

**STATUTE LAW (MISCELLANEOUS PROVISIONS) ACT
(No. 3) 1992 No. 111**

NEW SOUTH WALES



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**STATUTE LAW (MISCELLANEOUS PROVISIONS) ACT
(No. 3) 1992 No. 111**

NEW SOUTH WALES



Act No. 111, 1992

An Act to repeal certain Acts and to amend certain other Acts in various respects and for the purpose of effecting statute law revision; and to make certain savings. [Assented to 8 December 1992]

See also Statute Law (Penalties) Act 1992.

Statute Law (Miscellaneous Provisions) Act (No. 3) 1992 No. 111

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Statute Law (Miscellaneous Provisions) Act (No. 3) 1992.

Commencement

2. A provision of Schedule 1 or 2 commences as provided in the Schedule. The other provisions of this Act commence on the date of assent.

Amendments

3. Each Act specified in Schedules 1 and 2 is amended as set out in those Schedules.

Repeals

4. Each Act specified in Schedule 3 is repealed.

General savings, transitional and other provisions

5. Schedule 4 has effect.

Explanatory notes

6. The matter appearing under the heading "Explanatory note" in any of the Schedules does not form part of this Act.

SCHEDULE 1—MINOR AMENDMENTS

(Sec. 3)

CATCHMENT MANAGEMENT ACT 1989 No. 235

AMENDMENTS

Section 9 (Membership of Co-ordinating Committee):

- (a) From section 9 (1), omit "17 members", insert instead "20 members".
- (b) From section 9 (1) (o), omit "and".
- (c) At the end of section 9 (1) (p), insert:
 - ;
 - (q) a person selected from a panel of 2 or more persons nominated jointly by the Catchment Management Committees established in respect of catchment areas west of the Great Dividing Range;
 - (r) a person selected from a panel of 2 or more persons nominated jointly by the Catchment Management Committees established in respect of catchment areas within urban areas; and

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- (s) a person selected from a panel of 2 or more persons nominated jointly by the Catchment Management Committees established in respect of catchment areas other than those west of the Great Dividing Range or within urban areas.
- (d) After section 9 (1), insert:
 - (1A) A Catchment Management Committee is not to nominate a person for the purposes of subsection (1) unless the person is a member of such a Committee.

COMMENCEMENT

The amendments to the Catchment Management Act 1989 commence on a day to be appointed by proclamation.

EXPLANATORY NOTE

The proposed amendments allow members of 3 regional Catchment Management Committees to be members of the State Catchment Management Co-ordinating Committee.

CHIROPRACTORS AND OSTEOPATHS ACT 1991 No. 7

AMENDMENTS

- (1) Section 4 (Chiropractic and osteopathy not to be practised by unregistered person):
 - From section 4, omit “for therapeutic purposes”.
- (2) Section 13 (Provisional registration):
 - After section 13 (2), insert:
 - (2A) The President may also grant to a person a certificate of provisional registration of the appropriate kind if the person:
 - (a) is of good character; and
 - (b) applies for registration and pays the fee prescribed by the regulations; and
 - (c) is entitled under section 9 (a) or (c), 10 (a) or (c) or 11 to registration of the kind applied for.
- (3) Sections 33A, 33B:
 - After section 33, insert:
 - Appeals against other determinations of the Board**
 - 33A. (1) A person who is aggrieved by any of the following:
 - (a) the Board’s refusal to register the person as a chiropractor or an osteopath or as a chiropractor and osteopath;
 - (b) the Board’s refusal to grant the person a certificate of temporary registration;

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- (c) the Board's cancellation of the person's certificate of provisional registration or temporary registration;
- (d) the Board's refusal to restore the person's name to the register under section 18 or to direct, under section 19, that the person's name be restored to the register,

may, within 3 months after the date on which notice of the refusal or cancellation is given to the person (or, if under section 55 the person requests a written statement of the decision concerned, within 30 days after that statement is provided), appeal against that refusal or cancellation to the District Court.

(2) For the purposes of this section, if the Board does not, within 60 days after an application under this Act is made to it, give notice to the applicant of the result of the application, the Board is taken on the expiration of the 60-day period to have given notice to the applicant that the Board has refused the application.

Making and determination of appeals

33B. (1) An appeal under section 33A is to be made in accordance with the rules of the District Court.

(2) The appeal is to be dealt with by way of a new hearing and new evidence may be given in addition to or in substitution for any evidence given to the Board.

(3) In hearing the appeal, the District Court is not bound by the rules or practice as to evidence and may inform itself of any matter in such manner as it thinks fit.

(4) In determining the appeal, the District Court is to have regard to this Act, the regulations, the circumstances of the case and the public interest.

(5) In determining the appeal, the District Court may:

- (a) confirm the refusal or cancellation appealed against; or
- (b) substitute for that refusal or cancellation any other determination that the Board might have made.

(6) A decision of the District Court on an appeal is final and is taken to be that of the Board.

COMMENCEMENT

Item (1) of the amendments to the Chiropractors and Osteopaths Act 1991 commences on a day or days to be appointed by proclamation.

Items (2) and (3) of the amendments to that Act commence on the date of assent to this Act.

EXPLANATORY NOTE

Spinal manipulation (item (1))

At present, it is an offence under section 4 for a person (other than a person of a class specified in the section, such as a registered chiropractor) to manipulate the joints of the human spinal column for therapeutic purposes. The proposed amendment omits

the qualification “for therapeutic purposes”. Accordingly, it will be an offence for a person to carry out that manipulation for any purpose unless the person is a person of a class referred to in the section.

Provisional registration (item (2))

A person who has completed his or her training as a chiropractor or an osteopath but has not yet had the qualification conferred may obtain a certificate of provisional registration under section 13. This allows the person to practise pending conferral of the qualification. However, a person who is already registered interstate or who has completed a prescribed course of training outside Australia cannot obtain such a certificate and, therefore, cannot practise in New South Wales until full registration has been granted. The proposed amendment permits such a person to be granted provisional registration and to practise pending the Chiropractors and Osteopaths Registration Board’s consideration of his or her application for full registration.

Appeals (item (3))

The proposed amendment provides for appeals to the District Court against certain decisions of the Board. This is in keeping with similar provisions in other legislation relating to the registration of professional health workers (e.g. Dentists Act 1989, Nurses Act 1991 and Podiatrists Act 1989).

COAL INDUSTRY ACT 1946 No. 44

AMENDMENTS

- (1) Section 35D (Application of amounts paid by State to Board):
Omit the section.
- (2) Section 35E (Other funds):
From section 35E (1) and (2), omit “or 35D” wherever occurring.
- (3) Section 35F (Annual report):
 - (a) From section 35F (2), omit “Minister”, insert instead “State Minister”.
 - (b) Omit section 35F (3), insert instead:
 - (3) The annual report must contain:
 - (a) a report of the Board’s operations during the financial year;
and
 - (b) financial statements for that year in such form as the Minister for Finance of the Commonwealth approves; and
 - (c) statements about such other matters as the Minister for Finance of the Commonwealth may require; and
 - (d) statements about such other matters as the State Minister and the Commonwealth Minister may require.
 - (3A) Before submitting the annual report to the State Minister and the Commonwealth Minister under subsection (1), the Board must submit the financial statements set out in the report to the Auditor-General of the Commonwealth who must report to the Ministers:

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- (a) whether, in the Auditor-General's opinion, the statements are based on proper accounts and records; and
- (b) whether the statements are in agreement with the accounts and records and, in the Auditor-General's opinion, show fairly the financial transactions and the state of affairs of the Board; and
- (c) whether, in the Auditor-General's opinion, the receipt, expenditure and investment of money, and the acquisition and the disposal of assets, by the Board during the financial year have been in accordance with this Act; and
- (d) as to such other matters arising out of the statements as the Auditor-General considers should be reported to the Ministers.

(3B) The State Minister must cause a copy of the Auditor-General's report to be laid before each House of the Parliament.

(4) Section 35K (Audit):

Omit the section.

(5) Section 43 (Establishment of Local Coal Authorities):

- (a) From section 43 (2) and (2A), omit “, with the concurrence of the Board,” wherever occurring.
- (b) From section 43 (5), omit “or a member”, insert instead “or other member”.

(6) Section 46 (Board to provide assistance):

Omit the section, insert instead:

Administrative support for the Coal Industry Tribunal and Local Coal Authorities

46. In sections 46A and 46B:

“**administrative support function**” means the function of providing administrative support to the Tribunal and to Local Coal Authorities;

“**Australian Industrial Registry**” means the Australian Industrial Registry established under the Industrial Relations Act 1988 of the Commonwealth;

“**Deputy Industrial Registrar**” means a Deputy Industrial Registrar appointed under the Industrial Relations Act 1988 of the Commonwealth;

“**Industrial Registrar**” means the Industrial Registrar appointed under the Industrial Relations Act 1988 of the Commonwealth.

Conferral of administrative support function to the extent of State legislative power

46A. (1) The administrative support function is conferred on the Australian Industrial Registry.

(2) The Industrial Registrar:

(a) must perform the function conferred on the Australian Industrial Registry by this section; and

(b) has such powers as are necessary for the performance of that function.

(3) Subject to the directions of the Industrial Registrar, each Deputy Industrial Registrar:

(a) must perform the function conferred on the Australian Industrial Registry by this section; and

(b) has such powers as are necessary for the performance of that function.

(4) This section confers functions and powers to the extent to which they are not in excess of the legislative power of the State.

(5) The State may, from time to time, provide money to the Commonwealth subject to such conditions as may be imposed by the State, to be applied for the purposes of the administrative support function.

Management of Australian Industrial Registry—needs of Tribunal and Local Coal Authorities to be considered

46B. In allocating and managing the resources of the Australian Industrial Registry, the Industrial Registrar must have regard to the needs of the Tribunal and Local Coal Authorities.

COMMENCEMENT

The amendments to the Coal Industry Act 1946 commence on a day to be appointed by proclamation.

EXPLANATORY NOTE

The Coal Industry Act 1946 contains the joint State and Commonwealth scheme under which, by substantially similar State and Commonwealth legislation, the Joint Coal Board, the Coal Industry Tribunal and Local Coal Authorities are established.

The proposed amendments complement amendments proposed to be made to the Coal Industry Act 1946 of the Commonwealth by the Coal Industry Legislation Amendment Bill 1992 of the Commonwealth.

Administrative support for Coal Industry Tribunal and Local Coal Authorities (items (1), (2), (5) and (6))

The proposed amendments confer on the Australian Industrial Registry the function of providing administrative support to the Coal Industry Tribunal and Local Coal Authorities, and make consequential amendments to the Act. At the moment, administrative support is provided by the Joint Coal Board.

