

**STATUTE LAW (MISCELLANEOUS PROVISIONS) ACT (No. 3)
1989 No. 226**

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendments
4. Repeals
5. General savings, transitional and other provisions
6. Explanatory notes

SCHEDULE 1 - MINOR AMENDMENTS

Ambulance Services Act 1976 No. 72
Animal Research Act 1985 No. 123
Area Health Services Act 1986 No. 50
Boxing and Wrestling Control Act 1986 No. 11
Building and Construction Industry Long Service Payments Act 1986 No. 19
Children (Care and Protection) Act 1987 No. 54
Children (Criminal Proceedings) Act 1987 No. 55
Children (Detention Centres) Act 1987 No. 57
Colleges of Advanced Education Act 1975 No. 11
Commercial Tribunal Act 1984 No. 98
Community Welfare Act 1987 No. 52
Confiscation of Proceeds of Crime Act 1989 No. 90
Credit (Administration) Act 1984 No. 95
Criminal Appeal Act 1912 No. 16
Crown Lands Act 1989 No. 6
Crown Lands Consolidation Act 1913 No. 7
Disability Services and Guardianship Act 1987 No. 257
Dust Diseases Tribunal Act 1989 No. 63
Education and Public Instruction Act 1987 No. 62
Freedom of Information Act 1989 No. 5

Statute Law (Miscellaneous Provisions) (No. 3) 1989

Greyhound Racing Control Board Act 1985 No. 119
Harness Racing Authority Act 1977 No. 57
Hay Irrigation Act 1902 No. 57
Hunter Valley Flood Mitigation Act 1956 No. 10
Hunter Water Board Act 1988 No. 119
Irrigation Act 1912 No. 73
Justices Act 1902 No. 27
Legal Profession Act 1987 No. 109
Liquor Act 1982 No. 147
Listening Devices Act 1984 No. 69
Local Government Act 1919 No. 41
Mental Health Act 1958 No. 45
Miscellaneous Acts (Crown Lands) Amendment Act 1989 No. 9
National Parks and Wildlife Act 1974 No. 80
Ombudsman Act 1974 No. 68
Parramatta Stadium Trust Act 1988 No. 86
Police Board Act 1983 No. 135
Police Regulation Act 1899 No. 20
Private Irrigation Districts Act 1973 No. 47
Public Finance and Audit Act 1983 No. 152
Public Hospitals Act 1929 No. 8
Registered Clubs Act 1976 No. 31
Rivers and Foreshores Improvement Act 1948 No. 20
State Bank Act 1981 No. 89
State Development and Industries Assistance Act 1966 No. 10
State Sports Centre Trust Act 1984 No. 68
Supreme Court Act 1970 No. 52
Sydney Cricket and Sports Ground Act 1978 No. 72
Teacher Housing Authority Act 1975 No. 27
Technical and Further Education Act 1974 No. 72
Totalizator (Off-course Betting) Act 1964 No. 1
Tourism Commission Act 1984 No. 46
Traffic Act 1909 No. 5
Trustee Act 1925 No. 14
University of Sydney (Law School Site) Act 1967 No. 26
Water Act 1912 No. 44
Water Board Act 1987 No. 141
Water Supply Authorities Act 1987 No. 140
Wentworth Irrigation Act 1890 (54 Vic. No. 7)
Western Lands Act 1901 No. 70

SCHEDULE 2 - AMENDMENTS BY WAY OF STATUTE LAW REVISION

SCHEDULE 3 - REPEALS

SCHEDULE 4 - GENERAL SAVINGS, TRANSITIONAL AND OTHER
PROVISIONS

**STATUTE LAW (MISCELLANEOUS PROVISIONS) ACT (No. 3)
1989 No. 226**

NEW SOUTH WALES



Act No. 226, 1989

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 21 December 1989]

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Statute Law (Miscellaneous Provisions) Act (No. 3) 1989.

Commencement

2. This Act commences on the date of assent, except as provided in Schedules 1, 2 and 4.

Amendments

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

Repeals

4. Each Act specified in Schedule 3 is repealed.

General savings, transitional and other provisions

5. Schedule 4 has effect.

Explanatory notes

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

SCHEDULE 1 - MINOR AMENDMENTS

(Sec. 3)

AMBULANCE SERVICES ACT 1976 No. 72

Amendment

Schedule 3 (Saving and transitional provisions):

After clause 18, insert:

Fees for services

19. The scale of fees published in the Gazette on 18 August 1989 at p. 5681 is to be taken to have had effect with respect to a fee calculated in accordance with that scale in respect of an ambulance service provided by the Corporation on or after 12 August 1989.

Statute Law (Miscellaneous Provisions) (No. 3) 1989

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

Explanatory note

A new scale of fees for ambulance services was set by an order under section 12 (1) of the Act published in the Government Gazette on 18 August 1989. The proposed amendment validates the calculation of fees in accordance with that scale in the preceding week under the mistaken belief that the order had been published on 12 August 1989.

ANIMAL RESEARCH ACT 1985 No. 123

Amendments

Schedule 1 (Provisions relating to the members of the Panel):

- (a) Clause 1 (Age of members):
Omit the clause.
- (b) Clause 7 (1) (f):
After "Minister;", insert "or".
- (c) Clause 7 (1) (g):
Omit the paragraph.

Explanatory note

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

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

AREA HEALTH SERVICES ACT 1986 No. 50

Amendment

Schedule 6 (Transfer of hospitals and other health services to area health services):

After clause 10 (1), insert:

(1A) An order which transfers a hospital mentioned in the Fifth Schedule to the Public Hospitals Act 1929 to an area health service is to be taken (unless the order otherwise provides) to transfer to and vest in the area health service, on the date the order takes effect, the personal property of the Crown used principally for the conduct of the hospital.

Transitional

The amendment to the Area Health Services Act 1986 applies to orders made before (as well as after) the commencement of the amendment.

Explanatory note

At present an order transferring a health service (other than a transferred hospital) to an area health service may make provision for the transfer of the property belonging to the health service (clause 10 of Schedule 6 to the Act).

The proposed amendment provides for the transfer and vesting of personal property of the Crown used principally for the conduct of a hospital mentioned in the Fifth Schedule to the Public Hospitals Act 1929 to an area health service where no provision to that effect is made in such an order.

Statute Law (Miscellaneous Provisions) (No. 3) 1989

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

BOXING AND WRESTLING CONTROL ACT 1986 No. 11

Amendments

Schedule 1 (Provisions relating to the members of the Authority):

- (a) Clause 1 (Age of members):
Omit the clause.
- (b) Clause 6 (1) (f):
After "Minister;", insert "or".
- (c) Clause 6 (1) (g):
Omit the paragraph.

Explanatory note

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

**BUILDING AND CONSTRUCTION INDUSTRY LONG SERVICE
PAYMENTS ACT 1986 No. 19**

Amendments

- (1) Section 3 (Definitions):
 - (a) From the definition of "Secretary", omit "Department of Industrial Relations", insert instead "New South Wales Superannuation Office".
 - (b) Omit section 3 (3).
 - (c) From section 3 (5), omit "or in a record of building and construction workers' service kept under a corresponding law", insert instead "or for every period of service that is considered to be a year's service under a corresponding law".

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

- (2) **Section 6 (Staff of Corporation):**
 - (a) From section 6 (1) and (4), omit "Public Service Act 1979" wherever occurring, insert instead "Public Sector Management Act 1988".
 - (b) Omit section 6 (2), insert instead:
 - (2) The Corporation may, with the approval of the Minister, arrange for the use of the services of any staff or facilities of a government department, an administrative office or a public authority.
 - (c) From section 6 (3), omit "Public Service Board", insert instead "Secretary".
- (3) **Section 7 (Delegation):**
 - From section 7 (1) (a) and (b), omit "Department of Industrial Relations" wherever occurring, insert instead "New South Wales Superannuation Office".
- (4) **Section 24 (Limitations on service credits):**
 - (a) From section 24 (2A), omit "so as to provide that the total period with which the worker is credited in those registers does not exceed 220 days".
 - (b) From section 24 (3) (a), omit "28 (1) (b),", insert instead "28 (1)".
- (5) **Section 28 (Entitlement to long service payments):**
 - (a) From section 28 (1) (c) (i), omit "a worker, otherwise than as an apprentice", insert instead "an adult".
 - (b) From section 28 (1) (f), omit "10", insert instead "5".
 - (c) After section 28 (4), insert:
 - (5) For the purposes of this section:
"service as an adult" means:
 - (a) in the case of a worker employed to do any work for which the price, rate or wage has been fixed by an award made under the Industrial Relations Act 1988 of the Commonwealth or made under the Industrial Arbitration Act 1940 or has been fixed by an industrial agreement made pursuant to or registered under those Acts - means the period of service

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

with an employer during which the remuneration applicable to the worker was at a rate not less than the lowest rate fixed under the award or industrial agreement for an adult male or adult female in the same trade, classification or calling as the worker; and

- (b) in the case of a worker being an apprentice the terms of whose employment are governed by an award applicable only to apprentices - means the period of service with an employer during which the remuneration applicable to the worker was at a rate not less than the rate prescribed by the award covering a journeyman carrying out work in the same trade, classification or calling as the worker; and

- (c) in the case of a worker employed to do any work for which no price, rate or wage has been fixed by any award or industrial agreement referred to in paragraph (a) - means the period of service with the employer during which the worker was not less than 21 years of age.

(6) **Section 29 (Amount of long service payment):**

- (a) From section 29 (2) (a), omit "section 28 (1) (a), (b) or (f)", insert instead "section 28 (1) (a) or (f)".
- (b) From section 29 (2) (b) (ii), omit "(not being credits obtained as an apprentice)", insert instead "(being credits obtained from service as an adult)".
- (c) From section 29 (3), omit the following matter:

S represents the number of days' service with which the registered worker in respect of whom the application is made is credited in the register of workers at the date on which the entitlement to the long service payment first arose or, if the application is made under section 28 (1) and the worker so requests, at the date the application is lodged with the Corporation;

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

insert instead:

S represents the number of days' service with which the registered worker in respect of whom the application is made is credited in the register of workers at the date the application is lodged with the Corporation or, if the worker so requests, at a date after which an entitlement under section 28 (1) first arose;

(7) Section 30 (Long service payment not payable in certain cases):

From section 30 (1), omit "28 (1) (b)", insert instead "28 (1)".

(8) Section 32 (Payments to employers):

From section 32 (1), omit the following matter:

P represents, at the date those benefits accrued due:

insert instead:

P represents, at the date application is made under this section -

Commencement

The amendments to the Building and Construction Industry Long Service Payments Act 1986 commence on a day or days to be appointed by proclamation.

Transitional

Sections 28 and 29 (2) (b) of the Building and Construction Industry Long Service Payments Act 1986 apply to service of a worker before (as well as after) the commencement of the amendments to those sections made by this Act.

Sections 29 (3) and 32 of the Building and Construction Industry Long Service Payments Act 1986, as in force immediately before the commencement of the amendments to those sections made by this Schedule, continue to apply to applications under section 28 (1) of that Act made before that commencement.

Explanatory note

Schedule 1 to the Statute Law (Miscellaneous Provisions) Act 1989 amended section 28 of the Act to make it more consistent with the

Statute Law (Miscellaneous Provisions) (No. 3) 1989

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

Long Service Leave Act 1955 in relation to the initial qualifying period for long service leave. Proposed amendments to sections 28, 29 and 32 of the Act will ensure further consistency with that Act:

- (a) by providing that the qualifying period for subsequent entitlements to long service leave is to be 5 instead of 10 years (item (5) (b)); and
- (b) by providing that (unless the worker concerned otherwise requests) in calculating the long service payment the amount of ordinary pay will be determined at the rate applicable at the time the application is lodged with the Building and Construction Industry Long Service Payments Corporation instead of at the date on which the entitlement to long service payment first arose (items (6) (c) and (8)).

Under section 28 (1) (c) of the Act, the service of a person as an apprentice cannot be taken into account in determining whether or not the person is entitled to long service payment when intending permanently to cease to work in the building and construction industry on completion of 5 or more years' service as a worker. Some apprentices are paid at an adult rate but cannot claim an entitlement while other persons who are not apprentices can claim an entitlement for carrying out work in the same trade, classification or calling. The proposed amendments to sections 28 (1) (c) and 29 (2) (b) and proposed section 28 (5) (which is based on the definition of "service as an adult" in section 4 of the Long Service Leave Act 1955) will remove the anomaly (items (5) (a) and (c) and (6) (b)).

Amendments are also proposed:

- (a) to update certain references in the Act to reflect the transfer of the administration of the Act to the New South Wales Superannuation Office and the repeal of the Public Service Act 1979 (items (1) (a), (2) and (3)); and
 - (b) to revise provisions that assume that a period of 220 days will constitute one year's service for the purposes of corresponding laws in other States and Territories and that might as a result hinder the making of reciprocal arrangements under section 55 of the Act (items (1) (b) and 4 (a)); and
 - (c) to omit references to a repealed provision (items (4) (b), (6) (a) and (7)).
-

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

CHILDREN (CARE AND PROTECTION) ACT 1987 No. 54

Amendments

- (1) Schedule 1 (Provisions relating to certain licences and authorities):
 - Omit clause 3 (4).
- (2) Schedule 2 (Constitution of the Children's Review Panel):
 - (a) Clause 1 (Age of members):
 - Omit the clause.
 - (b) Clause 2 (3) (d):
 - Omit the paragraph.

Commencement

Item (2) of the amendments to the Children (Care and Protection) Act 1987 commences or is to be taken to have commenced on the commencement of Schedule 2 to that Act.

Explanatory note

The proposed amendment to Schedule 1 to the Act omits a provision which enables the Minister, who has power to refuse a licence for a child care service or a residential child care centre, to refuse a licence solely on the ground that, in the locality in which it is proposed to provide the child care service or to conduct the residential child care centre, there are already available adequate resources or centres of a similar kind to that in relation to which the application for the licence is made.

The proposed amendments to Schedule 2 to the Act remove the restriction that prevents a person who is of or above the age of 65 years from being eligible to be appointed as, or from continuing to hold office as, a member of the Children's Review Panel.

