 7 (1) (f), insert “and”.

(b) Omit clause 7 (1) (g).

(2) Schedule 3 (**Provisions relating to the members of Electricity Area Boards**):

Omit clause 4 (1) (g).

Explanatory note

The proposed amendments remove the restriction that prevents a person who reaches the age of 70 years from continuing to hold office as a member of the Electricity Council of New South Wales or as a member of an Electricity Area Board.

SCHEDULE 1—MINOR AMENDMENTS—*continued***EMPLOYMENT PROTECTION ACT 1982 No. 122****Amendments**(1) Section 19 (**Summary procedure for offences**):

From section 19 (1) (a), omit “court of petty sessions constituted by a stipendiary magistrate”, insert instead “Local Court constituted by a Magistrate sitting alone”.

(2) Section 20 (**Authority to prosecute**):

Omit section 20 (1), insert instead:

(1) Proceedings for an offence against this Act or the regulations may be instituted:

- (a) by an inspector appointed under the Principal Act; or
- (b) by a person acting with the written consent of the Minister.

Explanatory note

The proposed amendments:

- (a) extend the class of persons who may institute proceedings for offences under the Act or regulations to include inspectors appointed under the Industrial Arbitration Act 1940 (item (2)); and
 - (b) update certain references as a consequence of the Local Courts Act 1982 (item (1)).
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SCHEDULE 1—MINOR AMENDMENTS—*continued***ENERGY ADMINISTRATION ACT 1987 No. 103****Amendments**

Schedule 1 (**Superannuation and other rights of employees of the Corporation**):

- (a) After “resignation;” in clause 4 (1) (a), insert “or”.
- (b) From clause 4 (1) (b) (ii), omit “body; and”, insert instead “body,”.
- (c) Omit clause 4 (1) (c).

Explanatory note

The proposed amendments provide that an employee of the Energy Corporation, who at present is entitled to return to public sector employment in certain circumstances, is not prevented from doing so because of his or her age.

**ENVIRONMENTAL OFFENCES AND PENALTIES ACT 1989
No. 150****Amendment**

Schedule 3 (**Savings, transitional and other provisions**):

After clause 10, insert:

References to authorised persons under Division 5A of Part 10 of the Local Government Act 1919

11. (1) A reference in any Act or instrument (however expressed) to an authorised person within the meaning of Division 5A of Part 10 of the Local Government Act 1919 is to be read as a reference to a person belonging to any of the classes of persons referred to in the definition of “authorised person” in section 289A of that Act, as that definition was in force immediately before it was repealed by the amending Act.

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SCHEDULE 1—MINOR AMENDMENTS—*continued*

(2) A reference in any Act or instrument (however expressed) to a person belonging to a class of persons referred to in the definition of “authorised person” in section 289A of the Local Government Act 1919 is to be read as a reference to a person belonging to the class so referred to, as that definition was in force immediately before it was repealed by the amending Act.

Commencement

The amendment to the Environmental Offences and Penalties Act 1989 is taken to have commenced on 1 January 1991 (the day on which Division 5A of Part 10 of the Local Government Act 1919, which included section 289A of that Act, was repealed by the Environmental Offences and Penalties (Amendment) Act 1990).

Explanatory note

The amendment to Schedule 3 makes it clear that references in any Act or instrument to authorised persons within the meaning of Division 5A of Part 10 of the Local Government Act 1919, or to any class of authorised persons within the meaning of that Division, continue to have the same effect as they had immediately before that Division was repealed by the Environmental Offences and Penalties (Amendment) Act 1990.

FACTORIES, SHOPS AND INDUSTRIES ACT 1962 No. 43

Amendments

(1) Section 7 (**Inspectors**):

(a) After “Act” in section 7 (1), insert “(other than Parts 4 and 6)”.

(b) After section 7 (5), insert:

(6) In subsections (3), (4) and (5), a reference to an inspector includes a reference to an inspector appointed under the Industrial Arbitration Act 1940.

(2) Section 7A (**Disclosure of information**):

After “inspector” in section 7A (1), insert “(including an inspector appointed under the Industrial Arbitration Act 1940)”.

SCHEDULE 1—MINOR AMENDMENTS—*continued*(3) Section 74 (**Definitions**):

After the definition of “Furniture factory” in section 74 (1), insert:

“**Inspector**” means an inspector appointed under the Industrial Arbitration Act 1940.

(4) Section 104 (**Definitions**):

After the definition of “Hairdresser”, insert:

“**Inspector**” means an inspector appointed under the Industrial Arbitration Act 1940.

(5) Section 145 (**Proceedings**):

(a) After “inspector” in section 145 (1) (a), insert “(in the case of an offence under section 7 (5) involving an inspector but not in the case of an offence under Part 4 or 6 or the regulations under those Parts)”.

(b) After section 145 (1) (a1), insert:

(a2) an inspector appointed under the Industrial Arbitration Act 1940 (in the case of an offence under section 7 (5) involving such an inspector or an offence under Part 4 or 6 or the regulations under those Parts); or

(c) From section 145 (5), omit “Department of Industrial Relations and Employment”, insert instead “the WorkCover Authority or, in a case where the informant is an inspector appointed under the Industrial Arbitration Act 1940, by an officer of the Department of Industrial Relations, Employment, Training and Further Education”.

Explanatory note

The proposed amendments provide that the existing powers and functions of inspectors under Part 4 (restriction of hours of trade or work in certain industries) and Part 6 (regulation of the hairdressing trade) of the Act are to be exercised by inspectors appointed under the Industrial Arbitration Act 1940. This reflects the existing arrangement concerning inspectors’ powers and functions under the Factories, Shops and Industries Act 1962.

SCHEDULE 1—MINOR AMENDMENTS—*continued*

FORESTRY ACT 1916 No. 55

Amendments

- (1) Section 27 (**Penalty for unlawfully taking timber, products or forest materials**):

From section 27 (1), omit "\$1,000", insert instead "50 penalty units".

- (2) Sections 29, 32, 32D, 32G, 38, 41 (1A), 43 (1A), 45:

Omit "\$500" wherever occurring, insert instead "20 penalty units".

- (3) Sections 32C (**Offences relating to hunting and the use of firearms etc.**), 44 (**Penalties for offences against officers etc.**):

Omit "\$500" wherever occurring, insert instead "50 penalty units".

- (4) Sections 38A (**Requirement to state name and address**), 38B (**Requirement for owner of motor vehicle and others to give information**):

Omit "\$200" wherever occurring, insert instead "20 penalty units".

Explanatory note

The proposed amendments increase monetary penalties for certain offences under the Act. The penalties have not been reviewed for some time (in some cases not since 1978) and relate to such offences as the unlawful taking of timber, hunting and use of firearms in State forests, obstruction of authorised officers and to offences against the regulations. The increases will bring the penalties in line with similar penalties under comparable legislation (e.g. the Soil Conservation Act 1938).

SCHEDULE 1—MINOR AMENDMENTS—*continued***FREEDOM OF INFORMATION ACT 1989 No. 5****Amendment****Section 25 (Refusal of access):**

After section 25 (1) (b), insert:

- (b1) if it is a document that is available from, or available for inspection at, that agency, free of charge, in accordance with that agency's policies and practices;

Explanatory note

The object of the proposed amendment is to enable an agency to refuse access to a document under the Freedom of Information Act 1989 if the document is otherwise available from, or available for inspection at, that agency, free of charge.

GAMING AND BETTING ACT 1912 No. 25**Amendment****Section 10A (Betting by minors):**

From section 10A (2), omit "A person under the age of 16 years", insert instead "A minor".

Commencement

The amendment to the Gaming and Betting Act 1912 commences on a day to be appointed by proclamation.

Explanatory note

Section 10A of the Gaming and Betting Act 1912 penalises betting by minors but precludes imprisonment in default of payment of the penalty if the person in default is under the age of 16 years. The proposed amendment will preclude imprisonment if the person in default is under the age of 18 years.

The amendment will ensure that the section is consistent in this respect with section 117G (Minors not to be detained) of the Liquor Act 1982 (as inserted by Schedule 3 (7) to the Liquor (Miscellaneous Amendments) Act 1990) and section 57B (Minors not to be detained) of the Registered Clubs Act 1976 (as inserted by Schedule 1 (3) to the Registered Clubs (Miscellaneous Amendments) Act 1990).

SCHEDULE 1—MINOR AMENDMENTS—*continued*

GOVERNMENT INSURANCE ACT 1927 No. 18

Amendments

Schedule 2 (Provisions relating to the constitution of the Board):

- (a) Omit clause 2 (Age of directors).
- (b) Omit clause 11 (1) (h).
- (c) From clause 11 (1) (i), omit “retired or”.
- (d) Omit clause 11 (2).
- (e) From clause 14 (1), omit the definition of “retiring age”.
- (f) From clause 14 (2), omit “, if he has not attained the retiring age,”.

Explanatory note

The proposed amendments:

- (a) remove the restriction that prevents a person from being eligible to be appointed as, or from continuing to hold office as, a full-time director or the elected director of the Government Insurance Office of New South Wales Board if the person is of or above the age of 65 years, or as a part-time director if the person is of or above the age of 70 years; and
 - (b) remove the provision which enables the Governor to retire a full-time director after the director reaches the age of 60 years; and
 - (c) provide that a full-time director, who at present is entitled to return to public sector employment in certain circumstances, is not prevented from doing so because of his or her age.
-

HEALTH ADMINISTRATION ACT 1982 No. 135

Amendments

- (1) Section 4 (Definitions):

After section 4 (1), insert:

(1A) The expression “NSW Health” may be used to describe the Corporation, the Department and any other body and organisation under the control and direction of the Minister.

SCHEDULE 1—MINOR AMENDMENTS—*continued*

(2) Section 20B (Establishment of Medical Services Committee):

- (a) From section 20B (2), omit “9”, insert instead “10”.
- (b) From section 20B (2) (b), omit “8”, insert instead “9”.
- (c) From section 20B (2) (b) (iii), omit “and”.
- (d) From section 20B (2) (b) (iv), omit “Section.”, insert instead “Section; and”.
- (e) After section 20B (2) (b) (iv), insert:
 - (v) 1 shall be appointed on the nomination of the New South Wales Branch of the Australian Association of Consultant Physicians.

(3) Schedule 4 (Medical Services Committee):

- (a) From clause 4 (2), omit “3”, insert instead “5”.
- (b) From clause 11, omit “Five”, insert instead “Six”.
- (c) Omit clause 14.

Transitional

Item (3) (a) of the amendments to the Health Administration Act 1982 applies to the re-appointment of a member of the Medical Services Committee who would not, but for the amendment made by that paragraph, have been eligible for re-appointment.

Explanatory note

The proposed amendments:

- (a) enable the expression “NSW Health” to be used (for example on letter heads) to describe the Department of Health, the Health Administration Corporation and any other body and organisation under the control and direction of the Minister (item (1)); and
 - (b) increase, from 9 to 10, the number of members comprising the Medical Services Committee and to provide that the additional member is to be appointed by the Minister on the nomination of the NSW Branch of the Australian Association of Consultant Physicians (item (2)); and
 - (c) provide that a member of the Committee may be appointed for not more than 5 consecutive terms (each term comprising a 2 year period) instead of not more than 3 consecutive terms as is the case at present (item (3) (a)); and
 - (d) provide that the quorum for a meeting of the Committee is 6 instead of 5 members (item (3) (b)); and
 - (e) omit an obsolete provision relating to the first meeting of the Committee (item (3) (c)).
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SCHEDULE 1—MINOR AMENDMENTS—*continued***INDEPENDENT COMMISSION AGAINST CORRUPTION
ACT 1988 No. 35****Amendments****Schedule 3 (Rights of certain staff of Commission):**

- (a) From clause 3 (b) (ii), omit “body; and”, insert instead “body”.
- (b) Omit clause 3 (c).

Explanatory note

The proposed amendments provide that employees (other than those employed on a temporary basis) of the Independent Commission Against Corruption, who at present are entitled to return to public sector employment in certain circumstances, are not prevented from doing so because of their age.

INDUSTRIAL ARBITRATION ACT 1940 No. 2**Amendments**

- (1) Section 24 (**Appeal from committees etc.**):
 - (a) After “an award” in section 24 (7), insert “or order”.
 - (b) After “the award” in section 24 (7), insert “, order”.
- (2) Section 25AA (**Ancillary orders in compulsory conferences**):
 - (a) From section 25AA (2) (a), omit “elected”, insert instead “applied”.
 - (b) After section 25AA (4), insert:
 - (5) Nothing in this section authorises a conciliation commissioner, committee or tribunal:
 - (a) to make an order for the payment of interest; or
 - (b) to remit an application to an industrial magistrate, if that application concerns an order for the payment of interest.
- (3) Section 92D (**Small claims before industrial magistrates**):
 - (a) Omit the definition of “prescribed application”, insert instead:

SCHEDULE 1—MINOR AMENDMENTS—*continued*

“**prescribed application**” means an application for an order made in accordance with subsection (2).

(b) Omit section 92D (2), insert instead:

(2) A person who makes an application to an industrial magistrate for an order may do so by requesting, in a form approved by the registrar, that the application be dealt with under this section.

(4) Section 93 (**Penalty for breach of award etc.**):

From section 93 (4), omit “The industrial magistrate may award costs to either party and assess the amount of such costs. Such costs shall be according to a scale fixed by the commission.”.

(5) Section 118A:

After section 118, insert:

Order for interest

118A. (1) If an order to which this section applies is made for the payment of an amount of money, the industrial magistrate may order that there is to be included (in the amount ordered to be paid) interest at the prescribed rate on the whole or any part of that amount for the whole or any part of the period from when the amount became due and the date of the order.

(2) If, in relation to proceedings for an order to which this section applies the whole of the amount of money due (or any part of it) is paid before or without the order being made, the industrial magistrate may order that interest is to be paid at the prescribed rate on the amount so paid for the whole or any part of the period from when the amount became due and the date of the payment. Any such order for interest may be enforced as if it were an order to which this section applies.

(3) This section does not:

- (a) authorise the charging of interest on interest; or
- (b) authorise the charging of interest otherwise than by consent on any amount for the payment of which an order is made by consent.