Audit provisions (items (3) and (4))

The proposed amendments require the Joint Coal Board's annual report to contain, in addition to other requirements, statements about such matters as may be required by the Minister for Finance of the Commonwealth or by the State and Commonwealth Ministers responsible for the Coal Industry Acts.

Before being included in the Joint Coal Board's annual report, the Board's financial statements are required by the proposed amendments to be submitted to the Commonwealth Auditor-General for a report. The State Minister is to cause this report is to be laid before each House of Parliament.

COMMUNITY JUSTICE CENTRES ACT 1983 No. 127
AMENDMENTS**(1) Section 3 (Arrangement):**

Omit the section.

(2) Section 4 (Definitions):

(a) From section 4 (1), omit the definition of "Director", insert instead:

"Deputy Director" means the Deputy Director of Community Justice Centres holding office as such under Part 2 of the Public Sector Management Act 1988;

"Director" means the Director of Community Justice Centres holding office as such under Part 2 of the Public Sector Management Act 1988;

(b) From paragraph (b) of the definition of "mediation" in section 4 (1), omit "a Director", insert instead "the Director".

(c) From paragraph (a) of the definition of "mediator" in section 4 (1), omit "of the Centre".

(3) Section 9 (Delegation by Council):

From section 9 (1), omit ", sub-committee or Director", insert instead "or sub-committee or the Director".

(4) Section 10 (Director):

(a) Omit section 10 (1), insert instead:

(1) There is to be a Director of Community Justice Centres.

(b) From section 10 (2), omit "A", insert instead "The".

(5) Section 11 (Mediators):

(a) Omit "of a Community Justice Centre".

(b) Omit "the Centre", insert instead "a Community Justice Centre".

(c) At the end of the section, insert:

(2) Accreditation is to be for a term, not exceeding 3 years, specified in the instrument of accreditation, and may be renewed in the same manner as the initial accreditation.

(6) Section 12 (Staff):

Omit section 12 (1), insert instead:

(1) The Director, the Deputy Director and the staff of Community Justice Centres (other than a mediator accredited under section 11) are to be appointed or employed under and in accordance with Part 2 of the Public Sector Management Act 1988.

(7) Section 13 (Delegation by Director):

(a) From section 13 (1), omit “of a Community Justice Centre may authorise a member of the staff of the Centre”, insert instead “may authorise the Deputy Director or a member of the staff of a Community Justice Centre”.

(b) From section 13 (1), omit “of the Centre” where secondly occurring.

(8) Section 16 (Place of operation of Community Justice Centres):

From section 16 (2), omit “of the Centre”.

(9) Section 17 (Records):

(a) From section 17 (1), omit “of a Community Justice Centre”.

(b) From section 17 (1), omit “the centre”, insert instead “Community Justice Centres”.

(10) Section 18 (Centres to be part of Department of Courts Administration):

(a) Omit “the Attorney General and of Justice”, insert instead “Courts Administration”.

(b) Omit “Public Service Act 1979”, insert instead “Public Sector Management Act 1988”.

(11) Section 19 (Use of certain words or letters):

After section 19 (1), insert:

(1A) A person (other than a person holding a current accreditation as a mediator under section 11) must not take or use a name, title or description including a name, title or description that includes the words “Community Justice Centre” or the letters “CJC” that, having regard to the circumstances in which it is taken or used:

(a) indicates; or

(b) is capable of being understood to indicate; or

(c) is calculated to lead a person to infer,

that the person holds a current accreditation as a mediator under this Act.

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- (12) Section 20 (Provision of mediation services):
- (a) From section 20 (1), omit “of a Community Justice Centre”.
 - (b) From section 20 (1), omit “the Centre”, insert instead “Community Justice Centres”.
- (13) Section 24 (Refusal or termination of mediation):
- (a) From section 24 (1), omit “of a Community Justice Centre”.
 - (b) From section 24 (1), omit “the Centre”, insert instead “a Centre”.
- (14) Section 25 (Representation by agent):
- (a) From section 25 (2) (a), omit “Companies (New South Wales) Code”, insert instead “Corporations Law”.
 - (b) From section 25 (3), omit “a Director”, insert instead “the Director”.
- (15) Section 27 (Exoneration from liability):
- (a) From section 27 (1) (d), omit “a Director”, insert instead “the Director, the Deputy Director”.
 - (b) From section 27 (4), omit “a Director”, insert instead “the Director or Deputy Director”.
 - (c) From section 27 (4), omit “Director” where secondly occurring, insert instead “the Director or Deputy Director”.
- (16) Section 28 (Privilege):
- From section 28 (7), omit “a Director,”, insert instead “the Director, the Deputy Director,”.
- (17) Schedule 1 (Constitution and procedure of Community Justice Centres Council):
- (a) From clause 1 (1), omit “members” where firstly occurring.
 - (b) Omit clause 1 (2) (a), insert instead:
 - (a) one is to be a Magistrate nominated by the Chief Magistrate;
 - (c) Omit clause 1 (2) (c), insert instead:
 - (c) one is to be an officer of the Department of Courts Administration selected by the Minister;
 - (d) Omit clause 1 (2) (d), insert instead:
 - (d) one is to be an officer of the Attorney General’s Department selected by the Attorney General; and
 - (e) From clause 1 (2) (e), omit “4”, insert instead “5”.
 - (f) At the end of clause 1 (2) (e), insert “, and at least one of whom is to have expertise in training”.

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- (g) Omit clause 1 (3), insert instead:
 - (3) The Director is to be an ex officio member.
- (h) Omit “Chairman” wherever occurring, insert instead “Chairperson”.
- (i) After clause 2 (1), insert:
 - (1A) The Minister may appoint another member of the Council as Deputy Chairperson of the Council.
- (j) In clause 2 (2), after “(1)”, insert “or (1A)”.
- (k) In clause 2 (2), before “is appointed”, insert “or Deputy Chairperson”.
- (l) In clause 7 (2), before “the member”, insert “the Deputy Chairperson or, in the absence of both the Chairperson and the Deputy Chairperson,”.
- (m) From clause 7 (3), omit “Five”, insert instead “Four”.
- (n) From clause 11, omit “Public Service Act 1979”, insert instead “Public Sector Management Act 1988”.

(18) Schedule 4 (Savings and transitional provisions):

After clause 16, insert:

Limitation on accreditation of mediators

17. A person accredited under section 11 immediately before the date of commencement of the amendments to section 11 made by the Statute Law (Miscellaneous Provisions) Act (No. 3) 1992 is taken to be accredited under section 11, as amended, for a period of 12 months commencing on that date.

COMMENCEMENT

The amendments to the Community Justice Centres Act 1983 commence on the date of assent to this Act.

TRANSITIONAL

The member of the Community Justice Centres Council holding office under clause 1 (2) (c) of Schedule 1 to the Community Justice Centres Act 1983 immediately before the date of assent to this Act ceases to hold office as such member on that date.

EXPLANATORY NOTE

Statute law revision (items (1), (6), (10), (14) (a) and (17) (b), (d), (h) and (n))
The proposed amendments omit a superfluous provision, update references to Acts, Departments and certain judicial officers and recast provisions in gender neutral language.

Director of Community Justice Centres (items (2), (3), (4), (5) (a) and (b), (7) (b), (8), (9), (12), (13), (14) (b), (15), (16) and (17) (a) and (g))

At present, the Act provides that there will be a Director for each Community Justice Centre although provision is made that the same person may be the Director for more than one Community Justice Centre. Since 1984, there has in fact been only the one

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Director for all Community Justice Centres. The proposed amendments reflect this situation and also make provision as to the Deputy Director of Community Justice Centres.

Accreditation of mediators (items (5) (c) and (18))

At present, the Act provides for the accreditation of mediators by the Minister, on the recommendation of the Director of a Community Justice Centre. Although the Minister may revoke an accreditation, no limitation is placed on the period of accreditation, there are no requirements for further training or assessment and persons may remain accredited even though they have ceased to work for a Community Justice Centre. The proposed amendments provide for accreditation for a term, not exceeding 3 years, and for renewal of accreditation by the same procedure as the initial accreditation. A transitional provision continues existing accreditations of mediators under the Act for 12 months commencing on the date of commencement of the amendments.

Delegation by Director (item (7) (a))

At present, provision is made that the Director of a Community Justice Centre may delegate functions to a member of staff of the Centre. The proposed amendment provides that the Director of Community Justice Centres may delegate functions to the Deputy Director or a member of the staff of a Community Justice Centre.

Holding oneself out as mediator (item (11))

At present, the Act prohibits the unauthorised use of the words "Community Justice Centre" or the letters "CJC". The proposed amendment to section 19 extends the prohibition on unauthorised holding out to preclude unaccredited persons from pretending to be accredited mediators, whether by use of the words "Community Justice Centre" or the letters "CJC" or otherwise.

Constitution and procedure of Community Justice Centres Council (item (17) (c), (e), (f) and (i)–(m))

At present, Schedule 1 provides that one of the appointed members of the Community Justice Centres Council is to be a member of the staff of the TAFE Commission nominated by the Minister for Further Education, Training and Employment. Training of Community Justice Centre mediators was previously performed by the TAFE Commission but is now performed by Community Justice Centres themselves. The proposed amendments replace the provision for appointment of this appointee with a requirement for appointment of an officer of the Department of Courts Administration selected by the Minister (the Act now being administered through that Department). However, the proposed amendments also increase the size of the Council by one member to be selected by the Minister from the group of members that the Minister considers have such special interests or experience as would be of assistance in the administration of the Act, the selection criteria being broadened to include at least one member who has expertise in training.

The proposed amendments also make provision for the Minister to appoint a member of the Council as its Deputy Chairperson and reduce the quorum for a meeting of the Council from 5 to 4 members.

CREDIT ACT 1984 No. 94**AMENDMENTS****(1) Section 18 (Exceptions from application of Act):**

- (a) From section 18 (1), omit “specified in the Second Schedule to that Act or a society registered under the Permanent Building Societies Act 1967 or a credit union registered under the Credit Union Act 1969”, insert instead “a society within the meaning of the Financial Institutions (NSW) Code”.
- (b) From section 18 (3), omit “corporation or other body described in Schedule 3 to the Credit Union Act 1969”, insert instead “credit union within the meaning of the law of another State or of a Territory that corresponds to the Financial Institutions (NSW) Code”.

(2) Schedule 8 (Transitional and other special provisions):

After clause 4, insert:

**Part 1A—Provisions consequent on the enactment of the
Credit Legislation (Amendment) Act 1989**

**Exemption of foreign credit unions from compliance with
Parts 3–8**

4A. The amendment to this Act made by the Credit Legislation (Amendment) Act 1989 is taken to have commenced on 28 February 1985.

COMMENCEMENT

The amendments to the Credit Act 1984 commence on the date of assent to this Act.