Statute Law (Miscellaneous Provisions) (No. 3) 1989

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

CHILDREN (CRIMINAL PROCEEDINGS) ACT 1987 No. 55

Amendment

Section 12 (**Proceedings to be explained to children**):

After section 12 (2), insert:

(2A) If:

- (a) the child fails, apparently without reasonable excuse, to appear when the criminal proceedings are before the court; and
- (b) those matters have not been explained to the child, subsection (2) does not, during the child's absence, prevent the court from proceeding further.

Explanatory note

Section 12 of the Act requires criminal proceedings brought against a child to be explained to the child. A court cannot proceed with the hearing of the matter until this has been done. The object of the amendment is to ensure that where criminal proceedings against a child could otherwise continue in the child's absence, section 12 does not prevent this.

CHILDREN (DETENTION CENTRES) ACT 1987 No. 57

Amendment

Section 21 (**Punishments for misbehaviour**):

From section 21 (4), omit "a Children's Magistrate", insert instead "the Children's Court".

Commencement

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

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

Explanatory note

Under section 21 (1) (e) of the Act, a detainee who is found guilty of serious misbehaviour may be punished by extension (by a period not exceeding 7 days) of each minimum or fixed term to which the detainee is subject. At present, the punishment may be imposed only by a Children's Magistrate. The proposed amendment will have the effect of enabling the punishment to be imposed not only by the Children's Magistrates constituting the Children's Court but also by those authorised Magistrates who may exercise the jurisdiction of the Court.

COLLEGES OF ADVANCED EDUCATION ACT 1975 No. 11

Amendments

- (1) Section 7 (**Council (other than first council) of a corporate college**):
Omit section 7 (3).
- (2) Section 8 (**Vacation in office of member of a council**):
Omit section 8 (1) (a).

Explanatory note

The proposed amendments remove the restriction that prevents a person who is of or above the age of 70 years from being elected or appointed as, or from continuing to hold office as, a member of the council of a college of advanced education.

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

COMMERCIAL TRIBUNAL ACT 1984 No. 98

Amendments

Section 22 (Notice and conduct of proceedings):

(a) Omit section 22 (1), insert instead:

(1) The time and place for the holding of proceedings before the Tribunal are to be fixed by the Chairman, Deputy Chairman or Registrar in accordance with the rules.

(1A) Except as provided by the rules, the Registrar is to serve on any party to the proceedings who is not present when the time and place for holding the proceedings are fixed, a notice specifying the time and place so fixed and the matters to which the proceedings relate and directing the party to attend at that time and place.

(b) From section 22 (3), omit "subsection (1)", insert instead "subsection (1A)".

Commencement

The amendments to the Commercial Tribunal Act 1984 commence on a day to be appointed by proclamation.

Explanatory note

At present, section 22 (1) of the Act requires the Chairman of the Commercial Tribunal to fix the time and place for holding proceedings before the Tribunal and the Registrar to serve each party to proceedings with a notice specifying the time and place so fixed. The Registrar is required to serve the notice even if all the parties are present when the time and place is fixed. In some cases, for example where a further hearing is being fixed and the parties are present, such a notice may be unnecessary. The time and place are in some cases fixed by the Deputy Chairman or Registrar and the rules make provision for service in certain instances (for example, directions hearings).

The proposed amendments will make it clear that section 22 applies only in those circumstances for which provision is not made under the

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

rules or where a party to proceedings might otherwise be unaware of the time and place.

COMMUNITY WELFARE ACT 1987 No. 52

Amendments

- (1) Schedule 1 (**Constitution of certain councils**):
 - (a) Clause 5 (**Age of appointees**):
Omit the clause.
 - (b) Clause 11 (e):
Omit the paragraph.
- (2) Schedule 3 (**Provisions relating to the Tribunal**):
 - (a) Clause 1 (**Age of members**):
Omit the clause.
 - (b) Clause 2 (3) (c):
After "1983," insert "or".
 - (c) Clause 2 (3) (d):
Omit the paragraph.

Explanatory note

The proposed amendments remove the restriction that prevents a person from being eligible to be appointed as, or from continuing to hold office as, a member of the Community Services Training Council, the Community Welfare Advisory Council or the Disability Council if the person is of or above the age of 70 years, or as a member of the Community Welfare Appeals Tribunal if the person is of or above the age of 65 years.

Statute Law (Miscellaneous Provisions) (No. 3) 1989

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

CONFISCATION OF PROCEEDS OF CRIME ACT 1989 No. 90

Amendment

Section 92 (Appeals):

Before "forfeiture" wherever occurring in section 92 (4) and (5), insert "drug proceeds order,".

Commencement

The amendment to the Confiscation of Proceeds of Crime Act 1989 commences on a day to be appointed by proclamation.

Transitional

The amendments to section 92 of the Confiscation of Proceeds of Crime Act 1989 do not apply to a refusal by a court to make a drug proceeds order before the commencement of the amendments.

Explanatory note

The proposed amendments will enable the Attorney General and the Director of Public Prosecutions to appeal to the Court of Criminal Appeal against a refusal by a court to make a drug proceeds order.

CREDIT (ADMINISTRATION) ACT 1984 No. 95

Amendment

Section 13 (Conditions of, and restrictions on, licence):

From section 13 (4), omit "licensee", insert instead "applicant for the licence or the licensee".

Explanatory note

Under section 13 of the Act the Commercial Tribunal may only impose or revoke a condition or restriction to which a licence is subject after holding a hearing at which the applicant or licensee may appear. At present, the hearing may be dispensed with on application by the licensee. The proposed amendment will enable the applicant for a licence to make such an application.

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

CRIMINAL APPEAL ACT 1912 No. 16

Amendment

Section 5D (Appeal by Crown against sentence):

At the end of section 5D, insert:

(2) In this section, a reference to proceedings to which the Crown was a party includes a reference to proceedings instituted by or on behalf of:

(a) the Crown; or

(b) an authority within the meaning of the Public Finance and Audit Act 1983,

or by an officer or employee of such an authority acting in the course of his or her employment.

Saving

The amendment to section 5D of the Criminal Appeal Act 1912 does not apply to a sentence pronounced before the commencement of the amendment.

Explanatory note

The proposed amendment will put it beyond doubt that the Attorney General and the Director of Public Prosecutions may appeal to the Court of Criminal Appeal against any sentence pronounced by a court of trial in proceedings instituted on behalf of the Crown or by or on behalf of Departments, statutory bodies and certain other authorities, or by an officer or employee of such an authority.

Statute Law (Miscellaneous Provisions) (No. 3) 1989

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

CROWN LANDS ACT 1989 No. 6

Amendments

- (1) **Section 72 (Cultivation of enclosed roads):**
 - (a) From section 72 (1) (a), omit "closure", insert instead "enclosure".
 - (b) From section 72 (5), omit "closed", insert instead "enclosed".
- (2) **Section 144 (Liability of incoming holder to pay arrears):**

After "class" in section 144 (1) (a), insert "or an enclosure permit".
- (3) **Section 145 (Certificate as to amount due):**

From section 145 (1), omit "of a prescribed class".

Commencement

The amendments to the Crown Lands Act 1989 commence or are to be taken to have commenced on the commencement of sections 72, 144 and 145, respectively, of that Act.

Explanatory note

The proposed amendments:

- (a) apply to the holders of enclosure permits the provisions of section 144 of the Act relating to the liability of the incoming holders of certain land to pay amounts due and unpaid in respect of the holdings concerned (item (2)); and
 - (b) provide for certificates as to the amounts payable to be issued in respect of such holdings under section 145 of the Act and omit superfluous words that are covered by the definition of holding in section 144 of the Act (item (3)); and
 - (c) correct printing errors in section 72 of the Act (item (1)).
-

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

CROWN LANDS CONSOLIDATION ACT 1913 No. 7

Amendments

- (1) Section 142 (**Irrigation farm purchases**):
 - (a) From section 142 (7C) and (7D), omit "Bank" wherever occurring, insert instead "Minister".
 - (b) From section 142 (7C), omit "as it may fix", insert instead "as the Minister may fix".
 - (c) From section 142 (7C), omit "its books", insert instead "the Minister's books".
- (2) Section 145A (**Dealings with holdings within irrigation areas**):

From section 145A (3) and (4), omit "Bank" wherever occurring, insert instead "Minister".
- (3) Section 146A (**Conditions attaching to subdivisions of purchases**):

From section 146A (4), omit "Bank", insert instead "Minister".
- (4) Section 147 (**Forfeiture for non-performance of conditions**):
 - (a) From section 147 (2) and (3), omit "the Bank" wherever occurring, insert instead "the Minister".
 - (b) From section 147 (3), omit "The Bank", insert instead "The Minister".

Commencement

The amendments to the Crown Lands Consolidation Act 1913 are to be taken to have commenced on 1 July 1989.

Transitional

Any money due and payable to the State Bank under a provision of the Crown Lands Consolidation Act 1913 amended by this Act and which was unpaid immediately before 1 July 1989 is, until other arrangements are made under the Crown Lands Act 1989, to be taken to have been due and payable to the Minister for Natural Resources.

Statute Law (Miscellaneous Provisions) (No. 3) 1989

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

Any proceeding pending before that date for the recovery of any such money at the suit of the State Bank becomes a proceeding pending at the suit of the Minister.

Explanatory note

As of 1 July 1989 certain functions of the State Bank respecting collection of money for rent, purchase price and Crown improvements for services in irrigation areas under the Crown Lands Consolidation Act 1913, the Hay Irrigation Act 1902, the Irrigation Act 1912 and the Wentworth Irrigation Act 1890 have been exercised by the Department of Lands.

The proposed amendments to the Act (and complementary proposed amendments to other Acts concerned set out in this Schedule) give effect to the changed administrative arrangements and will validate action taken to implement the arrangements before the amendments take effect.

DISABILITY SERVICES AND GUARDIANSHIP ACT 1987
No. 257

Amendment

Schedule 2 (Provisions relating to licences):

Omit clause 2 (4).

Commencement

The amendment to the Disability Services and Guardianship Act 1987 commences or is to be taken to have commenced on the commencement of Schedule 2 to that Act.

Explanatory note

The proposed amendment omits a provision which enables the Minister, who has power to refuse a licence for a residential centre or occupational centre, to refuse a licence solely on the ground that, in the locality in which it is proposed to conduct the residential centre or occupational centre, there are already available adequate centres of the relevant kind.

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

DUST DISEASES TRIBUNAL ACT 1989 No. 63

Amendment

Section 11 (Claims for damages for dust diseases etc. to be brought under this Act):

After section 11 (4), insert:

(5) In subsection (1) (c), the reference to a person claiming through a person who is or was suffering from a dust-related condition includes a reference to a relative for whose benefit an action may be brought under the Compensation to Relatives Act 1897.

Explanatory note

The proposed amendment makes it clear that an action for the benefit of a relative of a deceased person seeking damages in respect of a dust-related condition suffered by the deceased person must be brought under the Act and not the Compensation to Relatives Act 1897.

EDUCATION AND PUBLIC INSTRUCTION ACT 1987 No. 62

Amendments

(1) **Section 45A:**

After section 45, insert:

Vesting of land in Minister

45A. On and from the commencement of this section, all land that was acquired before that commencement for public education purposes by or on behalf of, and which, immediately before that commencement, was vested in, the Crown (whether in the name of a Sovereign, the Minister for Public Instruction, the Minister for Education, the Department of Education or any other person or body on behalf of the Crown) vests in the Minister.

Statute Law (Miscellaneous Provisions) (No. 3) 1989

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

- (2) Schedule 1 (**Provisions relating to the constitution and procedure of the Schools Accreditation Appeals Tribunal**):
 - (a) Clause 2 (**Age of members**):
Omit the clause.
 - (b) Clause 7 (e):
After "Minister;", insert "or".
 - (c) Clause 7 (f):
Omit the paragraph.
- (3) Schedule 2 (**Provisions relating to the members of the Board**):
 - (a) Clause 3 (**Age of members**):
Omit the clause.
 - (b) Clause 8 (1) (g):
Omit the paragraph.

Transitional

Any act, matter or thing done before the commencement of section 45A of the Education and Public Instruction Act 1987 in relation to the preparation and issue of titles to land in the name of the Minister for Education that would have been validly done if that section had been in force at the time it was done, is validated.

Explanatory note

For over a century titles to land acquired for public educational purposes have stood in various names, including those of Sovereigns. An individual school site may be comprised of several titles, each of which stands in a different name. Proposed section 45A will vest title to all land held for public education purposes in the Minister for Education. The transitional provision will validate the process, which has already commenced, of re-issuing titles to land for school sites in the name of the Minister.

The proposed amendments to Schedules 1 and 2 to the Act remove the restriction that prevents a person who is of or above the age of 70 years from being eligible to be appointed as, or from continuing to hold office as, a member of the Schools Accreditation Appeals Tribunal or the Board of Secondary Education.

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

FREEDOM OF INFORMATION ACT 1989 No. 5

Amendment

Section 67 (Fees and charges):

After section 67 (4), insert:

(5) Fees or charges received by agencies or Ministers under this Act do not form part of the Consolidated Fund and may be used by the agencies or Ministers to defray the costs incurred by the agencies or Ministers in exercising their functions under this Act.

Explanatory note

Under section 39 of the Constitution Act 1902 public money received by any person on behalf of the State forms part of the Consolidated Fund unless otherwise provided by or in accordance with any Act. The proposed subsection expressly states that fees and charges received under the Freedom of Information Act 1989 do not form part of the Consolidated Fund to make it clear that section 39 does not apply and that the fees and charges may be used to offset the costs incurred in exercising functions under the Act.

GREYHOUND RACING CONTROL BOARD ACT 1985 No. 119

Amendments

(1) **Section 9 (Control and regulation of greyhound racing):**

From section 9 (2) (f), omit "\$500", insert instead "\$2,000".

(2) **Schedule 1 (Provisions relating to the members of the Board):**

(a) **Clause 1 (Age of members):**

Omit the clause.

Statute Law (Miscellaneous Provisions) (No. 3) 1989

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

- (b) Clause 6 (1) (f):
Omit the paragraph.

Commencement

Item (1) of the amendments to the Greyhound Racing Control Board Act 1985 commences on a day to be appointed by proclamation.