SCHEDULE 1—MINOR AMENDMENTS—*continued***BUSINESS FRANCHISE LICENCES (TOBACCO)
ACT 1987 No. 93****Amendments**Schedule 1 (**The Tribunal**):

- (a) Omit clause 2 (**Age**).
- (b) After “Minister;” in clause 6 (1) (e), insert “or”.
- (c) Omit clause 6 (1) (f) and (g) and (2).

Explanatory note

The proposed amendments:

- (a) remove the restriction that prevents a person who is of or above the age of 70 years from being eligible to be appointed as, or from continuing to hold office as, the person designated as the Business Franchise Licence Fees (Tobacco) Appeals Tribunal; and
 - (b) remove the provision which enables the Governor to retire the person designated as that Tribunal after the person reaches the age of 60 years.
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CHILDREN (CARE AND PROTECTION) ACT 1987 No. 54**Amendments**(1) Section 21 (**Special medical examinations**):

Omit the definition of “special medical examination” from section 21 (12), insert instead:

“**special medical examination**” means:

- (a) a vaginal or anal examination (including any examination involving the insertion of any thing into the vagina or anus); or
- (b) a penile examination involving the insertion of any thing into the penis,

and includes any such examination carried out in the course of a medical examination under section 23.

SCHEDULE 1—MINOR AMENDMENTS—*continued*

The proposed amendment to section 25AA provides that an order for interest is not to be made at a compulsory conference (held before a conciliation commissioner for example) and that an application for an order for interest is not to be remitted to an industrial magistrate (item (2) (b)).

Appeals from committees etc. (item (1))

The proposed amendments to section 24 make it clear that the Crown may appeal to the Industrial Commission from an order, and not just an award, of a conciliation commissioner, a conciliation committee or a contract regulation tribunal.

Small claims before industrial magistrates (items (2) (a) and (3))

The proposed amendments to section 92D provide that an application for an order for the recovery of an amount of money may be made to the registrar in an approved form instead of by making a complaint in a prescribed form and then electing to have the application dealt with under section 92D. That section provides a quick and informal method of recovering amounts of money (such as unpaid wages) that are less than \$5,000. The proposed amendment to section 25AA (2) is consequential.

Costs (item (4))

The proposed amendment to section 93 will enable costs awarded to a party to proceedings for a breach of an award to be dealt with in the same way as costs awarded in other proceedings for a penalty or prosecution under the Act (that is, they are no longer to be in accordance with a scale fixed by the Industrial Commission but in accordance with section 123 of the Act).

Inspectors (item (6))

The proposed amendment to section 127 provides that inspectors may institute proceedings for a penalty for the breach of an award without needing the authority of the Minister.

Procedure before conciliation commissioners etc. (item (7))

The proposed amendment to section 130 enables regulations to be made prescribing the forms of references and applications to a conciliation commissioner and regulating the procedure to be followed in proceedings before a conciliation commissioner, a conciliation committee or a contract regulation tribunal.

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SCHEDULE 1—MINOR AMENDMENTS—*continued*

JUSTICES ACT 1902 No. 27

Amendment

Section 89 (Form and content of warrants):

After "issuing it", insert "(or, in the case of a warrant of commitment issued by an authorised justice by means of a computer network administered by the Attorney General's Department, shall record the name of the authorised justice issuing it)".

Explanatory note

The proposed amendment enables a computer generated warrant of commitment to record the name of the authorised justice who issues the warrant instead of having to be under the hand and seal of the authorised justice.

LAKE ILLAWARRA AUTHORITY ACT 1987 No. 285

Amendments

Schedule 3 (Provisions relating to members of the Authority):

- (a) Omit clause 1 (**Age of members**).
- (b) Omit clause 6 (1) (e).

Explanatory note

The proposed amendments remove the restriction that prevents a person who is of or above the age of 70 years from being eligible to be appointed as, or from continuing to hold office as, a member of the Lake Illawarra Authority.

SCHEDULE 1—MINOR AMENDMENTS—*continued*

LAND TAX MANAGEMENT ACT 1956 No. 26

Amendment

Section 54C:

After section 54B, insert:

Land values for 1991 and 1992 to be frozen at 1990 levels

54C. (1) This section applies for the purpose of determining land value in relation to the years commencing on 1 January 1991 and 1 January 1992 (“the 1991 and 1992 tax years”) and applies despite section 54.

(2) If land had a land value in relation to the year that commenced on 1 January 1990, the land value of the land in relation to the 1991 and 1992 tax years is to be the same as the land value of the land in relation to the year that commenced on 1 January 1990.

(3) A valuation of land under section 54 (1) (d) or (1A) in respect of the 1991 and 1992 tax years is to be made as if it were a valuation for the purposes of land tax to be levied in respect of the year commencing on 1 January 1990.

Commencement

The amendment to the Land Tax Management Act 1956 is taken to have commenced on 31 December 1990 (the commencement of the Land Tax Management (Further Amendment) Act 1990).

Explanatory note

The proposed amendment to the Land Tax Management Act 1956 is consequential on the amendment made by the Land Tax Management (Further Amendment) Act 1990 whereby an across the board increase of 17% was imposed on 1990 taxable land values for the purposes of the 1991 and 1992 tax years. The proposed amendment will limit the increase to the intended 17% by removing an anomaly whereby the 17% increase would have been imposed on top of a general increase brought about by a general revaluation in some areas. The proposed amendment will achieve this by “freezing” land values at their 1990 values for the purposes of the application of the 17% increase.

SCHEDULE 1—MINOR AMENDMENTS—*continued***LANDLORD AND TENANT (RENTAL BONDS) ACT
1977 No. 44****Amendments**

Schedule 1 (**Provisions relating to constitution and procedure of the Board**):

- (a) Omit clause 1 (1).
- (b) After “office;” in clause 1 (7) (g), insert “or”.
- (c) From clause 1 (7) (h), omit “subclause (8); or”, insert instead “subclause (8).”.
- (d) Omit clause 1 (7) (i).

Explanatory note

The proposed amendments remove the restriction that prevents a person who is of or above the age of 65 years from being eligible to be appointed as, or from continuing to hold office as, an appointed member of the Rental Bond Board.

LOCAL GOVERNMENT ACT 1919 No. 41**Amendments**

(1) Section 160AA (**Reduction of rates payable by certain classes of pensioners**):

- (a) From paragraph (a) of the definition of “eligible pensioner” in section 160AA (1), omit “Commonwealth Department of Social Security”, insert instead “Commonwealth Government”.
- (b) From paragraph (b) (iv) of the definition of “eligible pensioner” in section 160AA (1), omit “Department of Social Security or the Commonwealth Department of Veterans’ Affairs”, insert instead “Government”.

(2) Section 290 (**Control and regulation**):

At the end of the section, insert:

(2) The council may fix a fee for the inspection, for the purposes of this Division, of premises referred to in subsection (1) (a), (c) or (d). The fee is to be fixed in

SCHEDULE 1—MINOR AMENDMENTS—*continued*

accordance with section 167 and may be demanded and recovered in the same way as a fee for the supply of a service may be demanded and recovered under Division 3 of Part 7.

(3) **Section 582A (Exculpation from liability—flood liable land and land in coastal zone):**

(a) After section 582A (1), insert:

(1A) A council shall not incur any liability in respect of:

(a) any advice furnished in good faith by the council relating to the likelihood of any land in the coastal zone being affected by a coastline hazard (as described in a manual referred to in subsection (4) (b)) or the nature or extent of any such hazard; or

(b) anything done or omitted to be done in good faith by the council in so far as it relates to the likelihood of land being so affected.

(b) From section 582A (2) and (3), omit “subsection (1)” wherever occurring, insert instead “subsections (1) and (1A)”.

(c) From section 582A (2) (e), omit “and”.

(d) After section 582A (2) (e), insert:

(e1) the carrying out of coastal management works; and

(e) From section 582A (3), omit “published under subsection (4)”, insert instead “referred to in subsection (4)”.

(f) Omit section 582A (4), insert instead:

(4) For the purposes of this section, the Minister for Planning may, from time to time, publish a notice in the Gazette of publication of:

(a) a manual relating to the development of flood liable land; or

(b) a manual relating to the management of the coastline, and specifying a place where a copy of the manual is deposited.

(4A) The copy of the manual is to be available for public inspection, without charge, during ordinary office hours.

(g) From section 582A (6), omit “This section”, insert instead “A provision of this section”.

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- (h) From section 582A (6), omit “this section” wherever occurring, insert instead “the provision”.
 - (i) After section 582A (6), insert:
 - (7) In this section:
 - “coastal zone” has the meaning it has in the Coastal Protection Act 1979.
- (4) Section 644 (**Demanding name of offender**):
- (a) After “Act” in section 644 (1), insert “or section 8F of the Environmental Offences and Penalties Act 1989”.
 - (b) After “Part IX” in section 644 (1), insert “or in respect of any offence under section 8F of the Environmental Offences and Penalties Act 1989”.

Validation

A notice of publication of a manual relating to the development of flood liable land that:

- (a) was published in the Gazette before the date of assent to this Act; and
- (b) would have been validly published if section 582A of the Local Government Act 1919 (as amended by this Act) was then in force,

is taken to have been validly published under that section as so amended.

Explanatory note**Definition of “eligible pensioner” (item (1))**

The proposed amendments to section 160AA will ensure that the definition correctly describes the source of pensioner health benefits cards and pensioner medical service entitlement cards referred to in the definition.

Fees for inspection (item (2))

The proposed amendment to section 290 makes it clear that a council may fix a fee for inspection of certain premises used for the storage, sale or preparation of food (for example, premises used for the storage of meat and restaurants) in the same way that it may fix a fee for other services. Section 290 empowers the council to regulate and control such premises. This was formerly done by the licensing of the premises under Ordinance Nos. 56 (Premises used for the sale of meat, fish, poultry, game and smallgoods) and 69 (Refreshment rooms). Since the repeal of those Ordinances, it has been done through a system of inspections.

Exculpation of liability relating to management of the coastline (item (3))

At present, section 582A protects councils acting in good faith from liability in respect of flood liable land. In particular, a council is protected if it gives advice, or does or omits to do something, substantially in accordance with a manual relating to the

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SCHEDULE 1—MINOR AMENDMENTS—*continued*

development of flood liable land published as required by the section. The proposed amendments will give similar protection to councils in respect of advice given concerning coastline hazards (such as beach erosion and cliff instability) described in a similar manual relating to management of the coastline and for acts done or omitted to be done in respect of management of the coastline.

Manuals relating to development of flood liable land (item (3) (e) and (f))

The proposed amendments enable the Minister for Planning to publish notice of publication of a manual relating to the development of flood liable land in the Gazette. At present, the whole manual must be published in the Gazette.

Provision is also made to validate the publication of such a notice before the commencement of the amendment.

Littering (item (4))

The Environmental Offences and Penalties (Amendment) Act 1990 repealed Division 5A (Depositing litter prohibited) of Part 10 of the Local Government Act 1919 and re-enacted the provisions (with minor modifications) as section 8F of the Environmental Offences and Penalties Act 1989. Under section 644 (1) (a) of the Local Government Act 1919 (as in force before the amendments took effect) an employee of the council or police officer was empowered to demand from a person committing an offence against the Division his or her name and address and, if this information was withheld, to take the person before a court of summary jurisdiction. The proposed amendment will restore this power in respect of littering offences as re-enacted in section 8F.

SCHEDULE 1—MINOR AMENDMENTS—*continued***LONG SERVICE LEAVE ACT 1955 No. 38****Amendments**

- (1) Section 11 (**Recovery of penalties**):
 - (a) From section 11 (1), omit “court of petty sessions holden before a stipendiary magistrate”, insert instead “Local Court constituted by a Magistrate”.
 - (b) From section 11 (2), omit “stipendiary magistrate”, insert instead “Local Court”.
 - (c) Before “magistrate” in section 11 (3), insert “Local Court or industrial”.
 - (d) From section 11 (3), omit “Such costs shall be according to a scale to be fixed by the Industrial Commission of New South Wales.”.
- (2) Section 12 (**Recovery of long service leave pay**):
 - (a) From section 12 (1), omit “court of petty sessions holden before a stipendiary magistrate”, insert instead “Local Court constituted by a Magistrate”.
 - (b) From section 12 (1), omit “magistrate may make any order the”, insert instead “Local Court or industrial magistrate may make any order the court or”.
 - (c) From section 12 (1), omit “Such costs shall be according to a scale to be fixed by the Industrial Commission of New South Wales.”.
 - (d) From section 12 (1A), omit “magistrate under this section”, insert instead “Local Court or industrial magistrate under this section (except an order for the payment of interest)”.
- (3) Section 14 (**Provisions as to enforcement of orders etc.**):
 - (a) After “penalty” where firstly occurring, insert “, the making of an order for the payment of interest on an amount of money”.
 - (b) From section 14, omit “court of petty sessions”, insert instead “Local Court constituted by a Magistrate sitting alone”.

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SCHEDULE 1—MINOR AMENDMENTS—*continued*

Commencement

The proposed amendments to the Long Service Leave Act 1955 commence on a day or days to be appointed by proclamation.

Transitional

Item (3) (a) of the amendments to the Long Service Leave Act 1955 does not apply to proceedings (being proceedings in respect of an order for the payment of long service leave pay under that Act) commenced before that paragraph commences.

Explanatory note

Awarding of costs (items (1) (d) and (2) (c))

The proposed amendments to section 11 (3) and 12 (1) will enable costs (which may be awarded to a party to proceedings for the recovery of penalties or long service leave pay under the Act) to be assessed by the industrial magistrate or Local Court concerned rather than in accordance with a scale fixed by the Industrial Commission.

Orders for interest (item (3) (a))

The proposed amendment to section 14 applies the provisions of the Industrial Arbitration Act 1940 relating to the making of orders for the payment of interest on money due under that Act to proceedings under the Long Service Leave Act 1955 in respect of an order directing the payment of long service leave under that Act.

Statute law revision

The remaining amendments to the Act update references to courts of petty sessions and stipendiary magistrates as a consequence of the Local Courts Act 1982.