EXPLANATORY NOTE**Statute law revision (item (1))**

The proposed amendments to section 18 update references to Acts by way of statute law revision and in consequence of the enactment of the Financial Institutions (New South Wales) Act 1992.

Exemption of foreign credit unions from compliance with Parts 3–8 (item (2))

Essentially, the Credit Act 1984 regulates consumer credit transactions. From the outset, credit unions registered in New South Wales have been exempt from compliance with Parts 3–8 of the Credit Act 1984 and from the licensing requirements of the Credit (Administration) Act 1984. However, an unintended consequence of the passage of these Acts was that they applied to transactions conducted in New South Wales by credit unions and similar bodies incorporated in another State or a Territory.

The Credit Legislation (Amendment) Act 1989 was enacted with the object of ensuring that credit unions and similar bodies constituted elsewhere in Australia and carrying on business in New South Wales would be treated as always having been, and continuing to be, entitled to the same exemptions as credit unions registered in New South Wales. Similar action was taken in the Australian Capital Territory, Queensland, Victoria and Western Australia. The amending Act authorised the

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retrospective application of the amendments. The amendments to the Credit Act 1984 and the Credit (Administration) Act 1984 made by the Credit Legislation (Amendment) Act 1989 were proclaimed to commence on 14 June 1989 although the relevant provisions of those Acts affecting foreign credit unions and similar bodies commenced on 28 February 1985. The proposed amendment to Schedule 8 backdates the amendments effected by the Credit Legislation (Amendment) Act 1989 to 28 February 1985.

CREDIT (ADMINISTRATION) ACT 1984 No. 95

AMENDMENTS

(1) Section 7 (Exemptions from licensing):

- (a) From section 7 (1) (h), omit “or specified in the Second Schedule to that Act”.
- (b) Omit section 7 (1) (i) and (j), insert instead:
 - (i) a society within the meaning of the Financial Institutions (NSW) Code;
 - (j) a credit union within the meaning of the law of another State or of a Territory that corresponds to the Financial Institutions (NSW) Code; or

(2) Section 55 (Power of entry):

From section 55 (2) and (3), omit “inspector” wherever occurring, insert instead “investigator”.

(3) Section 56 (Production of records):

In the definition of “authorised person” in section 56 (1), after “Commissioner” where firstly occurring, insert “, an investigator appointed under section 18 of the Fair Trading Act 1987”.

(4) Schedule 1 (Transitional and other provisions):

- (a) Before clause 1, insert:

Part 1—Provisions consequent on the enactment of this Act

- (b) From clause 1, omit “Schedule”, insert instead “Part”.

- (c) After clause 3, insert:

**Part 2—Provisions consequent on the enactment of the
Credit Legislation (Amendment) Act 1989**

**Exemption of foreign credit unions from compliance with
licensing requirement**

4. The amendment to this Act made by the Credit Legislation (Amendment) Act 1989 is taken to have commenced on 28 February 1985.

COMMENCEMENT

The amendments to the Credit (Administration) Act 1984 commence on the date of assent to this Act.

EXPLANATORY NOTE

Statute law revision (items (1), (2) and (4) (b))

The proposed amendments to section 7 (item (1)) update references to legislation by way of statute law revision and in consequence of the enactment of the Financial Institutions (New South Wales) Act 1992.

The proposed amendment to section 55 (item (2)) corrects references to investigators. The proposed amendment to Schedule 1 replaces a reference to the Schedule with a reference to a Part in consequence of other proposed amendments.

Authorised persons (item (3))

At present, section 56 requires certain persons to produce records at the request of an authorised person. "Authorised person" is defined to mean the Commissioner for Consumer Affairs or a person authorised by the Commissioner to exercise the powers conferred by the section. The proposed amendment extends the definition of "authorised person" to include investigators appointed under the Fair Trading Act 1987. Such investigators are empowered to enter premises and require the production of documents under section 55 of the Credit (Administration) Act 1984 but are not similarly empowered under section 56 which is an associated provision.

Exemption of foreign credit unions from compliance with licensing requirement (item (4) (a) and (c))

The proposed amendments to Schedule 1 set out in item (4) (a) and (c) are similar to item (2) of the amendments to the Credit Act 1984 elsewhere in this Schedule and reference should be made to the explanatory note to that item for more information relevant to this amendment.

ELECTRICITY ACT 1945 (1946 No. 13)
AMENDMENTS

(1) Section 4 (Definitions):

- (a) In the definition of "Electrical installation" in section 4 (1), before "premises" wherever occurring (except where occurring in paragraph (c)), insert "land or".
- (b) Omit paragraph (c) of the definition of "Electrical installation" in section 4 (1), insert instead:
 - (c) any appliances, wires, fittings or other apparatus which are:
 - (i) placed in, on or over any land or premises owned or occupied by an electricity supply authority; and
 - (ii) used for the generation, transmission or distribution of electricity;

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(c) In the definition of “Electrical installation” in section 4 (1), at the end of paragraph (d), insert:

; or

(e) any electrical installation operating at not more than 32 volts alternating current or 115 volts direct current.

(2) Section 21A (Sale of certain electrical articles):

At the end of section 21A (1) (a) (ii), insert:

or

(iii) of a type certified under the Electrical Safety Type Test Scheme or the Electrical Safety Standards Mark Scheme conducted by or on behalf of Standards Australia, that certification being evidenced by marking on the article;

COMMENCEMENT

The amendments to the Electricity Act 1945 commence on the date of assent to this Act.

EXPLANATORY NOTE

Electrical installation (item (1))

The proposed amendments to section 4 make it clear that there may be an electrical installation on land on which no structure has been erected (item (1) (a)), remove an ambiguity (item (1) (b)) and exclude extra-low-voltage items from the definition of “electrical installation” (item (1) (c)).

Sale of certain electrical articles (item (2))

At present, it is an offence to sell certain electrical articles unless they are of a type approved by the Director-General of the Office of Energy or the relevant authority in another State or Territory. The proposed amendment to section 21A permits the sale of articles without that approval if they have been certified as safe by Standards Australia.

ETHNIC AFFAIRS COMMISSION ACT 1979 No. 23

AMENDMENTS

(1) The whole Act:

(a) Omit “Chairman” wherever occurring (except where occurring in section 4), insert instead “Chairperson”.

(b) After “his” wherever occurring, insert “or her”.

(2) Section 3 (Arrangement):

Omit the section.

(3) Section 4 (Repeal of Act No. 76 1976):

Omit section 4 (2).

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(4) Section 7 (Appointment of commissioners):

From section 7 (7), omit “he”, insert instead “the person”.

(5) Section 8 (Provisions relating to commissioners generally):

In section 8 (4) and (5), after “him” wherever occurring, insert “or her”.

(6) Section 9 (Vacation of office):

(a) From section 9 (1), omit “he” wherever occurring, insert instead “the commissioner”.

(b) Omit section 9 (1) (f), insert instead:

(f) if the commissioner becomes a mentally incapacitated person;

(c) Omit section 9 (2), insert instead:

(2) The Governor may remove a part-time commissioner from office at any time.

(7) Section 14 (Staff establishment of the Commission):

Omit section 14 (1), insert instead:

(1) Such staff as may be necessary to assist the Commission may be employed under Part 2 of the Public Sector Management Act 1988.

(8) Section 15 (Objects of the Commission):

From section 15 (a), omit “in the social, economic and cultural life of the community;”, insert instead “in all aspects of life in New South Wales, such as the social, economic, public and cultural life of the community; and”.

(9) Section 17 (Annual report):

Omit the section.

COMMENCEMENT

The amendments to the Ethnic Affairs Commission Act 1979 commence on the date of assent to this Act.

EXPLANATORY NOTE

Statute law revision (items (1)–(7) and (9))

The proposed amendments (other than the repeals of sections 3, 4 (2) and 17) recast the sections concerned in gender-neutral language. The provisions of section 3 are no longer necessary, those of section 4 (2) are spent and those of section 17 have been superseded by the Public Finance and Audit Act 1983.

Objects of the Commission (item (8))

The proposed amendment to section 15 makes it clear that the objectives of the Ethnic Affairs Commission are to encourage the participation of persons comprising ethnic groups in all aspects of life in New South Wales. The amended provision will read as follows:

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15. The objects of the Commission are—

- (a) to encourage the full participation of persons comprising ethnic groups in the community in all aspects of life in New South Wales, such as the social, economic, public and cultural life of the community; and
- (b) to promote the unity of all ethnic groups in the community as a single society consistently with the recognition of their different cultural identities; and
- (c) to promote liaison and co-operation between bodies concerned in ethnic affairs.

[Matter to be inserted is shown in bold type.]

FOOD ACT 1989 No. 231

AMENDMENT

Section 70 (Warranties pleaded as a defence):

From section 70 (2) (c), omit “within 10 days after the service of the summons for the offence”, insert instead “no later than 7 days before the date set down for the hearing of the prosecution”.

COMMENCEMENT

The amendment to the Food Act 1989 commences on a day to be appointed by proclamation.

TRANSITIONAL

The amendment to section 70 of the Food Act 1989 does not apply in respect of a prosecution under section 70 or 72 of that Act commenced but not finally disposed of before the commencement of that amendment.

EXPLANATORY NOTE

A defendant in a prosecution for an offence of selling food in contravention of the Act or the regulations (or of giving a false warranty in respect of food sold) who intends to plead as a defence a warranty supplied in respect of the food must deliver a copy of the warranty to the prosecution, and must also deliver or post a copy to the provider of the warranty. At present, section 70 (2) (c) provides that the warranty may be relied on only if the copies are delivered within 10 days after the service of the summons for the offence. The proposed amendment alters the period within which the deliveries are to be made.

FUNERAL FUNDS ACT 1979 No. 106

AMENDMENT

Section 8 (Inspectors):

After section 8 (3), insert:

(3A) An investigator appointed under the Fair Trading Act 1987 is taken to be an inspector for the purposes of this Act.

COMMENCEMENT

The amendment to the Funeral Funds Act 1979 commences on the date of assent to this Act.

EXPLANATORY NOTE

At present, section 8 provides that the Minister may appoint inspectors for the purposes of the Act. Section 18 of the Fair Trading Act 1987 provides that the Minister may appoint investigators for the purposes of that Act and of any other legislation administered by the Minister. The proposed amendment provides that investigators appointed under the Fair Trading Act 1987 automatically become inspectors for the purposes of the Funeral Funds Act 1979. The option of separate appointments of inspectors by the Minister under the Funeral Funds Act 1979 is retained.