Explanatory note

At present, the Greyhound Racing Control Board is authorised to impose a fine, not exceeding \$500, for a breach of the rules made under the Act. That amount has not been reviewed for a considerable time and is well below the maximum amount that may be imposed by interstate greyhound racing controlling bodies with similar powers. The proposed amendment to section 9 of the Act accordingly increases the maximum fine that may be imposed to \$2,000.

The proposed amendments to Schedule 1 to the Act remove the restriction that prevents a person who is of or above the age of 70 years from being eligible to be appointed as, or from continuing to hold office as, a member of the Greyhound Racing Control Board.

HARNESS RACING AUTHORITY ACT 1977 No. 57

Amendments

- (1) Section 8 (**Functions of Authority**):
From section 8 (2) (d) (ix), omit "\$500", insert instead "\$2,000".
- (2) Schedule 1 (**Provisions relating to the members of the Authority**):
- (a) Clause 2 (**Age of members**):
Omit the clause.
- (b) Clause 8 (1) (g):
After "Minister;", insert "or".

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

- (c) Clause 8 (1) (h):
Omit the paragraph.

Commencement

Item (1) of the amendments to the Harness Racing Authority Act 1977 commences on a day to be appointed by proclamation.

Explanatory note

At present, the Harness Racing Authority is authorised to impose a fine, not exceeding \$500, for a breach of the rules made under the Act. That amount has not been reviewed for a considerable time and is well below the maximum amount that may be imposed by interstate harness racing controlling bodies with similar powers. The proposed amendment to section 8 of the Act accordingly increases the maximum fine that may be imposed to \$2,000.

The proposed amendments to Schedule 1 to the Act remove the restriction that prevents a person who is of or above the age of 70 years from being eligible to be appointed as, or from continuing to hold office as, a member of the Harness Racing Authority.

HAY IRRIGATION ACT 1902 No. 57

Amendments

- (1) Section 5 (**Definitions**):
Omit the definition of "Bank".
- (2) Sections 17 (**Ministerial Corporation**) and 17A (**Restrictions as to assigns of holdings**):

Statute Law (Miscellaneous Provisions) (No. 3) 1989

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

Omit "Bank" wherever occurring, insert instead "Minister".

(3) Section 27 (**Power to fix rates**):

Omit section 27 (5).

Commencement

The amendments to the Hay Irrigation Act 1902 are to be taken to have commenced on 1 July 1989.

Transitional

Any money due or payable to the State Bank under a provision of the Hay Irrigation Act 1902 amended by this Act and which was unpaid immediately before 1 July 1989 is to be taken to have been due and payable to the Minister for Natural Resources.

Any proceeding pending before that date for the recovery of any such money at the suit of the State Bank becomes a proceeding pending at the suit of the Minister.

Explanatory note

As of 1 July 1989 certain functions of the State Bank respecting collection of money for rent, purchase price and Crown improvements for services in irrigation areas under the Crown Lands Consolidation Act 1913, the Hay Irrigation Act 1902, the Irrigation Act 1912 and the Wentworth Irrigation Act 1890 have been exercised by the Department of Lands.

The proposed amendments to the Act (and complementary proposed amendments to other Acts concerned set out in this Schedule) give effect to the changed administrative arrangements and will validate action taken to implement the arrangements before the amendments take effect.

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

HUNTER VALLEY FLOOD MITIGATION ACT 1956 No. 10

Amendments

- (1) Section 1 (**Short title and commencement**):
Omit section 1 (3).
- (2) Section 2 (**Definitions**):
 - (a) Omit the definition of "Assessment Board".
 - (b) Insert in alphabetical order:
"Local land board", in applying a provision in which the expression occurs, means:
 - (a) the local land board constituted under the Crown Lands Act 1989 for the land in relation to which the provision applies; or
 - (b) if the land in relation to which the provision applies is land for which there are 2 or more local land boards, such one of those boards as the Ministerial Corporation may nominate.
- (3) Part 4, Division 1, heading:
Omit the heading, insert instead:
Division 1 - General
- (4) Sections 17, 19 (1)-(3), (5) (b), (c), (6):
Omit the provisions.
- (5) Sections 18, 19 (4), (5) (a), 22 (2), 24, 30 (2), (3), 31 (3), (4), 32 (3), 33 (1), 35 (b):
Omit "Assessment Board" wherever occurring, insert instead "local land board".
- (6) Section 30 (2) (b):
Omit "The provisions of subsections (4) and (5) of section 19 shall", insert instead "Section 19 (4) does".

Statute Law (Miscellaneous Provisions) (No. 3) 1989

SCHEDULE 1 - MINOR AMENDMENTS - *continued***Commencement**

The amendments to the Hunter Valley Flood Mitigation Act 1956 commence on a day or days to be appointed by proclamation, being a day or days not earlier than the commencement of Division 2 of Part 2 of the Crown Lands Act 1989.

Explanatory note

The proposed amendments abolish the Assessment Board constituted under the Act and make consequential changes. The current functions of the Assessment Board include holding inquiries under the Act and determining the amount of compensation, in cases of disagreement, in relation to such matters as damage caused by entry on or use of land by a constructing authority. It appears that the Assessment Board has not exercised its functions for some years. The proposed amendments will provide for the functions to be exercised, should the need arise, by the local land board for the land district in which the relevant inquiry is to be held or the subject-matter of the determination is to be determined.

HUNTER WATER BOARD ACT 1988 No. 119**Amendments****(1) Section 66 (Regulations):**

At the end of section 66, insert:

(7) A regulation may apply, adopt or incorporate any publication as in force from time to time.

(2) Schedule 1 (Provisions relating to the members of the Board):**(a) Clause 1 (Age of members):**

Omit the clause.

(b) Clause 8 (1) (h):

Omit the paragraph.

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

Explanatory note

The proposed amendment to section 66 of the Act enables regulations to be made under that section which apply, adopt or incorporate any publication, as in force from time to time. The same amendment was made in respect of the Water Board Act 1987 by the Statute Law (Miscellaneous Provisions) Act 1989.

The proposed amendments to Schedule 1 to the Act remove the restriction that prevents a person who is of or above the age of 70 years from being eligible to be appointed as, or from continuing to hold office as, a member of the Hunter Water Board.

IRRIGATION ACT 1912 No. 73

Amendments

- (1) Section 3 (**Definitions**):
Omit the definition of "Bank".
- (2) Section 8B (**Sinking of bores or wells**):
 - (a) From section 8B (3) and (3A) (b), omit "bank" wherever occurring, insert instead "Minister".
 - (b) From section 8B (3), omit "Bank", insert instead "Minister".
 - (c) From section 8B (3) and (3A) (b), omit "its favour" wherever occurring, insert instead "the Minister's favour".
- (3) Section 9A (**Unauthorised removal, damage to or destruction of buildings or other improvements**):
From section 9A (1) and (2), omit "bank" wherever occurring, insert instead "Minister".
- (4) Section 11C (**Conversion of leaseholds**):
 - (a) From section 11C (3), omit "bank" wherever occurring, insert instead "Minister".
 - (b) From section 11C (3) (d), omit "as it may fix", insert instead "as the Minister may fix".

Statute Law (Miscellaneous Provisions) (No. 3) 1989

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

- (c) From section 11C (3) (d), omit "its books", insert instead "the Minister's books".
- (5) Section 11D (**Power to apply for reappraisalment of rentals**):
From section 11D (3) (b), omit "Bank", insert instead "Minister".
- (6) Section 18 (**Collection of rents etc.**):
From section 18 (1) and (2), omit "bank" wherever occurring, insert instead "Minister".
- (7) Section 19B (**Performance of contracts on default by occupier**):
Omit "bank", insert instead "Minister".

Commencement

The amendments to the Irrigation Act 1912 are to be taken to have commenced on 1 July 1989.

Transitional

Any money due or payable to the State Bank under a provision of the Irrigation Act 1912 amended by this Act and which was unpaid immediately before 1 July 1989 is to be taken to have been due and payable to the Minister for Natural Resources.

Any proceeding pending before that date for the recovery of any such money at the suit of the State Bank becomes a proceeding pending at the suit of the Minister.

Explanatory note

As of 1 July 1989 certain functions of the State Bank respecting collection of money for rent, purchase price and Crown improvements for services in irrigation areas under the Crown Lands Consolidation Act 1913, the Hay Irrigation Act 1902, the Irrigation Act 1912 and the Wentworth Irrigation Act 1890 have been exercised by the Department of Lands.

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

The proposed amendments to the Act (and complementary proposed amendments to other Acts concerned set out in this Schedule) give effect to the changed administrative arrangements and will validate action taken to implement the arrangements before the amendments take effect.

JUSTICES ACT 1902 No. 27

Amendments

- (1) Section 100K (**Authorised Justices**):
 - (a) From section 100K (1), omit "therein", insert instead "in the order or the Justice holding a prescribed office specified in the order".
 - (b) After "Justices" in section 100K (3), insert "or prescribed offices".
- (2) Section 122 (**Appeal allowed in every case of conviction or order made by Justices**):

From section 122 (2A), omit ", and if all parties interested or concerned in the appeal or application consent,".

Explanatory note

Section 100K of the Act presently enables the Attorney General to authorise Justices named in an order to make enforcement orders. The proposed amendments to the section will enable the Attorney General to also authorise Justices holding offices specified in such orders to exercise their powers to make enforcement orders.

An appeal or application against a conviction or order made by Justices is required to be heard by the District Court sitting at the nearest proclaimed place to the Court where the conviction or order to which the appeal or application relates was made. However, the Attorney General may direct, or the District Court order, that it be heard by the District Court sitting at some other place. The District Court may make an order only if all parties interested or concerned in the appeal or application consent. The proposed amendment to

Statute Law (Miscellaneous Provisions) (No. 3) 1989

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

section 122 (2A) of the Act will enable the District Court to make such an order without the consent of the parties.

LEGAL PROFESSION ACT 1987 No. 109

Amendments

(1) Part 2, Division 5:

After section 24, insert:

Division 5 - Miscellaneous

Liability of members of Admission Boards

24A. (1) Subject to subsection (2), no matter or thing done by an Admission Board or any member of an Admission Board is, if the matter or thing was done in good faith for the purpose of executing this Part, to subject any such member personally to any action, liability, claim or demand.

(2) A judicial member of an Admission Board is, in the exercise of his or her functions under this Part, to have the same protection and immunity as a Judge of the Supreme Court.

(2) Section 55 (**Investigation of affairs of solicitor**):

Omit section 55 (8), insert instead:

(8) The amount of the costs of an inspection or investigation, as certified by the Law Society Council, is a debt due to the Law Society by the solicitor under inspection or investigation if:

- (a) in the case of an inspection of accounts kept under Part 6 by or on behalf of the solicitor - a trust account inspector states in his or her report that there is evidence that a breach of this Act or the regulations has been committed and the Law Society Council is of the opinion that the breach was wilful or of a substantial nature; or

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

- (b) in the case of an investigation of the affairs of the solicitor - a trust account inspector or an investigator states in his or her report that there are reasonable grounds for suspecting unsatisfactory professional conduct or professional misconduct in relation to the affairs investigated or a breach of this Act or the regulations and the Law Society Council is of the opinion that the conduct or breach was wilful or of a substantial nature,
unless payment is waived by the Law Society Council.
(8A) If the inspection or investigation concerned relates to the accounts or affairs of a firm of solicitors, the Law Society Council may determine the proportion or amount (if any) of the debt due to the Law Society payable by each solicitor involved.
- (3) Section 194 (**Effect of determinations: contentious business**):
 - (a) After "transacted by" in section 194 (2), insert "barristers or".
 - (b) Omit "or the District Court" from section 194 (2) (a), insert instead ", the District Court or the Compensation Court".
 - (c) At the end of section 194 (1) (b), insert:
; and
(c) in the case of barristers, taxation of costs on a party-party basis.
- (4) Schedule 8 (**Savings and transitional provisions**):
After clause 19, insert:
Rules
19A.(1) To remove any doubt:
 - (a) the Solicitors Admission Rules published in the Gazette on 14 July 1952 at p. 2604; and
 - (b) the Barristers Admission Rules published in the Gazette on 14 July 1952 at p. 2513; and
 - (c) The Barristers and Solicitors New Examination Rules published in the Gazette on 27 August 1965 at p. 2749; and

Statute Law (Miscellaneous Provisions) (No. 3) 1989

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

(d) the Barristers and Solicitors Joint Examinations Board Rules published in the Gazette on 5 April 1957 at p. 1132,

and any amendments to those Rules, are to be taken to have had the same effect on and from the day they were made, or purportedly made, as they would have had if they had been validly made.

(2) The Rules referred to in subclause (1) are to be taken to have had effect at all times despite Supreme Court Rules (Amendment No. 109) 1980 published in the Gazette on 29 August 1980 at p. 4585.

(3) Without limiting the generality of clause 19, the Rules referred to in subclause (1) are to be taken for the purposes of this Act to have been made under the repealed Act.

Commencement

Item (2) of the amendments to the Legal Profession Act 1987 commences on a day to be appointed by proclamation.

Item (3) of the amendments to the Legal Profession Act 1987 is to be taken to have commenced on 1 November 1989 (the day appointed by proclamation for commencement of the Legal Profession (Amendment) Act 1989).

Item (4) of the amendments to the Legal Profession Act 1987 is to be taken to have commenced on 1 January 1988 (the day appointed by proclamation for commencement of the Act).

Transitional

The amendments to section 55 of the Legal Profession Act 1987 do not apply to the costs of an inspection or investigation carried out before the commencement of the amendments.

Explanatory note

New section 24A confers on judicial and non-judicial members of the Barristers Admission Board and the Solicitors Admission Board similar protection and immunities to those conferred on members of

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

the Professional Conduct Review Panel, the Professional Standards Board and the Disciplinary Tribunal under section 172 of the Act.

At present a solicitor is not liable for the costs of an inspection or investigation under section 55 of the Act if the trust account inspector or investigator reports that the inspection or investigation disclosed no suspected professional misconduct, improper conduct or irregularity or the Law Society waives payment. The proposed amendment to section 55 (8) alters the basis of liability so that payment need only be made (unless waived) if the report concerned discloses reasonable grounds for suspecting professional misconduct or improper conduct or a breach of the Act or regulations and the Law Society Council considers the conduct or breach concerned to be wilful or substantial.

New section 55 (8A) makes it clear that where an inspection or investigation under section 55 of the Act concerns the members of a firm of solicitors, the Law Society Council may apportion liability for payment to those individual solicitors involved.