SCHEDULE 1—MINOR AMENDMENTS—*continued***LONG SERVICE LEAVE (METALLIFEROUS MINING
INDUSTRY) ACT 1963 No. 48****Amendments**

- (1) Section 11 (**Recovery of penalties**):
 - (a) From section 11 (1), omit “court of petty sessions holden before a stipendiary magistrate”, insert instead “Local Court constituted by a Magistrate”.
 - (b) From section 11 (2), omit “stipendiary magistrate”, insert instead “Local Court”.
 - (c) Before “magistrate” in section 11 (3), insert “Local Court or industrial”.
 - (d) From section 11 (3), omit “Such costs shall be according to a scale to be fixed by the Industrial Commission of New South Wales.”.
- (2) Section 12 (**Recovery of long service leave pay**):
 - (a) From section 12 (1), omit “court of petty sessions holden before a stipendiary magistrate”, insert instead “Local Court constituted by a Magistrate”.
 - (b) From section 12 (1), omit “magistrate may make any order he”, insert instead “Local Court or industrial magistrate may make any order the court or magistrate”.
 - (c) From section 12 (1), omit “Such costs shall be according to a scale to be fixed by the Industrial Commission of New South Wales.”.
 - (d) From section 12 (1A), omit “magistrate under this section”, insert instead “Local Court or industrial magistrate under this section (except an order for the payment of interest)”.
- (3) Section 14 (**Provisions as to enforcement of orders etc.**):
 - (a) After “penalty” where firstly occurring, insert “, the making of an order for the payment of interest on an amount of money”.
 - (b) From section 14, omit “court of petty sessions”, insert instead “Local Court constituted by a Magistrate sitting alone”.

Statute Law (Miscellaneous Provisions) 1991

SCHEDULE 1—MINOR AMENDMENTS—*continued*

Commencement

The proposed amendments to the Long Service Leave (Metalliferous Mining Industry) Act 1963 commence on a day or days to be appointed by proclamation.

Transitional

Item (3) (a) of the amendments to the Long Service Leave (Metalliferous Mining Industry) Act 1963 does not apply to proceedings (being proceedings in respect of an order for the payment of long service leave pay under that Act) commenced before that paragraph commences.

Explanatory note

Awarding of costs (items (1) (d) and (2) (c))

The proposed amendments to section 11 (3) and 12 (1) will enable costs (which may be awarded to a party to proceedings for the recovery of penalties or long service leave pay for workers in the metalliferous mining industry) to be assessed by the industrial magistrate or Local Court concerned rather than in accordance with a scale fixed by the Industrial Commission.

Orders for interest (item (3) (a))

The proposed amendment to section 14 applies the provisions of the Industrial Arbitration Act 1940 relating to the making of orders for the payment of interest on money due under that Act to proceedings under the Long Service Leave (Metalliferous Mining Industry) Act 1963 in respect of an order directing the payment of long service leave payments under that Act.

Statute law revision

The remaining amendments to the Act update references to courts of petty sessions and stipendiary magistrates as a consequence of the Local Courts Act 1982.

SCHEDULE 1—MINOR AMENDMENTS—*continued*

LOTTO ACT 1979 No. 53

Amendments(1) Section 7 (**Alteration of conditions of licence**):

Omit section 7 (3), insert instead:

(3) An alteration under subsection (1) takes effect:

- (a) on the day that is 8 days after the day on which a notice, signed by the Minister, advising the licensee of the alteration is given to the licensee; or
- (b) if a later day is specified in the notice, on that day.

(2) Section 13 (**Application of subscriptions**):

Omit section 13 (1), insert instead:

(1) Out of the subscriptions received by a licensee in respect of games of lotto conducted by the licensee, the licensee must:

- (a) pay into the prize fund kept in respect of the licensee an amount which, when added to any amount already applied by the licensee to the payment of prizes won in those games, is equal to a percentage, prescribed by the conditions of the licence, of the subscriptions for those games; and
- (b) pay to the Minister, as duty, an amount equal to a percentage, prescribed by the conditions of the licence, of the subscriptions for those games.

Explanatory note**Time when alteration of conditions of licence takes effect (item (1))**

Under section 7 of the Lotto Act 1979 the Minister may alter the conditions of a licence. The alterations take effect "on and from the expiration of 7 days after the day" on which notice in writing advising the licensee of the alteration is given. The proposed amendment to section 7 will recast the existing provision so that it is clear that the alteration takes effect 8 days after notice is given and will also enable the Minister to specify in the notice a later day on which an alteration is to take effect.

Application of subscriptions (item (2))

The proposed amendment to section 13 will:

- (a) enable contributions to the prize fund kept in respect of a licensee under the Lotto Act 1979 to be calculated as a percentage of the subscriptions received by the licensee in respect of a number of games of lotto rather than, as is currently

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SCHEDULE 1—MINOR AMENDMENTS—*continued*

the case, in respect of a single game only; and

- (b) ensure that, when calculating the amount of any such contribution, regard is had to any amounts already paid by the licensee to prizewinners in those games.
-

MARINE ADMINISTRATION ACT 1989 No. 93

Amendment

Section 44 (**Payments into the Fund**):

From section 44 (b), omit “recovered on informations laid”, insert instead “recovered in prosecutions brought”.

Explanatory note

Section 44 (b) of the Marine Administration Act 1989 provides for the payment into the Maritime Services Board Fund of fines and penalties recovered for offences against the marine legislation (which as defined in the Act includes the Marine Pollution Act 1987). In its present form, section 44 (b) describes the fines and penalties that may be recovered by reference to those recovered on *information* laid by officers of the Maritime Services Board.

The provision needs to be recast so that it applies to all fines and penalties recovered by officers of the Board under the Marine Pollution Act 1987. Under that Act, proceedings may be dealt with summarily before a Local Court (before which prosecutions are commenced by *information*) or the Land and Environment Court (before which prosecutions are commenced by *summons*). As a result, fines and penalties recovered in the Local Court are payable into the Fund but not those recovered in the Land and Environment Court.

The proposed amendment will ensure all such fines and penalties are paid into the Fund.

The amended provision will read (in part) as follows:

44. There shall be paid into the Fund:

-
- (b) all fines and penalties recovered for offences against the marine legislation and which are required by that legislation to be paid to the Board or are *recovered on informations laid* recovered in prosecutions brought by officers of the Board; and

[Matter to be omitted is shown in italic type and matter to be inserted is shown in bold type.]

SCHEDULE 1—MINOR AMENDMENTS—*continued***MARITIME SERVICES ACT 1935 No. 47****Amendment****Section 30D (Penalty notices for certain offences):**

In section 30D (1) after “regulation”, insert “or any prescribed offence under the Commercial Vessels Act 1979 or a regulation under that Act.”.

Explanatory note

The proposed amendment will enable penalty notices (“on-the-spot” fines) to be issued under the Maritime Services Act 1935 for prescribed offences against the Commercial Vessels Act 1979 and the regulations made under that Act.

MOTOR ACCIDENTS ACT 1988 No. 102**Amendments****(1) Section 10 (Issue of certificate of insurance):**

After section 10 (3), insert:

(4) If 2 or more licensed insurers issue certificates of insurance which (but for this subsection) would be capable of having effect at the same time in respect of the same motor vehicle, a third-party policy is taken to have been issued only by the licensed insurer recorded by the Roads and Traffic Authority in connection with the registration or renewal of registration of the motor vehicle or issue of a trader’s plate as being the insurer.

(2) Section 12:

Omit the section, insert instead:

Commencement and duration of third-party policy

12. (1) A third-party policy taken to have been issued for a motor vehicle (other than a third-party policy taken to have been issued for motor vehicles to which a trader’s plate is or is to be fixed) has no effect during any period for which the motor vehicle is not registered, except as provided by subsection (4).

SCHEDULE 1—MINOR AMENDMENTS—*continued*

(2) In the case of the registration (but not the renewal of registration) of a motor vehicle, a third-party policy taken to have been issued for the motor vehicle takes effect:

- (a) at the beginning of the day on which the registration takes effect; or
- (b) when the certificate of insurance for that third-party policy is issued,

whichever is the later.

(3) In the case of the renewal of registration of a motor vehicle, a third-party policy taken to have been issued for the motor vehicle takes effect:

- (a) at the beginning of the day on which the renewal takes effect; or
- (b) when the certificate of insurance for that third-party policy is issued,

whichever is the later.

(4) If the renewal of registration of a motor vehicle is effected:

- (a) within 15 days after the date on which the previous registration (whether or not a renewal of registration) expired; or
- (b) during the named month in which that previous registration expired,

the third-party policy which had effect during that previous registration continues (to any necessary extent) to have effect until the third-party policy necessary to enable the renewal of that previous registration takes effect in accordance with subsection (3).

(5) If the renewal of registration of a motor vehicle is effected:

- (a) later than 15 days after the date on which the previous registration (whether or not a renewal of registration) expired; or
- (b) after the named month in which that previous registration expired,

SCHEDULE 1—MINOR AMENDMENTS—*continued*

the third-party policy which had effect before the previous registration expired ceases to have effect at the end of the registration expiry date.

(6) A third-party policy ceases to have effect on the date of cancellation of the policy under section 13.

(7) A third-party policy relating to motor vehicles to which a trader's plate is or is to be fixed takes effect on the date of commencement of the period for which the trader's plate is issued and terminates on the date of expiration of that period.

(3) Section 28A:

After section 28, insert:

Claims against Nominal Defendant where a NSW registered trailer is attached to a motor vehicle which is not registered in NSW

28A. (1) The Nominal Defendant is taken to have issued a policy of insurance under this Act which insures:

- (a) the owner of a registered trailer:
 - (i) which is attached to a motor vehicle which is not registered; or
 - (ii) which runs out of control having become detached from the towing motor vehicle which is not registered; and
- (b) the owner of a motor vehicle which is not registered:
 - (i) to which a registered trailer is attached; or
 - (ii) from which a registered trailer becomes detached and runs out of control; and
- (c) any other person who at any time drives such a vehicle (whether or not with the consent of the owner),

against liability in respect of the death of or injury to a person caused by the fault of the owner of the trailer or the owner or driver of the vehicle in the use or operation of the vehicle in any part of the Commonwealth (whether or not on a public street).

(2) An action for the recovery of damages in respect of the death of or injury to a person as referred to in subsection (1) may be brought against the Nominal Defendant.

SCHEDULE 1—MINOR AMENDMENTS—*continued*

(3) Any such action may be brought despite the fact that the owner of the trailer or the owner or driver of the towing vehicle is dead or cannot be found or is the spouse of the person whose death or to whom injury has been caused.

(4) In respect of any such action, the Nominal Defendant is liable as if it were the owner of the trailer or the owner or driver of the towing vehicle.

(5) There is no right of action against the Nominal Defendant under this section:

(a) if the trailer or the towing vehicle is owned by the Commonwealth or by any person or body of persons representing the Commonwealth; or

(b) if the regulations provide that in the circumstances specified in the regulations there is no right of action against the Nominal Defendant.

(4) Sections 29 (**Payment of claims against Nominal Defendant**), 31 (**Recovery from owner or driver**):

Omit “section 27 or 28” wherever occurring, insert instead “section 27, 28 or 28A”.

(5) Section 31 (**Recovery from owner or driver**):

From section 31 (3) (b) (ii), omit “because it has become accidentally”, insert instead “having become”.

(6) Section 80 (**Indexation of amounts relating to non-economic loss**):

After section 80 (4), insert:

(5) In adjusting an amount to be declared for the purpose of section 79 (3), the amount determined in accordance with subsection (2) is to be rounded to the nearest \$1,000 (with the amount of \$500 being rounded up).

(6) In adjusting an amount to be declared for the purpose of section 79 (4) or (5), the amount determined in accordance with subsection (2) is to be rounded to the nearest \$500 (with the amounts of \$250 and \$750 being rounded up).

SCHEDULE 1—MINOR AMENDMENTS—*continued*(7) Schedule 1 (**Third-party policy**):

Omit clause 2 (a), insert instead:

- (a) a trailer attached to a motor vehicle and a trailer running out of control having become detached from the towing motor vehicle; and

(8) Schedule 4 (**Savings, transitional and other provisions**):

- (a) At the end of clause 1 (1), insert:

the Motor Accidents (Amendment) Act 1990;

the Statute Law (Miscellaneous Provisions) Act 1991.

- (b) After clause 5, insert:

Granting of licences before 1.7.91 which enable insurance to be effected for periods commencing on or after 1.7.91

5A. (1) The authority may grant a licence under Division 1 of Part 8 before 1 July 1991 which authorises the applicant to effect third-party insurance, before or after 1 July 1991, but only for periods of insurance which commence on or after 1 July 1991.

(2) Section 102 (6) does not apply to a licence granted in accordance with this clause.

(3) Where the Authority proposes to grant a licence in accordance with this clause, it must give 14 days' notice of the proposal to all licensed insurers specifying the name of the corporation making the application.

- (c) After Part 3, insert:

**Part 4—Provisions arising from the enactment
of the Motor Accidents (Amendment)
Act 1990**

Operation of certain amendments

7. (1) The amendments made by section 3 of, and Schedule 1 (2), (3) and (6) to, the Motor Accidents (Amendment) Act 1990 do not apply to registrations (and renewals of registrations) which expire on or before 30 June 1991 but only to those which expire on or after 1 July 1991.

SCHEDULE 1—MINOR AMENDMENTS—*continued*

(2) This Act, as in force immediately before 1 July 1991, continues to apply to the renewal of registration of a motor vehicle where the registration expires on or before 30 June 1991.

Premiums for insurance

8. For the purpose of enabling a licensed insurer, before 1 July 1991, to accept a premium and issue a certificate of insurance in relation to a period of insurance which commences on or after that date, section 10 (as proposed to be substituted by the Motor Accidents (Amendment) Act 1990) is taken to have commenced on the date of assent to that Act.

Commencement

Items (1)–(5) and (7) of the amendments to the Motor Accidents Act 1988 commence on 1 July 1991.

Item (8) of the amendments to the Motor Accidents Act 1988 is taken to have commenced on 7 December 1990 (the date of assent to the Motor Accidents (Amendment) Act 1990).

Explanatory note**Dual insurance (item (1))**

The proposed amendment prevents the possibility of dual or multiple compulsory third-party insurance in relation to a motor vehicle which might otherwise occur from 1 July 1991 when the deregulated arrangements for insurance come into effect.

Commencement and duration of third-party policy (item (2))

The proposed amendment restates the circumstances in which a compulsory third-party policy is to have effect.