GRAIN MARKETING ACT 1991 No. 15
AMENDMENTS

Schedule 5 (Savings, transitional and other provisions):

- (a) From clause 4, omit "scheme manager", insert instead "liquidator".
- (b) After Part 3, insert:

**PART 4—SPECIAL PROVISIONS RELATING TO FORMER
GRAIN SORGHUM MARKETING BOARD**

Definitions

15. In this Part:

"former Board" means the Grain Sorghum Marketing Board for the State of New South Wales as constituted immediately before 28 February 1992;

"liquidator" means the liquidator of the former Board appointed for the purpose of winding up the Board by proclamation under the Marketing of Primary Products Act 1983 published in the Gazette on 12 July 1991.

Distribution of surplus funds

16. (1) The liquidator (or a person appointed by the Minister to act in place of the liquidator) is taken to be authorised, on and from 28 February 1992, to distribute all money held by the former Board immediately before its dissolution as if the Board had not been dissolved on that day.

(2) Any such distribution is to be carried out in accordance with the authority conferred by the proclamation by which the liquidator was appointed and the Marketing of Primary Products Act 1983 as in force on the day the liquidator was appointed.

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- (3) For the purposes of this clause, the liquidator or person:
- (a) may do any act, matter or thing that the liquidator might validly have done but for the dissolution of the Board; and
 - (b) is entitled to any reasonable costs and expenses (including remuneration) from its funds to which the liquidator would have been entitled but for that dissolution.

COMMENCEMENT

The amendments to the Grain Marketing Act 1991 commence on the date of assent to this Act.

EXPLANATORY NOTE

A liquidator was appointed by proclamation on 10 July 1991 for the purpose of winding up the Grain Sorghum Marketing Board and distributing money held by the Board as at 30 June 1991 to certain growers. The Board was dissolved by the commencement of section 101 (2) of the Act on 28 February 1992 before the liquidator had completed the distribution of surplus funds. The proposed amendments ensure that the liquidator (or a person appointed by the Minister to act in place of the liquidator) can distribute the funds as intended.

JURY ACT 1977 No. 18

AMENDMENTS

Schedule 2 (Persons ineligible to serve as jurors):

- (a) Omit item 2, insert instead:

2. Members and officers of the Executive Council and their spouses or de facto partners.

2A. Members of the Legislative Council or the Legislative Assembly and their spouses or de facto partners.

2B. Officers and other staff of either or both of the Houses of Parliament and their spouses or de facto partners.

- (b) After item 7, insert:

7A. A person employed in the Department of Courts Administration.

COMMENCEMENT

The amendments to the Jury Act 1977 commence on the date of assent to this Act.

TRANSITIONAL

The amendments to the Jury Act 1977 do not apply in relation to a person who is a member of a jury at the time the amendments commence, until that person or jury is discharged.

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EXPLANATORY NOTE

Schedule 2 to the Jury Act 1977 specifies the classes of persons who are not eligible to serve as jurors. At present, item 2 of that Schedule refers to "Members and officers of the Executive Council, Legislative Council and Legislative Assembly, and their spouses or de facto partners". The proposed amendments make all Parliamentary staff (and not just officers) ineligible for jury service and extend that ineligibility to their spouses or de facto partners (item (a)). †

The present Department of Courts Administration was previously part of the Attorney General's Department, whose employees are not eligible to serve as jurors. In consequence of the establishment of the Department of Courts Administration, the proposed amendments also make staff of that Department ineligible for jury service (item (b)).

LAND AND ENVIRONMENT COURT ACT 1979 No. 204

AMENDMENT

Section 19 (Class 3—land tenure, valuation, rating and compensation matters):

Omit section 19 (b), insert instead:

(b) appeals under section 38 (1) of the Valuation of Land Act 1916;

REPEAL OF RULE

Rule 1 (1) (c) of Part 7 of the Land and Environment Court Rules 1980 is repealed.

COMMENCEMENT

The amendments to the Land and Environment Court Act 1979 and to the Land and Environment Court Rules 1980 commence on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendment and repeal are consequential on the amendments to the Valuation of Land Act 1916 made elsewhere in this Schedule.

† The words "and extend" originally read "but do not extend" and have been inserted after the introduction of the Bill in the Legislative Assembly to explain an amendment to the Bill that was moved in Committee.

MEAT INDUSTRY ACT 1978 No. 54**AMENDMENT****Section 4 (Definitions):**

From section 4 (1), omit the definition of “animal food processing plant”, insert instead:

“animal food processing plant” means any premises where:

- (a) in the course of a business (being a business of preparing or selling food for consumption by animals) meat, poultry or fish or any product of poultry is stored, packed, packaged, processed, treated, boned or cut up; or
- (b) in the course of a business, processed animal food is produced,

but does not include:

- (c) an abattoir, slaughter-house, knackery, meat processing plant or meat market; or
- (d) a retail butcher’s shop or shop for the sale by retail of meat for use as animal food in which meat, poultry or fish or any product of poultry is stored, packed, packaged, processed, treated, boned or cut up, or processed animal food is produced, solely for the purpose of the retail business carried on in the shop;

COMMENCEMENT

The amendment to the Meat Industry Act 1978 commences on a day to be appointed by proclamation.

EXPLANATORY NOTE

Section 10 of the Act requires premises used as an animal food processing plant or a meat processing plant (among others) to be licensed. The proposed amendment replaces the definition of “animal food processing plant” so as to make it clear that premises used for the sale by retail of food for consumption by animals, being premises on which the ingredients of that food are stored, packed, processed, treated, etc., avoid the licensing requirement only if the storage etc. is solely for the purposes of that retail business. The amendment makes the definition consistent with the definition of “meat processing plant” in that regard.

MENTAL HEALTH ACT 1990 No. 9**AMENDMENTS**

- (1) Sections 55, 59 (6), 211 (2) (a), 212 (2) (c), 214 (a):

Omit “the prescribed form” wherever occurring, insert instead “a form approved by the Minister”.

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(2) Sections 97 (1), 98 (1):

Omit “, acting personally,” wherever occurring.

(3) Section 115 (Directors and Deputy Directors):

After section 115 (3), insert:

(4) The Director-General may, by order published in the Gazette:

(a) revoke the appointment of the holder of a specified office as the Director of a health care agency and appoint the holder of another specified office as the Director; or

(b) revoke the appointment of the holder of a specified office as the Deputy Director of a health care agency and appoint the holder of another specified office as the Deputy Director or specify that there is to be no Deputy Director; or

(c) appoint the holder of a specified office as the Deputy Director of a health care agency for which no Deputy Director has been appointed.

(4) Section 221 (Duties of medical superintendent):

Omit “prescribed”, insert instead “approved by the Minister”.

(5) Section 302 (Regulations):

From section 302 (2) (1), omit “and such other forms as may be necessary or convenient for the administration of this Act”.

(6) Section 302A:

After section 302, insert:

Approved forms

302A. The Minister may approve such forms (other than prescribed forms required by this Act) as may be necessary or convenient for the administration of this Act.

COMMENCEMENT

The amendments to the Mental Health Act 1990 commence on a day or days to be appointed by proclamation.

TRANSITIONAL

A form prescribed under a provision of the Mental Health Act 1990 and in force immediately before the commencement of the amendment to that provision is taken to be an approved form under the provision as amended until a form is approved under that provision.

EXPLANATORY NOTE

Prescribed forms etc. (items (1) and (4)–(6))

The proposed amendments to sections 55, 59, 211, 212, 214 and 221 (items (1) and (4)) provide for certain forms and notices which are of a minor and machinery nature to be approved by the Minister rather than prescribed by the regulations. The

proposed amendment to section 302 (item (5)) is a consequential amendment. The proposed amendment to section 302A (item (6)) enables the Minister to approve forms that are necessary for the administration of the Act (such forms do not include the more significant forms that are required to be prescribed by the regulations).

Functions of Chief Health Officer (item (2))

At present, the Chief Health Officer is empowered (on the certification of 2 medical practitioners, one of whom is a psychiatrist, that a person is mentally ill or suffering from a mental condition for which treatment is available at a hospital) to order the transfer of the person to a hospital. The proposed amendments to sections 97 and 98 permit that power to be delegated.

Appointment of Directors etc. of health care agencies (item (3))

The proposed amendment to section 115 enables the separate appointment (or revocation of appointment) of Directors and Deputy Directors of health care agencies (at present, such appointments can be made only in the order which declares the particular health service to be a health care agency for the purposes of the Act).

MINING ACT 1992 No. 29

AMENDMENTS

(1) Sections 31, 49, 62 and 188 (Dwelling-houses, gardens and improvements):

From sections 31 (1) (a), 49 (1) (a), 62 (1) (a) and 188 (1) (a), omit "of its occupier", insert instead "of the occupier of the land".

(2) Section 128 (Appeals against cancellation):

After section 128 (1), insert:

(1A) Such an appeal is to be made:

(a) within 14 days after written notice of the cancellation, or of the Minister's decision with respect to compensation, is served on the holder of the authority; or

(b) within such further period as the District Court may allow.

(1B) In deciding whether or not to allow a further period for appeal, the District Court is to have regard to:

(a) the circumstances that have prevented the appellant from making the appeal within the 14 days referred to in subsection (1A) (a); and

(b) the consequences to the appellant, and to persons other than the appellant, of a decision allowing a further period for appeal; and

(c) the consequences to the appellant, and to persons other than the appellant, of a decision refusing a further period for appeal; and

(d) the public interest.

(3) Section 159 (Records):

Omit section 159 (1), insert instead:

(1) The Director-General is to cause to be kept a record of:

- (a) every application for an authority that is received by the Director-General; and
- (b) every authority granted, renewed, transferred or cancelled by the Director-General.

(4) Section 195 (Rights under mineral claim):

From section 195 (1) (c), omit “works”, insert instead “mining purposes”.

(5) Section 206 (Appeals against cancellation):

After section 206 (1), insert:

(1A) Such an appeal is to be made:

- (a) within 14 days after written notice of the cancellation, or of the Minister’s decision with respect to compensation, is served on the holder of the mineral claim; or
- (b) within such further period as the District Court may allow.

(1B) In deciding whether or not to allow a further period for appeal, the District Court is to have regard to:

- (a) the circumstances that have prevented the appellant from making the appeal within the 14 days referred to in subsection (1A) (a); and
- (b) the consequences to the appellant, and to persons other than the appellant, of a decision allowing a further period for appeal; and
- (c) the consequences to the appellant, and to persons other than the appellant, of a decision refusing a further period for appeal; and
- (d) the public interest.

(6) Section 218A:

After section 218, insert:

Records

218A. (1) A mining registrar is to cause to be kept a record of:

- (a) every application for a mineral claim that is received by the mining registrar; and
- (b) every mineral claim granted, renewed, transferred or cancelled by the mining registrar.

(2) Such a record must be kept in the form, and must contain the particulars, required by the Director-General.

(3) The record must be kept available at the mining registrar’s office for inspection, free of charge, by members of the public.