The proposed amendments to section 194 are consequential on the enactment of the Legal Profession (Amendment) Act 1989 (see particularly Schedule 3 (6) to that Act which relates to barristers' remuneration and the matter relating to the Compensation Court Act 1984 in Schedule 7).

The proposed amendment to Schedule 8 will make it clear that the Rules known as the Solicitors Admission Rules, Barristers Admission Rules, Barristers and Solicitors New Examination Rules and Barristers and Solicitors Joint Examinations Board Rules have been effective since they were first made and will have effect until replaced by Rules made under the Act.

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

LIQUOR ACT 1982 No. 147

Amendments

- (1) **Section 9 (Constitution of court at first instance):**
- (a) From section 9 (1) (c), omit ", which number shall include the Chairman or the Deputy Chairman and may include both".
 - (b) Omit section 9 (2) and (3), insert instead:
 - (2) Where the court is constituted as provided by subsection (1) (c):
 - (a) the Chairman is to preside if the Chairman is sitting; or
 - (b) the Deputy Chairman is to preside if the Deputy Chairman is sitting and the Chairman is not; or
 - (c) where neither the Chairman nor the Deputy Chairman is sitting, the magistrate nominated for the purpose by the Chairman is to preside.
 - (3) Where the court is constituted as provided by subsection (1) (c) and there is a difference of opinion among the members of the court, the opinion of the majority is the opinion of the court and, where there is an equality of votes, the presiding magistrate has a casting vote as well as a deliberative vote.
- (2) **Section 19A (Licences relating to approved amusement devices):**
- Omit section 19A (2A), insert instead:
- (2A) It is a condition of a licence referred to in subsection (1) that premises specified by the court under subsection (2):
- (a) be used exclusively for carrying on business pursuant to the licence; or
 - (b) if the licensee also holds a licence granted under section 90 of the Registered Clubs Act 1976, be used exclusively for carrying on business pursuant to both licences,

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

and that the licensee have full, free and unfettered control of the premises.

(3) Section 42 (Application on dispossession of licensee):

After section 42 (2), insert:

(2A) The owner of licensed premises, or a person interested directly or indirectly in the exercise of the licence, who comes into possession of the premises is to be taken to be the licensee of the premises until:

(a) the day that is 14 days after this section becomes applicable; or

(b) the day on which application is made under subsection (2),

whichever first occurs.

(4) Section 152 (Forfeiture of liquor etc.):

From section 152 (3), omit "136", insert instead "135".

Commencement

The amendments to the Liquor Act 1982 commence on a day or days to be appointed by proclamation.

Explanatory note

At present, if the Licensing Court is constituted at first instance by 2 or more licensing magistrates, it must include the Chairman or Deputy Chairman (or may include both) as a member of the court. The proposed amendments to section 9 will enable the court to be constituted without the Chairman or Deputy Chairman (item (1)).

At present, it is a condition of a licence relating to approved amusement devices that the licensee uses premises in which the licensee is authorised to manufacture and assemble or sell approved amusement devices exclusively for carrying on business pursuant to the licence. The proposed amendment to section 19A will enable a licensee who also holds a poker machine dealer's licence, a poker machine seller's licence, a poker machine technician's licence or a poker machine adviser's licence under section 90 of the Registered Clubs Act 1976 to carry on business pursuant to both licences at the premises (item (2)).

Statute Law (Miscellaneous Provisions) (No. 3) 1989

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

The owner of licensed premises, or a person interested directly or indirectly in the exercise of the licence, who comes into possession of the premises to the exclusion of the licensee may make an application within 14 days for transfer of the licence under section 42 of the Act. During the period between the making and determination of the application the owner or person is taken to be the holder of the licence. The proposed amendment to section 42 will provide for continuity in the period before an application is made, or the 14 days passes, by providing that in these circumstances the owner or person will also be taken to be the holder of the licence during that period (item (3)).

The proposed amendment to section 152 corrects a cross-reference (item (4)).

LISTENING DEVICES ACT 1984 No. 69**Amendments**

Section 5 (Prohibition on use of listening devices):

- (a) From section 5 (2) (c), omit "or" where lastly occurring.
- (b) At the end of section 5 (2) (d), insert:
 - ; or
 - (e) the use of a listening device to record a refusal to consent to the recording of an interview by a member of the police force in connection with the commission of an offence by a person suspected of having committed the offence.

Transitional

The amendments to section 5 of the Listening Devices Act 1984 do not apply in relation to the use of a listening device before the commencement of the amendments.

Explanatory note

The proposed amendments will provide that the prohibition on the use of listening devices in section 5 of the Act does not apply to the use of a listening device to record the refusal of a suspect to have an interview with the police concerning an alleged offence recorded.

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

LOCAL GOVERNMENT ACT 1919 No. 41

Amendments

- (1) **Section 25A (Election of mayor or president by electors):**
From section 25A (9), omit "(8)", insert instead "(8A)".
- (2) **Section 211A (Auditor-General):**
From section 211A (4), omit "Consolidated Revenue Fund", insert instead "Auditor-General".
- (3) **Schedule 10 (Provisions relating to the members of the Building Regulations Advisory Council):**
 - (a) **Clause 1 (Age of members):**
Omit the clause.
 - (b) **Clause 7 (1) (f):**
After "Minister;", insert "or".
 - (c) **Clause 7 (1) (g):**
Omit the paragraph.

Explanatory note

The proposed amendment to section 25A of the Act corrects a cross-reference (item (1)).

The proposed amendment to section 211A of the Act is necessary because of changed administrative arrangements under which costs and expenses of audits are paid to the Auditor-General (item (2)).

The proposed amendments to Schedule 10 to the Act remove the restriction that prevents a person who is of or above the age of 70 years from being eligible to be appointed as, or from continuing to hold office as, a member of the Building Regulations Advisory Council (item (3)).

Statute Law (Miscellaneous Provisions) (No. 3) 1989

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

MENTAL HEALTH ACT 1958 No. 45

Amendments

- (1) Section 109 (**Certain operations or treatments may be performed or applied without consent of patients**):

From section 109 (2), omit ", as amended by subsequent Acts,", insert instead "or of any hospital under the control of an area health service constituted under the Area Health Services Act 1986".

- (2) Section 109A (**Power of superintendent or authorised officer to consent to surgical operation or medical treatment of patient**):

From section 109A (2), omit ", as amended by subsequent Acts,", insert instead "or any hospital under the control of an area health service constituted under the Area Health Services Act 1986".

Commencement

The amendments to the Mental Health Act 1958 are to be taken to have commenced on 1 July 1986 (the day on which the Area Health Services Act 1986 commenced).

Explanatory note

Sections 109 and 109A of the Act provide for certain types of operations and medical or therapeutic treatments to be performed on or applied to patients by members of the medical staff of incorporated hospitals or separate institutions within the meaning of the Public Hospitals Act 1929. The Area Health Services Act 1986 and cognate legislation provided for the removal of some of those hospitals and health services to the control of an area health service. The proposed amendments make the necessary consequential amendments to sections 109 and 109A of the Act.

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

**MISCELLANEOUS ACTS (CROWN LANDS) AMENDMENT
ACT 1989 No. 9**

Amendments

Schedule 1 (Amendments):

- (a) Omit item (1) of the matter relating to the Irrigation Act 1912.
- (b) Omit items (10), (11), (12), (13) and (18) of the matter relating to the Irrigation Act 1912.
- (c) Omit item (1) (b) of the matter relating to the Public Roads Act 1902, insert instead:
 - (b) Definition of "Crown lands":

Omit the definition, insert instead:

"Crown lands" means land that is vested in the Crown or was acquired under the Closer Settlement Acts as in force before their repeal, not in any case being:

- (a) land dedicated for a public purpose;
or
- (b) land that has been sold or lawfully contracted to be sold; or
- (c) land held as a lease in perpetuity under any of the Crown Lands Acts.

Commencement

Item (3) of the amendments to the Miscellaneous Acts (Crown Lands) Amendment Act 1989 commences or is to be taken to have commenced on the commencement of the amendments to the Public Roads Act 1902 in Schedule 1 to that Act.

Explanatory note

The amendments to the Act contained in items (1) and (2) are consequential to the amendments to the Irrigation Act 1912 set out elsewhere in this Schedule.

The provisions of the Public Roads Act 1902 relating to the opening of roads and payment of compensation presently apply to land held

Statute Law (Miscellaneous Provisions) (No. 3) 1989

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

under leases in perpetuity or which has been sold or lawfully contracted to be sold but for which the purchase price or other consideration has not been received by the Crown. The proposed amendments to the Act contained in item (3) will ensure that this will continue to be the case once the Crown Lands Act 1989 is in operation.

NATIONAL PARKS AND WILDLIFE ACT 1974 No. 80

Amendments

- (1) **Section 110 (Use of certain substances for taking or killing fauna):**

After "fauna" in section 110 (2), insert "and whether or not native to, or of a species that periodically or occasionally migrates to, Australia".

- (2) **Section 128 (Aviary registration certificates):**

At the end of section 128 (3) (b), insert:

; or

- (c) is licensed to sell or buy birds under the fauna protection legislation of another State or a Territory; or
- (d) is the holder of a written approval from the Director for the purposes of this section.

- (3) **Section 143 (Charges and fees):**

From section 143, omit "duly authorised by the Director in that behalf".

- (4) **Section 168 (Disposal of property seized or delivered up):**

From section 168 (2) (b), omit "6 months", insert instead "2 years".

Commencement

Items (1), (2) and (4) of the amendments to the National Parks and Wildlife Act 1974 commence on a day or days to be appointed by proclamation.

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

Explanatory note

Section 110 (2) of the Act prohibits the use of prescribed substances for taking or killing birds. The provision does not apply to all birds, native and exotic, but is limited because the definition of "bird" in section 5 applies only to native and migratory species. The proposed amendment will ensure that the provision applies to all birds (item (1)).

The proposed amendment to section 128 of the Act expands the categories of "prescribed person" with whom the holder of an aviary registration certificate (who holds an import or export licence) may deal (item (2)).

Under section 143 of the Act, individual officers of the National Parks and Wildlife Service cannot request payment of or recover charges and fees without the Director's written authority. The proposed amendment removes the necessity for the issue of such authorities (item (3)).

Amendments to section 176 (1B) of the Act in 1983 increased the period in which proceedings for offences under the Act or regulations may be taken from within 6 months to within 2 years after commission of an offence. Section 168 (dealing with the return of property seized or delivered up in connection with alleged offences) retains reference to the commencement of proceedings within 6 months. The proposed amendment to section 168 increases this period to 2 years so that the section will be consistent with section 176 (1B) (item (4)).

Statute Law (Miscellaneous Provisions) (No. 3) 1989

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

OMBUDSMAN ACT 1974 No. 68

Amendments

- (1) Section 5 (**Definitions**):
Omit section 5 (2).
- (2) Section 8 (**Deputy Ombudsman**):
From section 8 (3), omit "19 (2)".
- (3) Section 10 (**Delegation**):
 - (a) From section 10 (2) (a), omit "(other than a report under section 28)", insert instead ", except in accordance with subsection (2A)".
 - (b) From section 10 (2) (b), omit ", 19 (2)".
 - (c) From section 10 (2) (b), omit "or" where lastly occurring.
 - (d) After section 10 (2) (b), insert:
 - (b1) any function conferred by section 19 (2), other than to an Assistant Ombudsman; or
 - (e) Section 10 (2A):
After section 10 (2), insert:
 - (2A) The Ombudsman may delegate the exercise of the function to make a report:
 - (a) under section 26 or 29, to an Assistant Ombudsman; and
 - (b) under section 28, to a special officer of the Ombudsman.
- (4) Section 13 (**Decision for investigation**):
From section 13 (1), omit "wrong", insert instead "conduct referred to in section 26".
- (5) Section 19 (**Inquiries**):
After section 19 (2), insert:
 - (3) A witness appearing before the Ombudsman is to be paid such amount as the Ombudsman determines, but not exceeding the amount that would be payable to such a witness if he or she were a Crown witness subpoenaed by the Crown to give evidence.

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

- (6) Section 21A (**Injunction**):
From section 21A (2), omit "wrong", insert instead "conduct referred to in section 26".
- (7) Section 22 (**Cabinet proceedings**):
From section 22 (2), omit "Premier's Department", insert instead "Cabinet Office".
- (8) Section 26 (**Report of investigation**):
- (a) Omit section 26 (1), insert instead:
- (1) Where, in an investigation under this Act, the Ombudsman finds that the conduct the subject of the investigation, or any part of the conduct, is of any one or more of the following kinds:
- (a) contrary to law;
 - (b) unreasonable, unjust, oppressive or improperly discriminatory;
 - (c) in accordance with any law or established practice but the law or practice is, or may be, unreasonable, unjust, oppressive or improperly discriminatory;
 - (d) based wholly or partly on improper motives, irrelevant grounds or irrelevant considerations;
 - (e) based wholly or partly on a mistake of law or fact;
 - (f) conduct for which reasons should be given but are not given;
 - (g) otherwise wrong,
- the Ombudsman is to make a report accordingly, giving his or her reasons.
- (b) From section 26 (2) (d), omit "or" where lastly occurring.
- (c) After section 26 (2) (d), insert:
- (d1) that compensation be paid to any person; or
- (d) From section 26 (3) (c), omit "the Public Service Act 1979, to the Public Service Board", insert instead "the Public Sector Management Act 1988, to the Premier's Department".

Statute Law (Miscellaneous Provisions) (No. 3) 1989

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

(9) Section 26A:

After section 26, insert:

Authority to pay compensation

26A. (1) If the Ombudsman recommends in a report under section 26 that compensation be paid to a person by a person other than a local government authority, the responsible Minister:

- (a) at the request of the head of the public authority whose conduct is the subject of the report; and
- (b) with the concurrence of the Treasurer,

may authorise the payment of compensation to the person out of the appropriate fund.

(2) If the payment of compensation authorised under this section is to be made by a Department referred to in Schedule 3 to the Public Finance and Audit Act 1983, the Treasurer may authorise payment out of the Consolidated Fund (but not otherwise), which is accordingly appropriated to the necessary extent.

(3) If the Ombudsman recommends in such a report that compensation be paid to a person by a local government authority, the local government authority may authorise the payment of compensation to that person out of its funds.

