

**STATUTE LAW (MISCELLANEOUS PROVISIONS) ACT 1992**  
**No. 34**

NEW SOUTH WALES



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**STATUTE LAW (MISCELLANEOUS PROVISIONS) ACT 1992**

**No. 34**

NEW SOUTH WALES



**Act No. 34, 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 18 May 1992]

**The Legislature of New South Wales enacts:**

**Short title**

1. This Act may be cited as the Statute Law (Miscellaneous Provisions) Act 1992.

**Commencement**

2. The provisions of this Act commence on the date of assent except as provided in a Schedule to this Act.

**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4 Each Act specified in Schedule 3 is repealed.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.

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**SCHEDULE 1—MINOR AMENDMENTS**

(Sec. 3)

**ANNUAL HOLIDAYS ACT 1944 No. 31**

**AMENDMENT**

**Section 9 (Employers to keep holiday record):**

From section 9, omit “in or to the effect of the form and containing the particulars prescribed”, insert instead “in a form approved by the Minister”.

**COMMENCEMENT**

The amendment to the Annual Holidays Act 1944 commences on the date of assent to this Act.

**EXPLANATORY NOTE**

The proposed amendment enables the form of holiday records to be kept by employers to be approved by the Minister instead of being prescribed by the regulations.

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**AUSTRALIAN JOCKEY CLUB ACT 1873****AMENDMENTS****(1) Section 12 (Committee may make by-laws):**

From section 12, omit “and the rates or charges to be paid for such admission”.

**(2) Section 23 (Committee may fix tolls and charges):**

(a) From section 23, omit “by any by-law to be made and come into operation as hereinbefore provided”.

(b) From section 23, omit ““prescribe”, insert instead “determine”.

**COMMENCEMENT**

The amendments to the Australian Jockey Club Act 1873 commence on the date of assent to this Act.

**TRANSITIONAL**

Until a determination of the scale of tolls and charges is made by the committee under section 23 of the Australian Jockey Club Act 1873, the scale of tolls and charges prescribed by the by-laws and in force immediately before the date of assent to this Act continues to apply.

**EXPLANATORY NOTE**

At present, sections 12 and 23 provide that the committee of the Australian Jockey Club may make by-laws prescribing rates, charges and tolls to be levied for admission to land vested in the chairman of the Club and to buildings erected on that land. Such by-laws must be submitted to the Governor for approval and are subject to repeal by order of the Governor in Council. A breach of a by-law constitutes an offence.

The proposed amendments have the effect of enabling the committee of the Australian Jockey Club to determine and vary admission charges without the necessity of making by-laws for this purpose.

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**BICENTENNIAL PARK TRUST ACT 1987 No. 29****AMENDMENT****Section 23 (Penalty notices for offences against regulations):**

Omit section 23 (3) and (4).

**COMMENCEMENT**

The amendment to the Bicentennial Park Trust Act 1987 commences on the date of assent to this Act.

**SAVING**

The amendment to the Bicentennial Park Trust Act 1987 does not affect the validity of a courtesy letter served or enforcement action taken (whether before or after the date of assent to this Act) under Part 4B of the Justices Act 1902 as regards an offence referred to in section 23 (1) of the Bicentennial Park Trust Act 1987.

**EXPLANATORY NOTE**

The purpose of the proposed amendment is to omit superfluous provisions. At present, section 23 (3) and (4) provide that a person served with a penalty notice may decline to be dealt with by penalty notice and that, if the person fails to pay the amount specified in the penalty notice, the person is taken to have so declined. Part 4B of the Justices Act 1902 provides a supplementary scheme (applying to penalty notices issued under specified Acts including the Bicentennial Park Trust Act 1987) that may be used in the event of non-payment of penalty notices. This scheme involves the service of a courtesy letter (giving a person who has not paid the amount specified in a penalty notice further time to pay the penalty) and, in the event of non-payment, follow-up enforcement action. A person served with a courtesy letter may decline to be dealt with under the Justices Act scheme.

The proposed amendment omits the references to declining to be dealt with from the Bicentennial Park Trust Act 1987 as unnecessary and makes the penalty notice provision consistent with various other Acts. The effect is that, in the case of a person who is alleged to have committed an offence for which a penalty notice may be issued, failure to pay the amount specified in the penalty notice may result in the service of a courtesy letter under the Justices Act scheme. The person may decline to be dealt with under that scheme and, if so, may then be dealt with by a court. If the Justices Act scheme is not invoked, the same result may ensue on non-payment of the penalty notice without the necessity for any express provision to this effect.

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**BREAD ACT 1969 No. 54****AMENDMENTS**

Sections 12 (**Bread manufacturers' licences**), 13 (**Operative bakers' certificates**):

From sections 12 (3) and 13 (3), omit "in or to the effect of the prescribed form" wherever occurring, insert instead "in a form approved by the Minister".

**COMMENCEMENT**

The amendments to the Bread Act 1969 commence on the date of assent to this Act.

**EXPLANATORY NOTE**

The proposed amendments enable the forms of applications for bread manufacturers' licences and operative bakers' certificates to be approved by the Minister instead of being prescribed by the regulations.

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**BUSH FIRES ACT 1949 No. 31****AMENDMENTS**(1) Section 6 (**Definitions**):

Insert in alphabetical order:

“**Approved form**” means a form approved for the time being by the Minister.

(2) Section 7 (**Bush fire danger period**):

From section 7 (6) (b), omit “prescribed form”, insert instead “approved form”.

(3) Section 34 (**Determination of contributions of insurance companies**):

From section 34 (2), omit “prescribed form” wherever occurring, insert instead “approved form”.

**COMMENCEMENT**

The amendments to the Bush Fires Act 1949 commence on a day to be appointed by proclamation.

**EXPLANATORY NOTE**

The proposed amendments remove from the Bush Fires Act 1949 the requirement that certain forms be prescribed by the regulations and provide instead for those forms to be approved by the Minister.

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**CATCHMENT MANAGEMENT ACT 1989 No. 235****AMENDMENTS**(1) Section 9 (**Membership of Co-ordinating Committee**):

(a) From section 9 (1), omit “16 members”, insert instead “17 members”.

(b) From section 9 (1) (n), omit “and”.

(c) At the end of section 9 (1) (o), insert:

; and

(p) a person nominated by the Minister administering the Fisheries and Oyster Farms Act 1935.

(2) Section 14 (**Membership of Catchment Management Committees**):

At the end of section 14 (2) (d), insert:

; and

- (e) in the case of a catchment area that is part of a water catchment system extending into another State or a Territory—persons who are officers of government departments or authorities of the relevant State or Territory having responsibility for natural resource use or management in that part of the water catchment system within the other State or Territory.

**COMMENCEMENT**

The amendments to the Catchment Management Act 1989 commence on the date of assent to this Act.

**EXPLANATORY NOTE****State Catchment Management Co-ordinating Committee** (item (1))

The proposed amendments to section 9 enable the Minister administering the Fisheries and Oyster Farms Act 1935 (currently the Minister for Natural Resources) to nominate a person for membership of the State Catchment Management Co-ordinating Committee.

**Catchment Management Committees** (item (2))

The proposed amendment to section 14 enables the responsible Minister (currently the Minister for Conservation and Land Management) to appoint officers from appropriate government departments or authorities of other States and Territories as members of a Catchment Management Committee established in respect of a catchment area that is part of a water catchment system extending beyond New South Wales into the particular State or Territory.

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**CATTLE COMPENSATION ACT 1951 No. 26****AMENDMENTS**(1) Section 3 (**Definitions**):

- (a) Insert in alphabetical order:

**“Approved form”** means a form approved for the time being by the Chief, Division of Animal Industries.

- (b) Omit the definition of “Cattle Compensation Taxation Act, 1956”.

- (c) Omit the definition of “Chief of the Division of Animal Health”, insert instead:

**“Chief, Division of Animal Industries”** means the Chief, Division of Animal Industries in the Department of Agriculture.

- (d) Omit the definition of “Market value”, insert instead:

**“Market value”**:

- (a) in relation to cattle, means the value of the cattle calculated on the basis of a sale with delivery at the place where the cattle are situated when the cattle are ordered to be destroyed or when the cattle die or are

injured, and on the basis that the cattle were free from injury and disease and were not unfit for human consumption; or

- (b) in relation to a carcass, means the value of the animal from which the carcass came immediately before being slaughtered, calculated on the basis of a sale with delivery at the place where the animal was slaughtered and on the basis that the animal was free from injury and disease and was not unfit for human consumption.

(2) **Section 5 (Compensation payable to certain owners):**

From section 5 (1) (b), omit “or portion of a carcass”.

(3) **Section 6:**

Omit the section, insert instead:

**Amount of compensation**

6. The amount of compensation payable in respect of cattle or a carcass to which section 5 applies is the market value of the cattle or carcass.

(4) **Section 7 (Determination of value of cattle or carcass destroyed):**

- (a) From section 7 (1), omit “cattle, or of any carcass or portion of a carcass, shall be as determined by agreement between the owner of the cattle, carcass or portion”, insert instead “cattle or carcass is to be determined by agreement between the owner of the cattle or carcass”.
- (b) From section 7 (1) (b), omit “or portion of a carcass” and “or portion”.
- (c) From section 7 (3), omit “or portion of a carcass”.
- (d) From section 7 (3), omit “, carcass or portion, as the case may be, shall be”, insert instead “or carcass is to be”.
- (e) From section 7 (3), omit “, carcass or portion” where secondly occurring, insert instead “or carcass”.
- (f) From section 7 (5), omit “prescribed for the purposes of this subsection”, insert instead “determined by the Minister by order published in the Gazette”.

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

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

(1) Compensation is payable under this Act only if the owner of the cattle or carcass makes an application for compensation in an approved form within 60 days after the death or destruction of the cattle or the condemnation of the carcass. Any such application must be verified by statutory declaration as set out in the approved form.

(2) The Minister may however authorise payment of compensation in respect of an application made after that period if the Minister is

satisfied that there is a reasonable excuse for the delay in making the application.

(3) The owner is to forward with the application a certificate in the approved form completed by:

- (a) the person with whom the owner is required to reach an agreement in respect of the market value, of the cattle or carcass under section 7 (1); or
- (b) a person appointed by the Minister for the purposes of this subsection.

(b) From section 8 (4) and (5), omit “Chief of the Division of Animal Health” wherever occurring, insert instead “Chief, Division of Animal Industries”.

(c) From section 8 (4) (c), omit “or any portion thereof”.

(d) Omit section 8 (4) (d) (ia).

(e) From section 8 (4) (d) (ii), omit “and the regulations”.

(f) From section 8 (4) (f), omit “or a portion of a carcass”.

(g) From section 8 (4) (f), omit “, carcass or portion, as the case may be”, insert instead “or carcass”.

(6) Section 11 (**Persons trafficking in diseased cattle or carcasses with a view to compensation**):

(a) From section 11 (a), omit “or any portion of the carcass thereof”.

(b) From section 11 (b), omit “or any portion thereof”.

(7) Section 12 (**Establishment of Fund**):

(a) Omit section 12 (2) (a).

(b) From section 12 (2) (b), omit “or under the Stamp Duties Act, 1920, in connection with stamp duties imposed by the Cattle Compensation Taxation Act, 1956”.

(c) At the end of section 12 (3) (a), insert “and”.

(d) Omit section 12 (3) (b).

(e) From section 12 (3) (c), omit “or portion thereof”.

(8) Section 19 (**Regulations**):

Omit section 19 (1) (a) and (b).

#### COMMENCEMENT

The amendments to the Cattle Compensation Act 1951 commence on a day or days to be appointed by proclamation.

#### REPEAL OF REGULATIONS

The Cattle Compensation Regulations are repealed on the commencement of item (5) (a) of the amendments to the Cattle Compensation Act 1951.

**EXPLANATORY NOTE**

The proposed amendments enable the repeal of the Cattle Compensation Regulations by incorporating into the Act certain provisions contained in those Regulations (in particular, the basis on which the market value of a carcass is to be calculated) and by amending the Act to provide for the form of applications for compensation and certificates verifying such applications to be approved by the Chief, Division of Animal Industries in the Department of Agriculture instead of such forms and certificates being prescribed by the Regulations. The amendments also provide that the market value of cattle is not to exceed the maximum amount determined by the Minister by order published in the Gazette rather than, as is currently the case, the maximum amount prescribed by the Regulations.

The amendments are similar to the amendments to the Swine Compensation Act 1928 contained in the Statute Law (Miscellaneous Provisions) Act 1991.

The amendments also:

- (a) remove all references to a portion of a carcass as there no longer exists any circumstance where only a portion of a carcass is condemned; and
- (b) remove references to the repealed Cattle Compensation Taxation Act 1956.

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**CENTENNIAL PARK AND MOORE PARK TRUST ACT 1983**  
**No. 145****AMENDMENT**

Section 20A:

After section 20, insert:

**Use of Trust lands for events attracting large crowds**

20A. (1) The Trust is under a duty not to authorise the use or enter into arrangements for the use of any Trust lands for the purpose of a concert or other event for which it is reasonably anticipated that more than 20, 000 persons at one time will resort to the land, unless the use of the land for that purpose is authorised by a regulation relating specifically to that concert or other event or to a class of concerts or other events that includes that concert or other event.

(2) Such a regulation is not effective unless written notice, in accordance with section 40 of the Interpretation Act 1987, of the making of the regulation has been laid before each House of Parliament and at least 5 sitting days have elapsed in each House since the date on which that notice was given in the House concerned.

(3) A regulation made in accordance with this section may impose or provide for the imposition of conditions on the use of the land for the purpose contemplated by the regulation.

**COMMENCEMENT**

The amendment to the Centennial Park and Moore Park Trust Act 1983 commences on the date of assent to this Act.

**EXPLANATORY NOTE**

As foreshadowed by the Minister for the Environment in Parliament on 4 March 1992, the proposed amendment prevents the use of Trust lands controlled by the Centennial Park and Moore Park Trust for concerts or other events that might reasonably be expected to draw crowds in excess of 20,000, except where authorised by a regulation specifically directed to the event concerned or to a class of events that includes the event concerned.

A regulation of the kind envisaged will have no effect unless notice of the making of it is given in each House of Parliament in sufficient time to allow 5 sitting days during which a proposal for its disallowance might be put.

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**CHILDREN (CARE AND PROTECTION) ACT 1987 No. 54****AMENDMENTS****(1) Section 3 (Definitions):**

After “61F,” in section 3 (9) (a), insert “61I, 61J, 61K, 61L, 61M, 61N, 61O, 61P,”.

**(2) Section 61A (Child to be informed of reasons for removal etc.):****(a) After section 61A (1), insert:**

(1A) Any such notice may be given verbally at the time the child is removed from the premises. However, if verbal notice is given, the officer or member of the police force must cause written notice to be given as soon as practicable after the child is removed.

**(b) After section 61A (2), insert:**

(2A) At the time the child is removed from the premises, the officer or member of the police force must, if the child is of or above the age of 10 years:

- (a) inform the child that he or she may choose to contact any person; and
- (b) ensure that the child is given a reasonable opportunity and appropriate assistance to contact any such person.

**(3) Section 80 (Adjournments by authorised justices prior to hearings):**

After “Director-General” in section 80 (1), insert “, by the child (if the child is of or above the age of 10 years),”.

**COMMENCEMENT**

The amendments to the Children (Care and Protection) Act 1987 commence on the date of assent to this Act.

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

The proposed amendment to section 3 updates references to sexual assault offences in the Crimes Act 1900.

**Removal of children from premises** (item (2))

Section 61A presently requires notice of the reasons for removing a child from premises to be given to the child and to the person who has care of the child. The proposed amendments to that section provide that the notice can be given verbally at the time the child is removed but that it must be also given in writing. The child (if of or above the age of 10 years) is also to be given an opportunity to contact any person of his or her choice.

**Adjournment of proceedings** (item (3))

The proposed amendment to section 80 enables an application for an adjournment of proceedings before they commence to be made by a child who is of or above the age of 10 years.

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**CHILDREN (DETENTION CENTRES) ACT 1987 No. 57****AMENDMENTS**

## (1) Section 8A:

After section 8, insert:

**Official Visitors**

8A. (1) The Minister may appoint a person to be an Official Visitor for a detention centre.

(2) A person is eligible for appointment if, in the opinion of the Minister, the person is expert in some branch of juvenile justice and demonstrates concern for persons within the juvenile justice system. However, an officer is not eligible for appointment.

(3) An Official Visitor holds office for such period not exceeding 2 years as is specified in the instrument of appointment and is, if otherwise qualified, eligible for re-appointment.

(4) An official Visitor may, as regards a detention centre for which the official Visitor is appointed:

- (a) enter and inspect the detention centre at any reasonable time; and
- (b) confer privately with any person who is resident, employed or detained in the detention centre; and
- (c) furnish to the Minister advice or reports on any matters relating to the conduct of the detention centre; and
- (d) exercise such other functions as may be prescribed by the regulations.

(5) A copy of any advice or report furnished to the Minister under subsection (4) (c) is to be forwarded to the Minister for School Education if the advice or report relates to any part of an educational establishment that is under the control or direction of the Minister for School Education.

(2) Section 10 (**Transfers from prisons to detention centres**):

After section 10 (2), insert:

(3) The consent of the Minister is not required to an order under subsection (1) if the Minister, in the same Ministry, also administers the Prisons Act 1952.

(3) Section 28 (**Transfer of classified persons to prison**):

After section 28 (2), insert:

(3) The consent of the Minister administering the Prisons Act 1952 is not required to an order under subsection (1) if the Minister, in the same Ministry, also administers that Act.

#### COMMENCEMENT

The amendments to the Children (Detention Centres) Act 1987 commence on a day to be appointed by proclamation.

#### TRANSITIONAL

A Visitor appointed under the Community Welfare Act 1987 is not, by reason of that fact, an Official Visitor for the purposes of the Children (Detention Centres) Act 1987.

#### EXPLANATORY NOTE

##### **Official Visitors Scheme** (item (1))

The proposed amendment establishes an Official Visitors Scheme for detention centres declared under the Act on the lines of the Visitors Scheme operating in respect of facilities declared under the Community Welfare Act 1987. The detention centres that will initially be the subject of the new official Visitors Scheme were previously facilities covered by the Visitors Scheme under the Community Welfare Act 1987.

##### **Transfer of persons between detention centres and prisons** (items (2) and (3))

At present, the Children (Detention Centres) Act 1987 and the Prisons Act 1952 are both administered by the Minister for Justice. The proposed amendment to section 10 (item (2)) removes the necessity for the Minister administering the Prisons Act 1952 to obtain the consent of the Minister administering the Children (Detention Centres) Act 1987 to the transfer of a prisoner under the age of 21 years from a prison to a detention centre if the latter Minister, in the same Ministry, also administers the Prisons Act 1952.

Similarly, the proposed amendment to section 28 (item (3)) removes the necessity for the Minister administering the Children (Detention Centres) Act 1987 to obtain the consent of the Minister administering the Prisons Act 1952 to the transfer of a person from a detention centre to a prison if the latter Minister, in the same Ministry, also administers the Children (Detention Centres) Act 1987.

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**CHIROPRACTORS AND OSTEOPATHS ACT 1991 No. 7****AMENDMENTS****(1) Section 39 (Determinations of Committees):**

After section 39 (9), insert:

(10) A fine imposed under this section:

- (a) is to be paid to the Registrar who is to pay it to the credit of the Consolidated Fund in such manner as the Treasurer may direct; and
- (b) may be recovered as a debt due to the Crown in a court of competent jurisdiction.

**(2) Section 49 (Determinations of the Tribunal):**

After section 49 (10), insert:

(11) A fine imposed under this section:

- (a) is to be paid to the Registrar who is to pay it to the credit of the Consolidated Fund in such manner as the Treasurer may direct; and
- (b) may be recovered as a debt due to the Crown in a court of competent jurisdiction.

**(3) Section 64 (Liability of members etc.):**

At the end of section 64 (c), insert:

; or

(d) the Tribunal or a member of the Tribunal,

**COMMENCEMENT**

The amendments to the Chiropractors and Osteopaths Act 1991 commence on the date of assent to this Act.

**EXPLANATORY NOTE****Fines** (items (1) and (2))

The proposed amendments to sections 39 and 49 ensure that fines imposed by a Professional Standards Committee or the Chiropractors and Osteopaths Tribunal following an inquiry or proceedings in respect of a complaint under the Act are paid to the Consolidated Fund. This makes the relevant provisions of the Act consistent with similar provisions in various other Acts relating to health professional boards.

**Liability of members** (item (3))

Section 64 provides that a member of the Chiropractors and Osteopaths Registration Board or Professional Standards Committee or the Registrar or an officer of the Board does not incur personal liability for things done in good faith in exercising the member's or officer's functions under the Act. The proposed amendment to that section confers protection against such liability on the members of the Chiropractors and Osteopaths Tribunal which is the only disciplinary or regulatory body constituted under the Act whose members are not so protected.

**COMMONS MANAGEMENT ACT 1989 No. 13****AMENDMENTS**

Schedule 2 (**Provisions relating to the members of a trust board**):

- (a) At the end of clause 3 (1) (h), insert:
  - ; or
  - (i) ceases to have the qualifications prescribed by the regulations for enrolment as a commoner.
- (b) After clause 6 (3), insert:
  - (3A) However, a commoner whose name appears on the trust's commoners' roll is not required to pay any such fee to inspect that book.

**COMMENCEMENT**

The amendments to the Commons Management Act 1989 commence on the date of assent to this Act.