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- (7) Section 247 (Powers of inspectors):
Omit “works, operations, buildings” wherever occurring, insert instead “work, operation, building”.
- (8) Section 301 (Commencement of proceedings by summons):
From section 301 (3), omit “last known address”, insert instead “place of residence”.
- (9) Section 319 (Certain orders may be entered as judgments):
After “jurisdiction”, insert “, in accordance with the rules of the court in which the judgment is to be entered”.
- (10) Section 325 (Case stated for opinion of Supreme Court):
- (a) From section 325 (1), omit “determination or direction”, insert instead “decision”.
 - (b) From section 325 (1), omit “determination” where secondly occurring, insert instead “decision”.
- (11) Section 326 (Powers of Supreme Court on hearing a stated case):
From section 326 (1) (a), omit “determination or direction”, insert instead “decision”.
- (12) Section 330 (Contempt of court and penalties):
From section 330 (4), omit “bailiff or gaoler”, insert instead “person”.
- (13) Section 332 (Practice and procedure etc. of wardens’ courts):
After section 332 (f), insert:
- (g) the fees to be paid in connection with matters or proceedings in wardens’ courts.
- (14) Section 382 (Applications and tenders generally):
- (a) After “application” wherever occurring, insert “or tender”.
 - (b) After section 382 (1), insert:
(1A) If an approved form requires the form to be completed in a specified manner, or requires specified information to be included in, attached to or furnished with the form, the form is not duly completed unless it is completed in that manner and unless it includes, or has attached to it or furnished with it, that information.
- (15) Section 385 (Payment of compensation):
After “compensation”, insert “(other than compensation payable under an access arrangement or compensation payable under Part 13)”.

(16) Schedule 4 (Regulation making powers):

- (a) In clause 8, after “authorising the”, insert “postponement.”.
- (b) After clause 9, insert:

Aggregation of conditions of mining leases

9A. Providing for the aggregation of the labour or expenditure conditions of mining leases and the cancellation or variation of any such aggregation.

COMMENCEMENT

The amendments to the Mining Act 1992 commence on the date of assent to this Act.

EXPLANATORY NOTE**Occupiers of land (item (1))**

The proposed amendments to sections 31, 49, 62 and 188 make it clear that a reference in those sections to an occupier is a reference to an occupier of the land, rather than of a dwelling-house on the land, referred to in those provisions.

Period for appeals (items (2) and (5))

The proposed amendments to sections 128 and 206 restrict to 14 days (or such longer period as the District Court may allow) the period within which an appeal against the cancellation of an authority or mineral claim, or of a decision as to the compensation payable as a consequence of the cancellation of an authority or mineral claim, may be made to the District Court.

Records relating to authorities (item (3))

The proposed amendment to section 159 extends the obligation of the Director-General of the Department of Mineral Resources to keep records with respect to authorities to include an obligation to keep records with respect to applications for authorities.

Carrying out of mining purposes (item (4))

The proposed amendment to section 195 restricts the rights of the holder of a mineral claim to the carrying out of mining purposes, rather than works generally, on the land to which the mineral claim relates.

Records relating to mineral claims (item (6))

The proposed amendment inserts section 218A which is a record-keeping provision with respect to mineral claims and is in the same form as the record-keeping provision (section 159) with respect to authorities.

Statute law revision (item (7))

The proposed amendment to section 247 merely improves the grammar of the amended provision.

Service of summons (item (8))

The proposed amendment to section 301 requires a summons commencing proceedings on a complaint to be served at the defendant's place of residence rather than at his or her last known address. If the defendant's place of residence is different from his or her last known address, a warden may authorise substituted service.

Rules of court concerning orders of warden's court (item (9))

The proposed amendment to section 319 ensures that a court may make rules with respect to the entry in that court, as judgments of that court, of orders of a warden's court for the payment of money.

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Stated cases from warden's court (items (10) and (11))

The proposed amendments to sections 325 and 326 ensure that any decision of a warden's court may be the subject of a stated case to the Supreme Court on a point of law.

Compliance with warrants issued by warden's court (item (12))

The proposed amendment to section 330 requires any person to whom a warrant issued in respect of a contempt of a warden's court is addressed to obey the warrant.

Rules concerning fees in wardens' courts (item (13))

The proposed amendment to section 332 ensures that rules may be made as to the fees to be paid in connection with matters or proceedings in wardens' courts.

Tenders (item (14))

The proposed amendments to section 382 ensure that tenders under the Act must be in an approved form and insert a provision similar to section 80 of the Interpretation Act 1987 (which provides for the manner in which forms prescribed by an Act must be complied with) so that the same requirements will apply to forms approved under the Mining Act 1992.

Compensation (item (15))

The proposed amendment to section 385 ensures that the compensation required to be funded by Parliament does not include compensation payable under an access arrangement or compensation payable under Part 13 of the Act. In both cases, the compensation is paid by persons seeking to exercise rights under the Act.

Regulations (item (16))

The proposed amendments to Schedule 4 extend the matters with respect to which the Governor may make regulations to include the postponement of fees and charges and the aggregation of labour or expenditure conditions of mining leases and the cancellation or variation of any such aggregation.

MOTOR VEHICLE REPAIRS ACT 1980 No. 71

AMENDMENT

Section 18 (Refusal of application for grant of licence):

In section 18 (1) (a) and (b), after "fit" wherever occurring, insert "and proper".

COMMENCEMENT

The amendment to the Motor Vehicle Repairs Act 1980 commences on the date of assent to this Act.

EXPLANATORY NOTE

At present, section 18 provides that the Motor Vehicle Repair Industry Council must not grant a licence in respect of any class of repair work unless it is satisfied that, among other matters, the applicant is a fit person to hold a licence. The proposed amendment requires that the applicant for the licence be both fit and proper.

PHYSIOTHERAPISTS REGISTRATION ACT 1945 No. 9**AMENDMENTS****(1) Section 5 (Membership of the Board):**

From section 5 (2) (b) (ii), omit “Cumberland College of Health Sciences”, insert instead “Faculty of Health Sciences, University of Sydney”.

(2) Section 24A (Professional Standards Committees):

Omit section 24A (7), insert instead:

(7) A member of a Committee, while sitting on the Committee, is entitled to be paid by the Board in accordance with the regulations.

COMMENCEMENT

The amendments to the Physiotherapists Registration Act 1945 commence on the date of assent to this Act.

SAVINGS

A physiotherapist who, having been nominated by the Cumberland College of Health Sciences, was a member of the Physiotherapists Registration Board immediately before the commencement of the amendment to section 5 made by this Act is, after that commencement, taken to have been nominated by the Faculty of Health Sciences, University of Sydney.

EXPLANATORY NOTE**Faculty of Health Sciences (item (1))**

The proposed amendment replaces a reference to the Cumberland College of Health Sciences with a reference to the Faculty of Health Sciences of the University of Sydney as a consequence of the College's becoming a part of the University.

Remuneration of member of Professional Standards Committee (item (2))

The proposed amendment is similar to the amendment to the Podiatrists Act 1989 set out elsewhere in this Schedule and provides for a member of a Professional Standards Committee established by the Physiotherapists Registration Board to be paid in accordance with the regulations.

PODIATRISTS ACT 1989 No. 23**AMENDMENT****Section 21 (Professional Standards Committees):**

Omit section 21 (7), insert instead:

(7) A member of a Committee, while sitting on the Committee, is entitled to be paid by the Board in accordance with the regulations.

COMMENCEMENT

The amendment to the Podiatrists Act 1989 commences on the date of assent to this Act.

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EXPLANATORY NOTE

At present, a member of a Professional Standards Committee (which may be established by the Podiatrists Registration Board for such purposes as the investigation of complaints and the taking of disciplinary action against registered podiatrists) is entitled to be paid by the Board at the same rate as a witness who gives expert evidence in the Supreme Court. The proposed amendment, which provides instead for a member to be paid in accordance with the regulations, makes the section consistent with similar provisions relating to the payment of members of Professional Standards Committees under the Nurses Act 1991 and the Chiropractors and Osteopaths Act 1991.

POLICE REGULATION (SUPERANNUATION) ACT 1906 No. 28

AMENDMENT

Section 1A (Closure of Fund to police employed on or after 1 April 1988):

At the end of section 1A, insert:

(2) This Act is taken to have applied to a member of the police force who is a member of a class prescribed for the purposes of subsection (1) (c), and who contributed to the Fund before the regulation prescribing the class commenced, on and from the date prescribed by the regulation.

(3) The date that is prescribed by the regulation may be a date that is earlier than the date the regulation commenced.

COMMENCEMENT

The amendment to the Police Regulation (Superannuation) Act 1906 commences on the date of assent to this Act.

TRANSITIONAL

The class of members consisting of the persons set out below is taken, on and from 25 March 1988, to be contributors, and to have been entitled to contribute, to the Fund:

Robert Allan Shankleton—Registered No 24929

Shaun Patrick Moloney—Registered No 25077

Jennifer Louise Cullane—Registered No 25777

EXPLANATORY NOTE

Section 1A enables regulations to be made prescribing classes of police officers to whom the Act is to apply. If the Act is applied to a police officer, the police officer becomes a member of the Police Superannuation Scheme established by the Act. The proposed amendment makes it clear that a regulation may apply the Act to any such person for a period before the regulation is made.

The proposed transitional provision validates the membership in the Scheme of 3 police officers who have been contributing to the Scheme. An administrative delay meant that these officers were not sworn in as probationary constables until after the closure of the Scheme on 1 April 1988.

PSYCHOLOGISTS ACT 1989 No. 51**AMENDMENTS****(1) Section 4 (Use of title etc. of psychologist):**

Omit section 4 (2) and (3), insert instead:

(2) Nothing in this section operates to restrict a registered medical practitioner in the practice of medicine.

(2) Section 21 (Professional Standards Committees):

Omit section 21 (7), insert instead:

(7) A member of a Committee, while sitting on the Committee, is entitled to be paid by the Board in accordance with the regulations.

COMMENCEMENT

Item (1) of the amendments to the Psychologists Act 1989 commences on a day to be appointed by proclamation.

Item (2) of the amendments to that Act commences on the date of assent to this Act.

EXPLANATORY NOTE**Use of title of psychologist (item (1))**

At present, section 4 (1) prohibits a person other than a registered psychologist (or a corporation employing only registered psychologists to perform the work of psychologists) from using any title etc. suggesting that the person practises (or is qualified to practise) psychology. Section 4 (2) currently exempts registered medical practitioners from that prohibition. The proposed amendment repeals the blanket exemption and provides instead that the prohibition does not operate to restrict a medical practitioner in the practice of medicine. It also repeals section 4 (3), the provisions of which are spent.

Remuneration of Committee members (item (2))

The proposed amendment is similar to the amendment to the Podiatrists Act 1989 set out elsewhere in this Schedule and provides for a member of a Professional Standards Committee established by the Psychologists Registration Board to be paid in accordance with the regulations.