Liability for trailers (items (3), (4), (5) and (7))

The proposed amendments are intended to clarify the liability for death or personal injury caused by a trailer which is attached to a towing vehicle or which runs out of control having become detached from the towing vehicle. Two situations are addressed. First, a trailer (whether a New South Wales registered trailer or not) attached to, or which has become detached from, a New South Wales registered vehicle is covered under the third-party policy relating to the vehicle (item (7)). Second, a New South Wales registered trailer attached to, or which has become detached from, a vehicle which is not a New South Wales registered vehicle, and irrespective of where in

SCHEDULE 1—MINOR AMENDMENTS—*continued*

Australia the damage is caused, is covered under a policy of insurance taken to have been issued by the Nominal Defendant and which gives a statutory right of action against the Nominal Defendant analogous to the right of action given against the Nominal Defendant for damage caused by an uninsured vehicle (item (3)). Items (4) and (5) make consequential amendments.

Indexation of amounts relating to non-economic loss (item (6))

The proposed amendment provides for the rounding-off of the indexed amounts which may be awarded as damages for non-economic loss.

Savings and transitional provisions (item (8))

The amendment made by item (8) (a) will enable the making of savings and transitional regulations consequent on the enactment of the Motor Accidents (Amendment) Act 1990 and the proposed Act.

The amendment made by item (8) (b) will enable the granting of a new licence before 1 July 1991 but only so as to enable the licensee to write third-party insurance for periods of insurance which commence on or after 1 July 1991.

Proposed clause 7 of Schedule 4 to be inserted by the amendment made by item (8) (c) applies the deregulated insurance arrangements to registrations and renewals of registrations which expire on or after 1 July 1991. Without this provision, the amendments made by the Motor Accidents (Amendment) Act 1990 would have applied to registrations and renewals of registrations which expired on 30 June 1991.

Proposed clause 8 of Schedule 4 to be inserted by the amendment made by item (8) (c) will enable a third-party insurer, prior to the commencement on 1 July 1991 of the substituted section 10 of the Motor Accidents Act 1988, to accept premiums and issue certificates of insurance which are to have effect on and after that date.

MOTOR ACCIDENTS (AMENDMENT) ACT 1990 No. 90**Amendments**

Omit Schedule 1 (7) and (20) (a).

Explanatory note

The proposed amendments omit provisions of the Motor Accidents (Amendment) Act 1990 which contain amendments proposed to be made to the Motor Accidents Act 1988 concerning liability for death or personal injury caused by trailers. The provisions proposed to be omitted have not commenced. The provisions proposed to be omitted have been superseded by amendments proposed to be made to the Motor Accidents Act 1988 set out elsewhere in this Schedule.

SCHEDULE 1—MINOR AMENDMENTS—*continued***NATIONAL PARKS AND WILDLIFE ACT 1974 No. 80****Amendment****Section 160 (Penalty notice for certain offences):**

From section 160 (6) (b), omit "\$100", insert instead "5 penalty units".

Explanatory note

The proposed amendment increases from \$100 to 5 penalty units (currently \$500) the maximum amount of penalty that may be prescribed as payable under the section where a penalty notice (an "on-the-spot" notice) is given in respect of certain offences under the Act.

OZONE PROTECTION ACT 1989 No. 208**Amendment****Section 9 (Codes of practice):**

At the end of section 9 (b), insert "as in force for the time being".

Explanatory note

The proposed amendment to the Ozone Protection Act 1989 will make it clear that the power conferred by section 9 of that Act to make regulations requiring compliance with certain codes of practice authorises the regulations to require compliance with a code of practice *as in force for the time being*.

SCHEDULE 1—MINOR AMENDMENTS—*continued***PARRAMATTA STADIUM TRUST ACT 1988 No. 86****Amendment**Schedule 1 (**Provisions relating to the trustees**):

At the end of the Schedule, insert:

Personal liability of trustees etc.

11. A matter or thing done by the Trust, a trustee or any person acting under the direction of the Trust does not, if the matter or thing was done in good faith for the purposes of executing this or any other Act, subject the trustee or a person so acting personally to any action, liability, claim or demand.

Explanatory note

The proposed amendment provides that the members of the Parramatta Stadium Trust or any person acting under the direction of the Trust (e.g. staff of the Trust) are not personally liable for any matter or thing done in good faith for the purposes of the Act.

PLANT DISEASES ACT 1924 No. 38**Amendments**(1) Section 3 (**Definitions**):

In section 3 (1), insert in alphabetical order:

“Approved” means approved for the time being by the Chief of the Division of Plant Industries.

(2) Section 7 (**Undertaking in prescribed cases**):

From section 7 (1), omit “in the prescribed form”.

(3) Section 13 (**Power to stop, enter and search**):

(a) From section 13 (1), omit “prescribed” insert instead “approved”.

(b) From section 13 (1B), omit “prescribed written evidence”, insert instead “written evidence in an approved form”.

(4) Section 18A (**Detention notices**):

(a) From section 18A (2) (a), omit “the regulations to be branded or labelled as prescribed”, insert instead “an order

SCHEDULE 1—MINOR AMENDMENTS—*continued*

made under section 28A to be branded or labelled in a specified manner”.

- (b) From section 18A (2) (b), omit “the regulations to be graded or packed as prescribed”, insert instead “such an order to be graded or packed in a specified manner”.
 - (c) From section 18A (2) (c), omit “the regulations to be graded or packed as prescribed”, insert instead “such an order to be graded or packed in a specified manner”.
 - (d) From section 18A (3), (4), (9) and (10), omit “prescribed” wherever occurring, insert instead “approved”.
 - (e) From section 18A (5), omit “prescribed”, insert instead “required by the order made under section 28A”.
 - (f) From section 18A (6), omit “prescribed” where firstly occurring, insert instead “required by the order made under section 28A”.
 - (g) From section 18A (6), omit “prescribed” where secondly occurring, insert instead “so ordered”.
- (5) Section 28 (**Regulations**):
- Omit section 28 (2A) and (2B).
- (6) After section 28, insert:

Orders

28A. (1) The Minister may make orders for or with respect to any matter relating to:

- (a) the grading or packing of fruit or vegetables; or
- (b) the branding or labelling of coverings containing fruit, vegetables or other plants.

(2) An order may make provision for or with respect to a matter by applying, adopting or incorporating by reference, with or without modification:

- (a) any of the provisions of an Act of New South Wales or the Commonwealth, or of any regulations or other instruments made under such an Act, as in force at a particular time or as in force from time to time; or
- (b) any matter contained in any other instrument or writing as in force or existing at the time when the order takes effect.

*Statute Law (Miscellaneous Provisions) 1991*SCHEDULE 1—MINOR AMENDMENTS—*continued*

(3) An order may provide for specified persons, places, matters or things, or specified classes of persons, places, matters or things, to be exempted, either absolutely or subject to conditions, from that or any other order.

(4) The following provisions of the Interpretation Act 1987 apply to an order made under this section in the same way as they apply to a statutory rule within the meaning of that Act:

- section 30 (1) (which relates to the effect of amendment or repeal of statutory rules)
- section 39 (the making of statutory rules)
- section 40 (notice of statutory rules to be tabled)
- section 41 (disallowance of statutory rules)
- section 42 (2) (which relates to matters for which statutory rules may make provision).

Commencement

The amendments to the Plant Diseases Act 1924 commence on a day to be appointed by proclamation.

Repeal of regulations

The following provisions of the Plant Diseases Regulations are repealed on the commencement of the amendments to the Plant Diseases Act 1924:

- the definitions of "Commonwealth Export Control (Fresh Fruits and Vegetables) Orders" and "Commonwealth Prescribed Goods (General) Orders" in Regulation 2 (1) and Regulation 2 (2) and (3)
- Regulations 16–61, and 64–68
- the Forms

Explanatory note**Approval of forms etc. (items (1)–(3), (4) (b))**

The proposed amendments will enable the form of certain notices, signs and other things to be approved by the Chief, Division of Plant Industries, Department of Agriculture and Fisheries instead of being prescribed by the regulations.

Orders setting standards for grading, packaging and labelling of fruit etc. (items (4) (a), (c), (e), (f) and (g), (5) and (6))

The proposed amendments will enable the Minister, by order published in the Gazette, to set standards for the grading, packaging and labelling of fruit, vegetables and other plants. At present, these standards are prescribed by regulations and largely adopt by reference orders made under the Export Control Act 1982 of the Commonwealth.

SCHEDULE 1—MINOR AMENDMENTS—*continued*

Proposed section 28A (4) will ensure that the orders will be subject to Parliamentary scrutiny and disallowance as if they were regulations.

Repeal of regulations

Provision is made to repeal those regulations which will be superfluous as a consequence of the proposed amendments to the Act.

**POLICE REGULATION (SUPERANNUATION) ACT
1906 No. 28****Amendments****Section 17 (Refund of deductions):**

- (a) After “discharge” in section 17 (1) (a) (i), insert “(but not dismissal)”.
- (b) From section 17 (1) (a) (ii), omit “resignation or discharge”, insert instead “resignation, dismissal or discharge”.

Commencement

The amendments to the Police Regulation (Superannuation) Act 1906 are taken to have commenced on 1 July 1990.

Explanatory note

Section 17 of the Police Regulation (Superannuation) Act 1906 provides for a refund of deductions of personal contributions with interest in certain circumstances where a police officer who is a member of the Scheme established by the Act withdraws from the Scheme as a result of *resignation, dismissal or discharge* before reaching retirement age or being retired due to incapacity.

The section was amended by Schedule 1 (18) to the Police Regulation (Superannuation) Amendment Act 1988 to entitle a police officer who *resigns or is discharged* from the police service on or after 1 July 1990 to be paid interest on his or her contributions at the rate fixed by the State Authorities Superannuation Board under section 16 of the State Authorities Superannuation Act 1987. The provision as so amended should also require interest to be paid to a police officer who is *dismissed* on or after 1 July 1990 so as to meet the operating standards for superannuation funds laid down by the Occupational Superannuation Standards Act 1987 of the Commonwealth and the regulations made under that Act. The proposed amendment will ensure that the provision meets the relevant standard.

SCHEDULE 1—MINOR AMENDMENTS—*continued***POULTRY PROCESSING ACT 1969 No. 45****Amendment****Section 5 (Appointment of inspectors):**

Omit section 5 (1), insert instead:

(1) The Director-General of the Department of Agriculture and Fisheries may appoint a member of the Public Service of New South Wales or of the Public Service of the Commonwealth as an inspector for the purposes of this Act.

Transitional

A person whose appointment as an inspector under section 5 of the Poultry Processing Act 1969 was in force immediately before the date of assent to this Act is taken to have been appointed to be an inspector under that section as amended by this Act.

Explanatory note

The proposed amendment enables the Director-General of the Department of Agriculture and Fisheries to appoint Commonwealth employees to be inspectors for the purposes of the Act. The amendment will ensure that effect can be given to an agreement between the Commonwealth and New South Wales relating to the provision of a domestic inspection service for the registration of plants in which poultry is processed for sale which came into operation on 4 March 1991.

PRISONS ACT 1952 No. 9**Amendment****Section 16 (Medical attention):**

Omit "the medical officer" wherever occurring, insert instead "a medical officer".

Explanatory note

As a result of amendments to the Prisons Act 1952 made by the Statute Law (Miscellaneous Provisions) Act (No. 2) 1990, one or more medical officers (instead of just one medical officer) can be appointed for each prison. The proposed amendment is consequential on those amendments and will enable a medical officer of the prison concerned to exercise the functions under section 16 (which relate to medical attention of prisoners and prison officers).

SCHEDULE 1—MINOR AMENDMENTS—*continued***PRIVATE IRRIGATION DISTRICTS ACT 1973 No. 47****Amendments**

- (1) Omit section 54, insert instead:

Interest on overdue rates and charges

54. (1) A Board may charge interest:

(a) on overdue rates and charges assessed under this Part;
and

(b) on any overdue amount payable to it under an
agreement referred to in section 65,

at a rate not exceeding the rate for the time being applicable
under section 85 of the District Court Act 1973 to a judgment
debt.

(2) The Board may not charge interest on unpaid interest
under this Part.

- (2) Section 67 (**Supply of water for irrigation purposes to a new
holding resulting from a subdivision**):

(a) From section 67 (1), omit "one".

(b) After section 67 (1), insert:

(1A) If the owner nominates more than one new holding to
which the quantity of water is to be allocated, the Board may
allocate the water to those holdings in such proportions as it
determines.

(c) Omit section 67 (2), insert instead:

(2) The Board may allocate to such of the new holdings as
the Board determines the quantity of water last allocated to
the holding that was subdivided if:

(a) the owner of the subdivided holding fails to make a
nomination within the time specified by the Board in a
notice sent by post to the owner at the owner's last
known address; or

(b) a holding nominated by the owner does not contain
land capable of being irrigated from the works of the
private district or to which, in the opinion of the Board,
it is impracticable to convey water for irrigation from
those works; or

SCHEDULE 1—MINOR AMENDMENTS—*continued*

- (c) a holding nominated by the owner is too small to justify an allocation of water; or
 - (d) the allocation of water in the manner nominated is otherwise detrimental to the administration of the private district concerned.
- (2A) If the Board makes an allocation under subsection (2), it is to notify the owner of the holding that was subdivided and the owner of each new holding of the allocation.

Commencement

The amendments to the Private Irrigation Districts Act 1973 commence on a day or days to be appointed by proclamation.

Transitional

Item (1) of the amendments to the Private Irrigation Districts Act 1973 does not apply to rates, charges or amounts that were overdue before the commencement of the amendment.

Explanatory note**Interest on overdue rates etc. (item (1))**

At present, overdue rates, charges or amounts that are payable to the Board of Management for a provisional private district or a private irrigation district are increased at a rate of interest fixed by the Reserve Bank for overdrafts. The proposed amendment to section 54 enables such a Board to charge interest on overdue rates, charges and amounts at the rate which the District Court applies to judgment debts. The provision is similar to those applicable to unpaid amounts due to the Water Board and Water Supply Authorities.

Supply of water after subdivision (item (2))

At present, when an irrigated holding is subdivided the Board of Management concerned is required to allocate the whole of the water allocated to the holding to one of the holdings created by the subdivision. The proposed amendments to section 67 will enable the Board to allocate the subdivided holding's allocation to more than one of the new holdings created by the subdivision if so nominated by the owner (item (2) (a) and (b)).