**EXPLANATORY NOTE**

The proposed amendments provide that the office of a member of a trust board for a common becomes vacant if the member ceases to have the prescribed qualifications for enrolment as a commoner (e.g. if the member no longer lives in the area in which the common is located). The amendments also make it clear that a commoner is not required to pay any fee to inspect the book kept by a trust for the purposes of recording particulars of disclosure of the pecuniary interests of members of the trust board.

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**CO-OPERATION ACT 1923 (1924 No. 1)****AMENDMENTS**

- (1) Section 17AC (**Guarantee where loan made to co-operative housing society**):
  - (a) At the end of section 17AC (1) (b), insert "or".
  - (b) Omit section 17AC (1) (c).
  - (c) From section 17AC (3), omit " , Government Insurance Office".
- (2) Section 43B (**Amalgamation with societies or associations from other States or Territories**), as inserted by the Co-operation (Amendment) Act 1989:
  - (a) In section 43B (1) (b), after "society registered under this Act", insert "or in a foreign society registered under the law of that State or Territory".
  - (b) From section 43B (2), omit "the societies may apply to be registered as an amalgamated society", insert instead "the societies may apply to be amalgamated".

- (c) In section 43B (4) (c), before “the proposed rules”, insert “(in the case of an amalgamation that is to result in a society registered under this Act)”.
- (d) From section 43B (4), omit “the registrar is required to register the society”, insert instead “the registrar is required to grant the application and (in the case of an amalgamation that is to result in a society registered under this Act) is required to register the society”.
- (e) From section 43B (5), omit “following the issue of the certificate of incorporation”, insert instead “following the amalgamation”.
- (f) From section 43B (6), omit “the day on which the certificate of incorporation is issued”, insert instead “the day the amalgamation takes effect”.
- (g) From section 43B (6) (e), omit “under this Act”.

**COMMENCEMENT**

The amendments to the Co-operation Act 1923 commence on a day or days to be appointed by proclamation.

**EXPLANATORY NOTE****Government guarantee** (item (1))

At present, section 17AC (1) provides that the Treasurer may, on the recommendation of the Co-operative Housing Societies Advisory Committee, execute a guarantee in favour of, among others, the Government Insurance Office of New South Wales for repayment of any advance made or to be made to a co-operative society by that Office. Item (1) (b) and (c) of the proposed amendments omit the reference to the Government Insurance Office of New South Wales as a consequence of the privatisation of that statutory authority in accordance with the Government Insurance Office (Privatisation) Act 1991. Item (1) (a) is a consequential amendment. As the Treasurer has power under section 17AC (1) to approve the execution of a guarantee in favour of any person, the power to execute a guarantee in favour of GIO Australia Holdings Limited or a subsidiary of that company in appropriate circumstances is retained.

**Amalgamation of societies** (item (2))

The provision of the co-operation Act 1923 being amended is inserted by the Co-operation (Amendment) Act 1989 which has not yet commenced. When commenced, the provision will enable societies registered under the Act to amalgamate with similar bodies operating under the law of another jurisdiction *but only if the amalgamation will result in a society registered under the Act*. Item (2) of the proposed amendments will authorise amalgamations that result either in a society registered under the Act or in a foreign society registered under the law of the other jurisdiction.

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**CRIMES ACT 1900 No. 40****AMENDMENTS**

- (1) Section 358B (**Disposal of seized firearms etc.**):
- (a) In section 358B (1), after “section 357,”, insert “357H or 357I.”
  - (b) In section 358B (3), after “section 357 (4),” insert “357H (1) (a1) or 357I.”
- (2) Section 578A (**Prohibition of publication identifying victims of certain sexual offences**):
- Omit section 578A (4) (c), insert instead:
- (c) a publication authorised by the court concerned under section 11 of the Children (Criminal Proceedings) Act 1987 in respect of a complainant who is under the age of 16 years at the time of publication;

**COMMENCEMENT**

The amendments to the Crimes Act 1900 commence on the date of assent to this Act.

**EXPLANATORY NOTE****Disposal of firearms** (item (1))

The Firearms Legislation (Amendment) Act 1992 amended the Crimes Act 1900 to confer 2 additional powers to search for and to seize firearms (under sections 357H and 357I). The Crimes Act 1900 has 2 provisions relating to the recovery or disposal of property which is in the custody of the police. Section 358A is a provision of general application. Section 358B is a provision which applies to dangerous articles (mainly firearms and spear guns). The proposed amendments to section 358B are to make it clear that the disposal of firearms seized under section 357H or section 357I (as amended by the Firearms Legislation (Amendment) Act 1992) is to be governed by section 358B rather than by section 358A.

**Statute law revision** (item (2))

The proposed amendment makes section 578A of the Crimes Act 1900 consistent with a similar provision (section 11) of the Children (Criminal Proceedings) Act 1987 in consequence of the amendment of the latter provision by the Children (Criminal Proceedings) Amendment Act 1989.

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**CROWN LANDS ACT 1989 No. 6****AMENDMENTS**

- (1) Section 56 (**Creation of easements for public access**):
- After section 56 (3) (a), insert:
- (a1) over land dedicated under this Act for a public purpose—by the Minister;
  - (a2) over Crown land authorised to be sold or transferred by the Minister under any other Act—by the Minister at any time before the sale or transfer;

**(2) Section 92 (Reserve trusts):**

- (a) From section 92 (1), omit “a specified reserve or part of a reserve”, insert instead “any one or more specified reserves or any one or more parts of a reserve”.
- (b) From section 92 (5), omit “the reserve (or part of the reserve)”, insert instead “any reserve (or any part of a reserve)”.
- (c) At the end of the section, insert:

(7) If a reserve trust is appointed as trustee of more than one reserve (or more than one part of a reserve), a reference in this Part to the reserve (or part of the reserve) in relation to the reserve trust includes a reference to any one or more of the reserves (or any one or more of the parts of the reserve) of which the reserve trust has been appointed as trustee.

**(3) Section 112 (Preparation of plan of management):**

After “may” in section 112 (2), insert “with the Minister’s consent”.

**(4) Section 113 (Referral of draft plans):**

After “28 days” in section 113 (1) (c), insert “or shall direct the reserve trust to place a copy of it on public display for not less than 28 days”.

**(5) Section 135 (Acquisition of land for public purpose):**

After “land” in section 135 (1), insert “(including an interest in land)”.

**(6) Section 172 (Land with boundaries to lakes, roads etc.):**

From section 172 (5), omit “Land”, insert instead “Lands”.

**(7) Schedule 2 (Powers and procedures of local land boards):**

- (a) From clause 2, omit “A”, insert instead “Subject to subclause (2), a”.

- (b) At the end of the clause, insert:

(2) A Chairperson alone may constitute a quorum for the purpose of deciding or otherwise dealing with any one or more of the following matters:

- withdrawal of applications or appeals to a board
- termination of proceedings by agreement or consent of the parties
- non-contested proceedings.

**COMMENCEMENT**

The amendments to the Crown Lands Act 1989 commence on the date of assent to this Act.

**EXPLANATORY NOTE****Easements for public access** (item (1))

Section 56 currently enables the Minister to create an easement for public access over Crown land proposed to be sold under the Act. The proposed amendment to section 56 enables the Minister to create such easements over land dedicated for a public purpose under the Act and over Crown land authorised to be sold or transferred by the Minister under other Acts (e.g. the Crown and Other Roads Act 1990).

**Reserve trusts** (item (2))

The proposed amendments to section 92 enable a reserve trust to be appointed for one or more specified reserves (or parts of a reserve). At present, the Act requires a separate reserve trust to be appointed for each reserve or part of a reserve. However, in some cases involving minor or infrequently used reserves, it is appropriate that such reserves are collectively managed by a single reserve trust.

**Miscellaneous** (items (3), (4) and (7))

The proposed amendment to section 112 makes the entitlement of a reserve trust to prepare a plan of management for the reserve conditional on the giving of the Minister's consent (item (3)).

The proposed amendment to section 113 enables the Minister to direct a reserve trust to place a copy of the relevant draft plan of management on public display (item (4)).

The proposed amendments to Schedule 2 provide that the Chairperson of a local land board alone may constitute a quorum (the Act normally requires a Chairperson and one other member) for the purposes of dealing with such matters as the termination of non-contested proceedings or the withdrawal of appeals to the board. The Chairperson had similar powers under section 15 of the Crown Lands Consolidation Act 1913 (which was replaced by the Crown Lands Act 1989) and the Chairperson of Local Land Boards currently has a similar power under section 9 (5) (b) of the Western Lands Act 1901 (item (7)).

**Statute law revision** (items (5) and (6))

The proposed amendment to section 135 is consequential on the Land Acquisition (Just Terms Compensation) Act 1991 and merely removes any doubt that the acquisition of land by the Minister in accordance with that Act includes the acquisition of an interest (e.g. a leasehold interest) in land (item (5)).

The proposed amendment to section 172 corrects a reference to the Crown Lands (Continued Tenures) Act 1989 (item (6)).

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**CROWN LANDS (CONTINUED TENURES) ACT 1989 No. 7****AMENDMENTS****Schedule 3 (Transfer restrictions), Part 1 (General restrictions):**

- (a) After “the land” in clause 8 (2), insert “is of a prescribed class or if the land”.
- (b) At the end of clause 8 (2) (b), insert “or”.
- (c) From clause 8 (2) (c), omit “1973; or”, insert instead “1973.”.
- (d) Omit clause 8 (2) (d).
- (e) After “clause 9” in clause 8 (3), insert “or other prescribed notice of valuation”.

**COMMENCEMENT**

The amendments to the Crown Lands (Continued Tenures) Act 1989 commence on the date of assent to this Act.

**EXPLANATORY NOTE**

The proposed amendments modify the requirements relating to the issuing of a certificate by the Minister allowing the holder of land containing a notification on title to transfer or otherwise deal with the land without the Minister's consent. In particular, if the regulations so prescribe, the proposed amendment to clause 8 (3) enables the Minister to accept existing valuations of land when issuing a certificate rather than the holder being required to obtain a further valuation under the existing procedures.

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**DISTRICT COURT ACT 1973 No. 9****AMENDMENT**

Section 135:

After section 134B, insert:

**Jurisdiction in proceedings under the Fair Trading Act 1987**

135. The Court has the same jurisdiction as the Supreme Court, and may exercise all the powers and authority of the Supreme Court, in any proceedings in which relief is sought under the Fair Trading Act 1987 and where the amount of the claim concerned does not exceed the amount for the time being specified in section 44 (1) (a).

**COMMENCEMENT**

The amendment to the District Court Act 1973 commences on a day to be appointed by proclamation.

**TRANSITIONAL**

The amendment to the District Court Act 1973 does not apply to proceedings commenced before the commencement of the amendment.

**EXPLANATORY NOTE**

The proposed amendment confers on the District Court (which currently has jurisdiction to hear matters under the Trade Practices Act 1974 of the Commonwealth) the same jurisdiction as the Supreme Court has in relation to proceedings under the Fair Trading Act 1987 (provided that the amount of the claim does not exceed the jurisdictional limit of the District Court).

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**EDUCATION (ANCILLARY STAFF) ACT 1987 No. 240****AMENDMENTS****(1) Section 22 (Conditions of employment of ancillary staff):**

- (a) From section 22 (1), omit “Public Service Board”, insert instead “Director-General”.
- (b) Omit section 22 (5).

**(2) Section 23 (Determination of remuneration of ancillary staff):**

From section 23 (1), omit “Public Service Board”, insert instead “Director-General”.

**(3) Section 24 (Public Service Board to be employer for certain purposes):**

- (a) From section 24 (1) and (2), omit “Public Service Board” wherever occurring, insert instead “Director-General”.
- (b) Omit section 24 (4).

**(4) Section 39:**

After section 38, insert:

**Savings and transitional provisions relating to transfer of employer functions**

39. (1) Any proceedings to which the Public Employment Industrial Relations Authority is a party immediately before the commencement of the amendments to this Act made by the Statute Law (Miscellaneous Provisions) Act 1992 are not affected by those amendments.

(2) However, on the commencement of those amendments the Director-General is taken to be a party to those proceedings instead of the Public Employment Industrial Relations Authority, except in the case of any particular proceedings in respect of which it is agreed between the Director-General and the Authority that the Authority is to continue to be a party to those proceedings.

(3) Any thing done by the Public Employment Industrial Relations Authority under Part 5 before the commencement of those amendments is taken, after that commencement, to have been done by the Director-General.

(4) Any reference to the Public Employment Industrial Relations Authority in any award, determination or agreement entered into or made under that Part is taken, after the commencement of those amendments, to be a reference to the Director-General.

**COMMENCEMENT**

The amendments to the Education (Ancillary Staff) Act 1987 commence on a day to be appointed by proclamation.

**EXPLANATORY NOTE****Director-General as employer of ancillary staff** (items (1) (a), (2), (3) (a) and (4))

The proposed amendments designate the Director-General of School Education (instead of the Public Employment Industrial Relations Authority—the successor of the Public Service Board) as the employer for industrial purposes of ancillary staff in the Department of School Education. As a consequence, the Director-General will be authorised to determine conditions of employment (including salary), to be a party to proceedings before industrial tribunals and to enter into industrial agreements.

**Statute law revision** (items (1) (b) and (3) (b))

The proposed amendments omit a provision dealing with dismissal or proposed dismissal of an employee as this matter is now covered by section 245 of the Industrial Relations Act 1991 (item (1) (b)) and omit a provision concerning the position of the Public Service Board as an employer and the exercise of its functions that is no longer necessary because of the amendments (item (3) (b)).

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**ENVIRONMENTAL OFFENCES AND PENALTIES ACT 1989 No. 150****AMENDMENTS****Section 13 (Consent to institution of proceedings):**

- (a) Omit section 13 (2).
- (b) Renumber section 13 (2A) (as inserted by item (1) of the amendments to the Environmental Offences and Penalties Act 1989 in Schedule 1 to the Statute Law (Miscellaneous Provisions) Act (No. 2) 1991) as section 13 (5A) and insert that subsection, as renumbered, after section 13 (5).

**COMMENCEMENT**

The amendments to the Environmental Offences and Penalties Act 1989 commence on the date of assent to this Act.

**EXPLANATORY NOTE****Consent to institute proceedings**—(item (a))

The proposed amendment omits the requirement that proceedings against the Crown, a person acting on behalf of the Crown, or a public authority, for any offence against the Act may be instituted only with the written consent of the Minister or a member of the Board of the Environment Protection Authority who holds the Minister's written authorisation for the purpose. The repeal of this requirement accords with the terms of section 13 of the Protection of the Environment Administration Act 1991 which provides that the Environment Protection Authority is not subject to the control and direction of the Minister in respect of any decision to institute or approve of the institution of criminal or related proceedings.

**Statute law revision**—(item (b))

The proposed amendments remove a duplication in the numbering of subsections.

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**ENVIRONMENTAL PLANNING AND ASSESSMENT  
ACT 1979 No. 203**

**AMENDMENTS****(1) Section 4 (Definitions):**

After section 4 (8), insert:

(8A) If an environmental planning instrument confers a power on any person or body to make an order (whether or not the order must be in writing), the power includes a power to amend or repeal an order made in the exercise of the power.

**(2) Section 104A (Validity of development consents):**

From section 104A, omit “a council gives public notice in accordance with the regulations of a consent”, insert instead “public notice of the granting of a consent is given in accordance with the regulations by a consent authority”.

**(3) Section 118 (Appointment of environmental planning administrator):**

After “an environmental planning instrument,” in section 118 (1), insert “a direction under section 55,”.

**COMMENCEMENT**

The amendments to the Environmental Planning and Assessment Act 1979 commence on the date of assent to this Act.

**TRANSITIONAL**

Items (1) and (2) of the amendments to the Environmental Planning and Assessment Act 1979 apply to orders, and to consents by a consent authority, whether made or given before or after the date of assent to this Act.

**EXPLANATORY NOTE****Amendment or repeal of orders under environmental planning instruments (item (1))**

Section 43 (2) of the Interpretation Act 1987 provides that, if an Act or statutory rule confers a power on any person or body to make an order, the power includes a power to amend or repeal the order. The proposed amendment to section 4 inserts a similar provision in the Environmental Planning and Assessment Act 1979 to make it clear that a power to make orders conferred on any person or other body by an environmental planning instrument also includes a power to amend or repeal the order concerned.

**Notice of grant of development consent (item (2))**

Under the Act, the person having the function of determining a development application (the consent authority) is not necessarily a council. The proposed amendment to section 104A provides that public notification of the granting of a consent to such an application may be given (in accordance with the regulations) by a consent authority or by a council, rather than by a council only.

**Appointment of environmental planning administrator (item (3))**

The decision of the Court of Appeal in *Balmain Association Inc. v The Planning Administrator for the Leichhardt Council & ors.* (1991) 22 ALD 471 referred to the question whether a council's failure to comply with a direction given under section 55 of the Act (being a direction by the Minister to prepare a draft local environmental plan) constitutes grounds for the Minister to appoint an environmental planning administrator to administer functions conferred or imposed on the council under the Act. The Court indicated that such a failure would constitute such grounds but, in the event, it was not necessary for the Court to determine the question. The proposed amendment to section 118 makes it clear that failure to comply with a direction under section 55 of the Act to prepare a draft local environmental plan constitutes grounds for the Minister to appoint an administrator.

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**ENVIRONMENTALLY HAZARDOUS CHEMICALS ACT 1985 No. 14**  
**AMENDMENTS**

## (1) Section 29A:

After section 29, insert:

**Transfer of licences**

29A. (1) A person may apply to the Authority for the transfer to the person of a licence.

(2) The application must be accompanied by:

- (a) an instrument executed by the current holder of the licence signifying assent to the transfer; and
- (b) the prescribed transfer fee.

(3) The Authority may cause notice of the application to be published in the Gazette.

(4) A notice under subsection (3):

- (a) is to contain the prescribed particulars of the application; and
- (b) is to invite any person so disposed to make submissions as to how the application should be determined.

(5) The Authority may grant the application or may refuse to do so.

(6) If it thinks fit the Authority may under section 32 (1), at the time of granting an application under this section, attach further conditions to the licence concerned or revoke or vary any conditions for the time being attached to it.

(7) The Authority may at any time before determining an application under this section, by notice served on the applicant, request the applicant to furnish such further particulars (including plans and specifications where appropriate) as may be specified in the notice.

(8) A licence transferred to a person operates as a licence granted to the person for the remainder of its term or renewed term.

(2) Section 33 (**Interpretation**):

(a) Omit section 33 (2), insert instead:

(2) In this Part, a reference to the taking of prescribed remedial action in respect of premises that are becoming or have become contaminated is a reference to:

- (a) ascertaining the nature and extent of the contamination of the premises;
- (b) preparing a remedial action plan for the premises and, if required, a long-term management plan;
- (c) removing the cause of the contamination from the premises;
- (d) reducing the contamination of the premises;
- (e) eliminating or reducing any danger arising from the contamination of the premises; and
- (f) restoring the premises.

(b) After section 33 (3) (d), insert:

(e) refraining from disturbance or further disturbance of the premises below a specified depth.

(3) Section 35 (**Directions for restoration of premises**):

(a) After “the premises” in section 35 (5), insert “and in force for the time being”.

(b) After section 35 (5), insert:

(6) More than one notice under subsection (1) may be served on the occupier of any premises, and the direction given by any such notice may be revoked or varied by the direction given by a subsequent notice or notices under that subsection. A direction may be varied by modification of, or addition to, its terms and specifications.

(4) Section 39 (**Appeal with respect to licence**):

After “renewal” wherever occurring in section 39 (1) (a) and (2) (a), insert “or transfer”.

(5) Schedule 1 (**Provisions relating to the Committee**):

From clause 2 (f), omit “Waste Recycling and Disposal Corporation”, insert instead “Waste Recycling and Processing Service”.

**COMMENCEMENT**

Items (1) and (4) of the amendments to the Environmentally Hazardous Chemicals Act 1985 commence on a day to be appointed by proclamation.

Items (2), (3) and (5) of the amendments to the Environmentally Hazardous Chemicals Act 1985 commence on the date of assent to this Act.

**EXPLANATORY NOTE****Transfer of licences** (items (1) and (4))

The proposed new section 29A enables the Environment Protection Authority to transfer a licence under the Act from one person to another. Provisions governing how an application for transfer is to be dealt with are substantially similar to the existing provisions for dealing with applications for new licences (item (1)).

The proposed amendment to section 39 is consequential. It enables an appeal against a refusal by the Authority to transfer a licence (item (4)).

**Remedial action in relation to contaminated premises** (items (2) and (3))

The proposed amendments to section 33 remove any doubt that the Authority has power, under section 35, to order the undertaking of certain matters by way of remedial action in relation to contaminated premises (item (2)).

The proposed amendments to section 35 make it clear that the Authority may give more than one direction for restoration of premises to the occupier of contaminated premises and that it may revoke or vary such directions (item (3)).

**Statute law revision** (item (5))

The proposed amendment to Schedule 1 corrects a reference to the Waste Recycling and Processing Service (item (5)).

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**EXHIBITED ANIMALS PROTECTION ACT 1986 No. 123****AMENDMENTS**(1) Section 40 (**Powers of inspectors**):

After “Act” in section 40 (1) (h), insert “, and any eggs of such animals,”.

(2) Section 53 (**Regulations**):

After section 53 (4), insert:

(5) A provision of a regulation which relates to the acquisition, disposal or removal of animals may extend the meaning of the word “animal” when used in any such regulation to include the eggs, sperm, embryos and other reproductive material of animals.

**COMMENCEMENT**

The amendments to the Exhibited Animals Protection Act 1986 commence on the date of assent to this Act.