**PUBLIC AUTHORITIES (FINANCIAL ARRANGEMENTS) ACT 1987
No. 33****AMENDMENTS****(1) Section 40:**

Omit the section, insert instead:

Delegation of Treasurer's functions

40. The Treasurer may delegate to a Minister any of the functions of the Treasurer under this Act (other than this power of delegation).

(2) Schedule 1 (Authorities):

Omit "Grain Handling Authority of New South Wales."

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COMMENCEMENT

The amendments to the Public Authorities (Financial Arrangements) Act 1987 commence on the date of assent to this Act.

EXPLANATORY NOTE

Delegation of Treasurer's functions (item (1))

At present, section 40 provides that the Treasurer may delegate to a person the Treasurer's functions under the Act concerning the giving of approvals to authorities to obtain financial accommodation, to effect a financial adjustment or to engage a funds manager. The proposed substitution of the section enables the Treasurer to delegate any of the Treasurer's functions under the Act (other than the power of delegation) but the delegation may only be to a Minister.

Statute law revision (item (2))

The proposed amendment removes an obsolete reference to the Grain Handling Authority of New South Wales from the Schedule of authorities.

SUPREME COURT ACT 1970 No. 52

AMENDMENTS

(1) Section 37 (Acting Judges):

(a) Omit section 37 (2), insert instead:

(2) In subsection (1) "qualified person" means any of the following persons:

- (a) a person qualified for appointment as a Judge of the Supreme Court of New South Wales;
- (b) a person who is or has been a judge of the Federal Court of Australia;
- (c) a person who is or has been a judge of the Supreme Court of another State or Territory.

(b) After section 37 (4), insert:

(4A) A person who is or has been a judge of the Federal Court of Australia or of the Supreme Court of another State or Territory may be so appointed even though that person has reached the age of 72 years (or will have reached that age before the appointment expires) but may not be so appointed for any period that extends beyond the day on which he or she reaches the age of 75 years.

(2) Section 101 (Appeal in proceedings in the Court):

- (a) In section 101 (2) (h), after "pursuant to", insert "section 104,".
- (b) From section 101 (2) (i), omit "or" where secondly occurring.

(c) At the end of section 101 (2) (j), insert:

;

(k) a judgment or order of the Court in a Division on an appeal under section 42 of the Registered Clubs Act 1976; or

(l) a judgment or order of the Court in a Division on an application for summary judgment under the rules.

COMMENCEMENT

Item (1) of the amendments to the Supreme Court Act 1970 commences on the date of assent to this Act.

Item (2) of the amendments to that Act commences on a day to be appointed by proclamation.

TRANSITIONAL

The amendments to section 101 of the Supreme Court Act 1970 apply to an application under section 104 of the Justices Act 1902, an appeal under section 42 of the Registered Clubs Act 1976 or an application for summary judgment under the Supreme Court Rules 1970, whether made before or after the commencement of the amendments, but do not apply to such an application or appeal that has been commenced before, and completed by, the Court in a Division before the commencement of the amendments.

EXPLANATORY NOTE

Acting Judges (item (1))

Section 37 of the Supreme Court Act 1970 provides for the appointment of persons as acting Judges of the Supreme Court of New South Wales for up to 12 months. Currently, the only persons qualified to be appointed are judges of the Industrial Court and barristers and solicitors of a certain number of years standing.

The proposed amendments to section 37 include judges and former judges of the Federal Court of Australia or of the Supreme Court of another State or Territory as persons qualified to be appointed as acting Judges. Such a judge may be appointed as an acting Judge even after he or she has reached the age of 72 years but may not be appointed for any period extending beyond his or her 75th birthday.

Appeals to Court of Appeal (item (2))

The proposed amendments provide that certain appeals (that presently lie to the Court of Appeal as of right) lie to the Court of Appeal only by leave. Three classes of appeals are affected. These are:

- Appeals against an opinion, decision, direction or determination of a Judge of the Supreme Court on an application under section 104 of the Justices Act 1902. Section 104 is one of a number of provisions in the Justices Act 1902 dealing with cases stated to the Supreme Court and provides that if a Magistrate refuses to state a case (because, in the Magistrate's view, the application is frivolous), the applicant may appeal to the Supreme Court. It is proposed that if a Judge of the Supreme Court refuses to uphold an appeal to direct a Magistrate to state a case (because the Judge agrees with the correctness of the Magistrate's ruling that the application was frivolous), the unsuccessful applicant may appeal

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to the Court of Appeal only with leave. As the leave of the Court of Appeal is required in respect of appeals arising from related provisions of the Justices Act 1902 and, in particular, appeals dealing with the substantive determination of stated cases, the proposed amendments place appeals from applications under section 104 in a consistent position with those other appeals.

- Appeals against a judgment or order of a Judge of the Supreme Court on an appeal under section 42 of the Registered Clubs Act 1976. Section 42 confers on a person aggrieved by a decision of the Licensing Court a right to appeal to the Supreme Court on a question of law. The section is similar to section 146 of the Liquor Act 1982 and appeals from a Division of the Supreme Court to the Court of Appeal under that section lie only with the leave of the Court of Appeal.
- Appeals against a judgment or order of a Judge or Master of the Supreme Court on an application for summary judgment under the Supreme Court Rules 1970. The rules permit a Judge or Master to make an order for summary judgment in favour of a plaintiff when the Judge or Master is satisfied that the defendant has no arguable case and, as between plaintiff and defendant, there is no triable issue.

UNIVERSITY OF WESTERN SYDNEY ACT 1988 No. 90
AMENDMENTS**Section 9 (The Board):**

(a) Omit section 9 (5) (a), insert instead:

(a) 4 must, in the opinion of the Minister:

- (i) have expertise in an academic discipline taught by the University; or
- (ii) be practising, or have practised, a profession; or
- (iii) have such other qualifications and experience as the Minister thinks appropriate; and

(b) Omit section 9 (6) (c), insert instead:

(c) 2 persons:

- (i) 1 of whom is an undergraduate student of the University and 1 of whom is a postgraduate student of the University but neither of whom is a member of the academic or non-academic staff of the University; and
- (ii) who have such qualifications as may be prescribed by the by-laws; and
- (iii) who are elected by the students of the University in the manner prescribed by the by-laws.

COMMENCEMENT

The amendments to the University of Western Sydney Act 1988 commence on a day to be appointed by proclamation.

EXPLANATORY NOTE**Removal of nominees of Senate of University of Sydney from Board of Governors (item (a))**

At present, section 9 provides that 4 of the appointed members of the Board of Governors of the University of Western Sydney are to be nominees of the Senate of the University of Sydney. The proposed amendment replaces this requirement with a requirement that 4 of the appointed members of the Board be persons who have, in the Minister's opinion, expertise in an academic discipline taught by the University or who practise, or have practised, a profession or who have, in the Minister's view, other appropriate qualifications or experience.

Election of both undergraduate and postgraduate students to Board of Governors (item (b))

At present, section 9 provides that the elected members of the Board of Governors of the University are to include a student of the University who is not a member of its academic or non-academic staff. The proposed amendment replaces this requirement with a requirement that the elected members of the Board include both an undergraduate student and a postgraduate student of the University, neither of whom is to be a member of the University's academic or non-academic staff.

VALUATION OF LAND ACT 1916 No. 2
AMENDMENTS**(1) Section 3 (Division into Parts):**

Omit the section.

(2) Part 4, heading:

Omit the heading, insert instead:

**PART 4—APPEALS TO THE LAND AND ENVIRONMENT
COURT**

(3) Section 38 (Appeals to the Court):

Omit section 38 (1), insert instead:

(1) An objector or other person referred to in section 35 (1) who is dissatisfied with the decision of the Valuer-General on an objection made to the Valuer-General under Part 3 may, within the time and in the manner provided by the rules of the Court, appeal to the Court against that decision.

REPEAL OF REGULATION

Clause 9 of the Valuation of Land Regulation 1991 is repealed.

COMMENCEMENT

The amendments to the Valuation of Land Act 1916 and to the Valuation of Land Regulation 1991 commence on the date of assent to this Act.

TRANSITIONAL

The amendment to section 38 extends to decisions made by the Valuer-General before the commencement of that amendment.

An objection referred to the Land and Environment Court and not disposed of before the commencement of the amendment is to be treated as an appeal under that section, as amended.

EXPLANATORY NOTE

Statute law revision (item (1))

The proposed amendment omits matter which is now contained in the table of provisions.

Appeals (items (2) and (3))

At present, section 38 (1) provides that a person who has objected to a valuation made by the Valuer-General (or any other person who is entitled to a notice of valuation under section 29) and is dissatisfied with the decision of the Valuer-General on the objection may require the Valuer-General to refer the objection to the Land and Environment Court. The proposed amendment substitutes an entitlement for the person to appeal directly to the Court.

A consequential amendment to the Land and Environment Court Act 1979 is made elsewhere in this Schedule.

VALUERS REGISTRATION ACT 1975 No. 92
AMENDMENTS

(1) Section 14 (Application for registration as associate real estate valuer):

From section 14 (b), omit “prescribed”, insert instead “approved by the Minister”.

(2) Section 15A (Application for registration as non-practising real estate valuer):

From section 15A (b) (i), omit “prescribed”, insert instead “approved by the Minister”.

REPEAL OF REGULATION

Clause 5 of the Valuers Registration Regulation is repealed.

COMMENCEMENT

The amendments to the Valuers Registration Act 1975 and to the Valuers Registration Regulation commence on the date of assent to this Act.

TRANSITIONAL

A course of study which was prescribed for the purposes of section 14 or 15A immediately before the date of assent to this Act is taken to be a course of study approved by the Minister under section 14 or 15A, as amended, until a course of study is so approved by the Minister.

EXPLANATORY NOTE

The proposed amendments provide for courses of study (which are required to be completed by a person applying for registration as an associate real estate valuer or non-practising real estate valuer) to be approved by the Minister rather than prescribed by the regulations.

It is proposed that the courses of study to be approved by the Minister will include courses that were prescribed for the purposes of sections 14 and 15A immediately before the commencement of the proposed amendments and that, if commenced before 1 January 1988 and completed by 1 January 1994, entitle an applicant who also satisfies the other requirements of the relevant section to registration under that section.

VICTIMS COMPENSATION ACT 1987 No. 237
AMENDMENT

Sections 65F, 65FA:

Omit section 65F, insert instead:

Victims Compensation Fund

65F. (1) There is established in the Special Deposits Account an account to be called the Victims Compensation Fund.

(2) The corporation constituted under section 65FA has the control and management of the Compensation Fund and the assets of the Compensation Fund are vested in the corporation.