(4) The functions that may be delegated under section 530A of the Local Government Act 1919 by a council do not include a function relating to the authorisation of the payment of compensation under this section.

(5) Nothing in any other Act prevents the payment of compensation in accordance with an authority given under this section, and the amount of compensation paid may be the same as, or may be more or less than, any amount recommended in the Ombudsman's report.

(10) Section 28 (Serious misconduct):

From section 28 (c), omit "the Public Service Act 1979, to the Public Service Board", insert instead "the Public Sector Management Act 1988, to the Premier's Department".

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

Commencement

The amendments to the Ombudsman Act 1974 commence on a day or days to be appointed by proclamation.

Explanatory note

The proposed amendments:

- (a) enable the Ombudsman to delegate to the Deputy Ombudsman or an Assistant Ombudsman the exercise of a function conferred on the Ombudsman by section 19 (2) of the Act (the subsection confers on the Ombudsman certain authorities, protections and immunities similar to those of a commissioner under the Royal Commissions Act 1923) (item (2), (3) (b)-(d)); and
- (b) enable the Ombudsman to delegate to an Assistant Ombudsman the making of a report concerning an investigation of a complaint and to a special officer of the Ombudsman the making of a report regarding conduct of a public authority (item (3) (a) and (e)); and
- (c) omit from section 26 of the Act the term "wrong conduct" as a description of the conduct of a public authority which must be the subject of a report under that section (the omission of the term does not change the effect of the section - conduct which formerly constituted wrong conduct will now be specified in the section itself instead of in a definition contained in section 5) (items (1), (4), (6) and (8)); and
- (d) enable the Ombudsman to pay the expenses of witnesses at an enquiry (item (5)); and
- (e) designate the head of the Cabinet Office (instead of the head of the Premier's Department) as the person responsible for issuing certificates under section 22 of the Act (item (7)); and
- (f) provide a mechanism for authorising ex gratia payments recommended by the Ombudsman (items (8) (c) and (9)); and
- (g) replace references to the Public Service Board with references to the Premier's Department as a consequence of the enactment of the Public Sector Management Act 1988 (items (8) (d) and (10)).

Statute Law (Miscellaneous Provisions) (No. 3) 1989

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

With the exception of the amendments described in paragraphs (a) and (e), the amendments are the same (with some minor changes in style) as those included in Schedule 3 to the Ombudsman (Amendment) Bill 1988.

PARRAMATTA STADIUM TRUST ACT 1988 No. 86

Amendments

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

- (a) Clause 1 (**Certain persons ineligible for appointment**):
Omit the clause.
- (b) Clause 7 (f):
Omit "1988; or", insert instead "1988."
- (c) Clause 7 (g):
Omit the paragraph.

Explanatory note

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

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

POLICE BOARD ACT 1983 No. 135

Amendments

Schedule 1 (Provisions relating to the part-time members of the Board):

- (a) **Clause 1 (Age of members):**
Omit the clause.
- (b) **Clause 7 (1) (f):**
After "Minister;", insert "or".
- (c) **Clause 7 (1) (g):**
Omit the paragraph.

Explanatory note

The proposed amendments remove the restriction that prevents a person who is of or above the age of 70 years from being eligible to be appointed as, or to continue to hold office as, a part-time member of the Police Board.

POLICE REGULATION ACT 1899 No. 20

Amendment

Section 4B (Appointment of Assistant Commissioners):

After section 4B (3), insert:

(3A) The Minister may, by order in writing, nominate one of the Assistant Commissioners as the Assistant Commissioner referred to in subsection (3B).

(3B) If:

- (a) in the circumstances set out in section 4A (5) (a), a Deputy Commissioner is required to exercise and perform the powers, authorities, duties and functions conferred or imposed on the Commissioner by or under this or any other Act; and

Statute Law (Miscellaneous Provisions) (No. 3) 1989

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

- (b) there is a vacancy in the offices of both the Deputy Commissioners or both the Deputy Commissioners are ill or absent or, though on duty, cannot be contacted,

the Assistant Commissioner nominated by an order for the time being in force under subsection (3A) is to have and may exercise and perform the powers, authorities, duties and functions conferred or imposed on the Commissioner by or under this or any other Act.

(3C) No person is to be concerned to inquire whether or not any occasion has arisen requiring or authorising an Assistant Commissioner to act in the place of the Commissioner and all acts done or omitted by an Assistant Commissioner while acting as Commissioner are to have the same consequences as if they had been done or omitted by the Commissioner.

Commencement

The amendment to the Police Regulation Act 1899 commences on a day to be appointed by proclamation.

Explanatory note

The proposed amendment enables an Assistant Commissioner to be nominated to act, and to act, in the office of the Commissioner in the absence (for certain specified reasons) of the Commissioner and both Deputy Commissioners who might otherwise act as Commissioner.

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

PRIVATE IRRIGATION DISTRICTS ACT 1973 No. 47

Amendments

- (1) Section 4 (**Definitions**):
 - (a) Section 4 (1), omit the definition of "local land board", insert instead:

"local land board", in applying a provision in which the expression occurs, means:

 - (a) the local land board constituted under the Crown Lands Act 1989 for the land in relation to which the provision applies; or
 - (b) if the land in relation to which the provision applies is land for which there are 2 or more local land boards, such one of those boards as the Ministerial Corporation may nominate;
 - (b) Section 4 (1), definition of "Review Board":

Omit the definition.
- (2) Section 7 (1) (b), 11 (1), 14 (5)-(7), 29 (2), 32 (4)-(6), 33, 63 (1) (c):

Omit "Review Board" wherever occurring, insert instead "local land board".
- (3) Sections 14 (8), 32 (7):

Omit the subsections.

Commencement

The amendments to the Private Irrigation Districts Act 1973 commence on a day or days to be appointed by proclamation, being a day or days not earlier than the commencement of Division 2 of Part 2 of the Crown Lands Act 1989.

Statute Law (Miscellaneous Provisions) (No. 3) 1989

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

Explanatory note

The proposed amendments replace references in the Act to the Review Board (being the Board constituted under section 30 of the Water Act 1912 and which is to be abolished by proposed amendments to that Act set out elsewhere in this Schedule) with references to the local land board for the land district in which the relevant inquiry into the setting up of a private irrigation district is to be held.

PUBLIC FINANCE AND AUDIT ACT 1983 No. 152

Amendment

Section 4 (Definitions):

Section 4 (1), omit paragraph (d) of the definition of "officer of an authority", insert instead:

- (d) in relation to a person, group of persons or body prescribed for the purposes of the definition of "authority" in this section - such person as is prescribed for the purposes of this definition in relation to the persons, group of persons or body, and includes, in relation to an authority referred to in paragraph (a), (b) or (c), such other persons as may be prescribed for the purposes of this definition in relation to the authority;

Commencement

The amendment to the Public Finance and Audit Act 1983 is to commence on a day to be appointed by proclamation.

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

Explanatory note

The proposed amendment to the definition of "officer of an authority" in section 4 (1) of the Act enables additional persons other than actual employees of authorities to be prescribed as officers of authorities. This will enable such persons to be required to comply with the Act when carrying out financial functions on behalf of the relevant authority.

PUBLIC HOSPITALS ACT 1929 No. 8

Amendments

Section 29J (Alteration of Fifth Schedule):

(1) From section 29J (b1) (ii), omit "or" where lastly occurring.

(2) At the end of section 29J (c), insert:

; or

(d) where any such hospital has become a part of an incorporated hospital because of its transfer by the Minister - by removing the name of the transferred hospital from that Schedule.

(3) At the end of section 29J, insert:

(2) An order removing the name of a hospital from the Fifth Schedule as a consequence of the transfer of the hospital to an incorporated hospital:

(a) may make provision of a savings and transitional nature consequent on the transfer; and

(b) unless the order otherwise provides, is to be taken to transfer to and vest in the incorporated hospital, on the date the order takes effect, the personal property of the Crown used principally for the conduct of the hospital.

Statute Law (Miscellaneous Provisions) (No. 3) 1989

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

Transitional

The amendments to section 29J of the Public Hospitals Act 1929 apply to orders made before (as well as after) the commencement of the amendments.

Explanatory note

The proposed amendments:

- (a) enable the Governor-in-Council to amend the Fifth Schedule (Hospitals conducted by the Minister) to the Act to remove the names of hospitals transferred to an incorporated hospital (item (2) - proposed section 29J (1) (d)); and
- (b) enable the order to provide for the transfer (item (3) - proposed section 29J (2) (a)); and
- (c) provide for the transfer and vesting of personal property of the Crown used principally for the conduct of the hospital concerned (item (3) - proposed section 29J (2) (b)).

REGISTERED CLUBS ACT 1976 No. 31

Amendments

Section 17 (Cancellation of certificates of registration or disqualification of clubs from holding certificates of registration):

- (a) From section 17 (1) (a), omit "on the ground that - ", insert instead "on any one or more of the following grounds:";
- (b) After "and shall" in section 17 (2), insert "do any one or more of the following:".

Commencement

The amendments to the Registered Clubs Act 1976 commence on a day or days to be appointed by proclamation.

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

Transitional

Section 17 of the Registered Clubs Act 1976, as amended by this Act, does not apply to complaints made before the commencement of the amendments to that Act.

Explanatory note

The proposed amendments enable:

- (a) a complaint regarding a registered club to be made on more than one of the grounds; and
- (b) the Licensing Court to impose more than one of the disciplinary measures,

presently set out in section 17 of the Act.

RIVERS AND FORESHORES IMPROVEMENT ACT 1948 No. 20

Amendments

- (1) Long title:
Omit "to constitute a Rivers and Foreshores Improvement Board;".
- (2) Section 1 (**Short title and commencement**):
Omit section 1 (3).
- (3) Section 2 (**Definitions**):
 - (a) Omit the definition of "Board".
 - (b) Insert in alphabetical order:
"Local land board", in applying a provision in which the expression occurs, means:
 - (a) the local land board constituted under the Crown Lands Act 1989 for the land in relation to which the provision applies; or
 - (b) if the land in relation to which the provision applies is land for which there are 2 or more local land

Statute Law (Miscellaneous Provisions) (No. 3) 1989

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

boards, such one of those boards as the Ministerial Corporation may nominate.

- (4) Part 3, Division 1:
Omit the Division.
- (5) Sections 9 (4), 11 (4), (5), 12 (3), (4):
Omit "Board" wherever occurring, insert instead "local land board".
- (6) Section 15A:
After section 15, insert:
Notification of inquiries by local land board
15A. (1) The local land board is required to publish notice of any inquiry to be held under this Division in a newspaper circulating in the area in which the work to which this Act extends is or will be situated.
(2) Any person whose interests appear to be affected by any matter which is the subject of such an inquiry is permitted to attend the inquiry and make oral submissions in respect of the matter.
(3) The local land board is required to give the Ministerial Corporation:
 - (a) a copy of the notes of proceedings and evidence taken at any inquiry under this Division; and
 - (b) a report by the board on any such inquiry.

Commencement

The amendments to the Rivers and Foreshores Improvement Act 1948 commence on a day or days to be appointed by proclamation, being a day or days not earlier than the commencement of Division 2 of Part 2 of the Crown Lands Act 1989.

Explanatory note

The proposed amendments abolish the Rivers and Foreshores Improvement Board constituted under the Act and make consequential changes. The current functions of the Board include holding inquiries on proposals to set up river and foreshore

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

improvement districts and on the inclusion or removal of land in or from those districts. It appears that the Board has not exercised its functions for some years. The proposed amendments will provide for the functions to be exercised, should the need arise, by the local land board for the land district in which the relevant inquiry is to be held.

STATE BANK ACT 1981 No. 89

Amendments

- (1) **Section 40 (Accounts for each agency):**
Omit section 40 (4) (b) (iii).
- (2) **Section 41 (Monthly transfers to agencies):**
Omit the definition of "revenue moneys" from section 41 (1), insert instead:
"revenue moneys" means money received in respect of an agency for rentals and interest and includes such other moneys as the Bank may decide are revenue moneys.

Commencement

The amendments to the State Bank Act 1981 are to be taken to have commenced on 1 July 1989.

Explanatory note

As of 1 July 1989 certain functions of the State Bank respecting collection of money for rent, purchase price and Crown improvements for services in irrigation areas under the Crown Lands Consolidation Act 1913, the Hay Irrigation Act 1902, the Irrigation Act 1912 and the Wentworth Irrigation Act 1890 have been exercised by the Department of Lands.

The proposed amendments to the Act (and complementary proposed amendments to other Acts concerned set out in this Schedule) give effect to the changed administrative arrangements and will validate action taken to implement the arrangements before the amendments take effect.

Statute Law (Miscellaneous Provisions) (No. 3) 1989

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

**STATE DEVELOPMENT AND INDUSTRIES ASSISTANCE
ACT 1966 No. 10**

Amendments

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

Insert in section 3 (1) in alphabetical order:

"prescribed institution" means:

- (a) any institution engaged in educational, training or research activities;
- (b) a trade or industrial union registered under any Act or an organisation of employees registered as an organisation under the Industrial Relations Act 1988 of the Commonwealth; or
- (c) any other prescribed person or body of persons (not being a business undertaking).

(2) Part 2A (**Advanced technology development assistance**):

Omit the Part.

(3) Section 11:

Omit the section, insert instead:

Functions of Ministerial Corporation

11. The functions of the Ministerial Corporation are to promote, encourage and stimulate:

- (a) the establishment, expansion or development of industries; and
- (b) the carrying out, by business undertakings and prescribed institutions, of projects that are likely to assist the establishment, expansion or development of industries.

(4) Section 20 (**Ministerial Corporation's powers to make grants and pay subsidies**):

At the end of section 20 (1), insert:

; or

- (c) grant money or pay subsidies to any business undertaking or prescribed institution so that the undertaking or institution may carry out a project

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

likely to assist the establishment, expansion or development of an industry.

(5) Section 29:

Omit section 29, insert instead:

Powers of Ministerial Corporation relating to property

29. Without limiting the generality of section 50 (1) (d) of the Interpretation Act 1987, the Ministerial Corporation may by purchase, exchange, lease or otherwise acquire personal property for the purpose of enabling it to exercise its functions.

(6) Section 34H (**Constitution of Ministerial Corporation**):

From section 34H (1), omit "2A,".