**EXPLANATORY NOTE****Removal of eggs of animal seized** (item (1))

The Act currently authorises an inspector to seize and remove any animal in respect of which the inspector suspects an offence against the Act has been committed. The proposed amendment to section 40 enables an inspector to remove any eggs of the animal so seized

**Extension of meaning of “animal” in regulations (item (2))**

The proposed amendment to section 53 provides for the regulations to extend the meaning of “animal” in provisions relating to the acquisition, disposal or removal of animals so as to include the eggs and other reproductive material of animals.

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**FACTORIES, SHOPS AND INDUSTRIES ACT 1962 No. 43****AMENDMENTS****(1) Section 78B (Small shops):**

From section 78B (10), omit the definition of “business”, insert instead:

“**business**” means:

- (a) the business of the sale of goods by retail; or
- (b) the business of a hairdresser;

**(2) Section 108 (Hairdressers to be licensed):**

From section 108 (2), omit “in or to the effect of the prescribed form”, insert instead “in a form approved by the Minister”.

**COMMENCEMENT**

The amendments to the Factories, Shops and Industries Act 1962 commence on the date of assent to this Act.

**EXPLANATORY NOTE****Business of hairdresser may be small shop (item (1))**

The proposed amendment to section 78B makes it clear that a shop in which the business of a hairdresser is carried on may be a small shop for the purposes of the Act.

**Approved form (item (2))**

The proposed amendment to section 108 enables the form of application for a hairdresser’s licence to be approved by the Minister instead of being prescribed by the regulations.

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**FAIR TRADING ACT 1987 No. 68****AMENDMENT****Section 64 (Penalty notices for certain offences):**

Omit section 64 (4) and (5).

**COMMENCEMENT**

The amendment to the Fair Trading Act 1987 commences on the date of assent to this Act.

**SAVINGS**

The amendment does not affect the validity of a courtesy letter served or enforcement action taken (whether before or after the date of assent to this Act) under Part 4B of the Justices Act 1902 as regards an offence referred to in section 64 (2) of the Fair Trading Act 1987.

**EXPLANATORY NOTE**

At present, section 64 (4) and (5) provide that a person served with a penalty notice may decline to be dealt with by penalty notice and that, if the person fails to pay the amount specified in the penalty notice, the person is taken to have so declined. The proposed amendment omits unnecessary matter and makes the penalty notice provision consistent with various other Acts. The proposed amendment is similar to an amendment to the Bicentennial Park Trust Act 1987 set out elsewhere in this Schedule and the explanatory note to that amendment contains more information relevant to the above amendment.

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**FINES AND FORFEITED RECOGNIZANCES ACT 1954 No. 25****AMENDMENTS****(1) Section 4 (Forfeiture of certain recognizances):**

From section 4 (3), omit “in or to the effect of the prescribed form”, insert instead “in a form approved by the Minister”.

**(2) Section 6 (Enforcement of certain recognizances where amount has been deposited):**

Omit “Consolidated Revenue Fund” wherever occurring, insert instead “Consolidated Fund”.

**(3) Section 18 (Amendment of Act No. 27, 1902):**

Omit the section.

**COMMENCEMENT**

The amendments to the Fines and Forfeited Recognizances Act 1954 commence on a day to be appointed by proclamation.

**EXPLANATORY NOTE****Omission of reference to prescribed form (item (1))**

The proposed amendment to section 4 enables the form of notice to a person (to show cause why the recognizance binding the person should not be forfeited) to be in a form approved by the Minister instead of being prescribed by the regulations. This avoids the necessity of having a separate regulation prescribing the form of the notice and will enable the Fines and Forfeited Recognizances Regulations 1954 made under the Act to be repealed on 1 September 1992 by the Subordinate Legislation Act 1989.

**Statute law revision** (items (2) and (3))

The proposed amendment to section 6 updates references to the Consolidated Fund (item (2)) and the proposed amendment to section 18 omits an obsolete provision (item (3)).

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**GOVERNMENT GUARANTEES ACT 1934 No. 57****AMENDMENTS**

- (1) Section 3 (**Authority for Treasurer to guarantee certain overdraft accounts etc.**):

Omit section 3 (2A).

- (2) Section 4 (**Provisions relating to guarantees given under this Act**):

Omit “Government Insurance Office of New South Wales” wherever occurring.

**COMMENCEMENT**

The amendments to the Government Guarantees Act 1934 commence on a day to be appointed by proclamation.

**EXPLANATORY NOTE**

At present, section 3 (2A) provides that the Treasurer may execute a guarantee in favour of the Government Insurance Office of New South Wales for the repayment of advances made or to be made by that Office to certain building societies. Section 4 makes reference to the Government Insurance Office in provisions dealing with the form, content, enforceability and other incidents of guarantees given under the Act. The proposed amendments omit section 3 (2A) (item (1)) and the references to the Government Insurance office of New South Wales in section 4 (item (2)) as a consequence of the privatisation of that statutory authority in accordance with the Government Insurance Office (Privatisation) Act 1991.

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**HOME CARE SERVICE ACT 1988 No. 6****AMENDMENTS**

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

(a) From the definition of “Department” in section 3 (1), omit “Family and”.

(b) After section 3 (2), insert:

(3) In this Act, a reference to home care services includes a reference to such personal care services as may be provided by the Service in accordance with guidelines prepared by the Director-General from time to time.

*Statute Law (Miscellaneous Provisions) Act 1992 No. 34—Sch. 1*

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(2) Section 10 (**Delegation by Service**):

From section 10, omit “of Family and Community Services”.

**COMMENCEMENT**

The amendments to the Home Care Service Act 1988 commence on a day to be appointed by proclamation.

**TRANSITIONAL**

Item (1) (b) of the amendments to the Home Care Service Act 1988 applies to home care services provided by the Home Care Service whether before or after the commencement of the amendments.

**EXPLANATORY NOTE**

**Personal care services** (item (1) (b))

The Home Care Service provides home care services to persons who are ill, disabled or otherwise incapacitated or who are affected by personal or family problems and who, as a result, are incapable of carrying out work of a domestic or home maintenance nature without assistance or are otherwise in need of assistance to manage their homes.

Proposed section 3 (3) makes it clear that these home care services can include personal care services (such as assisting persons with their bathing and other matters relating to personal hygiene) that are provided in accordance with guidelines prepared by the Director-General of the Department of Community Services.

**Statute law revision** (items (1) (a) and (2))

The proposed amendments update references to the Department of Community Services.

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**INDUSTRIAL RELATIONS ACT 1991 No. 34**

**AMENDMENTS**

(1) Section 163 (**Small claims in Local Courts**):

From section 163 (2), omit “, in a form approved by the Industrial Registrar,”.

(2) Section 200:

Omit the section, insert instead:

**Part to apply to public sector industrial agreements**

200. This Part applies to an agreement under section 64 of the Public Sector Management Act 1988 or any similar kind of agreement relating to Crown employees in the same way as it applies to an award or agreement.

(3) Section 250 (**Orders for reinstatement, re-employment or lost wages**):

From section 250 (3), omit “an amount of compensation not exceeding 6 months’ remuneration of the applicant at the average

rate received over the period of 6 months immediately before being dismissed.”, insert instead “an amount of compensation not exceeding the amount of remuneration of the applicant during the period of 6 months immediately before being dismissed. If the applicant was on leave without full pay during any part of that period, the maximum amount of compensation is to be determined as if the applicant had received full pay while on leave.”.

(4) Section 333 (**Deputy members**):

Omit section 333 (1), insert instead:

(1) Such number of deputies as the Industrial Registrar determines are to be appointed for each member of a Conciliation Committee, and such number of deputies as the Industrial Registrar determines may be appointed for a member of a Contract Regulation Committee, in the same way as the member.

(5) Section 437 (**Alteration of rules of organisation**):

From section 437 (3), omit “organisation” where firstly and thirdly occurring, insert instead “industrial organisation of employees”.

(6) Section 583 (**Grounds on which registration may be suspended or cancelled**):

From section 583 (a) and (b), omit “a former industrial” and “former industrial” wherever occurring.

(7) Section 598 (**Chapter to apply to public sector industrial agreements**):

Omit “a former industrial”, insert instead “an”.

(8) Section 625 (**Grounds on which recognition may be suspended or cancelled**):

From section 625 (1) (a) and (b), omit “a former industrial” and “former industrial” wherever occurring.

#### COMMENCEMENT

The amendments to the Industrial Relations Act 1991 commence on the date of dissent to this Act.

#### EXPLANATORY NOTE

**Omission of reference to approved form** (item (1))

The proposed amendment removes the necessity for the Industrial Registrar to approve a form of request that may be made in certain small claims matters that are being dealt with by a Local Court.

**Disputes and industrial action concerning settled rights under awards and agreements** (item (2))

At present, section 200 provides that, for the purposes of Part 1 of Chapter 3 (which deals with disputes and industrial action concerning settled rights under awards and agreements), “agreement” includes an agreement under section 64 of the Public

Sector Management Act 1988 or any similar kind of agreement relating to Crown employees. The definition does not extend to Division 1 of the Part so as to require the inclusion of grievance and dispute resolution procedures in those public sector agreements. The proposed amendment makes it clear that the Part applies to such an agreement in the same way as all the provisions (including Division 1) apply to awards and other agreements.

**Orders for lost wages** (item (3))

At present, section 250 (3) provides that if an employee has been dismissed and the Industrial Relations Commission considers an order for reinstatement or re-employment to be impracticable, the Commission may order the employer to pay the employee compensation not exceeding 6 months' remuneration of the employee at the average rate received over the period of 6 months immediately before being dismissed. The proposed amendment makes it clear that the maximum amount of compensation is not affected by periods of unpaid leave prior to dismissal.

**Deputy members** (item (4))

At present, section 333 (1) provides that a deputy is to be appointed for each member of a Conciliation Committee and may be appointed for a member of a Contract Regulation Committee. In practice, several deputies may be appointed for the one member to enable the practical functioning of Committees throughout the State. The proposed amendment will enable more than one deputy to be appointed for a Committee member.

**Alteration of rules of organisations** (item (5))

At present, section 437 provides that the Industrial Registrar must not consent to an alteration of the rules of an organisation (whether of employees or employers) if, in relation to persons who would be eligible for membership because of the alteration, there is, in the Industrial Registrar's opinion, another organisation to which those persons might conveniently belong. Section 412 (1) (h) (the section dealing with criteria for registration as an organisation under the Act) applies the "conveniently belong" rule only to industrial organisations of employees. The proposed amendment brings the requirements of section 437 concerning membership consequent on an alteration of rules in line with section 412, concerning membership of an industrial organisation.

**References to agreements** (items (6)–(8))

"Agreement" is defined in section 4 (1) to mean an enterprise agreement or a former industrial agreement. "Former industrial agreement" is defined by the same section to mean an industrial agreement under the Industrial Arbitration Act 1940 that is continued in force by Division 3 of Part 3 of Chapter 2 of the Industrial Relations Act 1991. At present, sections 583 (a) and (b) and 625 (1) (a) and (b) (dealing with grounds on which registration or recognition of organisations may be suspended or cancelled) refer to registration being suspended and cancelled, or cancelled, on breach of an order of the Industrial Court, an award or a former industrial agreement. Section 598 refers, for the purposes of Chapter 5 (Organisations of Employees and Employers), to a former industrial agreement including an agreement under section 64 of the Public Sector Management Act 1988 or any similar kind of agreement relating to Crown employees. In each case, reference to "former industrial agreement" precludes the application of the provisions to enterprise agreements. The proposed amendments replace references to former industrial agreements with references to agreements, thereby ensuring that enterprise agreements are covered by the provisions.

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**IRRIGATION ACT 1912 No. 73****AMENDMENTS**

- (1) Section 1:  
Omit the section, insert instead:  
**Short title**  
1. (1) This Act may be cited as the Irrigation Act 1912.  
(2) This Act originally commenced on 1 January 1913.
- (2) The whole Act (except section 20 (5), (6) and (8)):  
Omit "Commission" wherever occurring, insert instead "Ministerial Corporation".
- (3) Part 3:  
From the heading to Part 3, omit "COMMISSION", insert instead "MINISTERIAL CORPORATION".
- (4) Section 11A (**Application of ss. 11B–11F**):  
Omit "11D,".
- (5) Section 11C (**Conversion of leaseholds**):  
(a) From section 11C (1), omit "on the form", insert instead "in a form approved by the Ministerial Corporation".  
(b) From section 11C (3) (f), omit "the prescribed form", insert instead "a form approved by the Ministerial Corporation".
- (6) Section 11D (**Power to apply for reappraisal of rentals**):  
Omit the section.
- (7) Section 11E (**Determination of purchase money**):  
(a) From section 11E (1), omit "or the annual rental of an irrigated lot to be determined in pursuance of an application under the provisions of section 11D".  
(b) From section 11E (2), omit "or annual rental", or "the lessee",  
", as the case may be" and "or lessee" wherever occurring.  
(c) From section 11E (7), omit "or annual rental", "and the annual rental shall be one-twentieth thereof", "or leases" and "or lease".  
(d) Omit section 11E (9).
- (8) Section 11F (**Irrigated lot**):  
Omit "sections 11C, 11D, and 11E", insert instead "section 11C".

**COMMENCEMENT**

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

**EXPLANATORY NOTE****Prescribed forms** (item (5))

The proposed amendments to section 11C provide for the notification by a lessee to the Water Administration Ministerial Corporation of the lessee's intention either to purchase an irrigated lot or not to proceed with the purchase to be in a form approved by the Corporation rather than as prescribed by the regulations.

**Repeal of obsolete section** (items (4), (6)–(8))

The proposed amendments repeal section 11D (which is obsolete) in that it provides for the making of applications before 31 December 1932 to have the annual rental of irrigated lots determined. The amendments to sections 11A, 11E and 11F are consequential.

**Statute law revision** (items (1)–(3))

The proposed amendments replace references in the Act to the Water Resources Commission with references to the Water Administration Ministerial Corporation as a consequence of the Water Administration Act 1986. Section 1 is substituted because it contains a provision setting out the manner in which the Act is divided and that provision includes a reference to the Commission. A table of provisions already sets out the division of the Act.

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**JUDGES' PENSIONS ACT 1953 No. 41****AMENDMENTS**

- (1) Long title:  
After "widows", insert "and widowers".
- (2) Section 2 (**Definitions**):
  - (a) After "his" wherever occurring in section 2 (2), insert "or her".
  - (b) After "he" wherever occurring in section 2 (2), insert "or she".
- (3) Section 3 (**Pension for certain judges who retired, or retire, at age 70**):
  - (a) After "his" wherever occurring in section 3 (1), (2) and (3) (a) (ii) and (c), insert "or her".
  - (b) After "he" wherever occurring in section 3 (2) and (3) (a) (ii), (b) (ii) and (c) (ii) and (iii), insert "or she".
- (4) Section 4 (**Pension to judge retiring voluntarily at or after age 60**):
  - (a) After "his", insert "or her".
  - (b) After "he", insert "or she".
- (5) Section 5 (**Pension for judge who retired, or retires, on account of ill-health**):
  - (a) After "his" wherever occurring in section 5 (1), (2) (a) and (3), insert "or her".
  - (b) After "he" wherever occurring in section 5 (2) and (3), insert "or she".

**(6) Section 6 (Pension for widow or widower of judge or retired judge):**

- (a) From section 6 (1), omit “leaving as his widow his wife at the time of his retirement”, insert instead “leaving a widow or widower who was the judge’s spouse at the time of the judge’s retirement”.
- (b) From section 6 (1), omit “his widow” where secondly occurring, insert instead “the widow or widower”.
- (c) From section 6 (1) (a), (b), omit “her” wherever occurring, insert instead “the widow’s or widower’s”.
- (d) From section 6 (1) (b), omit “his”, insert instead “the judge’s or retired judge’s”.
- (e) After “widow” wherever occurring in section 6 (2), (4) and (5), insert “or widower” .
- (f) After “his” wherever occurring in section 6 (2)–(5), insert “or her”.
- (g) After “he” in section 6 (5), insert “or she”.

- (7) From sections 7B (2) (b) and 7C (2) (b), omit “of a judge or retired judge (being, in the case of a retired judge, a widow who was his wife at the time of his retirement)” wherever occurring, insert instead “or widower of a judge or retired judge (being, in the case of a retired judge, a widow or widower who was the judge’s spouse at the time of the judge’s retirement)”.

**(8) Section 8 (Prior judicial service):**

- (a) After “he” in section 8 (2), insert “or she”.
- (b) After “his” wherever occurring in section 8 (2), insert “or her”.

**COMMENCEMENT**

The amendments to the Judges’ Pensions Act 1953 commence on the date of assent to this Act.

**EXPLANATORY NOTE**

At present, the Act makes provision for the payment of a pension to the widow of a deceased judge or deceased retired judge. The proposed amendment to the long title (item (1)) makes it clear that (as a consequence of the proposed amendments) the Act makes provision for pensions for the widows and widowers of deceased judges and deceased retired judges. The proposed amendments to section 6 (item (6)) extend the entitlement to a pension under the Act to the widower of a deceased judge or deceased retired judge and make provision as to the manner of calculation of the pension.

The proposed amendments to sections 2–5 and 7B, 7C and 8 (items (2)–(5) and (7) and (8)) recast the sections, in consequence of the amendments made to section 6, in gender neutral language.

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**JUSTICES ACT 1902 No. 27****AMENDMENT****Section 87 (Warrant of commitment for non-payment):**

Omit section 87 (6), insert instead:

(6) A warrant under this section in respect of a person who, at the time it is issued, is remanded to or imprisoned in prison (including any such person who is, at the time it is issued, of or above the age of 18 years):

- (a) is to commit the person, or is taken to commit the person, to prison; and
- (b) is to be in accordance with subsection (1).

**COMMENCEMENT**

The amendment to the Justices Act 1902 commences on the date of assent to this Act.

**EXPLANATORY NOTE**

The proposed amendment makes it clear that if a person between 18 and 21 years of age happens to be on remand or imprisoned in a prison at the time a warrant for non-payment of a fine is issued in respect of the person, the person may be committed to prison rather than to a detention centre.

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**LAND AND ENVIRONMENT COURT ACT 1979 No. 204****AMENDMENTS****(1) Section 19 (Class 3—land tenure, valuation, rating and compensation matters):**

From section 19 (d), omit “, except where the land value of the land or ratable property does not exceed \$10,000”.

**(2) Section 20 (Class 4—environmental planning and protection civil enforcement):**

In section 20 (3) (a), insert in alphabetical order:

Protection of the Environment Administration Act 1991;

**(3) Section 21 (Class 5—environmental planning and protection summary enforcement):**

(a) Omit section 21 (b) and (ba).

(b) From section 21 (ca), omit “or 10”, insert instead “, 8A, 8C, 8D, 8E, 8F or 10”.

**COMMENCEMENT**

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

**TRANSITIONAL**

Items (2) and (3) of the amendments to the Land and Environment Court Act 1979 do not apply to proceedings commenced before the date of assent to this Act.

**EXPLANATORY NOTE****Appeals against rate determinations** (item (1))

Section 19 (d) provides that the Land and Environment Court has jurisdiction to hear and dispose of appeals made under section 133 of the Local Government Act 1919 (i.e. appeals against rate determinations), provided the value of the land or ratable property exceeds \$10,000. If the value of the property is \$10,000 or less, an appeal lies to the Local Court pursuant to section 133 (3) of the Local Government Act 1919.

There is currently an uncommenced provision in the Local Government (Miscellaneous Provisions) Amendment Act 1985 which provides for *all* appeals made under section 133 to lie to the Land and Environment Court, irrespective of the value of the property involved. That provision cannot be commenced until section 19 (d) of the Land and Environment Court Act 1979 is amended to remove reference to the minimum jurisdictional limit of \$10,000. The proposed amendment to section 19 (d) removes that reference.

**“Planning or environmental” laws** (item (2))

Section 20 provides that the Land and Environment Court has jurisdiction to hear and dispose of proceedings concerning laws that may be characterised as “planning or environmental” laws. The proposed amendment prescribes the Protection of the Environment Administration Act 1991 as such a law.

**Summary enforcement of certain proceedings** (item (3))

Section 21 provides that the Land and Environment Court has jurisdiction to hear and dispose of summary proceedings for specified offences. The proposed repeal of section 21 (b) and (ba) omits references to certain offences that have ceased to exist (item (3) (a)). The proposed amendment to section 21 (ca) specifies other offences under the Environmental Offences and Penalties Act 1989 (item (3) (b)).

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**LAY-BY SALES ACT 1943 No. 36****AMENDMENTS**

(1) Sections 3, 5:

From sections 3 (5) (b) (i) and 5 (1) (c), omit “in the prescribed form” wherever occurring.

(2) From section 3 (5) (b) (i), omit “the Government Insurance Office of New South Wales or some”, insert instead “an”.

**COMMENCEMENT**

Item (1) of the amendments to the Lay-by Sales Act 1943 commences on the date of assent to this Act.

Item (2) of the amendments to the Lay-by Sales Act 1943 commences on a day to be appointed by proclamation.

**REPEAL OF REGULATIONS**

The Regulations under the Lay-by Sales Act 1943 are repealed on the date of assent to this Act.

**EXPLANATORY NOTE****Omission of references to prescribed forms** (item (1))

The proposed amendments enable the repeal of the Regulations made under the Lay-by Sales Act 1943 by removing provisions which require the form of the fidelity bond under section 3 and the form of the summary of the rights of purchasers under the Act to be prescribed by regulation. The form of the fidelity bond is no longer of practical utility and the Retail Traders Association already provides retailers with the summary of purchasers' rights which vendors are required to provide at the time of sale.