(3) The corporation may invest money:

- (a) in such manner as may be authorised by the Public Authorities (Financial Arrangements) Act 1987; or
- (b) if that Act does not confer power on the corporation to invest money—in securities in which trustees are by law authorised to invest.

Victims Compensation Fund Corporation

65FA. (1) There is constituted by this section a corporation with the corporate name of the "Victims Compensation Fund Corporation".

(2) The affairs of the corporation are to be managed by the Director-General of the Attorney General's Department.

(3) Any act, matter or thing done in the name of, or on behalf of, the corporation by the Director-General, or with the authority of the Director-General, is taken to have been done by the corporation.

COMMENCEMENT

The amendment to the Victims Compensation Act 1987 commences on the date of assent to this Act.

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VALIDATION

The control and management of the assets of the Victims Compensation Fund by the Director-General of the Attorney General's Department from 1 July 1991 until the date of assent to this Act is validated.

EXPLANATORY NOTE

At present, section 65F provides that the corporation sole established under the Sutors' Fund Act 1951 has the control and management of the Victims Compensation Fund established under the Victims Compensation Act 1987. Due to administrative changes, the Sutors' Fund Act 1951 is now administered through the Department of Courts Administration and the corporation sole for the purposes of that Act is the Director-General of the Department of Courts Administration. The administration of the Victims Compensation Act 1987 lies with the Attorney General. The proposed amendment constitutes the Victims Compensation Fund Corporation, under the management of the Director-General of the Attorney General's Department, as a corporation for the purposes of the exercise of functions connected with the Victims Compensation Fund. The control and management of the assets of the Victims Compensation Fund by the Director-General of the Attorney General's Department since the split in the administration of the former Attorney General's Department is validated.

**VOCATIONAL EDUCATION AND TRAINING ACCREDITATION
ACT 1990 No. 120**

AMENDMENT

Section 20 (Register of accredited courses and education or training providers):

At the end of the section, insert:

- ;
- (d) such other matters as the Board may determine.

COMMENCEMENT

The amendment to the Vocational Education and Training Accreditation Act 1990 commences on the date of assent to this Act.

EXPLANATORY NOTE

At present, section 20 provides that the Vocational Education and Training Accreditation Board is to maintain a register in which are recorded the name and address of each education and training provider conducting accredited vocational courses, the title of each accredited vocational course conducted and the address at which the providers conduct those courses. The proposed amendment enables the Board to determine that additional matters are to be recorded in the register.

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

(Sec. 3)

ANATOMY ACT 1977 No. 126

AMENDMENTS

(1) Section 4 (Definitions):

(a) Insert in section 4 (1), in alphabetical order:

“Director-General” means the Director-General of the
Department of Health;

(b) From paragraph (d) of the definition of “hospital” in section 4 (1), omit “Private Hospitals Act, 1908”, insert instead “Private Hospitals and Day Procedure Centres Act 1988”.

(c) From section 4 (1), omit the definition of “Secretary”.

(2) The whole Act:

Omit “Secretary” wherever occurring, insert instead
“Director-General”.

(3) Section 16 (Proceedings for offences):

Omit “court of petty sessions constituted by a stipendiary
magistrate”, insert instead “Local Court constituted by a
Magistrate”.

COMMENCEMENT

The amendments to the Anatomy Act 1977 commence on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendments to section 4 insert a definition of “Director-General” (item 1 (a)) and omit the definition of “Secretary” (item 1 (c)) while the proposed amendments to the whole Act (item 2)) replace the references to the Secretary of the Department of Health with references to the Director-General of the Department.

The proposed amendment to the definition of “hospital” in section 4 (item 1 (b)) updates a reference to an Act.

The proposed amendment to section 16 (item 3)) updates a reference to a court.

ASSOCIATIONS INCORPORATION ACT 1984 No. 143

AMENDMENT

Schedule 2 (Provisions relating to property, liabilities etc. of
incorporated associations):

Omit clause 4.

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COMMENCEMENT

The amendment to the Associations Incorporation Act 1984 is taken to have commenced on 1 August 1992 (the date of commencement of the Associations Incorporation (Amendment) Act 1992).

EXPLANATORY NOTE

The proposed amendment omits a provision that has become unnecessary because of amendments to Schedule 2 made by the Associations Incorporation (Amendment) Act 1992.

AUCTIONEERS AND AGENTS ACT 1941 No. 28

AMENDMENT

Section 38E (Qualifications and duties of auditors):

From section 38E (1) (a), omit "Companies (New South Wales) Code", insert instead "Corporations Law".

COMMENCEMENT

The amendment to the Auctioneers and Agents Act 1941 commences on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendment updates a reference to the law relating to corporations in consequence of the enactment of the Corporations (New South Wales) Act 1990.

BUSH FIRES ACT 1949 No. 31

AMENDMENTS

(1) **Section 6 (Definitions):**

From paragraph (c) of the definition of "Officer" in section 6, omit " , or the senior deputy,".

(2) **Section 22 (Powers of bush fire brigade officers):**

From section 22 (1), omit "or senior deputy group captain".

COMMENCEMENT

The amendments to the Bush Fires Act 1949 commence on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendments omit references to an obsolete rank in the bush fire brigades.

FISHERIES AND OYSTER FARMS ACT 1935 No. 58**AMENDMENTS**

(1) Section 4 (Definitions):

From section 4 (1), omit the definition of "Director-General", insert instead:

"Director" means the Director of NSW Fisheries.

(2) The whole Act:

Omit "Director-General" and "Director of Fisheries, Department of Agriculture and Fisheries" wherever occurring, insert instead "Director".

(3) Section 8A (Delegation of powers etc. by Minister and Director):

From section 8A (1), omit "the Department of Agriculture", insert instead "NSW Fisheries".

(4) Section 17M (Functions of Regional Advisory Committees):

From section 17M (c), omit "the Fisheries Division of the Department of Agriculture and Fisheries", insert instead "NSW Fisheries".

(5) Section 41A (Fish Marketing Authority):

From section 41A (3A), omit "the Department of Agriculture", insert instead "NSW Fisheries".

COMMENCEMENT

The amendments to the Fisheries and Oyster Farms Act 1935 commence on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendments revise references to the Director-General of the Department of Agriculture and Fisheries and the Fisheries Division of the Department of Agriculture and Fisheries to the Director of NSW Fisheries and NSW Fisheries respectively.

IRRIGATION ACT 1912 No. 73**AMENDMENTS**

(1) Section 5G:

Omit the section, insert instead:

Acquisition of land

5G. (1) The Ministerial Corporation may, for the purposes of the constitution, or alteration, of an irrigation area, acquire land

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(including an interest in land) by agreement or by compulsory process in accordance with the Land Acquisition (Just Terms Compensation) Act 1991.

(2) For the purposes of the Public Works Act 1912, any such acquisition of land is taken to be for an authorised work and the Ministerial Corporation is, in relation to that authorised work, taken to be the Constructing Authority.

(2) Section 20A (Sale of lands not required):

- (a) After “this Act,”, insert “or acquired by agreement or by compulsory process under this Act,”.
- (b) Omit “or appropriated” where secondly occurring, insert instead “appropriated or acquired”.
- (c) Omit “, and any such appropriation may be revoked by notification in the Gazette”.
- (d) Omit “or appropriation”, insert instead “, appropriation or acquisition”.

COMMENCEMENT

The amendments to the Irrigation Act 1912 commence on the date of assent to this Act.

TRANSITIONAL

The amendments to the Irrigation Act 1912 do not apply to an acquisition of land to which the provisions of the Land Acquisition (Just Terms Compensation) Act 1991 do not apply by virtue of clause 2 of Schedule 3 to that Act.

EXPLANATORY NOTE

The Irrigation Act 1912 contains provisions relating to the acquisition of land by way of resumption or appropriation under the Public Works Act 1912. The Land Acquisition (Just Terms Compensation) Act 1991 (which commenced on 1 January 1992) applies to any compulsory acquisition of land under the Irrigation Act 1912 (or any other Act) even though the Act continues to refer to the superseded provisions of the Public Works Act 1912. The Land Acquisition (Just Terms Compensation) Act 1991 does not change the purposes for which land may be compulsorily acquired under the Irrigation Act 1912 (or under any other Act that provides for compulsory acquisition of land by a public authority). It provides only the procedure for acquisition and the payment of compensation.

The proposed amendments merely update the Act to replace superseded references to the Public Works Act 1912 in relation to the compulsory acquisition of land by the Minister and omit unnecessary matter.

LOTTO ACT 1979 No. 53**AMENDMENTS**

Section 13A (Agreements with interstate authorities):

- (a) From section 13A (1) (a), omit “promotion and”.
- (b) From section 13A (2), omit “promote or” wherever occurring.

COMMENCEMENT

The amendments to the Lotto Act 1979 commence on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendments omit words that are unnecessary because of the definition of “conduct” in the Act.

MARITIME SERVICES ACT 1935 No. 47**AMENDMENTS**

- (1) Section 13YB (Land vested in Board taken to be Crown land for certain purposes):
 - From section 13YB, omit “Petroleum Act 1955”, insert instead “Petroleum (Onshore) Act 1991”.
- (2) Section 13YC (Grant of rights of way under the Petroleum (Onshore) Act 1991):
 - (a) From section 13YC (1), omit “section 55 (1) (a) of the Mining Act 1973 and section 40 of the Petroleum Act 1955 do”, insert instead “section 106 of the Petroleum (Onshore) Act 1991 does”.
 - (b) Omit section 13YC (2) (a), insert instead:
 - (a) application is made under section 106 of the Petroleum (Onshore) Act 1991 for a right of way;
 - (c) From section 13YC (2) (c), omit “lease, licence, easement or” wherever occurring.
 - (d) From section 13YC (2) (c) (i), omit “lease, easement or”.
- (3) Section 13Z (Leases and licences under Mining Act 1992 and Petroleum (Onshore) Act 1991):
 - From section 13Z (1), omit “Mining Act 1973, Coal Mining Act 1973 or the Petroleum Act 1955”, insert instead “Mining Act 1992 or the Petroleum (Onshore) Act 1991”.

COMMENCEMENT

The amendments to the Maritime Services Act 1935 commence on the date of assent to this Act.

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EXPLANATORY NOTE

The proposed amendments are consequential on the repeal of the Mining Act 1973, the Coal Mining Act 1973 and the Petroleum Act 1955 and omit references to interests which existed under the repealed legislation but for which no provision is made in the Petroleum (Onshore) Act 1991 or the Mining Act 1992.

PETROLEUM (ONSHORE) ACT 1991 No. 84

AMENDMENTS

(1) Sections 112–114:

Omit “Mining Act 1973” wherever occurring, insert instead “Mining Act 1992”.

(2) Section 114 (Wardens’ courts):

Omit “Part 9”, insert instead “Part 15”.