The proposed amendments to section 67 also widen the existing discretion of the Board to refuse to allocate water to the new holdings nominated by the owner and to allocate instead to a holding determined by the Board. The discretion may be exercised if the nominated holding is too small to justify an allocation of water or the allocation of water in the manner nominated by the owner is detrimental to the administration of the private district concerned (item (2) (c)).

SCHEDULE 1—MINOR AMENDMENTS—*continued***PUBLIC SECTOR EXECUTIVES SUPERANNUATION ACT
1989 No. 106****Amendment**

Section 56 (**Transfer of benefit from other schemes to Fund**):

After “scheme” in section 56 (1), insert “or under an approved deposit fund”.

Commencement

The amendment to the Public Sector Executives Superannuation Act 1989 is taken to have commenced on 1 October 1989 (the day on which section 56 of that Act commenced).

Explanatory note

Section 56 of the Public Sector Executives Superannuation Act 1989 enables a person who elects to join the Scheme established by that Act to pay a benefit received under another superannuation scheme into the Public Sector Executives Superannuation Fund. Such an amount will not be assessable under sections 27B and 27C of the Income Tax Assessment Act 1936 of the Commonwealth. The proposed amendment will enable a person who elects to join the Scheme to also pay into the Fund a benefit received or amount held to his or her credit in an approved deposit fund.

The amendment accords with the operating standards for superannuation funds laid down by the Occupational Superannuation Standards Act 1987 of the Commonwealth and the regulations made under that Act which also permit payment out of an approved deposit fund into another superannuation fund.

RESIDENTIAL TENANCIES ACT 1987 No. 26**Amendments**

(1) Section 3 (**Definitions**):

Insert in section 3 (1) in alphabetical order:

“**reservation fee**” means an amount paid or required to be paid to a person in consideration for not letting residential premises pending the making of a residential tenancy agreement;

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SCHEDULE 1—MINOR AMENDMENTS—*continued*

- (2) Section 16 (**Applications relating to a breach of residential tenancy agreement**):
- (a) After section 16 (1C), insert:
- (1D) If a person who has paid, or required or received payment of, a reservation fee pending the making of a residential tenancy agreement claims that a dispute has arisen in relation to the reservation fee, the person may apply to the Tribunal for an order in respect of the dispute. The person may make the application whether or not the prospective residential tenancy agreement was executed.
- (b) From section 16 (2), omit “landlord or a tenant”, insert instead “person”.
- (3) Schedule 1 (**Provisions relating to the members of the Tribunal**):
- (a) Omit clause 1 (**Age of members**).
- (b) After “Minister;” in clause 5 (1) (f), insert “or”.
- (c) Omit clause 5 (1) (g) and (h) and (2).
- (d) After “resignation;” in clause 9 (1) (a), insert “and”.
- (e) From clause 9 (1) (b) (ii), omit “body; and”, insert instead “body,”.
- (f) Omit clause 9 (1) (c).

Explanatory note

Reservation fee disputes (items (1) and (2))

The proposed amendments to sections 3 and 16 enable the Residential Tenancies Tribunal to make orders relating to disputes in relation to reservation fees paid in accordance with section 36 of the Act pending the making of a residential tenancy agreement even if the agreement was never executed.

Removal of age restrictions (item (3))

The proposed amendments to Schedule 1:

- (a) remove the restriction that prevents a person from being eligible to be appointed as, or from continuing to hold office as, a full-time member of the Residential Tenancies Tribunal if the person is of or above the age of 65 years, or as a part-time member of the Tribunal if the person is of or above the age of 70 years; and
- (b) provide that a full-time member of the Tribunal, who at present is entitled to return to public sector employment in certain circumstances, is not prevented from doing so because of his or her age.
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SCHEDULE 1—MINOR AMENDMENTS—*continued*

SENTENCING ACT 1989 No. 87

Amendments

- (1) Schedule 1 (**Provisions relating to the members of the Board, Divisions of the Board and procedure**):

From the definitions of “judicial member” and “non-judicial member” in clause 1, omit “Substitute” wherever occurring, insert instead “Alternate”.

- (2) Schedule 1:

Omit the definition of “Substitute Chairperson” from clause 1, insert instead in alphabetical order:

“**Alternate Chairperson**” means the Alternate Chairperson of the Board;

- (3) Schedule 1, clauses 2, 3, 9 and 14:

Omit “Substitute” wherever occurring, insert instead “Alternate”.

Explanatory note

The proposed amendments change the name of the office of Substitute Chairperson of the Offenders Review Board to Alternate Chairperson.

**STATE AUTHORITIES NON-CONTRIBUTORY
SUPERANNUATION ACT 1987 No. 212**

Amendments

- (1) Section 4 (**Salary**):

- (a) After section 4 (4), insert:

(4A) For the purposes of subsection (4), a reference to a continuous period of 1 year in relation to a contributor who is employed in an educational institution is to be read as a reference to the academic year of the institution.

Statute Law (Miscellaneous Provisions) 1991

SCHEDULE 1—MINOR AMENDMENTS—*continued*

(b) Omit section 4 (8), insert instead:

(8) In this section:

“**academic year**”, in relation to an educational institution, means a continuous period commencing on the first day of any academic term of the institution and ending on the day before the first day of the corresponding academic term in the following calendar year;

“**shift allowance**” means an allowance paid to an employee in respect of shift work performed by the employee, and includes amounts paid as penalty rates.

(2) Section 24 (**Benefit to be preserved**):

(a) Omit section 24 (1), insert instead:

(1) The basic benefit must be preserved by the Board when:

(a) an employee ceases to be an employee of an employer otherwise than in the circumstances mentioned in section 23 (1); or

(b) an employee who is a member of the Public Sector Executives Superannuation Scheme ceases to be a contributor to any other superannuation scheme established by or under an Act; or

(c) an employee who is not a member of any other superannuation scheme established by or under an Act and who is eligible to become a member of the Public Sector Executives Superannuation Scheme becomes a member of that Scheme,

except as provided by subsection (4).

(b) Omit section 24 (4) (a), insert instead:

(a) referred to in subsection (1) (b) or (c); and

(3) Schedule 2 (**Excluded persons**):

From paragraph (d), omit “is eligible to become or”.

SCHEDULE 1—MINOR AMENDMENTS—*continued***Commencement**

Item (1) of the amendments to the State Authorities Non-contributory Superannuation Act 1987 is taken to have commenced on 1 April 1988 (the commencement of that Act).

Items (2) and (3) of the amendments to the State Authorities Non-contributory Superannuation Act 1987 is taken to have commenced on 1 October 1989 (the commencement of the Miscellaneous Acts (Public Sector Executives Superannuation) Amendment Act 1989).

Explanatory note**Salary (item (1))**

Section 4 of the State Authorities Non-contributory Superannuation Act 1987 sets out the remuneration, salary or wages included in the term "salary" for the purposes of the Act. A relieving allowance is included in "salary" only if the employee has been in receipt of the relieving allowance for "a continuous period of 1 year". The proposed amendments to section 4 will clarify the meaning of "year" for the purposes of the section in relation to employees of educational institutions. In this context, "year" is to be defined in terms of the academic year for the institution concerned.

Similar amendments to the State Authorities Superannuation Act 1987 and the Superannuation Act 1916 are set out elsewhere in this Schedule.

Preservation of benefits (items (2) and (3))

The Miscellaneous Acts (Public Sector Executives Superannuation) Amendment Act 1989 amended section 24 of the Act to make provision relating to calculation of the basic benefit to be preserved until early retirement age or transferred to the Public Sector Executives Superannuation Scheme at the election (made within 12 months of appointment or nomination) of a public sector executive. The proposed amendments recast the provisions concerned to remove possible ambiguity in the description of the public sector executives concerned. As redrafted, it is made clear that an employee who is solely a member of the Scheme established by the Act may become a member of the Public Sector Executives Superannuation Scheme and preserve his or her benefit in accordance with section 24.

SCHEDULE 1—MINOR AMENDMENTS—*continued*STATE AUTHORITIES SUPERANNUATION ACT
1987 No. 211**Amendments**

Section 4 (Salary)

(a) After section 4 (4), insert:

(4A) For the purposes of subsection (4), a reference to a continuous period of 1 year in relation to a contributor who is employed in an educational institution is to be read as a reference to the academic year of the institution.

(b) Omit section 4 (8), insert instead:

(8) In this section:

“**academic year**”, in relation to an educational institution, means a continuous period commencing on the first day of any academic term of the institution and ending on the day before the first day of the corresponding academic term in the following calendar year;

“**shift allowance**” means an allowance paid to an employee in respect of shift work performed by the employee, and includes amounts paid as penalty rates.

Commencement

The amendments to the State Authorities Superannuation Act 1987 are taken to have commenced on 1 April 1988 (the commencement of that Act).

Explanatory note

Section 4 of the State Authorities Superannuation Act 1987 sets out the remuneration, salary or wages included in the term “salary” for the purposes of the Act. A relieving allowance is included in “salary” only if the employee has been in receipt of the relieving allowance for “a continuous period of 1 year”. The proposed amendments to section 4 will clarify the meaning of “year” for the purposes of the section in relation to employees of educational institutions. In this context, “year” is to be defined in terms of the academic year for the institution concerned.

Similar amendments to the State Authorities Non-contributory Superannuation Act 1987 and the Superannuation Act 1916 are set out elsewhere in this Schedule.

SCHEDULE 1—MINOR AMENDMENTS—*continued*

STATE DRUG CRIME COMMISSION ACT 1985 No. 117

Amendments

- (1) Schedule 2 (**Provisions relating to the procedure of the Commission**):

After clause 6, insert:

Transaction of business outside meetings or by telephone etc.

7. (1) The Commission may, if it thinks fit, transact any of its business by the circulation of papers among all the members for the time being, and a resolution in writing approved in writing by the Chairperson (or a member acting in that position) and at least 1 other member is taken to be a decision of the Commission.

(2) The Commission may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.

(3) For the purposes of:

- (a) the approval of a decision under subclause (1); or
- (b) a meeting held in accordance with subclause (2),

the Chairperson and each other member have the same voting rights they have at an ordinary meeting of the Commission.

(4) A decision approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Commission.

(5) Papers may be circulated among members for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

- (2) Schedule 3 (**Provisions relating to the procedure of the Management Committee**):

After clause 6, insert:

SCHEDULE 1—MINOR AMENDMENTS—*continued***Transaction of business outside meetings or by telephone etc.**

7. (1) The Management Committee may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the Committee for the time being, and a resolution in writing approved in writing by at least 3 of those members is taken to be a decision of the Management Committee.

(2) The Management Committee may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.

(3) For the purposes of:

- (a) the approval of a decision under subclause (1); or
- (b) a meeting held in accordance with subclause (2),

the Chairperson of the Management Committee and each other member have the same voting rights they have at an ordinary meeting of the Management Committee.

(4) A decision approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Management Committee.

(5) Papers may be circulated among members for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

Explanatory note

The proposed amendments enable the State Drug Crime Commission and the State Drug Crime Commission Management Committee to transact business outside meetings and by telephone and other means.

SCHEDULE 1—MINOR AMENDMENTS—*continued*

STATE SPORTS CENTRE TRUST ACT 1984 No. 68

Amendments(1) Section 9 (**Power to appoint staff etc.**):

Omit section 9 (2).

(2) Schedule 1 (**Provisions relating to the trustees**):

At the end of the Schedule, insert:

Personal liability of trustees etc.

11. A matter or thing done by the Trust, a trustee, the Director or any person acting under the direction of the Trust does not, if the matter or thing was done in good faith for the purposes of this or any other Act, subject the trustee, the Director or a person so acting personally to any action, liability, claim or demand.

(3) Schedule 3 (**Provisions applicable to a person designated as Director**):

(a) After "resignation;" in clause 5 (2) (a), insert "and".

(b) From clause 5 (2) (b) (ii), omit "body; and", insert instead "body,".

(c) Omit clause 5 (2) (c).

Explanatory note**Removal of age restrictions (items (1) and (3))**

The proposed amendment to section 9 removes the restriction that prevents a person who is of or above the age of 65 years from being eligible to be appointed as, or from continuing to be employed as, a member of the staff of the State Sports Centre Trust.

The proposed amendments to Schedule 3 provide that the Director of the State Sports Centre Trust, who at present is entitled to return to public sector employment in certain circumstances, is not prevented from doing so because of his or her age.

Personal liability of trustees etc. (item (2))

The proposed amendment to Schedule 1 provides that the members of the State Sports Centre Trust, the Director employed by the Trust or any person acting under the direction of the Trust (e.g. staff of the Trust) are not personally liable for any matter or thing done in good faith for the purposes of the Act.

Statute Law (Miscellaneous Provisions) 1991

SCHEDULE 1—MINOR AMENDMENTS—*continued*

STATUTE LAW (MISCELLANEOUS PROVISIONS)
ACT (No. 2) 1990 No. 108

Amendment

Schedule 1 (**Minor amendments**):

From Schedule 1, omit item (4) of the amendments relating to the Prisons Act 1952.

Explanatory note

The proposed amendment omits an uncommenced provision that is unnecessary as a result of the amendment to the Prisons Act 1952 set out elsewhere in this Schedule.

STATUTORY AND OTHER OFFICES REMUNERATION
ACT 1975 (1976 No. 4)

Amendments

(1) Schedule 1 (**Public Offices**):

- (a) In the matter relating to “Magistrate”, after “a Deputy Chief Magistrate”, insert “, the Senior Children’s Magistrate, a Children’s Magistrate, the State Coroner, the Deputy State Coroner”.
- (b) After “Chief Industrial Magistrate.”, insert:
Senior Children’s Magistrate.
Children’s Magistrate.
State Coroner.
Deputy State Coroner.

(2) Schedule 2, Part 1 (**Public Offices**):

Omit:

Magistrate (under the Local Courts Act 1982) other than:

- (a) the Chief Magistrate;
- (b) a Deputy Chief Magistrate;
- (c) the Senior Children’s Magistrate;
- (c1) the State Coroner;
- (c2) the Deputy State Coroner;

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SCHEDULE 1—MINOR AMENDMENTS—*continued*

- (d) a Children's Magistrate;
- (e) a Magistrate who has limited tenure; or
- (f) a Magistrate who is the holder of a prescribed office, within the meaning of the Local Courts Act 1982.