**Omission of reference to Government Insurance Office of New South Wales** (item (2))

At present, section 3 (5) (b) (i) refers to the fidelity bond being obtained from the Government Insurance Office of New South Wales or some other approved insurance company or person. The proposed amendment omits the reference to the Government Insurance Office as a consequence of the privatisation of that statutory authority in accordance with the Government Insurance Office (Privatisation) Act 1991. The current requirement is replaced with a requirement that the bond be obtained from an approved insurance company or person.

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**LEGAL PROFESSION ACT 1987 No. 109****AMENDMENTS**(1) Section 123 (**Definitions**):

Omit the definition of "judicial member".

(2) Section 143 (**Hearings**):

After section 143 (4), insert:

(5) If one of the members (not being the presiding member) constituting the Board for the purpose of conducting a hearing under this Division vacates office for any reason referred to in clause 8 of Schedule 5:

- (a) before the Board has completed the hearing; or
- (b) before the Board has made a determination in respect of the hearing,

the hearing may be continued, or a determination may be made, by the remaining members. If the remaining members are divided in opinion as to the determination to be made in respect of the hearing, the opinion of the presiding member is to prevail.

(6) However, if the presiding member or more than one other member vacates office for any such reason before the Board has completed the hearing or made a determination in respect of the

hearing, the hearing is terminated. The Board may, for the purpose of conducting a new hearing into the complaint concerned, be reconstituted in accordance with this Division.

(3) **Section 157 (Hearings):**

After section 157 (3), insert:

(4) If one of the members (not being the presiding member) constituting the Tribunal for the purpose of conducting a hearing under this Division vacates office for any reason referred to in clause 7 of Schedule 6:

- (a) before the Tribunal has completed the hearing; or
- (b) before the Tribunal has made a determination in respect of the hearing,

the hearing may be continued, or a determination may be made, by the remaining members of the Tribunal. If the remaining members are divided in opinion as to the determination to be made in respect of the hearing, the opinion of the presiding member is to prevail.

(5) However, if the presiding member or more than one other member vacates office for any such reason before the Tribunal has completed the hearing or made a determination in respect of the hearing, the hearing is terminated. The Tribunal may, for the purpose of conducting a new hearing into the complaint Concerned, be reconstituted in accordance with this Division.

(4) **Section 172 (Protection from liability):**

Omit section 172 (2).

(5) **Schedule 4 (The Legal Profession Conduct Review Panel):**

From clauses 3A (4), 4 (4) and 6, omit “Attorney General” wherever occurring, insert instead “Law Society Council, in consultation with the Bar Council,”.

(6) **Schedule 5 (The Legal Profession Standards Board):**

From clauses 4 (4) and 6, omit “Attorney General” wherever occurring, insert instead “Law Society Council, in consultation with the Bar Council,”.

(7) **Schedule 6 (The Legal Profession Disciplinary Tribunal):**

From clauses 3 (5) and 5, omit “Attorney General” wherever occurring, insert instead “Law Society Council, in consultation with the Bar Council,”.

**COMMENCEMENT**

The amendments to the Legal Profession Act 1987 commence on a day or days to be appointed by proclamation.

**TRANSITIONAL**

Items (2) and (3) of the amendments to the Legal Profession Act 1987 do not apply to hearings conducted by the Legal Profession Standards Board or the Legal Profession Disciplinary Tribunal that were commenced before the commencement of those items.

**EXPLANATORY NOTE****Continuation of hearings when vacancies occur** (items (2) and (3))

The proposed amendments to sections 143 and 157 provide that if a member (other than the presiding member) of the Legal Profession Standards Board or the Legal Profession Disciplinary Tribunal vacates office (e.g. dies, becomes bankrupt, resigns etc.) before a hearing is completed or a determination has been made, the hearing may be continued or a determination may be made by the remaining members.

**Remuneration of members of disciplinary bodies** (items (5)–(7))

The proposed amendments to Schedules 4, 5 and 6 provide that the remuneration of members of the Legal Profession Conduct Review Panel, the Legal Profession Standards Board and the Legal Profession Disciplinary Tribunal is to be determined by the Law Society Council (in consultation with the Bar Council) instead of the Attorney General. Under section 168, all costs (which includes the remuneration of members) incurred by the Panel, the Board and the Tribunal are paid from the Statutory Interest Account maintained by the Law Society under section 67 of the Act.

**Statute law revision** (items (1) and (4))

The proposed amendments to sections 123 and 172 are consequential on the Legal Profession (Amendment) Act 1989 which removed the requirement for the membership of the Tribunal to include Judges of the Supreme Court.

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**LOCAL COURTS (CIVIL CLAIMS) ACT 1970 No. 11****AMENDMENTS**(1) Section 4 (**Definitions**):

Insert in section 4 (1) in alphabetical order:

“**Rule Committee**” means the Local Courts (Civil Claims) Rule Committee established under section 10A;

## (2) Part 2, Division 3A:

After section 10, insert:

**Division 3A—Rule Committee****Establishment of Rule Committee**

10A. There is to be a Local Courts (Civil Claims) Rule committee.

**Composition of Rule Committee**

10B. (1) The Rule Committee is to be composed of no fewer than 6 and no more than 11 members.

(2) The members of the Rule Committee are to be as follows:

- (a) the Chief Magistrate;
- (b) (at any one time) at least 1 and not more than 6 Magistrates (in addition to the Chief Magistrate);
- (c) 1 practising barrister;
- (d) 1 practising solicitor;
- (e) 1 person appointed to represent consumer groups;
- (f) 1 person appointed by the Minister.

(3) A member of the Rule Committee (other than the member appointed by the Minister):

- (a) is to be appointed by the Chief Magistrate; and
- (b) is to hold office for the period specified in the member's instrument of appointment and is eligible (if otherwise qualified) for re-appointment.

(4) The member of the Rule Committee appointed by the Minister is to hold office as such until the Minister otherwise directs.

(5) A member of the Rule Committee ceases to hold office:

- (a) when the member ceases to hold the qualification by virtue of which the member was appointed; or
- (b) if the member (other than the Chief Magistrate) resigns as such by instrument in writing addressed:
  - in the case of the member appointed by the Minister, to the Minister; and
  - in the case of the other members (except the Chief Magistrate), to the Chief Magistrate.

(6) If the office of a member becomes vacant, a person may, subject to this Act, be appointed to fill the vacancy.

#### **Chairperson of the Rule Committee**

10C. (1) The Chief Magistrate is to be the chairperson of the Rule Committee.

(2) The Chief Magistrate is to appoint in writing one of the other members of the Rule Committee who is a Magistrate as deputy chairperson.

#### **Meetings of the Rule Committee**

10D. (1) The Rule Committee is (subject to this section) to regulate its own procedure.

(2) The chairperson of the Rule Committee or, in the absence of the chairperson, the deputy chairperson of the Committee is to preside at a meeting of the Committee.

(3) In the absence from a meeting of the Rule Committee of both the chairperson and deputy chairperson, another member of the Committee who is a Magistrate is to be chosen by the members present to preside at the meeting.

(4) The quorum for a meeting of the Rule Committee is a majority of the number of the members for the time being. Any duly convened meeting of the Rule Committee at which a quorum is present is competent to transact any business of the Rule Committee and has and may exercise all the functions of the Rule Committee.

(5) A decision supported by a majority of the votes cast at a meeting of the Rule Committee at which a quorum is present is the decision of the Committee.

(6) The person presiding at a meeting of the Rule Committee has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

(7) The Chief Magistrate is to call the first meeting of the Rule Committee in such manner as the Chief Magistrate thinks fit and (subject to any decision of the Committee under subsection (1)) may call other meetings of the Committee as the Chief Magistrate thinks necessary.

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

#### **Secretary of the Rule Committee**

10E. (1) A person is to be appointed (subject to the prior approval of the Chief Magistrate) to hold office as Secretary of the Rule Committee.

(2) The Secretary is to be appointed in accordance with the Public Sector Management Act 1988 and may hold that office in conjunction with some other office or position in the Public Service.

(3) The Secretary has and may exercise such functions as may be specified in the rules or as the Rule Committee may determine. The Secretary is not entitled to vote at a meeting of the Rule Committee.

#### **Rules in force before commencement of this Division**

10F. (1) The rules made under this Act (other than rules prescribing fees) and in force immediately before the commencement of this Division are taken to be rules made by the Rule Committee.

(2) The rules made under this Act prescribing fees and in force immediately before the commencement of this Division are taken to be regulations made by the Governor.

#### **(3) Section 69A (Matters ancillary to hearing):**

(a) Omit section 69A (1) (a), insert instead:

(a) empowering a party to an action to give another party a notice requiring that other party to do any one or more of the following things:

- (i) to give discovery of documents;
- (ii) to produce documents for inspection;
- (iii) to produce documents at the hearing of the action;
- (iv) to attend for a medical examination;
- (v) to make admissions for the purposes of the action;

(b) Omit section 69A (2), insert instead:

(2) Without limiting the generality of subsection (1), the rules may make provision for or with respect to empowering a court to order that a party:

- (a) give discovery of documents to any party;
- (b) produce documents for inspection by any party;
- (c) produce documents at the hearing of any action;
- (d) attend for a medical examination;
- (e) make admissions for the purposes of the action;
- (f) give further particulars of any action commenced, grounds of defence filed or cross-claim brought by the party; or
- (g) be at liberty to inspect property, whether real or personal, and whether or not in the possession or control of any party, for the purposes of any action,

and empowering the court to make such further order as may be prescribed in the event of the failure of a party to comply with an order made under rules made for the purposes of this subsection.

(4) Section 84 (**Rules**):

- (a) From section 84 (1), omit “Governor”, insert instead “Rule committee”.
- (b) Omit section 84 (1) (e).
- (c) Omit section 84 (1) (l), insert instead:
  - (l) providing for the amendment of documents filed by a party to any proceedings;
- (d) Omit section 84 (1) (m), insert instead:
  - (m) providing for and regulating the joinder of parties, the joinder of causes of action and the consolidation of proceedings;
- (e) After section 84 (1) (q), insert:
  - (q1) prescribing matters relating to expert evidence, including the disclosure, by providing copies of reports or otherwise, of the nature of expert evidence to be given, and including the

exclusion of expert evidence in the case of non-compliance with the rules relating to expert evidence or with any order for disclosure of the nature of expert evidence;

(f) After section 84 (1) (v), insert:

(v1) prescribing means for, and the procedure and practice to be followed in, the enforcement and execution of judgments and orders of a court;

(g) Omit section 84 (1A) and (2).

(5) Section 85:

After section 84, insert:

**Regulations—court fees**

85. The Governor may make regulations for or with respect to the fees to be paid in respect of any matter or thing under this Act.

**COMMENCEMENT**

The amendments to the Local Courts (Civil Claims) Act 1970 commence on a day or days to be appointed by proclamation.

**EXPLANATORY NOTE**

The proposed amendments provide for the establishment of a Local Courts (Civil Claims) Rule Committee to make rules of court for the civil jurisdiction of local courts. (Currently, these rules are made by the Governor.)

The proposed amendments insert a definition of “Rule Committee” (item (1)) and make provision for the membership of the Rule Committee, the chairperson and deputy chairperson of the Rule Committee, the appointment of a Secretary of the Rule Committee, the conduct of business at meetings of the Rule Committee and the saving of existing rules (item (2)).

The proposed amendments give the Rule Committee power to make rules in respect of additional matters not currently provided for in the Act (e.g., the discovery and production of documents, joinder of parties and causes of action, expert evidence and enforcement of judgments and orders of a Court) (items (3) and (4) (d)–(f)).

Certain of the proposed amendments are consequential. on amendments referred to above (items (4) (a) and (b)). The proposed amendments (relating to the amendment of documents) make the wording of an existing rule making power consistent with the parallel provision in the District Court Act 1973 (item (4) (c)). The proposed amendments also omit a provision restricting the capacity of the Rule Committee to confer functions on registrars and a redundant provision which is now provided for by section 42 (2) of the Interpretation Act 1987 (item (4) (g)).

The proposed amendments provide that the Governor may prescribe court fees by regulation. Currently, court fees are prescribed by rules made by the Governor.

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**LOCAL GOVERNMENT ACT 1919 No. 41****AMENDMENTS****(1) Section 270S (Penalty notices for certain offences):**

Omit section 270S (3).

**(2) Section 277A (Ordinances for preventing damage to roads):**

From section 277A (5) (b), omit “proves that such contravention or non-compliance occurred without his knowledge and that he could not with reasonable diligence have known of or prevented such contravention or non-compliance”, insert instead “establishes a defence referred to in section 99 of the State Roads Act 1986 (with modifications, if any, prescribed by an ordinance made under this section)”.

**(3) Section 528A (Council may be agent of the Government Insurance Office):**

Omit the section.

**(4) Section 532 (Acquisition of land):**

After “land” in section 532 (1), insert “(including an interest in land)”.

**COMMENCEMENT**

Items (1) and (4) of the amendments to the Local Government Act 1919 commence on the date of assent to this Act.

Items (2) and (3) of the amendments to the Local Government Act 1919 commence on a day or days to be appointed by proclamation.

**SAVING**

Item (1) of the amendments to the Local Government Act 1919 does not affect the validity of a courtesy letter served or enforcement action taken (whether before or after the date of assent to this Act) under Part 4B of the Justices Act 1902 as regards an offence referred to in section 270s (1) of the Local Government Act 1919.

**EXPLANATORY NOTE****Penalty notices** (item (1))

At present, section 270S (3) provides that a person served with a penalty notice may decline to be dealt with by penalty notice and that, if the person fails to pay the amount specified in the penalty notice, the person is taken to have so declined. The proposed amendment omits unnecessary matter and makes the penalty notice provision consistent with various other Acts. The proposed amendment is similar to an amendment to the Bicentennial Park Trust Act 1987 set out elsewhere in this Schedule and the explanatory note to that amendment contains more information relevant to the above amendment.

**Damage to roads** (item (2))

The State Roads and Traffic (Offences and Penalties) Amendment Act 1991 makes provision for the repeal and substitution of section 99 of the State Roads Act 1986.

That section deals with contraventions of the State Roads Act 1986 by vehicles driven on the principal roads of the State, and imposes a liability on the owners of such vehicles as well as their drivers. The provisions of section 227A (5) (b) of the Local Government Act 1919 allow ordinances to make similar provisions in relation to vehicles driven unlawfully on non-principal roads. Those provisions have reflected certain legal defences available under the obsolete section 99 of the State Roads Act 1986. The substituted section 99 varies these defences. Section 227A (5) (b) of the Local Government Act 1919 is therefore amended to permit ordinances to be made applying the same or similar principles to non-principal public roads.

**Government Insurance Office** (item (3))

The proposed amendment provides for the repeal of section 528A by which a council is empowered to accept appointment as the agent of the Government Insurance Office of New South Wales under the Government Insurance Act 1927. The latter Act has been repealed and the proposed amendment is made as a consequence of the privatisation of the Government Insurance Office of New South Wales in accordance with the Government Insurance Office (Privatisation) Act 1991.

**Acquisition of land** (item (4))

The proposed amendment to section 532 is consequential on the Land Acquisition (Just Terms Compensation) Act 1991 and merely removes any doubt that the acquisition of land by a council in accordance with that Act includes the acquisition of an interest (e.g. a leasehold interest) in land.

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## LONG SERVICE LEAVE ACT 1955 No. 38

### AMENDMENTS

(1) Section 4 (**Long service leave**):

From section 4 (2) (a1) (i), omit “award, agreement”, insert instead “award or agreement”.

(2) Section 5 (**Exemptions**):

From section 5 (1) (a), omit “or by an enterprise agreement,”.

(3) Section 8 (**Records to be kept by employers**):

From section 8, omit “in or to the effect of the form and containing the particulars prescribed”, insert instead “in a form approved by the Minister”.

### COMMENCEMENT

The amendments to the Long Service Leave Act 1955 commence on the date of assent to this Act.

**EXPLANATORY NOTE****Statute law revision** (items (1) and (2))

The proposed amendments insert the appropriate conjunction between 2 alternatives (item (1)) and omit an unnecessary phrase (item (2)).

**Approved form** (item (3))

The proposed amendment enables the form of long service leave records to be kept by employers to be approved by the Minister instead of being prescribed by the regulations.

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**LONG SERVICE LEAVE (METALLIFEROUS MINING INDUSTRY)  
ACT 1963 No. 48**

**AMENDMENT****Section 8 (Records to be kept by employer):**

From section 8, omit “in or to the effect of the form and containing the particulars prescribed”, insert instead “in a form approved by the Minister”.

**COMMENCEMENT**

The amendment to the Long Service Leave (Metalliferous Mining Industry) Act 1963 commences on the date of assent to this Act.

**EXPLANATORY NOTE**

The proposed amendment enables the form of long service leave records to be kept by employers to be approved by the Minister instead of being prescribed by the regulations.

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**LORD HOWE ISLAND ACT 1953 No. 39**

**AMENDMENTS**

## (1) The whole Act:

Omit “for Lands” wherever occurring.

(2) Section 23 (**Transfers and subleases**):

After “a transfer” in section 23 (2) and (7A) (c) wherever occurring, insert “(not being a transfer by way of mortgage)”.

**COMMENCEMENT**

The amendments to the Lord Howe Island Act 1953 commence on the date of assent to this Act.

**TRANSITIONAL**

Item (2) of the amendments to the Lord Howe Island Act 1953 applies only to leases that are transferred under section 23 of that Act after the date of assent to this Act.

**EXPLANATORY NOTE****Transfer of leases** (item (2))

At present, the transfer or subletting of leases under the Act to persons other than Lord Howe Islanders must be approved by the Governor. Transfers and sublettings of leases involving Islanders must have the consent of the Minister for the Environment.

The increasing number of lease transfers by way of mortgage has meant that the Governor's approval is required on an increasing number of occasions also. The proposed amendments to section 23 provide that the Governor's approval for a transfer to a non-Islander is not required if the transfer is by way of mortgage. (However, the Governor's approval will still be required for a non-mortgage transfer involving a non-Islander.) The Minister's consent will still be required for transfers by way of mortgage.

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

The proposed amendments remove references to the Minister for Lands who no longer has the administration of the Act. References will now be simply to "the Minister" (which means, because of section 15 of the Interpretation Act 1987, the Minister administering the Act). That Minister is currently the Minister for the Environment.

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**MARITIME SERVICES ACT 1935 No. 47****AMENDMENT****Section 30D (Penalty notices for certain offences):**

Omit section 30D (3).

**COMMENCEMENT**

The amendment to the Maritime Services Act 1935 commences on the date of assent to this Act.

**SAVING**

The amendment to the Maritime Services Act 1935 does not affect the validity of a courtesy letter served or enforcement action taken (whether before or after the date of assent to this Act) under Part 4B of the Justices Act 1902 as regards an offence referred to in section 30D (1) of the Maritime Services Act 1935.

**EXPLANATORY NOTE**

At present, section 30D (3) provides that a person served with a penalty notice may decline to be dealt with by penalty notice and that, if the person fails to pay the amount specified in the penalty notice, the person is taken to have so declined. The proposed amendment omits unnecessary matter and makes the penalty notice provision consistent with various other Acts. The proposed amendment is similar to an amendment to the Bicentennial Park Trust Act 1987 set out elsewhere in this Schedule and the explanatory note to that amendment contains more information relevant to the above amendment.

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**MINE SUBSIDENCE COMPENSATION ACT 1961 No. 22****AMENDMENTS**

- (1) Section 11 (**Contributions to be paid by colliery proprietors to Fund**):  
From section 11 (2), omit “the prescribed form”, insert instead “a form approved by the Board”.
- (2) Section 12 (**Claims for damage arising out of subsidence**):  
From section 12 (2) (a), omit “writing in the prescribed manner”, insert instead “a form approved by the Board”.
- (3) Section 15 (**Mine Subsidence Districts**):  
From section 15 (2A), omit “the prescribed manner”, insert instead “a form approved by the Board”.

**COMMENCEMENT**

The amendments to the Mine Subsidence Compensation Act 1961 commence on the date of assent to this Act.

**EXPLANATORY NOTE**

The proposed amendments remove provisions requiring that notices to colliery proprietors specifying the amount of contributions to be paid to the Mine Subsidence Compensation Fund, claims by owners for damage to improvements and applications to erect improvements or subdivide land in a mine subsidence district be made in a prescribed form or manner. These provisions are replaced by requirements that the notices, claims and applications be made in a form approved by the Mine Subsidence Board.

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**MOTOR DEALERS ACT 1974 No. 52****AMENDMENT**

- Section 53E (**Penalty notices for certain offences**):  
Omit section 53E (3) and (4).

**COMMENCEMENT**

The amendment to the Motor Dealers Act 1974 commences on the date of assent to this Act.

**SAVING**

The amendment to the Motor Dealers Act 1974 does not affect the validity of a courtesy letter served or enforcement action taken (whether before or after the date of assent to this Act) under Part 4B of the Justices Act 1902 as regards an offence referred to in section 53E (1) of the Motor Dealers Act 1974.

**EXPLANATORY NOTE**

At present, section 53E (3) and (4) provide that a person served with a penalty notice may decline to be dealt with by penalty notice and that, if the person fails to pay the amount specified in the penalty notice, the person is taken to have so declined. The

proposed amendment omits unnecessary matter and makes the penalty notice provision consistent with various other Acts. The proposed amendment is similar to an amendment to the Bicentennial Park Trust Act 1987 set out elsewhere in this Schedule and the explanatory note to that amendment contains more information relevant to the above amendment.