(7) Section 34IA (**Industries Assistance Fund**):

- (a) From section 34IA (1) (c) and (d) and (2) (f), omit "2A," wherever occurring.
- (b) From section 34 IA (2) (c), omit "Parts 2A and", insert instead "Part".
- (c) From section 34IA (2) (e) (ii), omit "in relation to the acquisition of land for the purposes of Part 3, or in relation to land acquired for those purposes".

Commencement

The amendments to the State Development and Industries Assistance Act 1966 commence on a day or days to be appointed by proclamation.

Transitional

An application for a grant or subsidy made, or financial assistance granted, under Part 2A of the State Development and Industries Assistance Act 1966 before the repeal of that Part is to be taken to have been made or granted under Part 3 of that Act as amended by this Act.

Statute Law (Miscellaneous Provisions) (No. 3) 1989

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

Under Part 2A of the Act grants or subsidies of amounts not exceeding \$100,000 (or such greater amount as the Treasurer approves) may be made to business undertakings and prescribed institutions for projects concerning innovative technological facilities. The proposed amendments will repeal the Part and ensure that grants and subsidies for those purposes will still be able to be made under Part 3 of the Act which imposes no limit on the amount of financial assistance that may be given (items (1) - (4), (6) and (7) (a) and (b)).

The proposed substitution of section 29 will make it clear that the power of the Ministerial Corporation to acquire personal property is not limited to the forms of property currently listed in the section. Under the new section the Ministerial Corporation will be clearly authorised to acquire personal property such as shares (item (5)).

The proposed amendment to section 34IA (2) (e) (ii) omits redundant matter from the section (item (7) (c)).

STATE SPORTS CENTRE TRUST ACT 1984 No. 68**Amendments****Schedule 1 (Provisions relating to the trustees):**

- (a) Clause 1 (a):
Omit the paragraph.
- (b) Clause 7 (e):
After "the meetings;", insert "or".
- (c) Clause 7 (f):
Omit "Governor, or" insert instead "Governor".
- (d) Clause 7 (g):
Omit the paragraph.

Explanatory note

The proposed amendments remove the restriction that prevents a person who is of or above the age of 70 years from being eligible to be appointed as, or from continuing to hold office as, a trustee of the State Sports Centre.

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

SUPREME COURT ACT 1970 No. 52

Amendments

- (1) Section 19 (**Definitions generally**):
Section 19 (1), definition of "judgment".
Omit the definition.
- (2) Section 45 (**Decision**):
Section 45 (1):
Omit "judgment", insert instead "decision".
- (3) Section 46 (**Powers of Judge of Appeal**):
 - (a) Section 46 (1) (a):
Omit "direct the entry of", insert instead "give".
 - (b) Section 46 (4):
Omit "entered by direction of", insert instead "given by".
 - (c) Section 46 (5):
Omit the subsection, insert instead:
(5) Subject to subsection (4), a judgment, order or direction given or made by a Judge of Appeal is to have effect as a judgment, order or direction of the Court of Appeal, whether or not the judgment, order or direction is within the powers of the Judge of Appeal under this section.
- (4) Section 71 (**Habeas corpus**):
Section 71 (1):
Omit "direct the entry of", insert instead "give".
- (5) Section 74 (**Discharge of lien or security**):
Section 74 (d):
Omit "entered", insert instead "given".
- (6) Section 75A (**Appeal**):
Section 75A (10):
Omit the subsection, insert instead:
(10) The Court may make any finding or assessment, give any judgment, make any order or give any direction

Statute Law (Miscellaneous Provisions) (No. 3) 1989

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

which ought to have been given or made or which the nature of the case requires.

(7) Section 91:

Omit the section, insert instead:

Judgment

91. (1) The Court is, at or after trial or otherwise as the nature of the case requires, to give such judgment or make such order as the nature of the case requires.

(2) Where there is a claim by a plaintiff and a claim under section 78 by a defendant, the Court may:

(a) give judgment for the balance only of the sums of money awarded on the respective claims; or

(b) give judgment in respect of each claim,
and the Court may give judgment similarly where several claims arise between plaintiffs, defendants and any other parties.

(8) Section 95 (Interest on debt under judgment or order):

Section 95 (2):

Omit the subsection, insert instead:

(2) Notwithstanding subsection (1), where, in proceedings on a common law claim the Court gives judgment for damages and the damages are paid within 21 days after the date when the judgment takes effect, interest on the judgment debt is not to be payable under subsection (1) unless the Court otherwise orders.

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

- (9) Sections 106 (3), 117A (3) and (4), 118 (3) and (4) and 121 (3) and (4):
Omit "directed to be entered" wherever occurring, insert instead "given".
- (10) Section 107 (**Substituted verdict**):
Omit "direct the entry of", insert instead "give".
- (11) Section 108 (**Nonsuit or verdict after jury trial**):
Section 108 (3):
Omit "the entry of", insert instead "give".
- (12) Sections 117A (4), 118 (4) and 121 (4):
Omit "direction or order" wherever occurring, insert instead "judgment, order or direction".

Commencement

The amendments to the Supreme Court Act 1970 commence on a day to be appointed by proclamation.

Explanatory note

The proposed amendments clarify the procedural requirements relating to the mode of pronouncing and entering formal acts of the Court when determining various kinds of claims for relief. The main effect will be that judgments, like orders or directions of the Court, will be effective when made.

Statute Law (Miscellaneous Provisions) (No. 3) 1989

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

SYDNEY CRICKET AND SPORTS GROUND ACT 1978 No. 72

Amendments

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

(a) Clause 1 (**Age of member**):

Omit the clause.

(b) Clause 6 (1) (b):

Omit the paragraph.

Explanatory note

The proposed amendments remove the restriction that prevents a person who is of or above the age of 70 years from being eligible to be appointed as, or from continuing to hold office as, a member of the Sydney Cricket and Sports Ground Trust.

TEACHER HOUSING AUTHORITY ACT 1975 No. 27

Amendments

(1) Section 10 (**Provisions relating to members generally**):

Omit section 10 (4).

(2) Section 11 (**Vacation of office**):

(a) Section 11 (1) (k):

At the end of the paragraph, insert "or".

(b) Section 11 (1) (l):

Omit "Governor; or", insert instead "Governor".

(c) Section 11 (1) (m):

Omit the paragraph.

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

Explanatory note

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

TECHNICAL AND FURTHER EDUCATION ACT 1974 No. 72

Amendments

- (1) Section 10 (**Appointment of Director-General**):
 - Omit "Public Service Act 1979" wherever occurring, insert instead "Public Sector Management Act 1988".
- (2) Section 14 (**Vacation of office of appointed member**):
 - (a) Omit section 14 (1) (b), insert instead:
 - (b) if the member becomes a temporary patient within the meaning of the Mental Health Act 1958, a forensic patient within the meaning of the Mental Health Act 1983 or a protected person within the meaning of the Protected Estates Act 1983;
 - (b) After "absence;" in section 14 (1) (f), insert "or".
 - (c) Section 14 (1) (g):
 - Omit "Governor; or", insert instead "Governor".
 - (d) Section 14 (1) (h):
 - Omit the paragraph.

Repeal

Clause 16 (1) (h) and (2) of the Technical and Further Education Regulation 1975 is repealed.

Statute Law (Miscellaneous Provisions) (No. 3) 1989

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

Explanatory note

The proposed amendments update certain provisions and references as a consequence of the enactment of the Public Sector Management Act 1988 and the 1983 Mental Health legislation and remove the restriction that prevents a person who is of or above the age of 70 years from being eligible to be appointed as, or from continuing to hold office as, a member of the Council of Technical and Further Education or as a member of a college or district council or committee, of an advisory committee or of a board of studies.

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

Amendments

Section 3 (**Constitution of Board**):

(a) Section 3 (4) (b):

Omit the paragraph.

(b) Section 3 (6):

Omit "A member shall be deemed to have vacated his office upon the day upon which he attains the age of seventy years."

Explanatory note

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

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

TOURISM COMMISSION ACT 1984 No. 46

Amendments

- (1) Section 3 (**Definitions**):
From the definition of "Commission", omit "Tourism Commission of New South Wales", insert instead "NSW Tourism Commission".
- (2) Part 2, heading:
Omit the heading, insert instead:
PART 2 - THE NSW TOURISM COMMISSION
- (3) Section 4 (**Constitution of Commission**):
From section 4 (1), omit "Tourism Commission of New South Wales", insert instead "NSW Tourism Commission".
- (4) Section 28 (**Shortened references to Commission**):
 - (a) After "'Tourism Commission'", insert "or to the "'Tourism Commission of New South Wales'".
 - (b) Omit "Tourism Commission of New South Wales", insert instead "NSW Tourism Commission".

Explanatory note:

The proposed amendments alter the name of the Tourism Commission of New South Wales to the NSW Tourism Commission.

Statute Law (Miscellaneous Provisions) (No. 3) 1989

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

TRAFFIC ACT 1909 No. 5

Amendment

Section 8 (Requirements in case of accident):

From section 8 (3) (c), omit "give to the officer-in-charge of the police station nearest to the scene of the accident", insert instead ", at the police station nearest to the scene of the accident, give to the officer-in-charge".

Commencement

The amendment to the Traffic Act 1909 commences on a day to be appointed by proclamation.

Explanatory note

The proposed amendment will make it clear that the driver of a motor vehicle (or rider of a horse) concerned in an accident causing death or injury to any person or damage apparently in excess of \$500 to any property must (unless unable to do so because of personal injury) attend at the police station nearest the scene of the accident (not simply telephone the station) and give the officer-in-charge certain particulars of the accident if these have not already been given to a member of the police force.

The amended provision will read:

- (c) as soon as practicable and in any case within twenty-four hours after the accident [*give to the officer-in-charge of the police station nearest to the scene of the accident*], **at the police station nearest to the scene of the accident, give to the officer-in-charge** the particulars mentioned in paragraph (b), except where such particulars have already been given by him to a member of the police force.

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

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

TRUSTEE ACT 1925 No. 14

Amendment

Section 14A (Authorised investments):

Section 14A (2) (m):

Omit "a prescribed credit rating by a prescribed credit rating organisation" wherever occurring, insert instead "prescribed credit ratings by 2 prescribed credit rating organisations".

Commencement

The amendment to the Trustee Act 1925 commences on a day to be appointed by proclamation.

Transitional provision

The amendment made by this Schedule to section 14A of the Trustee Act 1925 does not affect investments existing at the commencement of that amendment until 3 months after that commencement.

Explanatory note

The proposed amendment requires authorised investment securities under section 14A (2) (m) of the Trustee Act 1925 to have a prescribed credit rating from 2 prescribed credit rating organisations or to be issued by a company or body which has a prescribed credit rating from 2 prescribed credit rating organisations. At present a credit rating need only be obtained from 1 prescribed credit rating organisation.

Statute Law (Miscellaneous Provisions) (No. 3) 1989

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

UNIVERSITY OF SYDNEY (LAW SCHOOL SITE) ACT
1967 No. 26

Amendment

Section 3 (Vesting of land in the University of Sydney):

At the end of section 3, insert:

(2) For the purposes of the Conveyancing and Law of Property Act 1898, the land is to be taken to have been the subject of a Crown grant on the same conditions as are set forth in the Crown grant referred to in subsection (1).

Explanatory note

The proposed amendment will make it clear that the land described in the Schedule to the Act (which vested that land in the University of Sydney for the same estate and subject to the same reservations, exceptions, provisions, restrictions and conditions as were set forth in the Crown grant of the major part of the Law School site) is, for the purposes of the Conveyancing and Law of Property Act 1898, to be treated in the same way as the land the subject of the Crown grant. Accordingly, section 10 of that Act (which provides for the curing of a defective title to land arising from the breach or non-performance of conditions contained in the Crown grant of the land) will apply to the land.

WATER ACT 1912 No. 44

Amendments

(1) Section 4 (Definitions):

Insert in alphabetical order:

"Local land board", in applying a provision in which the expression occurs, means:

- (a) the local land board constituted under the Crown Lands Act 1989 for the land in relation to which the provision applies; or

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

- (b) if the land in relation to which the provision applies is land for which there are 2 or more local land boards, such one of those boards as the Ministerial Corporation may nominate.
- (2) Section 5 (**Definitions**):
 - (a) In section 5 (1), insert in alphabetical order:
"Declared local area" means an area declared by the Ministerial Corporation under subsection (4) to be a declared local area.
 - (b) From section 5 (1), omit the definition of "Local land board".
 - (c) From section 5 (1), omit the definition of "Proclaimed local area".
 - (d) From section 5 (4), omit "proclaimed" wherever occurring, insert instead "declared".
- (3) Sections 5 (4), 20W, 22C (2), (8), 117A (1), (2), 117B (2), (3), 133 (3), 133A, 133D, 134 (1), (4), 136 (1), 147 (7), (8), (8A), (9), (9A), (9B), 147A (1):
Omit "Governor" wherever occurring, insert instead "Ministerial Corporation".
- (4) Sections 5 (4), 22C (2), (8), 117A (1), (2), 117B (2), (3), 133A, 133D, 134 (1), (4), (5), (6):
Omit "proclamation" wherever occurring, insert instead "order".
- (5) Sections 28, 105, 130, 150:
Omit the definition of "Board" wherever occurring.
- (6) Section 30 (**Constitution, power etc. of Board**):
Omit the section.
- (7) Sections 33, 115 (2):
Before "board" wherever occurring, insert "local land".
- (8) Sections 34, 38A (3), (4), 131 (3), 132 (1), 133 (2), (3), 134 (3), (4), 136 (1), 151 (3), 153 (1), 154 (2), (3), 155 (3), (4), 157 (1):
Omit "Board" wherever occurring, insert instead "local land board".