Senior Children's Magistrate.

Children's Magistrate.

Managing Director of the New South Wales Egg Corporation.

Full-time Chairperson of the New South Wales Egg Corporation Board, other than the Managing Director of the Corporation.

State Coroner.

Deputy State Coroner.

Explanatory note

The proposed amendments provide for the removal of the public offices of certain magistrates (including the State Coroner and Deputy State Coroner) from Schedule 2 to the Act and for the inclusion of those offices in Schedule 1. Offices already included in Schedule 1 include the offices of certain other judicial offices such as Chief Magistrate and Magistrate.

The proposed amendments also provide for the removal of certain public offices as a consequence of the dissolution of the Egg Corporation.

SUBORDINATE LEGISLATION ACT 1989 No. 146

Amendment

Schedule 4 (**Excluded instruments**):

After item 16, insert:

16A. By-laws made by the Council of the Women's College (being by-laws under the Women's College Act 1902).

Explanatory note

The proposed amendment excludes by-laws under the Women's College Act 1902 (which deal essentially with private matters) from the operation of the Subordinate Legislation Act 1989.

SCHEDULE 1—MINOR AMENDMENTS—*continued*

SUPERANNUATION ACT 1916 No. 28

Amendments

(1) Section 3A (**Salary**):

(a) After section 3A (4), insert:

(4A) For the purposes of subsection (4), a reference to a continuous period of 1 year is in relation to a contributor who is employed in an educational institution to be read as a reference to the academic year of the institution.

(b) Omit section 3A (5), insert instead:

(5) In this section:

“**academic year**”, in relation to an educational institution, means a continuous period commencing on the first day of any academic term of the institution and ending on the day before the first day of the corresponding academic term in the following calendar year;

“**shift allowance**” means an allowance paid to an employee in respect of shift work performed by the employee, and includes amounts paid as penalty rates.

(2) Section 12 (**Contributions to be related to units of pension**):

(a) Omit “a/114.6” from the definition of the expression “GF”. In the formula contained in section 12 (1) (b), insert instead “a/b”.

(b) In section 12 (1) (b), after the definition of the expression “a”, insert:

b is:

(a) the number 114.6; or

(b) if, after the commencement of the amendments made to this section by the Statute Law (Miscellaneous Provisions) Act 1991, the Commonwealth Statistician changes the reference base for the Consumer Price Index (All Groups Index) for Sydney—a number determined by the Board, on actuarial advice, to represent what that index would have been for the June quarter 1982 if the change in the reference base had applied at that date.

SCHEDULE 1—MINOR AMENDMENTS—*continued*

(c) After subsection (2), insert:

(3) Any Index number published by the Commonwealth Statistician at any time (and whether before or after the commencement of this subsection) in respect of a particular June quarter in substitution for an Index number previously published in respect of that quarter is to be disregarded for the purpose of ascertaining the value of the expression “b” in the formula in subsection (1), unless the Minister gives a direction to the contrary. If the Minister gives such a direction, the later Index number is to be used in the formula whenever it is applied after the direction has been given.

(4) If, however, after the commencement of subsection (3), the Commonwealth Statistician changes the reference base for the Consumer Price Index (All Groups Index) for Sydney, then, for the purpose of ascertaining the value of the expression “b” in the formula in subsection (1), Index numbers published in terms of the new reference base are to be used whenever the formula is applied after the change of reference base.

(5) In this section, “Index number”, “June quarter” and “quarter” have the same meanings as in Division 6 of Part 4.

(3) Section 52K (Return to service of persons receiving benefit):
Omit the section.

Repeal of Regulation

Regulation 18 of the Superannuation Regulations is repealed.

Commencement

Item (1) of the amendments to the Superannuation Act 1916 is taken to have commenced on 1 April 1988 (the commencement of section 3A to that Act).

Explanatory note

Salary (item (1))

Section 3A of the Superannuation Act 1916 sets out the remuneration, salary or wages included in the term “salary” for the purposes of the Act. A relieving allowance is included in “salary” only if the employee has been in receipt of the relieving

Statute Law (Miscellaneous Provisions) 1991

SCHEDULE 1—MINOR AMENDMENTS—*continued*

allowance for “a continuous period of 1 year”. The proposed amendments to section 3A will clarify the meaning of “year” for the purposes of the section in relation to employees of educational institutions. In this context, “year” is to be defined in terms of the academic year for the institution concerned.

The amendments are based on Regulation 18 of the Superannuation Regulations (which is to be repealed). Similar amendments to the State Authorities Superannuation Act 1987 and the State Authorities Non-contributory Superannuation Act 1987 are set out elsewhere in this Schedule.

Changes in Consumer Price Index (item (2))

Item (2) of the proposed amendments amends section 12 (dealing with units of pension) in relation to the number of what are called “additional units” toward which a contributor to the State Superannuation Fund must contribute. The number of such units is (for all but very small salaries) indexed according to the Consumer Price Index, but no provision has been made to take account of a possible withdrawal of an Index by the Commonwealth Statistician and the issue of a revised Index. The amendment makes appropriate provision of this kind, in line with similar provision made elsewhere in the Act in relation to indexed benefits.

Repeal of section 52K (item (3)).

Section 52K enables purchase of fully paid units by a person who has preserved benefits and subsequently re-enters the Scheme as a new contributor. The provision is to be repealed because this has not been possible since 1 July 1985 when the Scheme was closed to new entrants (see the Superannuation (Scheme Closure) Amendment Act 1985).

SCHEDULE 1—MINOR AMENDMENTS—*continued***SWINE COMPENSATION ACT 1928 No. 36****Amendments**(1) Section 3 (**Definitions**):

Insert in alphabetical order:

“**Approved form**” means a form approved for the time being by the Chief of the Division of Animal Health;

(2) Section 6:

Omit the section, insert instead:

Amount of compensation

6. (1) The amount of compensation payable in respect of any pig destroyed because the pig is suffering, or is suspected of suffering, from disease is:

- (a) if after destruction the pig is found to be free from disease, the market value of the pig; or
- (b) if after destruction the pig is found to be diseased, nine-tenths of the market value of the pig.

(2) The amount of compensation payable in respect of any diseased carcass condemned as unfit for human consumption because of disease is three-quarters of the market value of the pig before slaughter.

(3) The amount of compensation payable in respect of a portion of a diseased carcass condemned as unfit for human consumption because of disease is:

- (a) for the forequarters of a diseased carcass—one-quarter of the market value of the pig immediately before slaughter; and
- (b) for the hindquarters of a diseased carcass—one-half of the market value of the pig immediately before slaughter.

(3) Section 7 (**Determination of market value of pig**):

After section 7 (4), insert:

(5) The Minister may, by order published in the Gazette, determine the maximum amount of compensation payable under this Act in respect of pigs generally or in respect of pigs of a particular class.

SCHEDULE 1—MINOR AMENDMENTS—*continued*

(6) In making such a determination, the Minister is to have regard to the value in the market place of pigs generally, or of pigs of the class to which the determination relates, as the case requires.

(7) For the purposes of this Act, the market value of a pig (as determined under this section) is not to exceed the maximum amount specified in respect of pigs generally, or of pigs of the class to which the pig belongs, by a determination in force under this section.

(4) Section 8 (**Application for compensation**):

(a) Omit section 8 (1)–(3), insert instead:

(1) Compensation is payable under this Act only if the owner of the pig destroyed, or carcass or portion of a carcass condemned, makes an application for compensation in the approved form within 60 days after the pig is destroyed or the carcass or portion condemned.

(2) The owner is to forward with the application a certificate in the approved form furnished by the person by whose order, or under whose authority, the pig was destroyed or the carcass or portion condemned, verifying that the pig was destroyed or carcass or portion condemned and stating the reasons for the destruction or condemnation.

(3) If a pig was destroyed on the order of the Minister the certificate may be furnished by an approved person as referred to in section 5 (2).

(b) From section 8 (4) (c) (ii), omit “and the regulations”.

(c) From section 8 (4) (f), omit “unless the pig or carcass, as the case may be, is, when it is so destroyed or condemned, identified in the prescribed manner”, insert instead “unless, in the case of a pig or carcass that was destroyed or condemned while it was required by section 19A of the Stock Diseases Act 1923 to be identified in the manner prescribed by section 19C (1A) of that Act, the pig or carcass was so identified”.

(5) Section 18 (**Regulations**):

(a) From section 18 (1) (a), omit “making and”.

(b) Omit section 18 (1) (b).

SCHEDULE 1—MINOR AMENDMENTS—*continued***Repeal of Swine Compensation Regulations**

The Swine Compensation Regulations are repealed.

Explanatory note

The proposed amendments will enable the repeal of the Swine Compensation Regulations by either incorporating provisions contained in those Regulations in the Swine Compensation Act 1928 or amending that Act to alter the current requirements. The amendments will alter requirements in two ways:

- (a) by providing for the form of applications for compensation and certificates verifying such applications to be approved by the Chief of the Division of Animal Health of the Department of Agriculture and Fisheries; and
- (b) by providing that the market value of a pig (being the value on the basis of which compensation is payable in respect of the destruction of the pig or the condemnation of its carcass) is not to exceed the maximum amount determined by the Minister by order published in the Gazette rather than, as is currently the case, the maximum amount prescribed by the Regulations.

**THERAPEUTIC GOODS AND COSMETICS
ACT 1972 No. 14****Amendment**

Section 8 (Casual vacancies):

Omit section 8 (2).

Explanatory note

The proposed amendment removes the restriction that prevents a person who reaches the age of 70 years from continuing to hold office as an appointed member of the Therapeutic Goods and Cosmetics Advisory Committee.

Statute Law (Miscellaneous Provisions) 1991

SCHEDULE 1—MINOR AMENDMENTS—*continued*

TIMBER MARKETING ACT 1977 No. 72

Amendments

(1) Section 29 (**Offences**):

Omit "\$2,000", insert instead "50 penalty units".

(2) Section 34 (**Regulations**):

From section 34 (3), omit "\$500", insert instead "20 penalty units".

Explanatory note

The proposed amendments increase (from \$2,000 to 50 penalty units) the maximum monetary penalty for an offence under the Act and increase (from \$500 to 20 penalty units) the maximum penalty for an offence under the regulations.

TRANSPORT ADMINISTRATION ACT 1988 No. 109

Amendments

(1) Schedule 1 (**Constitution and procedure of State Rail Authority Board and State Transit Authority Board**):

(a) Omit clause 2 (**Age of members**):

(b) From clause 7 (1) (h), omit "punishable; or", insert instead "punishable.".

(c) Omit clause 7 (1) (i).

(2) Schedule 3 (**Provisions relating to State Transit Co-ordination Advisory Council and Roads and Traffic Advisory Council**):

(a) Omit clause 2 (**Age of members**).

(b) From clause 7 (1) (h), omit "punishable; or", insert instead "punishable.".

(c) Omit clause 7 (1) (i).

Explanatory note

The proposed amendments remove the restriction that prevents a person who is of or above the age of 70 years from being eligible to be appointed as, or from continuing to hold office as, a member of the State Rail Authority Board, the State Transit Authority Board, the State Transit Co-ordination Advisory Council or the Roads and Traffic Advisory Council.

SCHEDULE 1—MINOR AMENDMENTS—*continued*

TREASURY CORPORATION ACT 1983 No. 75

Amendments

- (1) Schedule 1 (**The Chief Executive**):
 - (a) Omit clause 1 (**Age**).
 - (b) From clause 6 (1) (d), omit “or retired”.
 - (c) Omit clause 6 (1) (e).
 - (d) Omit clause 6 (3).
- (2) Schedule 2 (**Provisions relating to the rights of certain staff of the Corporation**):
 - (a) After “resignation;” in clause 4 (1) (a), insert “and”.
 - (b) From clause 4 (1) (b) (ii), omit “body; and”, insert instead “body,”.
 - (c) Omit clause 4 (1) (c).
- (3) Schedule 3 (**Provisions relating to the members of the Board**):
 - (a) Omit clause 2 (**Age of appointed members**).
 - (b) From clause 6 (1) (d), omit “or retired”.
 - (c) Omit clause 6 (1) (e).

Explanatory note

The proposed amendments to Schedule 1:

- (a) remove the restriction that prevents a person who is of or above the age of 65 years from being eligible to be appointed as, or from continuing to hold office as, the Chief Executive of the Treasury Corporation; and
- (b) remove the provision which enables the Governor to retire the Chief Executive after the Chief Executive has reached the age of 60 years (item (1)).

The proposed amendments to Schedule 2 provide that employees (including the Chief Executive) of the Treasury Corporation, who at present are entitled to return to public sector employment in certain circumstances, are not prevented from doing so because of their age (item (2)).

The proposed amendments to Schedule 3 remove the restriction that prevents a person who is of or above the age of 70 years from being eligible to be appointed as, or from continuing to hold office as, an appointed member of the board of directors of the Treasury Corporation (item (3)).

SCHEDULE 1—MINOR AMENDMENTS—*continued*

VALUATION OF LAND ACT 1916 No. 2

Amendments

- (1) Section 15 (**Forms to be sent out by Valuer-General**):
 - (a) From section 15 (1), omit “as prescribed”, insert instead “as approved by the Valuer-General”.
 - (b) From section 15 (1), omit “as may be prescribed”, insert instead “as the Valuer-General considers appropriate, being questions”.
 - (c) From section 15 (1), omit “may be prescribed”, insert instead “the Valuer-General may consider appropriate”.
- (2) Section 20 (**New valuation on application**):

Omit “the prescribed form” wherever occurring, insert instead “a form approved by the Valuer-General”.
- (3) Sections 29 (3B), 31 (1):

Omit “as prescribed” wherever occurring, insert instead “(in a form approved by the Valuer-General)”.
- (4) Section 35 (**Objections**):

Omit “notice as prescribed”, insert instead “written notice”.
- (5) Section 38 (**Reference of objections**):

After “may,” in section 38 (1), insert “in a form approved by the Valuer-General and”.
- (6) Section 70 (**Determination of values at dates prior or subsequent to valuation**):

After “application” in section 70 (1), insert “(in a form approved by the Valuer-General)”.
- (7) Section 76 (**Copies of entries to be supplied**):

From section 76 (1), omit “in writing”, insert instead “in a form approved by the Valuer-General”.
- (8) Section 81 (**Regulations**):

Omit section 81 (1) (h).