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## **NATIONAL PARKS AND WILDLIFE ACT 1974 No. 80**

### **AMENDMENTS**

- (1) Part 3, Division 3, heading:  
Omit the heading, insert instead:  
**Division 3—Aboriginal Cultural Heritage (Interim)  
Advisory Committee**
- (2) Section 27 (**Aboriginal Cultural Heritage (Interim) Advisory committee**):  
From section 27 (1), omit “Aboriginal Relics Advisory Committee”, insert instead “Aboriginal Cultural Heritage (Interim) Advisory Committee”.
- (3) Section 28 (**Functions of Committee**):
  - (a) Omit “Relics Committee”, insert instead “Aboriginal Cultural Heritage (Interim) Advisory Committee”.
  - (b) At the end of the section, insert “whether or not the matter is referred to the Committee by the Minister or the Director”.
- (4) Section 58 (**Application of certain provisions to nature reserves**):  
From section 58 (a), omit “ , (6), (7) and (10)”, insert instead “and (6)”.
- (5) Section 58J (**Application of certain provisions to state game reserves**):  
From section 58J (a), omit “ , (6), (7) and (10)”, insert instead “and (6)”.
- (6) Section 145 (**Acquisition of land for reservation etc.**):  
Omit section 145 (b), insert instead:
  - (b) acquire land by agreement or by compulsory process in accordance with the Land Acquisition (Just Terms Compensation) Act 1991.
- (7) Section 146 (**Acquisition or occupation of lands for certain purposes**):
  - (a) Omit section 146 (1) (e), insert instead:

(e) acquire any land (including an interest in land) adjoining or in the vicinity of the land so reserved or dedicated by agreement or by compulsory process in accordance with the Land Acquisition (Just Terms Compensation) Act 1991.

(b) Omit section 146 (2) (b), insert instead:

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

(8) Section 147:

Omit the section, insert instead:

**Application of Public Works Act 1912**

147. (1) For the purposes of the Public Works Act 1912, any acquisition of land under section 145 or 146 is taken to be for an authorised work and the Minister is, in relation to that authorised work, taken to be the Constructing Authority.

(2) Sections 34, 35, 36 and 37 of the Public Works Act 1912 do not apply in respect of works constructed under this Act.

(9) Section 156 (**General provisions**):

(a) From section 156 (1) (a), omit “\$500”, insert instead “30 penalty units”.

(b) From section 156 (1) (b), omit “\$20”, insert instead “one penalty unit”.

(10) Section 157 (**Requirement to state name and address**):

From section 157 (3), omit “\$500”, insert instead “10 penalty units”.

(11) Section 158 (**Requirement for owner of motor vehicle and others to give information**):

From section 158 (2), omit “\$500”, insert instead “10 penalty units”.

(12) Section 169 (**Impersonating, assaulting, resisting or obstructing an officer etc.**):

At the end of section 169 (2), insert:

Maximum penalty: 40 penalty units.

(13) Section 175 (**General offence and penalties**):

From section 175 (2), omit “\$2,000”, insert instead “40 penalty units”.

**(14) Schedule 9 (The Aboriginal Cultural Heritage (Interim) Advisory Committee):**

- (a) Omit “Relics” wherever occurring, insert instead “Aboriginal Cultural Heritage (Interim) Advisory”.
- (b) Omit clause 1 (2) (a)–(f), insert instead:
  - (a) 5 are to be Aboriginal persons selected by the Minister from 8 nominees of the New South Wales Aboriginal Land Council constituted under the Aboriginal Land Rights Act 1983; and
  - (b) 1 is to be a person selected by the Minister from 3 nominees of the Nature Conservation Council of New South Wales; and
  - (c) 1 is to be an officer of the Service; and
  - (d) 1 is to be an appointee of the Minister.
- (c) From clause 2, omit “5”, insert instead “3”.
- (d) At the end of the Schedule, insert the following clause:

**First meeting**

10. At the first meeting of the Aboriginal Cultural Heritage (Interim) Advisory Committee the members are to elect a Chairperson and a Deputy Chairperson from the members. The Chairperson is to be elected from the members referred to in clause 1 (2) (a).

**(15) Schedule 14 (Modification of the Public Works Act 1912):**

Omit the Schedule.

**COMMENCEMENT**

Items (1)–(3) and (14) of the amendments to the National Parks and Wildlife Act 1974 commence on a day to be appointed by proclamation.

Items (4)–(13) and (15) of the amendments to the National Parks and Wildlife Act 1974 commence on the date of assent to this Act.

**TRANSITIONAL**

Items (6)–(8) and (15) of the amendments to the National Parks and Wildlife Act 1974 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**

**Aboriginal Cultural Heritage (Interim) Advisory Committee** (items (1)–(3) and (14))

Items (1)–(3) and (14) of the proposed amendments provide for the re-constitution of the Aboriginal Relics Advisory Committee (which has been defunct for many years) as the Aboriginal Cultural Heritage (Interim) Advisory Committee. It is proposed that the Committee’s presently stated function of considering and furnishing reports and advice to the Minister or the Director on matters concerning Aboriginal relics and places be specifically extended to acting whether or not it has received a request from the Minister or Director.

At present, the Act provides that the Relics Committee is to consist of 8 members appointed by the Minister, the members comprising an archaeologist or anthropologist on the staff of each of a New South Wales university and the Australian Museum, a member of the Anthropological Society of New South Wales, a person nominated by The National Trust of Australia (New South Wales), an officer of the Department of Mineral Resources and an officer of the National Parks and Wildlife Service. The new Committee is also to comprise 8 members, 5 of whom are to be Aboriginal persons selected by the Minister from 8 nominees of the New South Wales Aboriginal Land Council, 1 of whom is to be selected by the Minister from 3 nominees of the Nature Conservation Council of New South Wales, 1 of whom is to be an officer of the National Parks and Wildlife Service and 1 of whom is to be an appointee of the Minister. Members are to hold office for a maximum of 3 years (as opposed to the present maximum of 5 years).

Provision is to be made for election of a Chairperson and Deputy Chairperson of the Committee. The Chairperson is to be selected from among the members who are Aboriginal persons.

**Statute law revision** (items (4)–(8) and (15))

The proposed amendments to sections 58 and 58J (items (4) and (5)) omit obsolete cross-references.

The proposed amendments to sections 145–147 (items (6)–(8)) and Schedule 14 (item (15)) are consequential on the Land Acquisition (Just Terms Compensation) Act 1991 and merely replace superseded references to the Public Works Act 1912 in relation to the compulsory acquisition of land and omit unnecessary matter.

**Penalty increases** (items (9)–(13))

The proposed amendments to sections 156–158, 169 and 175 (items (9)–(13)) increase the maximum penalties for certain offences that have not been increased since 1984. The offences and penalties concerned are:

- breach of a regulation (\$500 to 30 penalty units) (item (9) (a));
  - daily penalty for any continuing breach of a regulation (\$20 per day to 1 penalty unit per day) (item 9 (b));
  - fail or refuse to state name and address or state false name or address (\$500 to 10 penalty units) (item (10));
  - fail or refuse to give information concerning name and address of the driver of a vehicle or giving false information (\$500 to 10 penalty units) (item (11));
  - assaulting, threatening, resisting etc. the Director of National Parks and Wildlife, any other officer of the National Parks and Wildlife Service, an ex-officio ranger or an honorary ranger or inciting or encouraging another person to do the same (the proposed amendment inserts a specific penalty of 40 penalty units instead of the general penalty under section 175 of \$2,000 which it is proposed to increase to 40 penalty units—see item (13) (item (12)); and
  - offences against the Act for which no other penalty is prescribed (\$2,000 to 40 penalty units) (item (13)).
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**PARLIAMENTARY ELECTORATES AND ELECTIONS  
ACT 1912 No. 41**

**AMENDMENT**

Section 120C (**Penalty notices for certain offences**):

Omit section 120C (3).

**COMMENCEMENT**

The amendment to the Parliamentary Electorates and Elections Act 1912 commences on the date of assent to this Act.

**SAVING**

The amendment to the Parliamentary Electorates and Elections Act 1912 does not affect the validity of a courtesy letter served or enforcement action taken (whether before or after the date of assent to this Act) under Part 4B of the Justices Act 1902 as regards an elector not having sufficient reason for failing to vote at an election as referred to in section 120C (1) of the Parliamentary Electorates and Elections Act 1912.

**EXPLANATORY NOTE**

At present, section 120C (3) provides that an elector served with a penalty notice may decline to be dealt with by penalty notice and that, if the elector or a person on the elector's behalf does not give the Electoral Commissioner a reason for the elector's failure to vote or pay the amount specified in the penalty notice, the elector is taken to have so declined. The proposed amendment omits unnecessary matter and makes the penalty notice provision consistent with various other Acts. The proposed amendment is similar to an amendment to the Bicentennial Park Trust Act 1987 set out elsewhere in this Schedule and the explanatory note to that amendment contains more information relevant to the above amendment.

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**PASSENGER TRANSPORT ACT 1990 No. 39**

**AMENDMENT**

Section 37 (**Suspension or cancellation of licences**):

From section 37 (d) (i), omit "the Government Insurance Office or any", insert instead "a".

**COMMENCEMENT**

The amendment to the Passenger Transport Act 1990 commences on a day to be appointed by proclamation.

**EXPLANATORY NOTE**

At present, section 37 provides that the licence for a taxi-cab or private hire vehicle may be suspended or cancelled if, among other matters, the licence does not have a policy of insurance covering third-party property damage issued by the Government

Insurance Office or any corporation authorised to carry on insurance business. The proposed amendment omits the reference to the Government Insurance Office as a consequence of the privatisation of that statutory authority in accordance with the Government Insurance Office (privatisation) Act 1991.

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**PUBLIC AUTHORITIES (FINANCIAL ARRANGEMENTS)  
ACT 1987 No. 33**

**AMENDMENTS**

(1) Section 5 (**Meaning of effecting a financial adjustment**):

From section 5 (e), omit “(within the meaning of the Futures Industry (New South Wales) Code)”.

(2) Schedule 1 (**Authorities**):

Omit:

Hen Quota Committee.

New South Wales Egg Corporation.

**COMMENCEMENT**

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

**EXPLANATORY NOTE**

**“Futures contract” and “futures option” (item (1))**

The proposed amendment to section 5 removes the qualification that the terms “futures contract” and “futures option” are to be read subject to the Futures Industry (New South Wales) Code. Pursuant to section 85 of the Corporations (New South Wales) Act 1990, the Code has been superseded by the Corporations Law. Section 90 of the Corporations (New South Wales) Act 1990 also provides that a reference to the Code (along with other co-operative scheme laws) includes a reference to the Corporations Law.

“Futures contract” and “futures option” are presently listed as kinds of arrangements or transactions which are financial adjustments for the purposes of the Public Authorities (Financial Arrangements) Act 1987. The other kinds of arrangements or transactions that are financial adjustments include currency and interest rate swaps and forward exchange and interest rate agreements and none of these is specially defined. The terms “futures contract” and “futures option”, along with the other kinds of arrangements and transactions mentioned, have a widely understood meaning in financial and commercial circles and do not require to be specially defined.

**Statute law revision (item (2))**

The proposed amendment to Schedule 1 removes obsolete references to the Hen Quota Committee and the New South Wales Egg Corporation both of which were dissolved on 12 October 1990.

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**PUBLIC HEALTH ACT 1991 No. 10****AMENDMENTS**

- (1) Section 4 (**Orders and directions during state of emergency**):
- (a) From section 4 (1) (b), omit “that the emergency could result in the spread of a scheduled medical condition”, insert instead “on reasonable grounds that the emergency could result in a situation (including the spread of a scheduled medical condition) under which the health of the public is, or is likely to be, at risk”.
  - (b) From section 4 (2), omit “any spread of a scheduled medical condition and its consequences”, insert instead “the risk and any of its possible consequences”.
- (2) Section 14 (**Medical practitioner to notify certain scheduled medical conditions**):
- After section 14 (2), insert:
- (2A) The medical practitioner is not required to comply with any such requirements if:
- (a) the medical practitioner is attending the person as a patient at a hospital; and
  - (b) the person is suffering from a notifiable disease; and
  - (c) the medical practitioner has been notified that the chief executive officer of the hospital has, in accordance with section 69, already provided the Director-General with the relevant information concerning the person.
- In this subsection, “**notifiable disease**”, “**hospital**” and “**chief executive officer**” have the same meanings as in section 68.
- (3) Sections 64, 65, 67:
- After “medical officer of health” wherever occurring, insert “(or any person authorised by a medical officer of health)”.
- (4) Section 75 (**Disclosure of information**):
- At the end of section 75 (2) (d), insert:
- ; or
  - (e) in any other prescribed circumstances.
- (5) Schedule 4 (**Savings and transitional provisions**):
- From clause 4 (2), omit “62”, insert instead “63”.

**COMMENCEMENT**

The amendments to the Public Health Act 1991 commence on the date of assent to this Act.

**EXPLANATORY NOTE****Public health risks during state of emergency** (item (1))

Section 4 currently enables the Minister to make certain orders and directions during a state of emergency (i.e. when action is being taken under the State Emergency and Rescue Management Act 1989) if the Minister decides that the emergency could result in the spread of a scheduled medical condition. The proposed amendments to section 4 enable the Minister to take that action if the Minister decides that the emergency could result in a situation where the health of the public is or will be at risk (including the spread of scheduled medical conditions). This will bring the scope of the section in to line with section 5 (which currently enables the Minister to take action, when action under the State Emergency and Rescue Management Act 1989 is neither contemplated nor underway, to deal with a situation when the health of the public is or will be at risk).

**Notification requirements** (item (2))

At present, a medical practitioner must provide the Director-General of the Department of Health with particulars concerning a person who is being attended by the medical practitioner because of certain scheduled medical conditions. The proposed amendment to section 14 provides that this requirement does not apply if the medical practitioner is treating a patient with a notifiable disease at a hospital and the medical practitioner has been notified that the chief executive officer of the hospital has already notified the Director-General under section 69. That section requires information concerning patients suffering from notifiable diseases to be provided by the chief executive officer of the hospital concerned to the Director-General.

**Functions of medical officers of health** (item (3))

A medical officer of health is a medical practitioner nominated by the Governor as the medical officer of health for a particular medical district. The proposed amendments to sections 64, 65 and 67 enable medical officers of health to delegate some of their functions to authorised persons. These functions include the inspection of registers kept under the Registration of Births, Deaths and Marriages Act 1973 and the exercising of the functions of environmental health officers of local councils.

**Disclosure of information** (item (4))

At present, it is an offence to disclose information obtained in connection with the administration of the Act unless there was a lawful excuse for the disclosure (e.g. with the consent of the person to whom the information relates or in connection with the administration or execution of the Act). The proposed amendment to section 75 will enable the regulations to prescribe other circumstances under which the disclosure of information will be lawful. This will bring the provision in to line with similar legislation (e.g. the Health Administration Act 1982).

**Statute law revision** (item (5))

The proposed amendment to Schedule 4 rectifies an incorrect cross-reference.

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**PUBLIC SECTOR MANAGEMENT ACT 1988 No. 33****AMENDMENT**

Schedule 3B (**Senior executive positions**):

From Part 2, omit:

Western Lands Commissioner

**COMMENCEMENT**

The amendment to the Public Sector Management Act 1988 commences on the commencement of the amendments to the Western Lands Act 1901 set out elsewhere in this Schedule.

**EXPLANATORY NOTE**

The proposed amendment is consequential on the amendments to the Western Lands Act 1901 set out elsewhere in this Schedule.

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**PUBLIC TRUSTEE ACT 1913 No. 19****AMENDMENT**

Section 18A (**Election by Public Trustee to administer**):

From section 18A (4), omit "in the Gazette, and in one daily newspaper published in Sydney, and if the deceased resided more than 50 kilometres from Sydney, in the paper circulating in the district where he resided at the time of his death", insert instead " , if the deceased resided in New South Wales at the date of death, in a newspaper circulating in the district where the deceased resided and, in any other case, in a Sydney daily newspaper".

**COMMENCEMENT**

The amendment to the Public Trustee Act 1913 commences on the date of assent to this Act.

**TRANSITIONAL**

The amendment to section 18A of the Public Trustee Act 1913 does not apply to publication of a notice of an election made under that section if the election is made before the date of assent to this Act.

**EXPLANATORY NOTE**

At present, the Public Trustee is required to give notice of an election to administer in the Gazette, in a Sydney daily newspaper and, if the deceased resided more than 50 kilometres from Sydney, in the paper circulating in the district where the deceased resided at the time of the deceased's death. The proposed amendment provides for publication in a newspaper circulating in the district where the deceased resided if the deceased resided in New South Wales and, in any other case, in a Sydney daily newspaper. The proposed amendment is consistent with requirements for publication of notices concerning applications for grants and resealing and intended distribution of assets set out in Part 78 (Probate) of the Supreme Court Rules 1970.

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**RADIATION CONTROL ACT 1990 No. 13****AMENDMENTS****(1) Section 4 (Definitions):**

From the definition of “radioactive substance” in section 4 (1), omit “100 becquerels per gram and which consists of or contains more than the prescribed concentration”, insert instead “the prescribed amount and which consists of or contains more than the prescribed activity”.

**(2) Section 6 (Restrictions on use and sale etc. of radioactive substances and certain radiation apparatus):**

- (a) From section 6 (2), omit “or sell”, insert instead “, sell or give away”.
- (b) From section 6 (3), after “sell”, insert “or give away”.

**COMMENCEMENT**

The amendments to the Radiation Control Act 1990 commence on the date of assent to this Act.

**TRANSITIONAL**

Item (2) of the amendments to the Radiation Control Act 1990 does not apply to an offence alleged to have been committed before the commencement of the amendments.

**EXPLANATORY NOTE****Definition of “radioactive substance” (item (1))**

At present, the definition of “radioactive substance” refers (among other matters) to any substance which emits ionising radiation with a specific activity greater than 100 becquerels per gram and which consists of or contains more than the prescribed concentration of any radioactive element. The proposed amendment to section 4 replaces the reference to 100 becquerels per gram with a reference to an amount to be prescribed by the regulations and refers instead to the prescribed activity of any radioactive element. This will facilitate the achievement of greater uniformity with the Commonwealth and other States in the area of radiation control.

**Gifts of radioactive substances etc. (item (2))**

The proposed amendments to section 6 extend offences dealing with the use or sale of radioactive substances and certain radiation apparatus by inserting reference to the giving away of those things.

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**REAL ESTATE SERVICES COUNCIL ACT 1990 No. 14****AMENDMENT****Section 7 (Associate members):**

From section 7 (1), omit “A prescribed organisation”, insert instead “An organisation approved by the Minister”.

**COMMENCEMENT**

The amendment to the Real Estate Services Council Act 1990 commences on the date of assent to this Act.

**EXPLANATORY NOTE**

The proposed amendment provides that the organisations which submit names of persons (being persons who may be appointed as associate members of the Real Estate Services Council) to the Council are to be approved by the Minister rather than prescribed by the regulations.

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**REAL PROPERTY ACT 1900 No. 25****AMENDMENT****Section 74O (Restrictions on lodgment of further caveats where earlier caveat lapses or is withdrawn):**

Before “any further caveat”, insert “or where a caveat is withdrawn or lapses under section 74MA,”.

**COMMENCEMENT**

The amendment to the Real Property Act 1900 commences on the date of assent to this Act.

**EXPLANATORY NOTE**

The proposed amendment provides that a caveat which is withdrawn pursuant to an order of the Supreme Court under section 74MA of the Real Property Act 1900 or which lapses under that section will be covered by section 74O of that Act. That section currently makes the lodgment of a further caveat ineffective where the caveator seeks to protect the same estate or interest protected by the earlier caveat (unless the Supreme Court has made an order giving leave for the further caveat to be lodged or unless the further caveat is endorsed with the consent of the primary or possessory applicant for, or the registered proprietor of, the estate or interest affected by the further caveat).

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**SOIL CONSERVATION ACT 1938 No. 10****AMENDMENTS****(1) Section 15 (Power of entry):**

- (a) From section 15 (2), omit “the prescribed form”, insert instead “a form approved by the Minister”.
- (b) After section 15 (2), insert:
  - (2A) Any such authority card must contain the following information:
    - a statement to the effect that the authority has been granted under this Act
    - the name of the person to whom the authority has been granted
    - the nature of the powers that the authority confers
    - the period for which the authority has effect.

**(2) Section 17 (Areas of erosion hazard):**

- (a) From section 17 (2) (c), omit “prescribed”, insert instead “approved by the Minister”.
- (b) From section 17 (3), omit “in the prescribed manner”, insert instead “personally or by post”.
- (c) From section 17 (4), omit “the manner prescribed”, insert instead “a manner approved by the Minister”.

**(3) Section 21AB (Definitions):**

- (a) From paragraph (b) of the definition of “protected land” in section 21AB (1), omit the words “prescribed river or lake”, insert instead “river or lake which (with reference to the Water Act 1912) was listed in the Gazettes referred to in the Sixth Schedule”.
- (b) Omit section 21AB (2).

**(4) Section 21C (Destruction of trees on protected land prohibited except under authority):**

Omit section 21C (2) (a).

**(5) Section 21D (Authority to destroy timber on protected land):**

From section 21D (2) (b), omit “as may be prescribed by the regulations.”, insert instead “as may be approved by the Minister. Any such fee is not to exceed the amount that is appropriate to cover the administrative costs of dealing with the application.”.

**(6) Section 22 (Preservation of proclaimed works):**

From section 22 (5) (a), omit “as prescribed”, insert instead “in a manner approved by the Minister”.