COMMENCEMENT

The amendments to the Petroleum (Onshore) Act 1991 commence on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendments update references to an Act and a Part of an Act that has been repealed.

POISONS ACT 1966 No. 31

AMENDMENTS

Section 6 (Poisons Advisory Committee):

- (a) From section 6 (2) (e), omit “State Pollution Control Commission”, insert instead “Environment Protection Authority”.
- (b) From section 6 (2) (e), omit “Minister for Planning and Environment”, insert instead “Minister for the Environment”.
- (c) From section 6 (2) (f), omit “Department of Industrial Relations and Employment”, insert instead “WorkCover Authority”.
- (d) In section 6 (3) (d), after “Proprietary” insert “Medicines”.

COMMENCEMENT

The amendments to the Poisons Act 1966 commence on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendments update references.

PUBLIC SECTOR MANAGEMENT ACT 1988 No. 33**AMENDMENTS****(1) Schedule 2 (Administrative offices):**

From the matter relating to the Ethnic Affairs Commission, omit "Chairman of the Commission", insert instead "Chairperson of the Commission".

(2) Schedule 3A (Chief executive positions):

From Part 2, omit "Chairman of the Ethnic Affairs Commission", insert instead "Chairperson of the Ethnic Affairs Commission".

COMMENCEMENT

The amendments to the Public Sector Management Act 1988 commence on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendments are consequential on an amendment to the Ethnic Affairs Commission Act 1979 made in Schedule 1.

RESIDENTIAL TENANCIES ACT 1987 No. 26**AMENDMENT****Section 125 (Offences and penalties):**

Omit section 125 (3).

COMMENCEMENT

The amendment to the Residential Tenancies Act 1987 commences on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendment omits a provision that has been superseded by section 56 of the Interpretation Act 1987.

SOIL CONSERVATION ACT 1938 No. 10**AMENDMENT****Section 25B (Easements etc.):**

Omit "vested in the Crown", insert instead "acquired by the Minister".

COMMENCEMENT

The amendment to the Soil Conservation Act 1938 commences on the date of assent to this Act.

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EXPLANATORY NOTE

The proposed amendment makes the language of section 25B consistent with other provisions amended in consequence of the enactment of the Land Acquisition (Just Terms Compensation) Act 1991.

**STATUTE LAW (MISCELLANEOUS PROVISIONS) ACT 1991 No. 17
AMENDMENT**

Schedule 1 (Minor amendments):

Omit the matter relating to the Albury-Wodonga Development Act 1974.

COMMENCEMENT

The amendment to the Statute Law (Miscellaneous Provisions) Act 1991 commences on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendment omits uncommenced provisions relating to the constitution and procedure of the Albury-Wodonga (New South Wales) Corporation which are no longer of practical utility because other provisions have been substituted by the Albury-Wodonga Development (Amendment) Act 1991.

TOBACCO ADVERTISING PROHIBITION ACT 1991 No. 65

AMENDMENT**Section 4 (Definitions):**

Omit the definitions of “banned contract”, “banned sponsorship” and “benefit”.

COMMENCEMENT

The amendment to the Tobacco Advertising Prohibition Act 1991 commences on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendment omits unnecessary definitions.

TOTALIZATOR (OFF-COURSE BETTING) ACT 1964 No. 1**AMENDMENT**

Section 17 (Provisions relating to the betting operations of the Board):

From section 17 (1AB), omit “sections 40 (2) and 64 (4) of the Liquor Act 1912”, insert instead “section 101 (1) (c)–(e) of the Liquor Act 1982”.

COMMENCEMENT

The amendment to the Totalizator (Off-course Betting) Act 1964 commences on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendment updates references.

TRAVEL AGENTS ACT 1986 No. 5**AMENDMENT**

Section 46 (Penalty units):

Omit the section.

COMMENCEMENT

The amendment to the Travel Agents Act 1986 commences on the date of assent to this Act.

EXPLANATORY NOTE

The proposed amendment omits a superfluous provision dealing with penalty units. This matter is now dealt with by section 56 of the Interpretation Act 1987.

SCHEDULE 3—REPEALS

(Sec. 4)

Australian Red Cross Society New South Wales Division Incorporation Act 1929 No. 62**

Australian Red Cross Society New South Wales Division Incorporation (Amendment) Act 1943 No. 10**

National Crime Authority (State Provisions) Amendment Act 1988 No. 68*

Consumer Claims Tribunals (Building Disputes) Amendment Act 1989 No. 148*

Independent Commission Against Corruption (Amendment) Act 1991 No. 54*

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National Parks and Wildlife (Karst Conservation) Amendment Act 1991 No. 55*

Stamp Duties (Amendment) Act 1991 No. 93*

Associations Incorporation (Amendment) Act 1992 No. 4*

Note:

* indicates repeal of amending Act the provisions of which 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 practical utility

COMMENCEMENT

This Schedule commences on the date of assent to this Act.

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.

SCHEDULE 4—GENERAL SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

(Sec. 5)

Effect of amendment of amending provisions

1. (1) An amendment made by Schedule 1 or 2 to an amending provision contained in an Act is, if the amending provision has commenced before the date of assent to this Act, 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 to 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

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- (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) and rectifying minor drafting defects (for example, corrections in numbering of provisions, correction or insertion of cross-references, omission of unnecessary matter or insertion of omitted matter) 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.

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.

Repeal of Australian Red Cross Society New South Wales Division Incorporation Act 1929

3. (1) In this clause:

“Corporation” means the body incorporated by the Australian Red Cross Society New South Wales Division Incorporation Act 1929;

“Society” means the Australian Red Cross Society incorporated by Royal Charter.

(2) On the date of the repeal of the Australian Red Cross Society New South Wales Division Incorporation Act 1929, the following provisions have effect:

- (a) the assets, if any, of the Corporation vest in the Society by virtue of this clause and without the need for any conveyance, transfer, assignment or assurance;
- (b) the rights and liabilities of the Corporation become by virtue of this clause the rights and liabilities of the Society;
- (c) all proceedings pending by or against the Corporation are taken to be proceedings pending by or against the Society;

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- (d) any act, matter or thing done or omitted by, to or in respect of the Corporation is (to the extent that that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the Society;
- (e) a reference in any Act, in any instrument made under an Act or in any document of any kind to the Corporation is to be read as a reference to the Society.
- (3) The operation of this section is not to be regarded:
 - (a) as a breach of contract or confidence or otherwise as a civil wrong; or
 - (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities; or
 - (c) as giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability.
- (4) The operation of this section is not to be regarded as an event of default under any contract or other instrument.
- (5) No attornment to the Society by a lessee from the Corporation is required.

EXPLANATORY NOTE

This clause ensures that, on the repeal of the Australian Red Cross New South Wales Division Incorporation Act 1929 on the date of assent to this Act, the Australian Red Cross Society incorporated by Royal Charter is for all purposes substituted for the dissolved Australian Red Cross Society New South Wales Division.

Regulations

- 4. (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 savings or transitional nature having a short term effect and 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

- Anatomy Act 1977 No. 126—Sch. 2
 Associations Incorporation Act 1984 No. 143—Sch. 2
 Auctioneers and Agents Act 1941 No. 28—Sch. 2
 Bush Fires Act 1949 No. 31—Sch. 2
 Catchment Management Act 1989 No. 235—Sch. 1
 Chiropractors and Osteopaths Act 1991 No. 7—Sch. 1
 Coal Industry Act 1946 No. 44—Sch. 1
 Community Justice Centres Act 1983 No. 127—Sch. 1
 Credit Act 1984 No. 94—Sch. 1
 Credit (Administration) Act 1984 No. 95—Sch. 1
 Electricity Act 1945 (1946 No. 13)—Sch. 1
 Ethnic Affairs Commission Act 1979 No. 23—Sch. 1
 Fisheries and Oyster Farms Act 1935 No. 58—Sch. 2
 Food Act 1989 No. 231—Sch. 1
 Funeral Funds Act 1979 No. 106—Sch. 1
 Grain Marketing Act 1991 No. 15—Sch. 1
 Irrigation Act 1912 No. 73—Sch. 2
 Jury Act 1977 No. 18—Sch. 1
 Land and Environment Court Act 1979 No. 204—Sch. 1
 Lotto Act 1979 No. 53—Sch. 2
 Maritime Services Act 1935 No. 47—Sch. 2
 Meat Industry Act 1978 No. 54—Sch. 1
 Mental Health Act 1990 No. 9—Sch. 1
 Mining Act 1992 No. 29—Sch. 1
 Motor Vehicle Repairs Act 1980 No. 71—Sch. 1
 Petroleum (Onshore) Act 1991 No. 84—Sch. 2
 Physiotherapists Registration Act 1945 No. 9—Sch. 1
 Podiatrists Act 1989 No. 23—Sch. 1
 Poisons Act 1966 No. 31—Sch. 2
 Police Regulation (Superannuation) Act 1906 No. 28—Sch. 1
 Psychologists Act 1989 No. 51—Sch. 1
 Public Authorities (Financial Arrangements) Act 1987 No. 33—Sch. 1
 Public Sector Management Act 1988 No. 33—Sch. 2
 Residential Tenancies Act 1987 No. 26—Sch. 2
 Soil Conservation Act 1938 No. 10—Sch. 2
 Statute Law (Miscellaneous Provisions) Act 1991 No. 17—Sch. 2
 Supreme Court Act 1970 No. 52—Sch. 1
 Tobacco Advertising Prohibition Act 1991 No. 65—Sch. 2
 Totalizator (Off-course Betting) Act 1964 No. 1—Sch. 2
 Travel Agents Act 1986 No. 5—Sch. 2
 University of Western Sydney Act 1988 No. 90—Sch. 1
 Valuation of Land Act 1916 No. 2—Sch. 1
 Valuers Registration Act 1975 No. 92—Sch. 1
 Victims Compensation Act 1987 No. 237—Sch. 1
 Vocational Education and Training Accreditation Act 1990 No. 120—Sch. 1

Index of Acts repealed by Schedule 3

Associations Incorporation (Amendment) Act 1992 No. 4*
 Australian Red Cross Society New South Wales Division Incorporation Act
 1929 No. 62**
 Australian Red Cross Society New South Wales Division Incorporation
 (Amendment) Act 1943 No. 10**
 Consumer Claims Tribunals (Building Disputes) Amendment Act 1989 No.
 148**
 Independent Commission Against Corruption (Amendment) Act 1991 No. 54*
 National Crime Authority (State Provisions) Amendment Act 1988 No. 68*
 National Parks and Wildlife (Karst Conservation) Amendment Act 1991 No.
 55*
 Stamp Duties (Amendment) Act 1991 No. 93*

[*Minister's second reading speech made in—
 Legislative Assembly on 29 October 1992
 Legislative Council on 27 November 1992*]