Statute Law (Miscellaneous Provisions) 1991

SCHEDULE 1—MINOR AMENDMENTS—*continued*

(9) Section 82 (**Penalties**):

At the end of the section, insert:

(2) A person who contravenes any provision of this Act is (except where a penalty is specifically provided) liable to a penalty not exceeding 1 penalty unit.

(10) Schedule 1 (**Provisions relating to the Valuer-General**):

- (a) Omit clause 1 (**Ineligibility by reason of age**).
- (b) After “Minister;” in clause 7 (g), insert “or”.
- (c) From clause 7 (h), omit “clause 8; or”, insert instead “clause 8.”.
- (d) Omit clause 7 (i).
- (e) From clause 11 (1), omit the definition of “retiring age”.
- (f) From clause 11 (2), omit “, if he has not attained the retiring age,”.

Explanatory note

Approved forms etc. (items (1)–(7))

The proposed amendments to sections 15, 20, 29, 31, 35, 38, 70 and 76 provide that certain forms and applications under the Act are to be in a form approved by the Valuer-General. At present most of the forms are required to be prescribed by the regulations.

Penalty provisions (items (8) and (9))

At present, the penalties for breaches of the Act are prescribed by regulation. The proposed amendments to sections 81 and 82 provide that the penalty for contravening a provision of the Act is 1 penalty unit (currently \$100) rather than being as prescribed by the regulations. This is currently the amount so prescribed.

Removal of age restrictions (item (10))

The proposed amendments to Schedule 1:

- (a) remove the restriction that prevents a person who is of or above the age of 60 years from being eligible to be appointed as, or from continuing to hold office as, the Valuer-General; and
 - (b) provide that the Valuer-General, who at present is entitled to return to public sector employment in certain circumstances, is not prevented from doing so because of his or her age.
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SCHEDULE 1—MINOR AMENDMENTS—*continued*

WATER ACT 1912 No. 44

Amendments(1) Section 133A (**Correction of errors in constitution of districts and provisional districts**):

(a) Omit section 133A (1), insert instead:

(1) If an error has been made in the proclamation constituting a provisional district, the Governor may, by a further proclamation in the Gazette, correct the error.

(1A) If an error has been made in the notification constituting a district, the Ministerial Corporation may, by a further notification in the Gazette, correct the error.

(1B) Such further proclamation or notification takes effect from the date of publication or from such other date (whether before or after the date of publication) as may be specified in the proclamation or notification.

(b) From section 133A (2), omit "order" wherever occurring, insert instead "proclamation or notification".

(2) Section 133E:

After section 133D, insert:

Dissolution of provisional districts and districts

133E. (1) The Governor may, by proclamation, revoke a proclamation constituting a provisional district.

(2) The Ministerial Corporation may, by order published in the Gazette, revoke a notification constituting a district.

(3) On the revocation of such a proclamation or notification, the provisional district or district concerned is dissolved.

Commencement

Item (1) of the proposed amendments to the Water Act 1912 is taken to have commenced on 25 February 1990 (being the day on which item (4) of the amendments to that Act made by the Statute Law (Miscellaneous Provisions) Act (No. 3) 1989 commenced).

SCHEDULE 1—MINOR AMENDMENTS—*continued***Explanatory note**

The proposed amendments to section 133A make it clear that an error in the proclamation constituting a provisional domestic and stock water supply district (or a provisional domestic and stock water supply and irrigation district) or in the subsequent notification constituting the provisional district as a district can be corrected by a further proclamation or notification. At present, an error in the order constituting the district or provisional district may be corrected by a further order and the proposed amendment provides a more accurate description of the type of order referred to in section 133A (item (1)).

Item (2) of the proposed amendments inserts section 133E which enables the Governor to revoke the proclamation constituting a provisional district and enables the Ministerial Corporation to revoke the notification constituting a district. This is to be consistent with the power of the Governor under section 59 of the Act to dissolve a trust constituted under Part 3 (Water and Drainage).

WATER BOARD ACT 1987 No. 141**Amendment****Section 37 (Certain charges to be charges on land):**

After section 37 (2), insert:

(3) In this section, a reference to a service charge, or to a charge imposed under section 30 (2), includes a reference to interest charged on the service charge or charge under section 38.

Transitional

The amendment to the Water Board Act 1987 does not apply to interest charged on overdue service charges or other charges before the date of assent to this Act.

Explanatory note

Section 37 of the Water Board Act 1987 provides that service charges and certain other charges imposed under the Act are a charge on the land to which they relate. Section 38 enables the Board to charge interest on overdue charges. The proposed amendment will provide that interest so charged becomes a charge on the land in the same way as the overdue charge to which it relates is a charge.

**SCHEDULE 2—AMENDMENTS BY WAY OF STATUTE LAW
REVISION**

(Sec. 3)

AUCTIONEERS AND AGENTS ACT 1941 No. 28**Amendments**

- (1) Section 3 (**Definitions**):
From section 3 (6), omit “courts of petty sessions”, insert instead “Local Courts”.
- (2) Section 23 (**Procedure**):
- (a) From section 23 (7) (a) and (10AC), omit “court of petty sessions” wherever occurring, insert instead “Local Court”.
- (b) From section 23 (9) (b), omit “stipendiary magistrate”, insert instead “a Magistrate sitting alone”.
- (3) Section 29 (**Cancellation of licence**):
- (a) From section 29 (1), omit “court of petty sessions holden before a stipendiary magistrate”, insert instead “Local Court constituted by a Magistrate sitting alone”.
- (b) From section 29 (2), omit “such court of petty sessions”, insert instead “the Local Court”.
- (4) Section 39AA (**Procedure for approvals under sec. 39**):
- (a) From section 39AA (4) and (10), omit “court of petty sessions” wherever occurring, insert instead “Local Court”.
- (b) From section 39AA (5), omit “court of petty sessions held before a stipendiary magistrate”, insert instead “Local Court constituted by a Magistrate sitting alone”.
- (5) Section 63 (**Holder not to lend certificate of registration**):
Omit “him” where lastly occurring, insert instead “the Council”.

Explanatory note

The proposed amendments:

- (a) are consequential on the amendments to the Act made by the Real Estate Services Council Act 1990 (item (5)); and
- (b) update references to courts of petty sessions and stipendiary magistrates as a consequence of the Local Courts Act 1982 (items (1)–(4)).
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Statute Law (Miscellaneous Provisions) 1991

SCHEDULE 2—AMENDMENTS BY WAY OF STATUTE LAW
REVISION—*continued*

**CHILDREN (COMMUNITY SERVICE ORDERS)
ACT 1987 No. 56**

Amendment

Section 14 (**Place etc. and time for presentation for work**):
After “court” in section 14, insert “or”.

Explanatory note

The proposed amendment corrects a grammatical error consisting of the omission of a word.

CORPORATIONS (NEW SOUTH WALES) ACT 1990 No. 83

Amendments

(1) Sections 82 (**State superannuation schemes**), 83 (**Temporary modification of superannuation legislation**):

Omit the sections.

(2) Part 13 (**Transitional**):

(a) Insert “**etc.**” at the end of the heading to Division 3.

(b) Section 93 (**Exemptions from Part 7.12, etc.**):

From section 93 (4), omit “taken not to be an eligible body”, insert instead “, as from that commencement, taken to be an eligible body”.

Commencement

Item (2) of the amendments to the Corporations (New South Wales) Act 1990 is taken to have commenced on 1 January 1991 (the day on which that Act commenced).

Explanatory note

The proposed amendments:

- (a) repeal provisions enabling the making of regulations concerning superannuation and other matters which were intended to facilitate the transfer of staff to the service of the Australian Securities Commission but are now superfluous (item (1)); and
 - (b) ensure that a provision intended to preserve the effect of regulations made under section 16 (5) of the Companies (Application of Laws) Act 1981 on the commencement of the Corporations (New South Wales) Act 1990 operates as intended (item (2)).
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Statute Law (Miscellaneous Provisions) 1991

SCHEDULE 2—AMENDMENTS BY WAY OF STATUTE LAW
REVISION—*continued*

**DIRECTOR OF PUBLIC PROSECUTIONS ACT
1986 No. 207**

Amendment

Schedule 1 (Provisions relating to senior officers):

After “resignation;” in clause 11 (1) (a), insert “and”.

Explanatory note

The proposed amendment corrects a grammatical error consisting of the omission of a word.

**MISCELLANEOUS ACTS (PUBLIC SECTOR EXECUTIVES
EMPLOYMENT) AMENDMENT ACT 1989 No. 105**

Amendment

Schedule 1 (Amendment of Acts):

Omit the amendments relating to the following Acts:

Auctioneers and Agents Act 1941

Egg Industry Act 1983

Grain Handling Act 1954

Explanatory note

The proposed amendment omits obsolete uncommenced provisions.

Statute Law (Miscellaneous Provisions) 1991

SCHEDULE 2—AMENDMENTS BY WAY OF STATUTE LAW
REVISION—*continued*

**MISCELLANEOUS ACTS (PUBLIC SECTOR EXECUTIVES
SUPERANNUATION) FURTHER AMENDMENT ACT
1989 No. 229**

Amendment

Schedule 1 (**Amendments**):

From item (3) (c) of the matter relating to the Superannuation Act 1916, omit “section 20 (6)”, insert instead “section 20AB (6)”.

Explanatory note

The proposed amendment rectifies an incorrect incorporating direction.

PETROLEUM (SUBMERGED LANDS) ACT 1982 No. 23

Amendment

Section 78 (**Approval and registration of transfers**):

Omit section 78 (8) (b), insert instead:

(b) that security is lodged with the Minister,
the Minister shall be deemed to have approved the transfer.

Explanatory note

The proposed amendment rectifies the incorrect ranging of certain words which are meant to apply to both paragraphs (a) and (b) of section 78 (8).

PHARMACY ACT 1964 No. 48

Amendment

Section 17 (**Additional requirements for registration**):

From section 17 (1) (a), omit “; and” where secondly occurring.

Explanatory note

The proposed amendment omits an unnecessary word.

Statute Law (Miscellaneous Provisions) 1991

SCHEDULE 2—AMENDMENTS BY WAY OF STATUTE LAW
REVISION—*continued*

PODIATRISTS ACT 1989 No. 23

Amendment

Section 8 (Certificate of provisional registration may be granted):

From section 8 (1) (b), omit “(a) or (b)”, insert instead “(c)”.

Explanatory note

The proposed amendment rectifies an incorrect cross-reference.

REAL ESTATE SERVICES COUNCIL ACT 1990 No. 14

Amendment

Section 6 (Membership of Council):

From section 6 (3) (g), omit “Administrators”, insert instead “Economists”.

Explanatory note

The proposed amendment updates a reference to the Australian Institute of Valuers and Land Economists (Incorporated)—New South Wales Division.

REAL PROPERTY ACT 1900 No. 25

Amendment

Schedule 2:

Omit “Aborigines Act 1969”, insert instead “Aboriginal Land Rights Act 1983”.

Explanatory note

The proposed amendment updates a reference to an Act.

Statute Law (Miscellaneous Provisions) 1991

SCHEDULE 2—AMENDMENTS BY WAY OF STATUTE LAW
REVISION—*continued*

**RIVERS AND FORESHORES IMPROVEMENT
ACT 1948 No. 20**

Amendments

(1) Section 10 (**Constitution of district**):

From section 10 (1), omit “Board”, insert instead “local land board”.

(2) Section 14 (**Appeal as to benefited lands**):

From section 14, omit “Commission”, insert instead “Ministerial Corporation”.

Explanatory note

The proposed amendments update references to the names of certain bodies.

STAMP DUTIES ACT 1920 No. 47

Amendments

Section 3, definition of “Corporate debt security”:

- (a) Insert a comma after “society” where firstly occurring.
- (b) Insert a comma after “company” where thirdly occurring.

Explanatory note

The proposed amendments correct grammatical errors consisting of the omission of commas.

Statute Law (Miscellaneous Provisions) 1991

SCHEDULE 2—AMENDMENTS BY WAY OF STATUTE LAW
REVISION—*continued*

STATUTORY AND OTHER OFFICES REMUNERATION
(EXECUTIVES) AMENDMENT ACT 1989 No. 104

Amendment

Schedule 1 (Amendments relating to chief executive and senior executive office holders):

From item (2), omit the matter relating to the Managing Director of the New South Wales Egg Corporation.

Explanatory note

The proposed amendment omits an uncommenced provision which is now obsolete because of the dissolution of the New South Wales Egg Corporation.

TECHNICAL AND FURTHER EDUCATION COMMISSION
ACT 1990 No. 118

Amendment

Schedule 4 (Savings, transitional and other provisions):

From clause 9 (2), omit "Service", insert instead "Services".

Explanatory note

The proposed amendment corrects a reference to the Teaching Services Act 1980.

TRUSTEE COMPANIES ACT 1964 No. 6

Amendments

(1) Section 36A (Indemnities):

From section 36A (1), omit "the NZ".

(2) Third Schedule—First Part (Trustee Company):

Omit "NZ Guardian Trust Australia Limited", insert instead "Guardian Trust Australia Limited".

Explanatory note

The proposed amendment reflects the change of name of NZ Guardian Trust Australia Limited to Guardian Trust Australia Limited.

Statute Law (Miscellaneous Provisions) 1991

SCHEDULE 2—AMENDMENTS BY WAY OF STATUTE LAW
REVISION—*continued*

WORKERS COMPENSATION ACT 1987 No. 70

Amendment

Schedule 6 (Savings, transitional and other provisions):

From the heading to Part 10, omit “**REVIEW OFFICERS**”,
insert instead “**CONCILIATION OFFICERS**”.

Explanatory note

The proposed amendment corrects a reference to certain officers.