- (7) Section 22C (**Minister may grant or refuse application**):  
From section 22C (3), omit “the prescribed form”, insert instead “a form approved by the Minister”.
- (8) Section 24:  
Omit the section, insert instead:  
**Acquisition of land**  
24. (1) The Minister may, for the purposes of this Act, acquire land (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 Minister is, in relation to that authorised work, taken to be the Constructing Authority.  
(3) Sections 34, 35, 36 and 37 of the Public Works Act 1912 do not apply in relation to works constructed under this Act.
- (9) Sections 25 (**Leases**), 25B (**Easements etc.**):  
From section 25, omit “vested in the Crown” wherever occurring, insert instead “acquired by the Minister”.
- (10) Section 25A (**Sale of land not required for purposes of Act**):  
Omit “, resumed or appropriated”, insert instead “or acquired by compulsory process”.
- (11) Section 30A (**Delegation**):  
From section 30A (2), omit “a government department”, insert instead “the Department of Water Resources in respect of the Commissioner’s powers under Division 2 of Part 4 (except section 21C (2)) or of any other government department”.
- (12) The Sixth Schedule:  
After the Fifth Schedule, insert:  
**SIXTH SCHEDULE—GAZETTE REFERENCES**  
(Sec. 21AB)
- Gazette No. 37 of 9 April 1948 at pages 848–857
  - Gazette No. 189 of 30 September 1949 at pages 2935–2936
  - Gazette No. 114 of 30 May 1952 at page 1918
  - Gazette No. 73 of 17 June 1960 at page 1937
  - Gazette No. 44 of 10 April 1964 at pages 1150–1153
  - Gazette No. 23 of 16 February 1973 at page 485

**COMMENCEMENT**

The amendments to the Soil Conservation Act 1938 commence on a day or days to be appointed by proclamation.

**REPEAL OF REGULATIONS**

The Soil Conservation Regulations 1947 are repealed on the commencement of item (3) of the amendments to the Soil Conservation Act 1938.

**TRANSITIONAL**

Items (8)–(10) of the amendments to the Soil Conservation Act 1938 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****Prescribed forms and other matters under the regulations** (items (1)–(7) and (12))

The proposed amendments in these items enable the repeal of the Soil Conservation Regulations 1947 by either incorporating provisions contained in those Regulations in the Act or amending the Act to alter the current requirements. For example, forms and notices that are required to be prescribed will instead be approved by the Minister. This will include the form of an authority to enter land, but the Act will require the approved form to contain information that is presently covered by the prescribed form. Also, certain rivers and lakes that constitute “protected land” for the purposes of the Act are presently prescribed by the regulations by reference to Gazettes. These references are reproduced in the Act without any change.

**Delegation of Commissioner’s functions** (item (11))

The proposed amendment to section 30A enables the Commissioner of the Soil Conservation Service to delegate his or her functions in relation to protected land to officers of the Department of Water Resources. The Commissioner can already delegate some of these functions to any department, administrative office or public authority, but on the basis of the general expertise of the Department of Water Resources in relation to erosion control and the management of riverine corridors, it is appropriate that the functions relating to protected land extend to that Department specifically.

**Statute law revision—land acquisition** (items (8)–(10))

The proposed amendments to sections 24, 25 and 25A are consequential on the Land Acquisition (Just Terms Compensation) Act 1991 and merely replace superseded references to the Public Works Act 1912 in relation to the compulsory acquisition of land.

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**STAMP DUTIES ACT 1920 No. 47****AMENDMENTS**

**Section 71 (As to the sale of an annuity or right not before in existence):**

From section 71 (3) (a) and (b), omit “, the Government Insurance Office of New South Wales” wherever occurring.

**COMMENCEMENT**

The amendments to the Stamp Duties Act 1920 commence on a day to be appointed by proclamation.

**EXPLANATORY NOTE**

The proposed amendments remove a stamp duty concession conferred on the Government Insurance Office of New South Wales that is no longer appropriate. At present, section 71 (3) of the Stamp Duties Act 1920 provides that, despite any other provision of that Act, duty is not chargeable in respect of any instrument by which an annuity is issued, created or sold by specified persons, including the Government Insurance Office of New South Wales, or is purchased by a person from certain persons, including that Office, if the issue, creation, sale or purchase occurred or occurs on or after 6 February 1985. The proposed amendments omit the references to the Government Insurance Office of New South Wales as a consequence of the privatisation of that statutory authority in accordance with the Government Insurance Office (Privatisation) Act 1991. A power to confer the benefits of the provision on persons by prescription is retained.

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**STATE BANK (CORPORATISATION) ACT 1989 No. 195****AMENDMENT**

Section 11A:

After section 11, insert:

**Corporation to be same legal entity as State Bank**

11A. On and from the dissolution of the State Bank, the Corporation is for all purposes a continuation of and the same legal entity as the State Bank.

**COMMENCEMENT**

The amendment to the State Bank (Corporatisation) Act 1989 is taken to have commenced on 14 May 1990 (the date of commencement of the bulk of the provisions of that Act and also the date on which the State Bank of New South Wales was dissolved and State Bank of New South Wales Limited became a State owned corporation).

**EXPLANATORY NOTE**

The proposed amendment makes it clear that State Bank of New South Wales Limited is the universal successor of the former State Bank of New South Wales for all purposes, including the rules of private international law.

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**STATE ROADS ACT 1986 No. 85****AMENDMENTS**

(1) Section 52 (**Acquisition of land**):

After “land” in section 52 (1), insert “(including an interest in land)” .

(2) Section 100B (**Penalty notices for certain offences**):

Omit section 100B (3) and (4).

**COMMENCEMENT**

The amendments to the State Roads Act 1986 commence on the date of assent to this Act.

**SAVING**

Item (2) of the amendments to the State Roads Act 1986 does not affect the validity of a courtesy letter served or enforcement action taken (whether before or after the date of assent to this Act) under Part 4B of the Justices Act 1902 as regards an offence referred to in section 100B (1) of the State Roads Act 1986.

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

The proposed amendment to section 52 is consequential on the Land Acquisition (Just Terms Compensation) Act 1991 and merely removes any doubt that the acquisition of land by the Roads and Traffic Authority in accordance with that Act includes the acquisition of an interest (e.g. a leasehold interest) in land.

**Penalty notice** (item (2))

At present, section 100B (3) and (4) provide that a person served with a penalty notice may decline to be dealt with by penalty notice and that, if the person fails to pay the amount specified in the penalty notice, the person is taken to have so declined. The proposed amendment to section 100B omits unnecessary matter and makes the penalty notice provision consistent with various other Acts. The proposed amendment is similar to an amendment to the Bicentennial Park Trust Act 1987 set out elsewhere in this Schedule and the explanatory note to that amendment contains more information relevant to the above amendment.

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**STATE ROADS AND TRAFFIC (OFFENCES AND PENALTIES)  
AMENDMENT ACT 1991 No. 24**

**AMENDMENT****Schedule 3 (Consequential amendment of other Acts):**

Omit the amendment to the Local Government Act 1919.

**COMMENCEMENT**

The amendment to the State Roads and Traffic (Offences and Penalties) Amendment Act 1991 commences on the date of assent to this Act.

**EXPLANATORY NOTE**

The proposed amendment in effect withdraws a proposed amendment to section 277A of the Local Government Act 1919. That section is the subject of an amendment proposed elsewhere in this Schedule.

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**STATE SPORTS CENTRE TRUST ACT 1984 No. 68****AMENDMENT****Section 16 (Provisions with respect to the original land of the Trust):**

From section 16 (7), omit “8”, insert instead “25”.

**COMMENCEMENT**

The amendment to the State Sports Centre Trust Act 1984 commences on the date of assent to this Act.

**EXPLANATORY NOTE**

At present, section 16 provides that the State Sports Centre Trust may, with Ministerial approval, grant leases of parts of the trust land but that the term of any such lease (including any extension or option or right of renewal) must not exceed 8 years. The proposed amendment increases the maximum lease term from 8 years to 25 years.

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**STOCK FOODS ACT 1940 No. 19****AMENDMENTS****(1) Section 5 (Registration of manufactured stock foods and by-products):**

From section 5 (1) and (1D), omit “the prescribed form” wherever occurring, insert instead “a form approved by the Director-General”.

**(2) Section 25 (Certificate of analyst to be evidence):**

From section 25 (1), omit “the form prescribed”, insert instead “a form approved by the Director-General”.

**(3) Section 35 (Regulations):**

Omit section 35 (2) (e).

**COMMENCEMENT**

The amendments to the Stock Foods Act 1940 commence on the date of assent to this Act.

**EXPLANATORY NOTE**

The proposed amendments enable the form of applications for registration of stock foods and of certain certificates to be approved by the Director-General of the Department of Agriculture instead of being prescribed by the regulations.

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**SUBORDINATE LEGISLATION ACT 1989 No. 146****AMENDMENT****Section 12 (Machinery provisions regarding repeal):**

After section 12 (5), insert:

(6) The Navigation (Collision) Regulations 1983 under the Navigation Act 1901 are, for the purposes of this Act, taken to have been originally published on 1 July 1987.

**COMMENCEMENT**

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

**EXPLANATORY NOTE**

The Subordinate Legislation Act 1989 provides for the staged repeal of statutory rules by reference to the date on which they were originally published in the Gazette. The provisions contained in what are now known as the Navigation (Collision) Regulations 1983 were formerly contained in the Seventh Schedule to the Navigation Act 1901. As a consequence of amendments to that Act which took effect on 1 July 1987, those provisions are now taken to be regulations under that Act. The amendment to the Subordinate Legislation Act 1989 is intended to allow the staged repeal provisions of that Act to have effect as if 1 July 1987 were the original date of publication of the regulations.

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**SURVEYORS ACT 1929 No. 3****AMENDMENTS****(1) Section 8 (Board to keep a register):**

From section 8 (3), omit “April”, insert instead “January”.

**(2) Section 10 (Persons entitled to be registered):**

(a) From section 10 (4) and (5), omit “February” wherever occurring, insert instead “July”.

(b) From section 10 (5), omit “March” wherever occurring, insert instead “October”.

(c) After section 10 (8), insert:

(9) A surveyor who, before the date of assent to the Statute Law (Miscellaneous Provisions) Act 1992, paid the prescribed roll fee for 1992 is, on further payment of half the amount of that fee, taken to have paid the prescribed roll fee for the period ending 30 June 1993.

**COMMENCEMENT**

The amendments to the Surveyors Act 1929 commence on the date of assent to this Act.

**EXPLANATORY NOTE****Publication of register** (item (1))

The proposed amendment to section 8 provides that the Board of Surveyors is required to cause a copy of the register of surveyors to be published in January of each year instead of April.

**Payment of fees** (item (2))

The proposed amendments to section 10 (which currently requires surveyors to pay registration fees by February of each year) provide instead for payment by July in each year and for late payment of fees to be extended until October.

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**SYDNEY TURF CLUB ACT 1943 No. 22****AMENDMENTS**(1) Section 11 (**Insurance, and payments out of funds**):

- (a) From section 11 (1) (a), omit “with the Government Insurance Office of New South Wales (in this subsection hereinafter referred to as the “said office”)”.
- (b) From section 11 (1) (a), omit “with such office”.
- (c) From section 11 (1) (b) and (c), omit “with the said office” wherever occurring.

## (2) Section 19:

Omit the section, insert instead:

**Members defaulting in payment of bets not eligible to continue as members**

19. (1) If a member, as either a punter or a bookmaker, is proved to the satisfaction of the directors to have made default in the payment of a bet made by, or placed with, the member, the directors are to remove the name of the member from the Register of Members of the Club and the member, on that removal, ceases to be a member of the Club.

(2) Before any action is taken by the directors under this section, due inquiry into the facts of the case is to be held by or on behalf of the directors.

(3) The member liable to be affected by the inquiry is to be given due notice of the inquiry and is entitled to be heard at the inquiry.

(4) The by-laws made pursuant to this Act may prescribe the procedure to be followed in connection with the inquiry.

**COMMENCEMENT**

Item (1) of the amendments to the Sydney Turf Club Act 1943 commences on a day to be appointed by proclamation.

Item (2) of the amendments to the Sydney Turf Club Act 1943 commences on the date of assent to this Act.

**EXPLANATORY NOTE****Government Insurance Office of New South Wales** (item (1))

The proposed amendments to section 11 omit the requirement that the Sydney Turf Club must effect its insurance with the Government Insurance Office of New South Wales. The proposed amendments are made as a consequence of the privatisation of the Government Insurance Office in accordance with the Government Insurance Office (Privatisation) Act 1991.

**Eligibility for membership** (item (2))

At present, section 19 prohibits bookmakers from election as members of the Sydney Turf Club and provides that members who are carrying on or engaging, interested or employed in the business of a bookmaker must forfeit the right to membership. The section also deals with the disqualification from membership of members who default in the payment of debts. The proposed amendment omits the provisions dealing with bookmakers with the effect that bookmakers will be eligible for election as members of the Sydney Turf Club and that bookmakers and persons associated with the business of bookmaking will not be liable to forfeiture of their membership of the Club. The remaining provisions of section 19 restate the procedure to be followed in the case of a member who defaults in the payment of a debt.

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**TOW TRUCK ACT 1989 No. 158****AMENDMENT**

Section 16A:

After section 16, insert:

**Regulations may provide for exemptions**

16A. The regulations may make provision for or with respect to exempting, subject to prescribed conditions (if any), any person or class or description of persons from the provisions of section 15 or 16 or both.

**COMMENCEMENT**

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

**EXPLANATORY NOTE**

Section 15 states that a person must not drive or stand a tow truck on a public street, use or assist in the use of a tow truck on a public street or obtain or attempt to obtain a towing authority unless the person holds a drivers certificate under the Act. Section 16 prohibits a tow truck operator from using the services of a person to do anything for which a drivers certificate is required under the Act unless the person holds a drivers certificate.

The proposed amendment enables regulations to be made, with or without conditions, to exempt persons from the operation of section 15 or 16 or both. (The proposed provision enables regulations to be made to permit the use of a tow truck by a person who does not hold a drivers certificate for purposes unrelated to towing or other activities necessarily associated with the business of a tow truck operator. For example, the use of a road service vehicle in the country for private purposes by a tow truck operator's family might be permitted. This use is presently prohibited if the driver does not hold a drivers certificate.)

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## TRAFFIC ACT 1909 No. 5

### AMENDMENTS

(1) Section 4C (**Schemes to assist children to cross public streets with safety**):

From section 4C (1), omit “Commissioner of Police”, insert instead “Authority”.

(2) Section 18B (**Penalty notices for certain offences**):

Omit section 18B (3).

### COMMENCEMENT

Item (1) of the amendments to the Traffic Act 1909 commences on a day to be appointed by proclamation.

Item (2) of the amendments to the Traffic Act 1909 commences on the date of assent to this Act.

### SAVINGS

**Schemes to assist children to cross public streets with safety**

Any scheme authorised by the commissioner of Police under section 4C of the Traffic Act 1909 and in force immediately before the commencement of the amendment to that section and any person authorised for the purposes of any such scheme is, after that commencement, taken to be a scheme or person authorised by the Roads and Traffic Authority under that section as amended by this Act.

**Penalty notices**

The amendment to section 18B does not affect the validity of a courtesy letter served or enforcement action taken (whether before or after the date of assent to this Act) under Part 4B of the Justices Act 1902 as regards an offence referred to in section 18B (1) of the Traffic Act 1909.

### EXPLANATORY NOTE

**Schemes to assist children to cross public streets with safety** (item (1))

The proposed amendment to section 4C provides for the Roads and Traffic Authority to take over the functions relating to schemes to assist children to cross public streets with safety that the Commissioner of Police presently has under the Act.

**Penalty notices** (item (2))

At present, section 18B provides that a person served with a penalty notice may decline to be dealt with by penalty notice and that, if the person fails to pay the amount specified in the penalty notice, the person is taken to have so declined. The proposed amendment omits unnecessary matter and makes the penalty notice provision consistent with various other Acts. The proposed amendment is similar to an amendment to the Bicentennial Park Trust Act 1987 set out elsewhere in this Schedule and the explanatory note to that amendment contains more information relevant to the above amendment.

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**TRAFFIC SAFETY (LIGHTS AND HOARDINGS) ACT 1951 No. 7**  
**AMENDMENT**

**Section 3 (Lights, signs, awnings etc. interfering with traffic safety):**

In section 3 (1), after “notice in writing”, insert “served personally or by post”.

**COMMENCEMENT**

The amendment to the Traffic Safety (Lights and Hoardings) Act 1951 commences on the date of assent to this Act.

**EXPLANATORY NOTE**

Regulations under the Traffic Safety (Lights and Hoardings) Act 1951 currently prescribe the manner of service of notices under section 3 of that Act. Much of the detail of the regulations would be rendered unnecessary if the provisions of section 76 of the Interpretation Act 1987 applied. The effect of the proposed amendment will be to transfer from the regulations to the Traffic Safety (Lights and Hoardings) Act 1951 the provision that authorises the service of notices by post so that the regulations may be repealed by the Subordinate Legislation Act 1989 and section 76 of the Interpretation Act 1987 will apply.

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**TREASURY CORPORATION ACT 1983 No. 75**

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

From section 3 (1), omit the definition of “Manager”.

**(2) Section 5 (Functions of Corporation):**

After section 5 (1) (g), insert:

- (g1) redeem any securities issued by the Corporation and hold, cancel or re-issue any such securities;

**COMMENCEMENT**

The amendments to the Treasury Corporation Act 1983 commence on the date of assent to this Act.

**EXPLANATORY NOTE****“Buy-back” of securities** (item (2))

The proposed amendment to section 5 makes it clear that the Treasury Corporation, which has power to issue debentures, bonds, inscribed stock, promissory notes and other types of securities, can redeem or “buy-back” securities that it issues and can hold, cancel or re-issue them.

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

The proposed amendment to section 3 removes an obsolete definition of “Manager” in relation to the Treasury Corporation. The affairs of the Corporation have, since 9 December 1988 (the date of the commencement of the Treasury Corporation (Amendment) Act 1988), been managed by the Chief Executive of the Corporation in accordance with the directions of the board of directors of the Corporation.

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**TRUSTEE ACT 1925 No. 14****AMENDMENTS****Section 60 (Distribution after notice):**

- (a) From section 60 (1), omit “the requisite notice”, insert instead “notice in the manner and form prescribed by rules of the Court”.
- (b) Omit section 60 (2) and (3).
- (c) From section 60 (5), omit “requisite”.

**COMMENCEMENT**

The amendments to the Trustee Act 1925 commence on a day to be appointed by proclamation.

**VALIDATION**

A valid notice given by a trustee:

- (a) in or to the effect of Form 121 of Schedule F to the Supreme Court Rules 1970; and
- (b) in a newspaper circulating in the district in which the property, if land, was situated or, in any other case, in a Sydney daily newspaper,

in purported compliance with section 60 of the Trustee Act 1925 (as in force before the amendments to that Act made by this Act commence) is taken for all purposes to be the requisite notice required by that section.

**EXPLANATORY NOTE**

At present, section 60 provides that a trustee must give not less than 2 months’ notice of an intention to distribute property to entitled persons. The notice must be published in the Gazette, in a Sydney daily newspaper and, in the case of land not situated in the County of Cumberland, in a newspaper (if any) published or circulating in the district where the land is situated.

A Practice Note (60 W.N. (N.S.W.) 123) issued on 22 December 1942 by the then Chief Judge in Equity directed that the form of notice of intended distribution set out in the Practice Note is to be employed for the purposes of section 92 of the Wills, Probate and Administration Act 1898, section 60 of the Trustee Act 1925 and section 11 of the Testator's Family Maintenance and Guardianship of Infants Act 1916. The form set out in the Practice Note is now reproduced as Form 121 in Schedule F to the Supreme Court Rules 1970. The Supreme Court Rules 1970 were amended on 13 December 1991 to reduce the time referred to in Form 121 for making claims under the notice from 2 calendar months to 1 calendar month. Further, the Supreme Court Rules 1970 do not require notices under section 92 of the Wills, Probate and Administration Act 1898 to be published in the Gazette.

The proposed amendments enable the making of a rule of Court prescribing the manner and form of the notice to be given under section 60 of the Trustee Act 1925 (item (a)), remove provisions relating to the manner of publication (item (b)) and make a consequential amendment (item (c)). The intention is that, on the making of an appropriate rule of Court, the requirements of section 60 and the protection afforded by that section to trustees who give the prescribed notice, will be consistent with the provisions of section 92 of the Wills, Probate and Administration Act 1898, section 11 of the Testator's Family Maintenance and Guardianship of Infants Act 1916 and, also, section 35 of the Family Provision Act 1982.

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## VALUATION OF LAND ACT 1916 No. 2

### AMENDMENTS

- (1) Sections 58D, 58E:

Omit the sections.

- (2) Section 76 (**Copies of entries to be supplied**):

From section 76 (3), omit "the prescribed fee", insert instead "a fee determined by the Valuer-General".

### COMMENCEMENT

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

### EXPLANATORY NOTE

#### **Abolition of rating base factors** (item (1))

The repeal of sections 58D and 58E is consequential on the Local Government (Rating) Further Amendment Act 1989 which abolished the use of rating base factors in making and levying rates. Because the Valuer-General is no longer required to determine or notify rating base factors in accordance with sections 58D and 58E, those sections are now obsolete.