Statute Law (Miscellaneous Provisions) (No. 3) 1989

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

- (9) Section 39 (**Alteration of trust districts**):
 - (a) From section 39 (1), omit "to the Board", insert instead "to the trustees".
 - (b) From section 39 (1), omit "Such petition and statement shall be supplied to the trustees by the Board."
 - (c) From section 39 (1), omit "the Board shall report to the Commission whether, in its opinion, the petition should be granted with or without amendments, whereupon".
- (10) Section 39A (**Removal of land from trust district**):
 - (a) Omit "Board for inquiry and report and shall furnish to the Board", insert instead "trustees with".
 - (b) Omit "A copy of such request and statement shall be supplied to the trustees by the Board."
 - (c) Omit "convey to the Board", insert instead "convey to the Ministerial Corporation".
 - (d) Omit "The Board shall thereupon complete its inquiry and report to the Commission whether in its opinion the request should be granted with or without amendments or should be refused."
 - (e) Omit "Commission, after consideration of such report, shall", insert instead "Ministerial Corporation is then to".
- (11) Section 40A (**Union of trusts**):

From section 40A (1), omit "on the recommendation of the Board".
- (12) Section 67 (**Works of water conservation under \$10,000**):

Omit the proviso to section 67 (1).
- (13) Section 107 (**Notification of proposal etc.**):

From section 107 (2), omit "land board for the land district within which the proposed work would be situate, or to a land board for a land district adjacent thereto; and such land board", insert instead "local land board (or local land board for an adjacent land district) and the local land board".

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

- (14) Sections 107 (4), 108 (1), (4), 110 (4), 126:
Before "land board" wherever occurring, insert "local".
- (15) Section 110 (**Assessment of charges**):
From section 110 (1), omit "land board of the land district within which the work is situate", insert instead "local land board".
- (16) Section 114 (**Inquiry**):
- (a) From section 114 (1), omit "board, or by some person authorised by the board and approved by the Commission", insert instead "local land board".
 - (b) In section 114 (1), insert "local land" before "board" where lastly occurring.
- (17) Section 118A (**Drillers to be licensed**):
Omit section 118A (1), insert instead:
- (1) A person must not carry out any work as a driller on any land (other than land of which the person is the owner or occupier) unless:
 - (a) the person is the holder of a driller's licence issued by the Ministerial Corporation; and
 - (b) the work being carried out is of a type or class prescribed in the regulations and set out in the licence issued to that person.
- (18) Section 133 (3):
- (a) Omit "proclamation" where firstly occurring, insert instead "notification".
 - (b) Omit "Commission", insert instead "Ministerial Corporation".
 - (c) Omit "such proclamation", insert instead "the notification under this subsection".
- (19) Section 136 (**Lands within trust districts**):
From section 136 (3), omit "Colonial Treasurer", insert instead "Consolidated Fund".

Statute Law (Miscellaneous Provisions) (No. 3) 1989

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

(20) Section 165 (Definitions):

Section 165 (1):

(a) Insert in alphabetical order:

"**declared local area**" means an area declared by the Ministerial Corporation under section 5 (4);

(b) From the definition of "local occupier", omit "proclaimed", insert instead "declared".

(c) Omit the definition of "proclaimed local area".

Repeal of regulations under Water Act 1912

Regulations 3 (a) and 4 - 10 of the Water (Part 3) Regulations and Regulations 22 and 23 (and the definition of "The Board" in Regulation 2) of the Water (Part 5) General Regulations are repealed.

Commencement

The amendments (other than item (17)) to the Water Act 1912 commence on a day or days to be appointed by proclamation (being, in respect of items (1) and (5) - (16), a day or days not earlier than the commencement of Division 2 of Part 2 of the Crown Lands Act 1989).

Item (17) of the amendments to the Water Act 1912 is to be taken to have commenced on 21 October 1966.

Savings

Any proclamation made by the Governor under a provision of the Water Act 1912 that is amended by item (2), (3), (4), (18) or (20), being a proclamation made before the commencement of the amendment concerned, is to be taken to be an order made by the Ministerial Corporation under the provision as so amended.

Explanatory note

At present a Board is constituted under section 30 of the Water Act 1912:

- (a) to hold inquiries into and report on proposals relating to the setting up of trust districts, domestic and stock water supply districts, domestic and stock water supply and irrigation

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

districts, flood control districts and flood control and irrigation districts; and

- (b) at the request of the Water Administration Ministerial Corporation, to hold inquiries into and report on the desirability of granting applications for bore licences.

The functions of the Board (which consists of representatives of 3 government departments) are largely dealt with administratively and its most recent public inquiry was held in 1980. The proposed amendments will abolish the Board and provide for its functions relating to holding inquiries on proposals to set up the various districts and to include or remove land in or from districts to be exercised by local land boards for the land districts in which the relevant inquiry is to be held. The administrative functions formerly exercised by the Board will, after the commencement of the amendments, be exercised by the Ministerial Corporation (items (1), (5)-(16)).

Amendments are also proposed in relation to the following matters:

At present, certain proclamations made by the Governor under the Act authorise a variety of functions of an administrative nature, for example, the constitution of domestic and stock water supply districts and domestic and stock water supply and irrigation districts, as well as declaring proclaimed local areas for the purposes of Part 2 (Water rights and works). The proposed amendments enable the Ministerial Corporation to make orders (which will be published in the Gazette) to deal with these functions rather than the Governor (items (2), (3), (4), (18) and (20)).

The proposed amendment to section 118A provides that a driller's licence may be restricted to a certain class or type and that work carried out by a driller must be of the class or type allowed in the licence issued to the driller. The proposed amendment will validate the existing regulations made (on 21 October 1966) under the Water Act 1912 which already contemplate different classes of drillers' licences (item (17)).

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

WATER BOARD ACT 1987 No. 141

Amendments

(1) Section 41 (Certificate as to amount due):

After section 41 (1), insert:

(1A) Regulations may be made for or with respect to:

- (a) authorising the Board to make arrangements with another person for access by the other person to the information on which the Board would base a certificate under subsection (1); and
- (b) the preparation, authentication and issue by or on behalf of the person of such a certificate; and
- (c) the fees to be paid by the person to the Board.

(1B) A certificate authenticated and issued in accordance with regulations made for the purposes of subsection (1A) is to be taken to be a certificate applied for under subsection (1) and issued by the Board.

(2) Schedule 1 (Provisions relating to the members of the Board):

(a) Clause 1 (Age of members):

Omit the clause.

(b) Clause 8 (1) (g):

After "Minister;", insert "or".

(c) Clause 8 (1) (h):

Omit the paragraph.

Explanatory note

The proposed amendment to section 41 of the Act enables regulations to be made facilitating the issuing of certificates by the Water Board as to any amounts payable to the Board in respect of a parcel of separately assessed land. Such regulations may authorise the Board to arrange for persons to have access (by, for example, electronic means) to relevant information and for the issuing and authentication of certificates under such an arrangement.

The proposed amendments to Schedule 1 to the Act remove the restriction that prevents a person who is of or above the age of 70 years

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

from being eligible to be appointed as, or from continuing to hold office as, a member of the Water Board.

WATER SUPPLY AUTHORITIES ACT 1987 No. 140

Amendments

- (1) Section 13 (**Area of operations**):
Section 13 (4) (b):
Omit the paragraph, insert instead:
 - (b) with the consent of the Minister, the function is exercised by another Minister, by the delegate of another Minister or by a statutory body; or
- (2) Section 34 (**Determinations by Authority**):
 - (a) From section 34 (1), omit "end", insert instead "beginning".
 - (b) From section 34 (1), omit "the next succeeding", insert instead "that".

Commencement

The amendments to the Water Supply Authorities Act 1987 commence on a day or days to be appointed by proclamation.

Explanatory note

The proposed amendments:

- (a) make it clear that, consistently with section 59 of the Water Board Act 1987, functions under the Act may be exercised by a Minister administering another Act or his or her delegate (item (1)); and

Statute Law (Miscellaneous Provisions) (No. 3) 1989

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

- (b) make it clear that the requirement that certain determinations relating to charges be made before the commencement of the charging year concerned applies to the first charging year of a water supply authority as well as to subsequent years (item (2)).

WENTWORTH IRRIGATION ACT 1890
54 VIC. No. 7

Amendments

- (1) **Section 4 (Definitions and arrangement):**
Omit the definition of "Bank".
- (2) **Section 22 (Commission may lease):**
Omit "bank", insert instead "Minister".
- (3) **Section 22A (Restrictions as to assigns of holdings):**
From section 22A (2), omit "Bank" wherever occurring, insert instead "Minister".

Commencement

The amendments to the Wentworth Irrigation Act 1890 are to be taken to have commenced on 1 July 1989.

Transitional

Any money due or payable to the State Bank under a provision of the Wentworth Irrigation Act 1890 amended by this Act and which was unpaid immediately before 1 July 1989 is to be taken to have been due and payable to the Minister for Natural Resources.

Any proceeding pending before that date for the recovery of any such money at the suit of the State Bank becomes a proceeding pending at the suit of the Minister.

Explanatory note

As of 1 July 1989 certain functions of the State Bank respecting collection of money for rent, purchase price and Crown improvements for services in irrigation areas under the Crown Lands Consolidation

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

Act 1913, the Hay Irrigation Act 1902, the Irrigation Act 1912 and the Wentworth Irrigation Act 1890 have been exercised by the Department of Lands.

The proposed amendments to the Act (and complementary proposed amendments to other Acts concerned set out in this Schedule) give effect to the changed administrative arrangements and will validate action taken to implement the arrangements before the amendments take effect.

WESTERN LANDS ACT 1901 No. 70

Amendments

(1) **Section 18DA (Cultivation of certain land):**

After section 18DA (8A), insert:

(8B) The Commissioner may terminate the suspension of a consent under this section.

(2) **Section 18DB (Clearing licences):**

After section 18DB (7), insert:

(7A) The Commissioner may terminate the suspension of a licence under this section.

Explanatory note

The proposed amendments make it clear that the Western Lands Commissioner has the power to reinstate cultivation consents and clearing licences suspended by the Commissioner.

Statute Law (Miscellaneous Provisions) (No. 3) 1989

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

(Sec. 3)

ADOPTION OF CHILDREN (AMENDMENT) ACT 1980 No. 78

Amendment

Schedule 5 (Savings, transitional and other provisions):
Omit Part 1.

Explanatory note

The proposed amendment repeals redundant savings and transitional provisions. The provisions relate to amendments concerning the Adoption Tribunal contained in Schedules 1 and 2 to the Act which were never commenced and were repealed by section 5 of the Adoption of Children (Amendment) Act 1987.

**COMPANIES (ACQUISITION OF SHARES) (APPLICATION OF
LAWS) ACT 1981 No. 62**

Amendment

Section 3 (Definitions):

From the definition of "State Commission" in section 3 (1), omit "Corporate Affairs Commission Act 1981", insert instead "Companies (Administration) Act 1981".

Explanatory note

The proposed amendment updates a reference as a consequence of the enactment of the Corporate Affairs Commission (Auditors and Liquidators) Amendment Act 1989 (and its cognate Act).

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

COMPANIES (APPLICATION OF LAWS) ACT 1981 No. 122

Amendments

- (1) Section 4 (**Definitions**):
From the definition of "State Commission" in section 4 (1), omit "Corporate Affairs Commission Act 1981", insert instead "Companies (Administration) Act 1981".
- (2) Schedule 1, item 2 (m):
Omit "*Corporate Affairs Commission Act 1981*", insert instead "*Companies (Administration) Act 1981*".
- (3) Schedule 1, items 6, 8, 12A (a):
Omit "*Public Accountants Registration Act 1945*" wherever occurring, insert instead "*Companies (Administration) Act 1981*".
- (4) Schedule 1, item 12A (b):
Omit the paragraph, insert instead:
 - (b) for the definition of "Chairman" there were substituted the following definition:
"Chairman" means the Chairperson of the Board and includes a person acting in the office of the Chairperson;

Explanatory note

The proposed amendments update certain references as a consequence of the enactment of the Corporate Affairs Commission (Auditors and Liquidators) Amendment Act 1989 (and its cognate Act).

Statute Law (Miscellaneous Provisions) (No. 3) 1989

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

FAIR TRADING ACT 1987 No. 68

Amendment

Section 38 (Prescribing of product information standards):

From section 38 (2) (d), omit "and" where firstly occurring,
insert instead "or".

Explanatory note

At present section 38 (2) (d) requires that the product information standard prescribed for a specified type of goods may require disclosure of both the date of manufacture or production, and the durable life of goods. The accepted practice for date stamping or display of expiry dates on any goods is to require, depending on the nature of the goods, either a date of manufacture or an expiry date but not both. The proposed amendment, in accordance with this practice, requires that either the date of the manufacture or production, or the durable life, of goods be disclosed.

**FUTURES INDUSTRY (APPLICATION OF LAWS)
ACT 1986 No. 66**

Amendment

Section 3 (Definitions):

From the definition of "State Commission" in section 3 (1),
omit "Corporate Affairs Commission Act 1981", insert
instead "Companies (Administration) Act 1981".

Explanatory note

The proposed amendment updates a reference as a consequence of the enactment of the Corporate Affairs Commission (Auditors and Liquidators) Amendment Act 1989 (and its cognate Act).

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

GOVERNMENT AND RELATED EMPLOYEES APPEAL
TRIBUNAL ACT 1980 No. 39

Amendment

Schedule 4 (**Employing Authorities**):

Omit "Dairy Industry Authority of New South Wales."

Explanatory note

The proposed amendment omits an obsolete reference to the Dairy Industry Authority of New South Wales which has been replaced by the New South Wales Dairy Corporation constituted under the Dairy Industry Act 1979.

GRAIN HANDLING AUTHORITY (CORPORATISATION)
ACT 1989 No. 135

Amendments

(1) Section 4 (**Establishment of Grain Corporation as SOC**):

Omit "On a day to be appointed by proclamation for the purposes of this section," insert instead "On 1 October 1989".

(2) Section 10 (**Dissolution of Authority**):

(a) From section 10 (1), omit "On a day to be appointed by proclamation for the purposes of this section," insert instead "On 1 October 1989".

(b) Omit section 10 (2) and (3).

Commencement

The amendments to the Grain Handling Authority (Corporatisation) Act 1989 are to be taken to have commenced on 1 October 1989.

Statute Law (Miscellaneous Provisions) (No. 3) 1989

**SCHEDULE 2 - AMENDMENTS BY WAY OF STATUTE LAW
REVISION - *continued*****Explanatory note**

The Grain Corporation was effectively established as a SOC, and the Grain Handling Authority of New South Wales dissolved, on 1 October 1989. On that date an order under section 6 of the Act transferred the assets, rights and liabilities of the Authority. The proposed amendments will ensure that the Act expressly indicates the date of establishment and dissolution of those bodies and will omit unnecessary provisions that would have transferred the assets, rights and liabilities under section 10 of the Act.