SCHEDULE 3—REPEALS

(Sec. 4)

Sydney Harbour Bridge Act 1922 No. 28**
 George’s River Bridge Act 1923 No. 23**
 George’s River Bridge (Amendment) Act 1947 No. 33**
 Newcastle Harbour Improvements Act 1953 No. 6**
 Port Kembla Inner Harbour Construction and Agreement Ratification Act
 1955 No. 43**
 Port Kembla Inner Harbour (Further Extensions) Act 1968 No. 67**
 Port Kembla (Further Development) Act 1971 No. 28**
 Port of Eden Improvement Works Act 1972 No. 77**
 Ulladulla Harbour Improvement Works Act 1972 No. 81**
 Superannuation (Amendment) Act 1983 No. 21***
 Industrial Arbitration (Amendment) Act 1985 No. 7*
 Industrial Arbitration (Trade Union) Amendment Act 1985 No. 20*
 Strata Titles (Development Schemes) Amendment Act 1985 No. 114*
 Water (Penalties) Amendment Act 1985 No. 133*
 Strata Titles (Land Tax) Amendment Act 1985 No. 148*
 Real Property (Covenants) Amendment Act 1986 No. 71*
 Strata Titles (Covenants) Amendment Act 1986 No. 72*
 Industrial Arbitration (Superannuation Appeals) Amendment Act 1986
 No. 130*
 Real Property (Plan Registration) Amendment Act 1986 No. 152*
 Real Property (Amendment) Act 1987 No. 37*
 Industrial Arbitration (Workers Compensation) Amendment Act 1987 No.
 77*

SCHEDULE 3—REPEALS—*continued*

Superannuation (Amendment) Act 1987 No. 214*
 Real Property (Forestry Rights) Amendment Act 1987 No. 243*
 Children (Care and Protection) (Disability Services and Guardianship)
 Amendment Act 1987 No. 259*
 Industrial Arbitration (Adjustment of Awards) Amendment Act 1988
 No. 53*
 Water Supply Authorities (Amendment) Act 1988 No. 121*
 Gaming and Betting (Amendment) Act 1989 No. 19*
 Gaming and Betting (Two-up) Amendment Act 1989 No. 31*
 Anti-Discrimination (Racial Vilification) Amendment Act 1989 No. 48*
 Legal Profession (Solicitor Corporations) Amendment Act 1990 No. 6*
 Land Tax (Amendment) Act 1990 No. 34*
 Real Property (Oyster Leases) Amendment Act 1990 No. 41*
 Real Property (Qualified Titles) Amendment Act 1990 No. 57*
 Liquor (Further Amendment) Act 1990 No. 61*

Note:

- * indicates repeal of amending Act whose provisions have been included in a reprint and which contains no provision of substantive effect that needs to be retained or which amends a repealed Act
- ** indicates repeal of Act that is no longer of public utility
- *** indicates repeal of Act containing uncommenced provisions

Explanatory note

The repeals are explained in detail in the explanatory note relating to this Act. In relation to the repeal of amending Acts, it should be noted that the Acts are repealed simply to rationalise the legislation in force and that the repeals have no substantive effect on the amendments made by the Acts or any associated provisions.

Section 30 (2) of the Interpretation Act 1987 ensures that when an amending Act is repealed no amendment made by the Act is affected. Section 30 (2) also ensures that the following matters are not affected:

- (a) the proof of any past act or thing;
 - (b) any right, privilege, obligation or liability saved by the operation of the Act;
 - (c) any validation made by the Act.
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SCHEDULE 4—GENERAL SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

(Sec. 5)

Effect of amendment of amending provisions

1. (1) An amendment made by Schedule 2 to an amending provision contained in an Act will, if the amending provision has commenced before the date of assent to this Act, be taken to have effect as from the commencement of the amending provision.

(2) In this clause:

“**amending provision**”, means a provision of an Act, or of any other instrument, being a provision that has commenced and that makes a direct amendment of an Act by:

- (a) the repeal or omission of matter contained in the amended Act without the insertion of any matter instead of the repealed or omitted matter; or
- (b) the omission of matter contained in the amended Act and the insertion of matter instead of the omitted matter; or
- (c) the insertion into the amended Act of matter, not being matter inserted instead of matter omitted from the Act,

whether the provision was enacted before or after the commencement of the Reprints Act 1972.

Explanatory note

This clause ensures that amendments correcting errors in the technical provisions (for example, headings indicating the section to be amended or directions as to where a new section is to be inserted) will commence on the date the amendments to which they relate commenced.

Effect of amendment or repeal on acts done or decisions made

2. Except where it is expressly provided to the contrary, if this Act:

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

Statute Law (Miscellaneous Provisions) 1991

SCHEDULE 4—GENERAL SAVINGS, TRANSITIONAL AND
OTHER PROVISIONS—*continued*

Explanatory note

This clause ensures that the amendment or repeal of a provision will not, unless expressly otherwise provided, vitiate any act done or decision made under the provision as in force before the amendment or repeal.

Regulations

3. (1) The Governor may make regulations containing 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.

Explanatory note

This clause enables the making of regulations of a transitional or saving nature having a short term effect relating to incidental matters arising out of the proposed Act with regard to which no specific, or sufficient, provision has been made in the Act.

NOTES

Index of Acts amended by Schedules 1 and 2

- Air Transport Act 1964 No. 36—Sch. 1
- Albany-Wodonga Development Act 1974 No. 47—Sch. 1
- Ambulance Services Act 1990 No. 16—Sch. 1
- Annual Holidays Act 1944 No. 31—Sch. 1
- Architects Act 1921 No. 8—Sch. 1
- Auctioneers and Agents Act 1941 No. 28—Sch. 2
- Bread Act 1969 No. 54—Sch. 1
- Building and Construction Industry Long Service Payments Act 1986 No. 19—Sch. 1
- Business Franchise Licences (Petroleum Products) Act 1987 No. 94—Sch. 1
- Business Franchise Licences (Tobacco) Act 1987 No. 93—Sch. 1
- Children (Care and Protection) Act 1987 No. 54—Sch. 1
- Children (Community Service Orders) Act 1987 No. 56—Sch. 2
- Children (Criminal Proceedings) Act 1987 No. 55—Sch. 1
- Coal Mining Act 1973 No. 81—Sch. 1

*Statute Law (Miscellaneous Provisions) 1991*NOTES—*continued*Index of Acts amended by Schedules 1 and 2—*continued*

- Commercial Vessels Act 1979 No. 41—Sch. 1
 Compensation Court Act 1984 No. 89—Sch. 1
 Constitution Act 1902 No. 32—Sch. 1
 Corporations (New South Wales) Act 1990 No. 83—Sch. 2
 Crimes Act 1900 No. 40—Sch. 1
 Criminal Appeal Act 1912 No. 16—Sch. 1
 Criminal Procedure Act 1986 No. 209—Sch. 1
 Crown and Other Roads Act 1990 No. 54—Sch. 1
 Crown Lands Act 1989 No. 6—Sch. 1
 Crown Prosecutors Act 1986 No. 208—Sch. 1
 Director of Public Prosecutions Act 1986 No. 207—Sch. 2
 Drug Offensive Act 1987 No. 119—Sch. 1
 Education (Ancillary Staff) Act 1987 No. 240—Sch. 1
 Education Reform Act 1990 No. 8—Sch. 1
 Election Funding Act 1981 No. 78—Sch. 1
 Electricity Act 1945 (1946 No. 13)—Sch. 1
 Employment Protection Act 1982 No. 122—Sch. 1
 Energy Administration Act 1987 No. 103—Sch. 1
 Environmental Offences and Penalties Act 1989 No. 150—Sch. 1
 Factories, Shops and Industries Act 1962 No. 43—Sch. 1
 Forestry Act 1916 No. 55—Sch. 1
 Freedom of Information Act 1989 No. 5—Sch. 1
 Gaming and Betting Act 1912 No. 25—Sch. 1
 Government Insurance Act 1927 No. 18—Sch. 1
 Health Administration Act 1982 No. 135—Sch. 1
 Independent Commission Against Corruption Act 1988 No. 35—Sch. 1
 Industrial Arbitration Act 1940 No. 2—Sch. 1
 Justices Act 1902 No. 27—Sch. 1
 Lake Illawarra Authority Act 1987 No. 285—Sch. 1
 Land Tax Management Act 1956 No. 26—Sch. 1
 Landlord and Tenant (Rental Bonds) Act 1977 No. 44—Sch. 1
 Local Government Act 1919 No. 41—Sch. 1
 Long Service Leave Act 1955 No. 38—Sch. 1
 Long Service Leave (Metalliferous Mining Industry) Act 1963 No. 48—Sch. 1
 Lotto Act 1979 No. 53—Sch. 1
 Marine Administration Act 1989 No. 93—Sch. 1
 Maritime Services Act 1935 No. 47—Sch. 1
 Miscellaneous Acts (Public Sector Executives Employment) Amendment Act 1989 No. 105—Sch. 2
 Miscellaneous Acts (Public Sector Executives Superannuation) Further Amendment Act 1989 No. 229—Sch. 2
 Motor Accidents Act 1988 No. 102—Sch. 1
 Motor Accidents (Amendment) Act 1990 No. 90—Sch. 1
 National Parks and Wildlife Act 1974 No. 80—Sch. 1
 Ozone Protection Act 1989 No. 208—Sch. 1
 Parramatta Stadium Trust Act 1988 No. 86—Sch. 1
 Petroleum (Submerged Lands) Act 1982 No. 23—Sch. 2

*Statute Law (Miscellaneous Provisions) 1991*NOTES—*continued*Index of Acts amended by Schedules 1 and 2—*continued*

- Pharmacy Act 1964 No. 48—Sch. 2
 Plant Diseases Act 1924 No. 38—Sch. 1
 Podiatrists Act 1989 No. 23—Sch. 2
 Police Regulation (Superannuation) Act 1906 No. 28—Sch. 1
 Poultry Processing Act 1969 No. 45—Sch. 1
 Prisons Act 1952 No. 9—Sch. 1
 Private Irrigation Districts Act 1973 No. 47—Sch. 1
 Public Sector Executives Superannuation Act 1989 No. 106—Sch. 1
 Real Estate Services Council Act 1990 No. 14—Sch. 2
 Real Property Act 1900 No. 25—Sch. 2
 Residential Tenancies Act 1987 No. 26—Sch. 1
 Rivers and Foreshores Improvement Act 1948 No. 20—Sch. 2
 Sentencing Act 1989 No. 87—Sch. 1
 Stamp Duties Act 1920 No. 47—Sch. 2
 State Authorities Non-contributory Superannuation Act 1987 No. 212—Sch. 1
 State Authorities Superannuation Act 1987 No. 211—Sch. 1
 State Drug Crime Commission Act 1985 No. 117—Sch. 1
 State Sports Centre Trust Act 1984 No. 68—Sch. 1
 Statute Law (Miscellaneous Provisions) Act (No. 2) 1990 No. 108—Sch. 1
 Statutory and Other Offices Remuneration Act 1975 (1976 No. 4) —Sch. 1
 Statutory and Other Offices Remuneration (Executives) Amendment Act 1989 No. 104—Sch. 2
 Subordinate Legislation Act 1989 No. 146—Sch. 1
 Superannuation Act 1916 No. 28—Sch. 1
 Swine Compensation Act 1928 No. 36—Sch. 1
 Technical and Further Education Commission Act 1990 No. 118—Sch. 2
 Therapeutic Goods and Cosmetics Act 1972 No. 14—Sch. 1
 Timber Marketing Act 1977 No. 72—Sch. 1
 Transport Administration Act 1988 No. 109—Sch. 1
 Treasury Corporation Act 1983 No. 75—Sch. 1
 Trustee Companies Act 1964 No. 6—Sch. 2
 Valuation of Land Act 1916 No. 2—Sch. 1
 Water Act 1912 No. 44—Sch. 1
 Water Board Act 1987 No. 141—Sch. 1
 Workers Compensation Act 1987 No. 70—Sch. 2

*Statute Law (Miscellaneous Provisions) 1991*NOTES—*continued*

Alphabetical list of Acts repealed by Schedule 3

- Anti-Discrimination (Racial Vilification) Amendment Act 1989 No. 48
 Children (Care and Protection) (Disability Services and Guardianship) Amendment Act 1987 No. 259
 Gaming and Betting (Amendment) Act 1989 No. 19
 Gaming and Betting (Two-up) Amendment Act 1989 No. 31
 George's River Bridge Act 1923 No. 23
 George's River Bridge (Amendment) Act 1947 No. 33
 Industrial Arbitration (Adjustment of Awards) Amendment Act 1988 No. 53
 Industrial Arbitration (Amendment) Act 1985 No. 7
 Industrial Arbitration (Superannuation Appeals) Amendment Act 1986 No. 130
 Industrial Arbitration (Trade Union) Amendment Act 1985 No. 20
 Industrial Arbitration (Workers Compensation) Amendment Act 1987 No. 77
 Land Tax (Amendment) Act 1990 No. 34
 Legal Profession (Solicitor Corporations) Amendment Act 1990 No. 6
 Liquor (Further Amendment) Act 1990 No. 61
 Newcastle Harbour Improvements Act 1953 No. 6
 Port Kembla (Further Development) Act 1971 No. 28
 Port Kembla Inner Harbour Construction and Agreement Ratification Act 1955 No. 43
 Port Kembla Inner Harbour (Further Extensions) Act 1968 No. 67
 Port of Eden Improvement Works Act 1972 No. 77
 Real Property (Amendment) Act 1987 No. 37
 Real Property (Covenants) Amendment Act 1986 No. 71
 Real Property (Forestry Rights) Amendment Act 1987 No. 243
 Real Property (Oyster Leases) Amendment Act 1990 No. 41
 Real Property (Plan Registration) Amendment Act 1986 No. 152
 Real Property (Qualified Titles) Amendment Act 1990 No. 57
 Strata Titles (Covenants) Amendment Act 1986 No. 72
 Strata Titles (Development Schemes) Amendment Act 1985 No. 114
 Strata Titles (Land Tax) Amendment Act 1985 No. 148
 Superannuation (Amendment) Act 1983 No. 21
 Superannuation (Amendment) Act 1987 No. 214
 Sydney Harbour Bridge Act 1922 No. 28
 Ulladulla Harbour Improvement Works Act 1972 No. 81
 Water (Penalties) Amendment Act 1985 No. 133
 Water Supply Authorities (Amendment) Act 1988 No. 121

[*Minister's second reading speech made in—
 Legislative Assembly on 17 April 1991
 Legislative Council on 1 May 1991*]



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