**Fee for information** (item (2))

The proposed amendment to section 76 provides that the information provided under that section by the Valuer-General to an association constituted under the Community Land Development Act 1989 (being information relating to the value of lots in the scheme under which the association is constituted) is provided on payment of a fee determined by the Valuer-General instead of a prescribed fee. A similar amendment relating to fees determined by the Valuer-General for information furnished by the Valuer-General under section 78A was made by the Statute Law (Miscellaneous Provisions) Act 1990.

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**VALUERS REGISTRATION ACT 1975 No. 92****AMENDMENTS****(1) Section 15 (Application for registration as practising real estate valuer):**

From section 15 (1) (b) (i), omit “prescribed for the purposes of this subparagraph and a period, so prescribed,”, insert instead “approved by the Minister and a prescribed period”.

**(2) Section 28 (Proceedings for offences):**

From section 28 (2), omit “court of petty sessions constituted by a stipendiary magistrate”, insert instead “Local Court constituted by a Magistrate”.

**COMMENCEMENT**

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

**EXPLANATORY NOTE****Approved form** (item (1))

The proposed amendment to section 15 provides for courses of study (which are required to be completed by a person applying to be registered as a practising real estate valuer) to be approved by the Minister rather than prescribed by the regulations.

**Statute law revision** (item (2))

The proposed amendment to section 28 updates references concerning Local Courts and Magistrates.

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**WATER BOARD ACT 1987 No. 141****AMENDMENTS****(1) Section 4 (Objects):**

From section 4 (2), omit “its objects”, insert instead “the objects of this Act”.

**(2) Section 51 (Penalty notices):**

Omit section 51 (4) and (5).

**(3) Section 55 (Acquisition and divesting of land):**

Omit section 55 (1)–(3), insert instead:

(1) The Board may acquire land (or an interest in land) for the purposes of this Act 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 Board is, in relation to that authorised work, taken to be the Constructing Authority.

(3) Part 3 of the Public Works Act 1912 does not apply in respect of works constructed under this Act.

**(4) Schedule 4 (Application of the Public Works Act 1912):**

Omit the Schedule.

**COMMENCEMENT**

The amendments to the Water Board Act 1987 commence on the date of assent to this Act.

**SAVING AND TRANSITIONAL**

Item (2) of the amendments to the Water Board Act 1987 does not affect the validity of a courtesy letter served or enforcement action taken (whether before or after the date of assent to this Act) under Part 4B of the Justices Act 1902 as regards an offence referred to in section 51 (2) of the Water Board Act 1987.

Items (3) and (4) of the amendments to the Water Board Act 1987 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****Functions of Water Board (item (1))**

Item (1) is consequential on certain amendments made by the Water Board (Amendment) Act 1991 which clarified the scope of the Water Board’s functions.

**Penalty notices (item (2))**

At present, section 51 (4) and (5) provide that a person served with a penalty notice may decline to be dealt with by penalty notice and that, if the person fails to pay the amount specified in the penalty notice, the person is taken to have ~~so~~ declined. The proposed amendment omits unnecessary matter and makes the penalty notice

provision consistent with various other Acts. The proposed amendment is similar to an amendment to the Bicentennial Park Trust Act 1987 set out elsewhere in this Schedule and the explanatory note to that amendment contains more information relevant to the above amendment.

**Compulsory acquisition of land** (items (3) and (4))

Items (3) and (4) are consequential on the Land Acquisition (Just Terms Compensation) Act 1991 and merely replace superseded references to the Public Works Act 1912 in relation to the compulsory acquisition of land by the Water Board and omits unnecessary matter.

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**WATER SUPPLY AUTHORITIES ACT 1987 No. 140**

**AMENDMENTS**

- (1) Section 12 (**General functions of an Authority**):  
Omit section 12 (1) (b), insert instead:
  - (b) provide, construct, operate, manage and maintain buildings, works, systems and services for impounding, conserving and supplying water, for sewerage, drainage and flood mitigation and for the disposal of trade waste and waste water;
- (2) Section 51 (**Penalty notices**):  
Omit section 51 (4) and (5).
- (3) Section 55 (**Acquisition and divesting of land**):  
Omit section 55 (1)–(3), insert instead:
  - (1) An Authority may acquire land (or an interest in land) for the purposes of this Act 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 Authority is, in relation to that authorised work, taken to be the Constructing Authority.
  - (3) Part 3 of the Public Works Act 1912 does not apply in respect of works constructed under this Act.
- (4) Schedule 3 (**Broken Mill Water Board**):
  - (a) From clauses 4 (1) (a) and 6 (2), omit “North Broken Hill Limited” wherever occurring, insert instead “Pasminco Australia Limited”.
  - (b) Omit clause 4 (1) (c).
  - (c) From clause 6 (2), omit “A M & S Mining Limited”.
- (5) Schedule 7 (**Application of the Public Works Act 1912**):  
Omit the Schedule.

**COMMENCEMENT**

The amendments to the Water Supply Authorities Act 1987 commence on the date of assent to this Act.

**SAVING AND TRANSITIONAL**

Item (2) of the amendments to the Water Supply Authorities Act 1987 does not affect the validity of a courtesy letter served or enforcement action taken (whether before or after the date of assent to this Act) under Part 4B of the Justices Act 1902 as regards an offence referred to in section 51 (2) of the Water Supply Authorities Act 1987.

Items (3) and (5) of the amendments to the Water Supply Authorities Act 1987 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****Functions relating to flood mitigation** (item (1))

At present, under section 12, a Water Supply Authority may, in addition to its other functions such as water supply and sewerage and drainage services, provide assistance to mitigate the effects of flood (including assistance by the operation of works). An Authority is currently also authorised to levy flood mitigation service charges (in the same way as it may levy water, sewerage and drainage charges) on land within its area.

The proposed amendment to section 12 removes any doubt that an Authority, in addition to providing, constructing and operating works and services for water, sewerage and drainage, can provide, construct and operate works and services for flood mitigation. The amendment also recasts the provision so as to clarify the scope of an Authority's functions generally.

**Penalty notices** (item (2))

At present, section 51 (4) and (5) provide that a person served with a penalty notice may decline to be dealt with by penalty notice and that, if the person fails to pay the amount specified in the penalty notice, the person is taken to have so declined. The proposed amendment omits unnecessary matter and makes the penalty notice provision consistent with various other Acts. The proposed amendment is similar to an amendment to the Bicentennial Park Trust Act 1987 set out elsewhere in this Schedule and the explanatory note to that amendment contains more information relevant to the above amendment.

**Miscellaneous** (items (3)–(5))

The proposed amendment to section 55 and the repeal of Schedule 7 are consequential on the Land Acquisition (Just Terms Compensation) Act 1991 and merely replace superseded references to the Public Works Act 1912 in relation to the compulsory acquisition of land by a Water Supply Authority and omit unnecessary matter.

The proposed amendments to Schedule 3 amend references in that Schedule to certain mining companies as a consequence of changes of names and mining operations.

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**WESTERN LANDS ACT 1901 No. 70****AMENDMENTS****(1) Section 3 (Definitions):**

Insert, in section 3 (1), in alphabetical order:

**“Assistant Commissioner”** means an Assistant Western Lands Commissioner holding office as such under Part 2 of the Public Sector Management Act 1988.

**“Commissioner”** means the Western Lands Commissioner holding office as such under Part 2 of the Public Sector Management Act 1988.

**(2) Section 4 (Western Lands Commissioner and Assistant Commissioners):**

(a) Omit section 4 (1).

(b) Omit section 4 (3), insert instead:

(3) An Assistant Commissioner is to exercise and perform such of the powers, authorities, duties and functions of the Commissioner as the Commissioner directs, either generally or in any special case.

**(3) Sections 7A, 8:**

Omit the sections.

**COMMENCEMENT**

The amendments to the Western Lands Act 1901 commence on a day to be appointed by proclamation.

**SPECIAL PROVISION RELATING TO POSITION OF AN ASSISTANT COMMISSIONER**

Paragraph (c) of the provisions made pursuant to section 42W (5) of the Public Sector Management Act 1988 (being provisions contained in the Proclamation made under that Act and published in Gazette No. 98 of 29 September 1989 at page 7744) ceases to have effect on the commencement of the amendments to the Western Lands Act 1901. Those provisions provide for the amendments made by the Miscellaneous Acts (Public Sector Executives Employment) Amendment Act 1989 to the Western Lands Act 1901 not to apply to an Assistant Western Lands Commissioner because of the omission of that position from the Senior Executive Service.

**SAVING**

Any person holding office as Western Lands commissioner or as an Assistant Western Lands Commissioner immediately before the commencement of the amendments to the Western Lands Act 1901 is entitled to be appointed to a position in the Public Service for the balance of the person's term as such a Commissioner and at a salary that is not lower than the maximum salary payable to the person as such a Commissioner.

**EXPLANATORY NOTE**

The staff employed in the Western Lands commission are employed in the Department of Conservation and Land Management. The proposed amendments provide for both the Western Lands Commissioner and an Assistant Western Lands

Commissioner to hold office in the Public Service under the Public Sector Management Act 1988 consistently with the positions of other staff employed under the Western Lands Act 1901. At present, the positions of Commissioner and an Assistant Commissioner are statutory positions.

The persons at present holding the statutory positions are to be entitled to a Public Service position for the balance of their term and at an equivalent salary. The amendments do not affect the existing statutory functions of the Western Lands Commissioner and an Assistant Western Lands Commissioner.

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### **ZOOLOGICAL PARKS BOARD ACT 1973 No. 34**

#### **AMENDMENT**

Section 7 (**Chairman and Deputy Chairman**):

From section 7 (3), omit “one year”, insert instead “5 years”.

#### **COMMENCEMENT**

The amendment to the Zoological Parks Board Act 1973 commences on the date of assent to this Act.

#### **TRANSITIONAL**

The persons holding office as Chairman and Deputy Chairman of the Zoological Parks Board of New South Wales immediately before the date of assent to this Act are taken to have been appointed for a term determined by the Minister under section 7 as amended by this Act.

#### **EXPLANATORY NOTE**

At present, section 7 (3) provides that the Chairman and Deputy Chairman of the Zoological Parks Board of New South Wales are to hold office for such period, not exceeding one year, as the Minister determines. The proposed amendment substitutes a period of 5 years for the period of one year.

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

(Sec. 3)

### **ALBURY-WODONGA DEVELOPMENT ACT 1974 No. 47**

#### **AMENDMENTS**

(1) Section 10 (**Acquisition of land**):

From section 10, omit “(including land previously appropriated or resumed for any purpose) by lease or purchase or by resumption or appropriation in accordance with this Act”, insert instead “(including an interest in land) by agreement or by compulsory process in accordance with the Land Acquisition (Just Terms Compensation) Act 1991”.

## (2) Section 11:

Omit the section, insert instead:

**Application of the Public Works Act 1912**

11. (1) For the purposes of the Public Works Act 1912, any acquisition of land under section 10 is taken to be for an authorised work and the Corporation is, in relation to that authorised work, taken to be the Constructing Authority.

(2) Sections 34, 35, 36 and 37 of the Public Works Act 1912 do not apply in relation to works constructed under this Act.

(3) Schedule 3 (**Modification of the Public Works Act 1912**):

Omit the Schedule.

**COMMENCEMENT**

The amendments to the Albury-Wodonga Development Act 1974 commence on the date of assent to this Act.

**TRANSITIONAL**

The amendments to the Albury-Wodonga Development Act 1974 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 Albury-Wodonga Development Act 1974 contains provisions relating to the acquisition of land by way of appropriation or resumption 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 Albury-Wodonga Development Act 1974 even though that 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 Albury-Wodonga Development Act 1974 (or under any other Act which provides for compulsory acquisition of land by a public authority). It provides only for 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 Albury-Wodonga Development Corporation and omit unnecessary matter.

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**ASSOCIATIONS INCORPORATION ACT 1984 No. 143****AMENDMENTS**(1) Section 55 (**Vesting of property after cancellation of incorporation**):

- (a) From section 55 (1) (b), omit “it”, insert instead “the Commissioner”.
- (b) From section 55 (2), omit “its”, insert instead “the Commissioner’s”.

(2) Section 65 (**Powers of Commissioner in relation to documents**):

From section 65 (1), omit “it”, insert instead “the Commissioner”.

**COMMENCEMENT**

The amendments to the Associations Incorporation Act 1984 commence or are taken to have commenced on the day on which Schedule 1 (2) to the Associations Incorporation (Amendment) Act 1992 commences.

**EXPLANATORY NOTE**

The proposed amendments are consequential on the replacement of references to the Corporate Affairs Commission with references to the name of the office of an individual (currently, that of the Managing Director of Business and Consumer Affairs in accordance with the Corporations (New South Wales) Act 1990 and, on commencement of Schedule 1 (2) to the Associations Incorporation (Amendment) Act 1992, that of the Commissioner for Consumer Affairs in accordance with that Act).

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**CONVEYANCING ACT 1919 No. 6****AMENDMENTS**(1) Section 88A (**Easements in gross and easements and restrictions appurtenant to easements**):

Re-number subsection (5) as subsection (4).

(2) Section 106 (**Leasing powers where mortgages or certain charges**):

From section 106 (10), omit “72”, insert instead “74F”.

(3) Section 157A (**Trustee or personal representative deemed entitled to sell and convey land resumed under statutory authority**):

Omit section 157A (1), insert instead:

(1) In this section, “resumption” means the acquisition of land by compulsory process in accordance with the Land Acquisition (Just Terms Compensation) Act 1991 or any other Act.

**COMMENCEMENT**

The amendments to the Conveyancing Act 1919 commence on the date of assent to this Act.

**EXPLANATORY NOTE**

The proposed amendment to section 88A alters the numbering of a subsection (item (1)).

The proposed amendment to section 106 corrects a cross-reference (item (2)).

The proposed amendment to section 157A is consequential on the Land Acquisition (Just Terms Compensation) Act 1991 (item (3)).

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**DISCHARGED SERVICEMEN'S BADGES ACT 1964 No. 49****AMENDMENT**

## Schedule:

From the Schedule, omit “The Returned Services”, insert instead “Returned and Services”.

**COMMENCEMENT**

The amendment to the Discharged Servicemen's Badges Act 1964 commences on the date of assent to this Act.

**EXPLANATORY NOTE**

Amendments contained in the Statute Law (Miscellaneous Provisions) Act (No. 2) 1990 to the Returned Sailors and Soldiers' Imperial League of Australia (New South Wales Branch) Incorporation Act 1935 changed the name of the corporation constituted under that Act from the Returned Sailors and Soldiers' Imperial League of Australia (New South Wales Branch) to the Returned and Services League of Australia (New South Wales Branch). Because of section 53 of the Interpretation Act 1987, references in Acts, instruments or documents to a body that has had its name changed by an Act are read as references to the body under its new name.

The proposed amendment merely updates a reference to the Returned and Services League of Australia (New South Wales Branch).

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**ENERGY ADMINISTRATION ACT 1987 No. 103****AMENDMENTS**

## (1) Section 15:

Omit the section, insert instead:

**Acquisition of land**

15. (1) The Corporation may, for the purposes of this Act or any other Act administered by the Minister, acquire land (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 Corporation is, in relation to that authorised work, taken to be the Constructing Authority.

(3) Sections 34, 35, 36 and 37 of the Public Works Act 1912 do not apply in respect of works constructed under this Act.

(2) Schedule 2 (**Modification of the Public Works Act 1912**):

Omit the Schedule.

**COMMENCEMENT**

The amendments to the Energy Administration Act 1987 commence on the date of assent to this Act.

**TRANSITIONAL**

The amendments to the Energy Administration Act 1987 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 proposed amendments are consequential on the Land Acquisition (Just Terms Compensation) Act 1991 and merely replace superseded references to the Public Works Act 1912 in relation to the compulsory acquisition of land by the Energy Corporation and omit unnecessary matter.

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**ESSENTIAL SERVICES ACT 1988 No. 41****AMENDMENTS**

- (1) Sections 16–20, 22, 23, 26:  
Omit “a industrial” and “A industrial” wherever occurring, insert instead “an industrial” and “An industrial” respectively.
- (2) Section 20 (2):  
Omit “a industrial organisation’s”, insert instead “an industrial organisation’s”.

**COMMENCEMENT**

The amendments to the Essential Services Act 1988 commence on the date of assent to this Act.

**EXPLANATORY NOTE**

The proposed amendments rectify grammatical errors.

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**FISHERIES AND OYSTER FARMS ACT 1935 No. 58****AMENDMENT****Section 17A (Acquisition of land for certain purposes):**

From section 17A (1), omit “purchase, resumption or appropriation under the Public Works Act 1912”, insert instead “agreement or by compulsory process in accordance with the Land Acquisition (Just Terms Compensation) Act 1991”.

**COMMENCEMENT**

The amendment to the Fisheries and Oyster Farms Act 1935 commences on the date of assent to this Act.

**TRANSITIONAL**

The amendment to the Fisheries and Oyster Farms Act 1935 does 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 proposed amendment is consequential on the Land Acquisition (Just Terms Compensation) Act 1991 and merely replaces superseded references to the Public Works Act 1912 in relation to the compulsory acquisition of land.

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**HEALTH ADMINISTRATION ACT 1982 No. 135****AMENDMENTS****Section 10 (Acquisition of land by Corporation):**

- (a) From section 10 (1), omit “by purchase, lease or exchange or, in accordance with the provisions of this section, by way of resumption or appropriation”, insert instead “(including an interest in land) by agreement or by compulsory process in accordance with the Land Acquisition (Just Terms Compensation) Act 1991”.
- (b) Omit section 10 (3)–(5), insert instead:
  - (3) For the purposes of the Public Works Act 1912, any such acquisition of land is taken to be for an authorised work and the Corporation is, in relation to that authorised work, taken to be the Constructing Authority.
  - (4) Sections 34, 35, 36 and 37 of the Public Works Act 1912 do not apply in respect of works constructed under this Act.

**COMMENCEMENT**

The amendments to the Health Administration Act 1982 commence on the date of assent to this Act.

**TRANSITIONAL**

The amendments to the Health Administration Act 1982 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 proposed amendments are consequential on the Land Acquisition (Just Terms Compensation) Act 1991 and merely replace superseded references to the Public Works Act 1912 in relation to the compulsory acquisition of land by the Health Administration Corporation.

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**HERITAGE ACT 1977 No. 136****AMENDMENT**

Sections 112, 113:

Omit the sections, insert instead:

**Acquisition of land**

112. (1) The corporation may, for the purposes of this Act, acquire land (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 corporation is, in relation to that authorised work, taken to be the Constructing Authority.

(3) Sections 34, 35, 36 and 37 of the Public Works Act 1912 do not apply in respect of works constructed under this Act.

**COMMENCEMENT**

The amendment to the Heritage Act 1977 commences on the date of assent to this Act.

**TRANSITIONAL**

The amendment to the Heritage Act 1977 does 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 proposed amendment is consequential on the Land Acquisition (Just Terms Compensation) Act 1991 and merely replaces superseded references to the Public Works Act 1912 in relation to the compulsory acquisition of land

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**HUNTER WATER BOARD (CORPORATISATION) ACT 1991 No. 53****AMENDMENT**

Schedule 1 (**Amendment of Acts**):

Omit the matter relating to the Electricity Commission (Corporatisation) Act 1991.

**COMMENCEMENT**

The amendment to the Hunter Water Board (Corporatisation) Act 1991 is taken to have commenced on 1 January 1991 (the date of commencement of Schedule 1 to that Act).

**EXPLANATORY NOTE**

The proposed amendment removes matter relating to proposed legislation that has not been enacted.

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**MARKETING OF PRIMARY PRODUCTS ACT 1983 No. 176****AMENDMENT**

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

Omit clause 7.

**COMMENCEMENT**

The amendment to the Marketing of Primary Products Act 1983 commences on the date of assent to this Act.

**EXPLANATORY NOTE**

Clause 7 of Schedule 4 deals with the operation of the Grain Sorghum Marketing Board (Special Provisions) Act 1983. That Act has been repealed by the Grain Marketing Act 1991.

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**POULTRY PROCESSING ACT 1969 No. 45****AMENDMENTS**

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

From section 3 (1), omit the definition of “Chief, Division of Animal Health”, insert instead:

“**Chief, Division of Animal Industries**” means the Chief, Division of Animal Industries in the Department of Agriculture;

(2) Sections 6A, 13A:

Omit “Chief, Division of Animal Health” wherever occurring, insert instead “Chief, Division of Animal Industries”.

**COMMENCEMENT**

The amendments to the Poultry Processing Act 1969 commence on the date of assent to this Act.

**EXPLANATORY NOTE**

The proposed amendments update references to the position of Chief, Division of Animal Industries as a consequence of administrative changes in the Department of Agriculture.

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**PROTECTION OF THE ENVIRONMENT ADMINISTRATION ACT  
1991 No. 60****AMENDMENTS**

- (1) Section 12 (**Directions to public authorities**):  
From section 12 (3), omit “is”, insert instead “are”.
- (2) Schedule 1 (**Provisions relating to members and procedure of the Board**):  
From clause 7 (7), omit “(5)”, insert instead “(6)”.
- (3) Schedule 2 (**Members and procedure of Consultation Forum, Education Committee and advisory committees**):  
From clause 6 (2), omit “the Consultation Forum”, insert instead “a Consultation Forum”.

**COMMENCEMENT**

The amendments to the Protection of the Environment Administration Act 1991 commence on the date of assent to this Act.

**EXPLANATORY NOTE**

The proposed amendments correct a grammatical error (item (1)), a cross-reference (item (2)) and another reference (item (3)).

