

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

NEW SOUTH WALES



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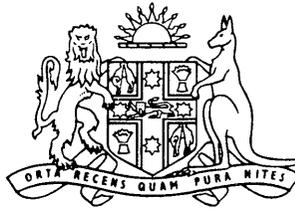
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**STATUTE LAW (MISCELLANEOUS PROVISIONS) ACT (No. 2)
1990 No. 108**

NEW SOUTH WALES



Act No. 108,1990

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 13 December 1990]

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Statute Law (Miscellaneous Provisions) Act (No. 2) 1990.

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4 Each Act specified in Schedule 3 is repealed.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)

ANTI-DISCRIMINATION ACT 1977 No. 48

Amendment

Section 74 (**Eligibility for appointment to Board**):

Omit section 74 (2) (a).

Explanatory note

The proposed amendment removes the restriction that prevents a person from being eligible to be appointed as a member of the Anti-Discrimination Board if the person is of or above the age of 65 years.

SCHEDULE 1—MINOR AMENDMENTS—*continued*

AREA HEALTH SERVICES ACT 1986 No. 50

Amendments

(1) Section 17 (**Chief executive officer of board**):

At the end of the section, insert:

(2) The employment of the chief executive officer of an area health board is subject to Part 2A of the Public Sector Management Act 1988, but is not subject to Part 2 of that Act.

(3) The chief executive officer of an area health board is taken, while holding that office, to be employed by the area health service concerned. However, the area health service may not remove the chief executive officer from office.

(2) Section 25 (**Staff of area health services**):

Omit section 25 (2), insert instead:

(2) Part 2 of the Public Sector Management Act 1988 does not apply to or in respect of persons employed under this section.

(3) Section 26 (**Determination by Corporation of conditions of employment of staff of area health services**):

After section 26 (7), insert:

(8) This section does not apply to any conditions of employment (determined under Part 2A of the Public Sector Management Act 1988) of the chief executive officer of an area health board or any other employee of an area health service whose employment is subject to that Part of that Act.

(4) Schedule 4 (**Provisions relating to the members and procedure of area health boards**):

- (a) Omit clauses 3, 6 (a), 7 and 9 (1) (b), (g), (j) and (k) and (2).
- (b) From clause 9 (1), omit "A member of an area health board", insert instead "An appointed member".

SCHEDULE 1—MINOR AMENDMENTS—*continued*

- (c) After "Secretary;" in clause 9 (1) (i), insert "or".
- (d) Omit clause 11 (1), insert instead:

(1) Part 2 of the Public Sector Management Act 1988 does not apply to or in respect of the appointment of a member.

- (e) After clause 13, insert:

Transitional arrangements affecting chief executive officers

13A. (1) A person who, immediately before the relevant commencement was holding office as chief executive officer of an area health board is, on the relevant commencement, taken to have been appointed to that office for the balance of the person's term of office.

(2) Until otherwise determined under Part 2A of the Public Sector Management Act 1988, the conditions of employment (including remuneration) of a person continued in office under this clause are the same as those which applied immediately before the relevant commencement.

- (3) In this clause:

"relevant commencement" means the commencement of the amendments to the Area Health Services Act 1986 made by the Statute Law (Miscellaneous Provisions) Act (No. 2) 1990.

Commencement

The amendments to the Area Health Services Act 1986 commence on a day to be appointed by proclamation.

Explanatory note

The proposed amendments:

- (a) provide for the inclusion of the chief executive officer of an area health board in the Senior Executive Service under the Public Sector Management Act 1988; and
- (b) make necessary consequential changes with respect to the employment of the chief executive officer of an area health board.

SCHEDULE 1—MINOR AMENDMENTS—*continued*

AUCTIONEERS AND AGENTS ACT 1941 No. 28

Amendments

(1) Section 23 (**Procedure**):

In section 23 (9) (e), before "or by counsel", insert "or the General Manager".

(2) Section 36B (**Unclaimed trust moneys held by a former licensee**):

From section 36B (a), omit "in or to the effect of the form prescribed", insert instead "in the form approved by the Minister".