HUMAN TISSUE ACT 1983 No. 164**Amendments****(1) Section 21C (Certificates by donors):**

From section 21C (2) (as amended by Act No. 144, 1987), omit "section 21B (b)" wherever occurring, insert instead "section 21B (c)".

(2) Section 21DA (Restrictions as to legal proceedings involving infection by a prescribed contaminant etc.):

From section 21DA (3) (b) (i) and (4) (a) (i) (as inserted by Act No. 144, 1987), omit "section 21B (b)" wherever occurring, insert instead "section 21B (c)".

Commencement

The amendments to the Human Tissue Act 1983 commence or are to be taken to have commenced on the commencement of Schedule 1 (6) to the Human Tissue (Amendment) Act 1987.

Explanatory note

The proposed amendments correct cross-references.

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

**INDUSTRIAL ARBITRATION (MISCELLANEOUS PROVISIONS)
AMENDMENT ACT 1986 No. 127**

Amendments

Section 2 (Commencement):

- (a) From section 2 (2), omit "subsection (1)", insert instead "this section".
- (b) After section 2 (2), insert:
 - (3) Section 3 in its application to a provision of Schedule 1 commences or is to be taken to have commenced on the day on which the provision commences or is to be taken to have commenced.

Explanatory note

The proposed amendment inserts a technical provision that is necessary to give effect to the provisions of Schedule 1 to the Act.

LEGAL PROFESSION (AMENDMENT) ACT 1989 No. 138

Amendments

- (1) Schedule 4 (**Amendments concerning disciplinary proceedings**):
 - From Schedule 4 (5) (a), omit "126 (1)", insert instead "127 (1)".

Statute Law (Miscellaneous Provisions) (No. 3) 1989

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

- (2) **Schedule 5 (Miscellaneous amendments):**
- (a) From Schedule 5 (6) (d), omit "Costs and Fees", insert instead "Fees and Costs".
 - (b) From Schedule 5 (7) (b), omit "92 (5)", insert instead "92 (6)".
 - (c) From Schedule 5 (7) (b), omit "(6)", insert instead "(7)".

Explanatory note

The proposed amendments rectify an incorrect incorporating direction and a reference to a name, and correct cross-references.

MARINE ADMINISTRATION ACT 1989 No. 93

Amendment

Schedule 4 (Savings, transitional and other provisions):

After "1985" in clause 4 (e), insert "or to the General Manager of the Maritime Services Board".

Explanatory note

The amendment enables statutory and other references to the General Manager of the Maritime Services Board to be construed as references to the Chief Executive of the Board (the General Manager's successor under the Marine Administration Act 1989).

The amended clause 4 (superseded references) will read (in part) as follows:

4. On and from the appointed day, a reference in any other Act, in any instrument made under any Act or in any document of any kind:

(a)-(d)

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

- (e) to the President or Vice-President of The Maritime Services Board constituted in accordance with the Maritime Services Act 1935 as in force immediately before the commencement of the Maritime Services (Amendment) Act 1985 **or to the General Manager of the Maritime Services Board** shall be read as a reference to the Chief Executive of the Board; or
- (f)

Matter to be inserted is shown in bold type.

**MOTOR TRAFFIC (TRANSPORT ADMINISTRATION)
AMENDMENT ACT 1988 No. 110**

Amendment

Schedule 1 (**Amendments**):

Before ", insert" in Schedule 1 (16) (c), insert "where firstly occurring".

Explanatory note

The proposed amendment rectifies an incorrect incorporating direction.

Statute Law (Miscellaneous Provisions) (No. 3) 1989

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

MOTOR VEHICLE DRIVING INSTRUCTORS ACT 1961 No. 60

Amendment

Section 4 (Licences):

From section 4 (2) (b), omit "Commissioner", insert instead "Authority".

Explanatory note

The proposed amendment replaces a reference to the Commissioner for Motor Transport with a reference to the Roads and Traffic Authority constituted under the Transport Administration Act 1988.

**SECURITIES INDUSTRY (APPLICATION OF LAWS) ACT 1981
No. 61**

Amendments

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

From the definition of "State Commission" in section 4 (1), omit "Corporate Affairs Commission Act 1981", insert instead "Companies (Administration) Act 1981".

(2) Schedule 1, item 14:

Omit "*Corporate Affairs Commission Act 1981*", insert instead "*Companies (Administration) Act 1981*".

Explanatory note

The proposed amendments update certain references as a consequence of the enactment of the Corporate Affairs Commission (Auditors and Liquidators) Amendment Act 1989 (and its cognate Act).

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

STATE LOTTERIES ACT 1930 No. 51

Amendment

Section 10 (**Accounts to be laid before Parliament**):

Omit the section.

Explanatory note

The proposed amendment omits a provision that was made superfluous by the Annual Reports (Departments) Act 1985.

STATE ROADS ACT 1986 No. 85

Amendment

Section 18 (**Work on roads other than classified roads**):

From section 18 (2), omit "or with money paid into the Commonwealth Fund".

Explanatory note

The proposed amendment omits a superfluous reference to the Commonwealth Fund.

Statute Law (Miscellaneous Provisions) (No. 3) 1989

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

STRATA TITLES ACT 1973 No. 68

Amendments

- (1) Section 28B (2) (b):
After "a person", insert "or body".
- (2) Section 28N (**Investigation of application for assistance**):
 - (a) From section 28N (8), omit "Sections 16C, 16D and 16E of the Consumer Protection Act, 1969," insert instead "Sections 20, 21 and 22 of the Fair Trading Act 1987".
 - (b) From section 28N (8) (a), omit "an investigation" where firstly occurring, insert instead "the serving of a notice or the doing or giving of any thing in response to a notice".
 - (c) From section 28N (8) (b), omit "investigating officer", insert instead "investigator".
 - (d) Omit section 28N (9), insert instead:
(9) Where, in accordance with subsection (8), section 22 of the Fair Trading Act 1987 applies, that section is to be taken to have been amended by inserting after the words "this Act" wherever occurring the words "or the Strata Titles Act 1973".
- (3) Section 28O (**Grant of legal assistance etc.**):
 - (a) Omit section 28O (1), insert instead:
(1) Division 2 (sections 12 and 15 (6) excepted) of Part 2 of the Fair Trading Act 1987 applies to and in respect of an application under section 28N (1) in the same way as it applies to and in respect of an application under section 12 of that Act.
 - (b) From section 28O (2), omit "Consumer Protection Act, 1969", insert instead "Fair Trading Act 1987".
 - (c) From section 28O (3), omit "Division 3A of Part II of the Consumer Protection Act, 1969", insert instead "Division 2 of Part 2 of the Fair Trading Act 1987".

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

- (4) Section 64 (1) (c):
After "section 80", insert "(1)".
- (5) Section 89 (**Definitions: Division 6**):
 - (a) Omit paragraphs (c)-(e) of the definition of "appropriate valuing Act", insert instead:
 - (c) where the Water Board is the valuing authority in respect of the parcel - the Water Board Act 1987;
 - (d) where the Hunter Water Board is the valuing authority in respect of the parcel - the Hunter Water Board Act 1988;
 - (e) where the Broken Hill Water Board is the valuing authority in respect of the parcel - the Water Supply Authorities Act 1987; and
 - (b) Omit paragraph (c) of the definition of "valuing authority", insert instead:
 - (c) rates levied on a valuation of a lot made by the Water Board, the Hunter Water Board or the Broken Hill Water Board pursuant to the Act under which it was constituted; or

Explanatory note

The proposed amendments replace references to the Consumer Protection Act 1969 with references to the Fair Trading Act 1987. These references occur in relation to investigations concerning development schemes and the granting of legal assistance in respect of those investigations.

The proposed amendments also update references (occurring in certain definitions relating to rating and taxation provisions) to various bodies that have been replaced by the Water Board, the Hunter Water Board and the Broken Hill Water Board respectively.

The proposed amendments also correct a cross-reference and a grammatical error consisting of the omission of words.

Statute Law (Miscellaneous Provisions) (No. 3) 1989

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

STRATA TITLES (LEASEHOLD) ACT 1986 No. 219

Amendments

- (1) Section 54 (**Investigation of application for assistance**):
 - (a) From section 54 (8), omit "Sections 16C, 16D and 16E of the Consumer Protection Act 1969", insert instead "Sections 20, 21 and 22 of the Fair Trading Act 1987".
 - (b) From section 54 (8) (a), omit "an investigation" where firstly occurring, insert instead "the serving of a notice or the doing or giving of any thing in response to a notice".
 - (c) From section 54 (8) (b), omit "investigating officer", insert instead "investigator".
 - (d) Omit section 54 (9), insert instead:

(9) Where, in accordance with subsection (8), section 22 of the Fair Trading Act 1987 applies, that section is to be taken to have been amended by inserting after the words "this Act" wherever occurring the words "or the Strata Titles (Leasehold) Act 1986".
- (2) Section 55 (**Grant of legal assistance etc.**):
 - (a) Omit section 55 (1), insert instead:

(1) Division 2 (sections 12 and 15 (6) excepted) of Part 2 of the Fair Trading Act 1987 applies to and in respect of an application under section 54 (1) in the same way as it applies to and in respect of an application under section 12 of that Act.
 - (b) From section 55 (2), omit "Consumer Protection Act 1969", insert instead "Fair Trading Act 1987".
 - (c) From section 55 (3), omit "Division 3A of Part II of the Consumer Protection Act 1969", insert instead "Division 2 of Part 2 of the Fair Trading Act 1987".
- (3) Section 121 (**Definitions: Division 6**):
 - (a) Omit paragraphs (b)-(d) of the definition of "appropriate valuing Act", insert instead:
 - (b) where the Water Board is the valuing authority in respect of the parcel - the Water Board Act 1987;

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

- (c) where the Hunter Water Board is the valuing authority in respect of the parcel - the Hunter Water Board Act 1988;
 - (d) where the Broken Hill Water Board is the valuing authority in respect of the parcel - the Water Supply Authorities Act 1987; and
 - (b) From paragraph (a) of the definition of "valuing authority", omit "Metropolitan Water Sewerage and Drainage Board, the Hunter District", insert instead "Water Board, the Hunter".
- (4) Section 138 (**Grant of legal assistance**):
- (a) Omit section 138 (1), insert instead:
 - (1) Division 2 (sections 12 and 15 (6) excepted) of Part 2 of the Fair Trading Act 1987 applies to and in respect of an application under section 137 (1) in the same way as it applies to and in respect of an application under section 12 of that Act.
 - (b) From section 138 (2), omit "Consumer Protection Act 1969", insert instead "Fair Trading Act 1987".
 - (c) From section 138 (3), omit "Division 3A of Part II of the Consumer Protection Act 1969", insert instead "Division 2 of Part 2 of the Fair Trading Act 1987".

Explanatory note

The proposed amendments replace references to the Consumer Protection Act 1969 with references to the Fair Trading Act 1987. These references occur in relation to investigations concerning development schemes and the granting of legal assistance in respect of those investigations and in relation to dispute proceedings generally.

The proposed amendments also update references (occurring in certain definitions relating to rating and taxation provisions) to various bodies that have been replaced by the Water Board, the Hunter Water Board and the Broken Hill Water Board respectively.

Statute Law (Miscellaneous Provisions) (No. 3) 1989

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

TECHNICAL EDUCATION TRUST FUNDS ACT 1967 No. 95

Amendments

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

- (a) At the end of paragraph (b) of the definition of "educational establishment", insert "or".
- (b) Omit paragraph (c) of the definition of "educational establishment".
- (c) Renumber paragraph (d) of the definition of "educational establishment" as paragraph (c).

(2) Section 3 (**Statutory Trustees**):

From section 3 (2), omit "Secretary", insert instead "Director-General".

Explanatory note

The proposed amendments update certain provisions and references as a consequence of certain legislative and administrative changes.

UNIVERSITY OF TECHNOLOGY, SYDNEY, ACT 1989 No. 69

Amendment

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

From clause 1 (1) (c) (ii), omit "or".

Explanatory note

The proposed amendment omits an unnecessary word.

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

WILD DOG DESTRUCTION ACT 1921 No. 17

Amendment

Section 3A (The Wild Dog Destruction Board):

From section 3A (7), omit "Public Service Act 1902", insert instead "Public Sector Management Act 1988".

Explanatory note

The proposed amendment updates a reference to the Public Service Act 1902.

SCHEDULE 3 - REPEALS

(Sec. 4)

Bush Fires (Amendment) Act 1970 No. 25
Auctioneers and Agents (Amendment) Act 1975 No. 29
Auctioneers and Agents (Amendment) Act 1978 No. 103
Air Transport (Amendment) Act 1982 No. 106
Auctioneers and Agents (Amendment) Act 1986 No. 63
Forestry (Forestry Rights) Amendment Act 1987 No. 244
Forestry (Amendment) Act 1988 No. 22
Public Sector Management (Executives) Amendment Act 1989 No. 103

**SCHEDULE 4 - GENERAL SAVINGS, TRANSITIONAL
AND OTHER PROVISIONS**

(Sec. 5)

Effect of amendment of amending provisions

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

(2) In this clause:

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

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

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

Explanatory note

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

Effect of amendment or repeal on acts done or decisions made

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

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

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

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.

Regulations

3. (1) The Governor may make regulations containing other provisions of a savings or transitional nature consequent on the enactment of this Act.

(2) Any such provision may, if the regulations so provide, take effect from the date of assent to this Act or a later date.

(3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

Explanatory note

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

Statute Law (Miscellaneous Provisions) (No. 3) 1989

NOTE

Alphabetical list of Acts repealed by Schedule 3

Air Transport (Amendment) Act 1982 No. 106
Auctioneers and Agents (Amendment) Act 1975 No. 29
Auctioneers and Agents (Amendment) Act 1978 No. 103
Auctioneers and Agents (Amendment) Act 1986 No. 63
Bush Fires (Amendment) Act 1970 No. 25
Forestry (Amendment) Act 1988 No. 22
Forestry (Forestry Rights) Amendment Act 1987 No. 244
Public Sector Management (Executives) Amendment Act 1989 No. 103

[*Minister's second reading speech made in -
Legislative Assembly on 23 November 1989
Legislative Council on 5 December 1989*]