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**PUBLIC WORKS ACT 1912 No. 45****AMENDMENTS**

- (1) Section 39 (**Acquisition of land for authorised works**):  
After “land”, insert “(including an interest in land)”.
- (2) Section 40 (**Acquisition of land for public purposes other than authorised works**):  
After “may acquire land” in section 40 (2), insert “(including an interest in land)”.

**COMMENCEMENT**

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

**EXPLANATORY NOTE**

The proposed amendments are consequential on the Land Acquisition (Just Terms Compensation) Act 1991 and merely remove any doubt that the acquisition of land by the Minister in accordance with that Act includes the acquisition of an interest (e.g. a leasehold interest) in land.

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**STOCK (CHEMICAL RESIDUES) ACT 1975 No. 26****AMENDMENTS**(1) Section 3 (**Definitions**):

Omit the definition of “Chief, Division of Animal Health”, insert instead:

“**Chief, Division of Animal Industries**” means the Chief, Division of Animal Industries in the Department of Agriculture;

## (2) Sections 7, 7A, 8, 9, 14, 16:

Omit “Chief, Division of Animal Health” wherever occurring, insert instead “Chief, Division of Animal Industries”.

**COMMENCEMENT**

The amendments to the Stock (Chemical Residues) Act 1975 commence on the date of assent to this Act.

**EXPLANATORY NOTE**

The proposed amendments update references to the position of Chief, Division of Animal Industries as a consequence of administrative changes in the Department of Agriculture.

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**STOCK DISEASES ACT 1923 No. 34****AMENDMENTS**(1) Section 3 (**Definitions**):

(a) From section 3 (1), omit the definition of “Chief of the Division of Animal Health”, insert instead:

“**Chief, Division of Animal Industries**” means the Chief, Division of Animal Industries in the Department of Agriculture.

(b) From section 3 (1), omit the definition of “Fund”.

## (2) Sections 8, 15B, 16, 19C, 19EA, 19F, 20O, 21, 21A:

Omit “Chief of the Division of Animal Health” wherever occurring, insert instead “Chief, Division of Animal Industries”.

**COMMENCEMENT**

Items (1) (a) and (2) of the amendments to the Stock Diseases Act 1923 commence on the date of assent to this Act.

Item (1) (b) of the amendments to the Stock Diseases Act 1923 commences on the commencement of Schedule 1 (8) to the Exotic Diseases of Animals Act 1991.

**EXPLANATORY NOTE**

The proposed amendments update references to the position of Chief, Division of Animal Industries as a consequence of administrative changes in the Department of Agriculture (items (1) (a) and (2)).

The proposed amendments also omit an obsolete definition (item (1) (b)).

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**SWINE COMPENSATION ACT 1928 No. 36****AMENDMENTS**(1) Section 3 (**Definitions**):

(a) From the definition of “Approved form”, omit “of the Division of Animal Health”, insert instead “, Division of Animal Industries”.

(b) Omit the definition of “Chief of the Division of Animal Health”, insert instead:

“**Chief, Division of Animal Industries**” means the Chief, Division of Animal Industries in the Department of Agriculture.

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

Omit “Chief of the Division of Animal Health” wherever occurring, insert instead “Chief, Division of Animal Industries”.

**COMMENCEMENT**

The amendments to the Swine Compensation Act 1928 commence on the date of assent to this Act.

**EXPLANATORY NOTE**

The proposed amendments update references to the position of Chief, Division of Animal Industries as a consequence of administrative changes in the Department of Agriculture.

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**TOTALIZATOR ACT 1916 No. 75****AMENDMENT**Section 3A (**Power of Minister to approve use of totalizator**):

From section 3A (2), omit “This subsection shall not apply to a racing club using a totalizator in pursuance of any direction given under section 3.”.

**COMMENCEMENT**

The amendment to the Totalizator Act 1916 commences on the date of assent to this Act.

**EXPLANATORY NOTE**

The proposed amendment omits from section 3A (dealing with the power of the Minister to approve the use of a totalizator) a reference to section 3 (which dealt with the power of the Minister to direct the use of a totalizator). Section 3 was repealed by the Totalizator (Amendment) Act 1991.

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**TOURISM COMMISSION ACT 1984 No. 46****AMENDMENTS**(1) Section 16 (**Acquisition of land**):

From section 16, omit “, including land previously appropriated or resumed for any purpose, by lease, purchase or exchange or by resumption or appropriation in accordance with this Part”, insert instead “(including an interest in land) by agreement or by compulsory process in accordance with the Land Acquisition (Just Terms Compensation) Act 1991”.

## (2) Section 17:

Omit the section, insert instead:

**Application of the Public Works Act 1912**

17. (1) For the purposes of the Public Works Act 1912, any acquisition of land under section 16 is taken to be for an authorised work and the Corporation is, in relation to that authorised work, taken to be the Constructing Authority.

(2) Sections 34, 35, 36 and 37 of the Public Works Act 1912 do not apply in relation to works constructed under this Act.

**COMMENCEMENT**

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

**TRANSITIONAL**

The amendments to the Tourism Commission Act 1984 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 proposed amendments are consequential on the Land Acquisition (Just Terms Compensation) Act 1991 and merely replace superseded references to the Public Works Act 1912 in relation to the compulsory acquisition of land by the NSW Tourism Commission.

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**TRANSPORT APPEAL BOARDS ACT 1980 No. 104**

**AMENDMENT**

Long title:

Omit “, the Urban Transit Authority and the Department of Motor Transport”, insert instead “and the State Transit Authority”.

**COMMENCEMENT**

The amendment to the Transport Appeal Boards Act 1980 commences on the date of assent to this Act.

**EXPLANATORY NOTE**

The proposed amendment updates references to bodies that have been replaced or abolished.

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**TRUSTEE COMPANIES ACT 1964 No. 6**

**AMENDMENTS**

(1) Second Schedule:

Omit “WINCHCOMBE CARSON TRUSTEE COMPANY LIMITED”, insert instead “IOOF AUSTRALLA TRUSTEES (N.S.W.) LIMITED”.

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

Omit “Winchcombe Carson Trustee Company Limited”, insert instead “IOOF Australia Trustees (N.S.W.) Limited”.

**COMMENCEMENT**

The amendments to the Trustee Companies Act 1964 commence on the date of assent to this Act.

**EXPLANATORY NOTE**

The proposed amendments are consequential on the change of the name of Winchcombe Carson Trustee Company Limited to IOOF Australia Trustees (N.S.W.) Limited.

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**WASTE DISPOSAL ACT 1970 No. 97****AMENDMENT**

Section 43:

Omit the section, insert instead:

**Acquisition of land**

43. (1) The Service may, for the purposes of this Act, acquire land (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 Service is, in relation to that authorised work, taken to be the Constructing Authority.

(3) Sections 34, 35, 36 and 37 of the Public Works Act 1912 do not apply in relation to works constructed under this Act.

**COMMENCEMENT**

The amendment to the Waste Disposal Act 1970 commences on the date of assent to this Act.

**TRANSITIONAL**

The amendment to the Waste Disposal Act 1970 does 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 proposed amendment is consequential on the Land Acquisition (Just Terms Compensation) Act 1991 and merely replaces superseded references to the Public Works Act 1912 in relation to the compulsory acquisition of land by the Waste Recycling and Processing Service.

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**WATER ADMINISTRATION ACT 1986 No. 195****AMENDMENT**

Section 18:

Omit the section, insert instead:

**Acquisition of land and carrying out of works**

18. (1) The Ministerial Corporation may, for the purposes of exercising its functions, acquire land (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.

(3) Part 3 of the Public Works Act 1912 does not apply in respect of works constructed under this Act.

**COMMENCEMENT**

The amendment to the Water Administration Act 1986 commences on the date of assent to this Act.

**TRANSITIONAL**

The amendment to the Water Administration Act 1986 does 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 proposed amendment is consequential on the Land Acquisition (Just Terms Compensation) Act 1991 and merely replaces superseded references to the Public Works Act 1912 in relation to the compulsory acquisition of land by the Water Administration Ministerial Corporation.

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**SCHEDULE 3—REPEALS**

(Sec. 4)

Returned Soldiers and Sailors Employment Act 1919 No. 38\*\*  
 Food Preservation by Sulphur Dioxide Enabling Act 1920 No. 48\*\*  
 Public Service (Temporary officers) Act 1923 No. 7\*\*  
 Textile Products Labelling Act 1954 No. 26\*\*  
 Public Trustee (Amendment) Act 1960 No. 20\*  
 Gaming and Betting (Amendment) Act 1970 No. 31\*  
 Gaming and Betting (Poker Machines) Taxation Amendment Act 1970 No. 32\*  
 Gaming and Betting (Poker Machines) Amendment Act 1970 No. 70\*  
 Gaming and Betting (Poker Machines) Taxation Further Amendment Act 1970 No. 71\*  
 Public Trustee (Amendment) Act 1977 No. 41\*  
 Land Aggregation Tax Management (Amendment) Act 1977 No. 80\*  
 Western Lands (Amendment) Act 1978 No. 43\*  
 Government Guarantees (Sydney Cricket and Sports Ground) Amendment Act 1978 No. 62\*  
 Constitution (Police Regulation) Amendment Act 1978 No. 77\*  
 University and University Colleges (Constitution) Amendment Act 1978 No. 87\*  
 University of Newcastle (Constitution) Amendment Act 1978 No. 88\*  
 University of New England (Constitution) Amendment Act 1978 No. 89\*  
 University of New South Wales (Constitution) Amendment Act 1978 No. 90\*

University of Wollongong (Constitution) Amendment Act 1978 No. 91\*  
 Valuation of Land (Broken Hill Water Board) Amendment Act 1980 No. 2\*  
 Returned Soldiers Settlement (Amendment) Act 1980 No. 6\*  
 Capital Debt Charges (Transport Authorities) Amendment Act 1980 No. 109\*  
 Capital Debt Charges (Grain Handling) Amendment Act 1980 No. 178\*  
 Public Service (Amendment) Act 1980 No. 197\*  
 State Lotteries (Amendment) Act 1981 No. 36\*  
 Land Aggregation Tax Management (Amendment) Act 1981 No. 38\*  
 Church of England Trust Property (Amendment) Act 1981 No. 67\*  
 Cinematograph Films (Suspension of Provisions) Act 1982 No. 144\*\*  
 Cumberland Oval (Amendment) Act 1984 No. 34\*  
 Capital Debt Charges (Tourism Commission) Amendment Act 1984 No. 47\*  
 Government Guarantees (Tourism Commission) Amendment Act 1984 No. 48\*  
 Public Hospitals (Visiting Practitioners) Further Amendment Act 1984 No. 110\*  
 State Lotteries (Amendment) Act 1984 No. 135\*  
 Government Guarantees (Amendment) Act 1985 No. 22\*  
 University of New South Wales (Amendment) Act 1985 No. 81\*  
 Land Sales (Amendment) Act 1985 No. 143\*  
 Transport Employees Retirement Benefits (Further Amendment) Act 1985  
 No. 180\*  
 Education Commission (Amendment) Act 1985 No. 186\*  
 Farm Produce (Amendment) Act 1985 No. 233\*  
 Registration of Births, Deaths and Marriages (Coroners) Amendment Act 1986  
 No. 30\*  
 University of Newcastle (Amendment) Act 1986 No. 41\*  
 Statutory and Other Offices Remuneration (Investment Corporation)  
 Amendment Act 1986 No. 84\*  
 Transfer of Public Vehicles (Taxation) Amendment Act 1986 No. 140\*  
 Hunter Valley Hood Mitigation (Soil Conservation) Amendment Act 1986  
 No. 144\*  
 Valuation of Land (Amendment) Act 1986 No. 173\*  
 Wentworth Irrigation (Amendment) Act 1986 No. 197\*  
 Criminal Appeal (Amendment) Act 1986 No. 211\*  
 State Roads (Sydney Harbour Tunnel) Amendment Act 1987 No. 50\*  
 State Roads (Motor Vehicles Taxation) Amendment Act 1987 No. 99\*  
 Education Commission (Further Amendment) Act 1987 No. 114\*  
 Crimes (Secret Commissions) Amendment Act 1987 No. 116\*  
 Human Tissue (Amendment) Act 1987 No. 144\*  
 Housing (Rental Bonds) Amendment Act 1987 No. 171\*  
 Registration of Births, Deaths and Marriages (Adoption) Amendment Act 1987  
 No. 175\*  
 Land Sales (Amendment) Act 1987 No. 195\*  
 Workers Compensation (Police Force) Amendment Act 1987 No. 223\*  
 Children (Care and Protection) Amendment Act 1988 No. 7\*  
 Courts Legislation (Acting Judges) Amendment Act 1988 No. 10\*  
 Coroners (Amendment) Act 1988 No. 27\*  
 Education and Public Instruction (Amendment) Act 1988 No. 28\*  
 Education Commission (Amendment) Act 1988 No. 29\*

Industrial Arbitration (Amendment) Act 1988 No. 43\*  
 Transport Appeal Boards (Amendment) Act 1988 No. 45\*  
 State Sports Centre Trust (Amendment) Act 1988 No. 67\*  
 Human Tissue (Cornea Transplants) Amendment Act 1988 No. 71\*  
 Transport (Penalty Defaults) Amendment Act 1988 No. 76\*  
 Industrial Arbitration (Retail Trade) Amendment Act 1988 No. 97\*  
 Bread (Amendment) Act 1988 No. 106\*  
 State Roads (Transport Administration) Amendment Act 1988 No. 112\*  
 Anglican Church of Australia Trust Property (Amendment) Act 1988 No. 126\*  
 Land Tax (Amendment) Act 1988 No. 127\*  
 Land Tax Management (Amendment) Act 1988 No. 128\*  
 Western Lands (Crown Lands) Amendment Act 1989 No. 8\*  
 Agricultural Holdings (Amendment) Act 1989 No. 12\*  
 Revenue Laws (Reciprocal Powers) Amendment Act 1989 No. 24\*  
 Usury, Bills of Lading, and Written Memoranda (Amendment) Act 1989  
 No. 37\*  
 Criminal Procedure (Sentencing) Amendment Act 1989 No. 40\*  
 Animal Research (Amendment) Act 1989 No. 43\*  
 Fluoridation of Public Water Supplies (Amendment) Act 1989 No. 50\*  
 Business Names (Amendment) Act 1989 No. 53\*  
 Community Welfare (Developmental Disabilities) Amendment Act 1989  
 No. 54\*  
 Credit Legislation (Amendment) Act 1989 No. 56\*  
 Public Trustee (Amendment) Act 1989 No. 61\*  
 Workers' Compensation (Dust Diseases) Amendment Act 1989 No. 64\*  
 University and University Colleges (Amendment) Act 1989 No. 66\*  
 Revenue Laws (Reciprocal Powers) Further Amendment Act 1989 No. 83\*  
 Statutory and Other Offices Remuneration (Executives) Amendment Act 1989  
 No. 104\*  
 Bail (Amendment) Act 1989 No. 109\*  
 State Emergency Services and Civil Defence (Amendment) Act 1989 No. 117\*  
 Valuation of Land (Rating) Amendment Act 1989 No. 123\*  
 Legal Profession (Amendment) Act 1989 No. 138\*  
 Traffic (Road Safety) Amendment Act 1989 No. 153\*  
 Valuation of Land (Subdivision) Amendment Act 1989 No. 156\*  
 Landlord and Tenant (Rental Bonds) Amendment Act 1989 No. 161\*  
 Warehousemen's Liens (Amendment) Act 1989 No. 175\*  
 Trustee Companies (Further Amendment) Act 1989 No. 176\*  
 Employee's Liability (Indemnification of Employer) Amendment Act 1989  
 No. 189\*  
 Crimes (Amendment) Act 1989 No. 198\*  
 Dairy Industry (Amendment) Act 1989 No. 212\*  
 Registration of Interests in Goods (Amendment) Act 1989 No. 213\*  
 Victims Compensation (Amendment) Act 1989 No. 217\*  
 Land Tax Management (Amendment) Act 1989 No. 222\*  
 Public Trustee (Further Amendment) Act 1989 No. 238\*  
 Conveyancing (Sale of Land) Amendment Act 1990 No. 21\*  
 Land Tax Management (Amendment) Act 1990 No. 35\*

State Drug Crime Commission (Amendment) Act 1990 No. 50\*  
 Traffic (Photographic Evidence) Amendment Act 1990 No. 53\*  
 Independent Commission Against Corruption (Amendment) Act 1990 No. 80\*  
 Land Tax Management (Further Amendment) Act 1990 No. 88\*  
 Credit (Amendment) Act 1990 No. 97\*  
 Insurance (Amendment) Act 1991 No. 46\*  
 Land Tax Management (Amendment) Act 1991 No. 47\*

**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**

Except as regards the Textile Products Labelling Act 1954, this Schedule commences on the date of assent to this Act. The Schedule commences as regards the Textile Products Labelling Act 1954 on a day to be appointed by proclamation.

**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 of an Act by:

- (a) the repeal or omission of matter contained in the amended Act without the insertion of any matter instead of the repealed or omitted matter; or

- (b) the omission of matter contained in the amended Act and the insertion of matter instead of the omitted matter; or
- (c) the insertion into the amended Act of matter, not being matter inserted instead of matter omitted from the Act,

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

#### **EXPLANATORY NOTE**

This clause ensures that amendments correcting errors in the technical provisions (for example, headings indicating the section to be amended or directions as to where a new section is to be inserted) and rectifying minor drafting defects (e.g., 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.

#### **Approved forms**

3. If, by an amendment made by this Act, a reference to a prescribed form is replaced by a reference to an approved form, a form prescribed under the relevant provision of the Act amended and in force immediately before the commencement of the amendment is taken to be an approved form under the relevant provision of the Act as amended by this Act until a form is approved under that provision.

#### **EXPLANATORY NOTE**

This clause ensures that, until a form is approved for use under a provision of an Act in accordance with an amendment made by this Act, the form previously prescribed for use under the provision may continue to be used.

#### **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.

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**NOTES****Index of Acts amended by Schedules 1 and 2**

Albury-Wodonga Development Act 1974 No. 47—Sch. 2  
 Annual Holidays Act 1944 No. 31—Sch. 1  
 Associations Incorporation Act 1984 No. 143—Sch. 2  
 Australian Jockey Club Act 1873—Sch. 1  
 Bicentennial Park Trust Act 1987 No. 29—Sch. 1  
 Bread Act 1969 No. 54—Sch. 1  
 Bush Fires Act 1949 No. 31—Sch. 1  
 Catchment Management Act 1989 No. 235—Sch. 1  
 Cattle Compensation Act 1951 No. 26—Sch. 1  
 Centennial Park and Moore Park Trust Act 1983 No. 145—Sch. 1  
 Children (Care and Protection) Act 1987 No. 54—Sch. 1  
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 Chiropractors and Osteopaths Act 1991 No. 7—Sch. 1  
 Commons Management Act 1989 No. 13—Sch. 1  
 Conveyancing Act 1919 No. 6—Sch. 2  
 Co-operation Act 1923 (1924 No. 1)—Sch. 1  
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 Crown Lands Act 1989 No. 6—Sch. 1  
 Crown Lands (Continued Tenures) Act 1989 No. 7—Sch. 1  
 Discharged Servicemen's Badges Act 1964 No. 49—Sch. 2  
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 Education (Ancillary Staff) Act 1987 No. 240—Sch. 1  
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 Environmental Planning and Assessment Act 1979 No. 203—Sch. 1  
 Environmentally Hazardous Chemicals Act 1985 No. 14—Sch. 1  
 Essential Services Act 1988 No. 41—Sch. 2

Exhibited Animals Protection Act 1986 No. 123—Sch. 1  
 Factories, Shops and Industries Act 1962 No. 43—Sch. 1  
 Fair Trading Act 1987 No. 68—Sch. 1  
 Fines and Forfeited Recognizances Act 1954 No. 25—Sch. 1  
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 Irrigation Act 1912 No. 73—Sch. 1  
 Judges' Pensions Act 1953 No. 41—Sch. 1  
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 Lay-by Sales Act 1943 No. 36—Sch. 1  
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 Long Service Leave Act 1955 No. 38—Sch. 1  
 Long Service (Metalliferous Mining Industry) Act 1963 No. 48—Sch. 1  
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 Marketing of Primary Products Act 1983 No. 176—Sch. 2  
 Mine Subsidence Compensation Act 1961 No. 22—Sch. 1  
 Motor Dealers Act 1974 No. 52—Sch. 1  
 National Parks and Wildlife Act 1974 No. 80—Sch. 1  
 Parliamentary Electorates and Elections Act 1912 No. 41—Sch. 1  
 Passenger Transport Act 1990 No. 39—Sch. 1  
 Poultry Processing Act 1969 No. 45—Sch. 2  
 Protection of the Environment Administration Act 1991 No. 60—Sch. 2  
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 Public Health Act 1991 No. 10—Sch. 1  
 Public Sector Management Act 1988 No. 33—Sch. 1  
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 Public Works Act 1912 No. 45—Sch. 2  
 Radiation Control Act 1990 No. 13—Sch. 1  
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 Real Property Act 1900 No. 25—Sch. 1  
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 State Bank (Corporatisation) Act 1989 No. 195—Sch. 1  
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 State Sports Centre Trust Act 1984 No. 68—Sch. 1  
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 Treasury Corporation Act 1983 No. 75—Sch. 1  
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 Trustee Companies Act 1964 No. 6—Sch. 2  
 Valuation of Land Act 1916 No. 2—Sch. 1  
 Valuers Registration Act 1975 No. 92—Sch. 1  
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 Water Administration Act 1986 No. 195—Sch. 2  
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*[Minister's second reading speech made in—  
Legislative Assembly on 7 May 1992  
Legislative Council on 7 May 1992]*