(3) Section 36C (**Duties of Council in relation to unclaimed moneys in trust accounts**):

From section 36C (3), omit "him", insert instead "the Council".

(4) Section 38B (**Inspection of records**):

- (a) From section 38B (2AA), omit "Council,", insert instead "General Manager,".
- (b) From section 38B (3) and (6), omit "Council or "wherever occurring, insert instead "General Manager or an".

(5) Section 51B (**Objection to registration as a real estate dealer**):

From section 51B (3) (e), omit "or the Council", insert instead "or the General Manager".

(6) Section 57 (**Procedure**):

From section 57 (9) (d) and (12), omit "him" wherever occurring, insert instead "the Council".

(7) Section 72 (**Levies**):

From section 72 (3), omit "Council" where firstly occurring, insert instead "General Manager".

(8) Section 85A (**Live stock auctions - warranty as to certain diseases and conditions**):

- (a) After "consumption" in section 85A, insert "(and is certified in writing by an inspector appointed under the Stock

SCHEDULE 1—MINOR AMENDMENTS — *continued*

Diseases Act 1923 or a meat inspector appointed under the Meat Industry Act 1978 to be unfit)".

(b) After "disease" where firstly and lastly occurring in section 85A, insert "or condition".

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

(2) A regulation prescribing a disease or condition for the purposes of this section is not to be made unless the Minister for Agriculture and Rural Affairs has recommended the making of the regulation.

Explanatory note

Prescribed diseases and conditions (item (8))

At present section 85A provides that a purchaser of livestock condemned as unfit for human consumption because of a prescribed disease is entitled to damages from the vendor.

The proposed amendments provide:

- (a) that conditions may also be prescribed for the purposes of the section; and
- (b) that the Minister for Agriculture and Rural Affairs is to recommend the making of regulations which prescribe any such disease or condition; and
- (c) that an inspector under the Stock Diseases Act 1923 or a meat inspector under the Meat Industry Act 1978 will be required to certify that livestock is unfit for human consumption because of a prescribed disease or condition before a purchaser is entitled to damages.

Statute law revision (items (1)–(7))

The proposed amendments are consequential on the amendments to the Act made by the Real Estate Services Council Act 1990 (in particular, the replacement of the Council of Auctioneers and Agents by the Real Estate Services Council).

BANKS AND BANK HOLIDAYS ACT 1912 No. 43

Amendment

Section 19:

Omit the section, insert instead:

Appointment of special bank holidays

19. (1) The Governor may, by proclamation published in the Gazette, appoint a special day or part of a special day to be observed as a public holiday or half-holiday throughout New South Wales.

SCHEDULE 1—MINOR AMENDMENTS—*continued*

(2) The proclamation is to be published at least 7 days before the public holiday or half-holiday is to be observed.

(3) The Minister may, by notice published in the Gazette, appoint a special day or part of a special day to be observed as a public holiday or half-holiday in any local government area, part of a local government area or other part of New South Wales.

(4) The notice is to be published at least 7 days before the public holiday or half-holiday is to be observed.

(5) If it appears to the Minister that circumstances have arisen making it impracticable or inconvenient for a special day or part of a special day appointed by the Minister to be observed as a public holiday or half-holiday, the Minister may, by notice published in the Gazette or in a newspaper circulating in the part of New South Wales in which the holiday is to be observed, cancel the appointment and may, if it is appropriate, appoint instead another special day or part of a special day to be observed as a public holiday or half-holiday in the area concerned.

(6) A notice published under subsection (5) is to give as much notice as is practicable in the circumstances.

(7) Any special day or part of a special day appointed to be observed as a public holiday or half-holiday is to be kept as a close holiday or half-holiday in all banks within the area mentioned in the proclamation or notice and, in relation to bills of exchange and promissory-notes payable on the special day or part of a special day so appointed, is to be regarded as a bank holiday or half-holiday in the area.

Explanatory note

At present section 19 enables the Governor to appoint public holidays for either the whole of the State or certain localities only.

The proposed amendment will recast section 19 so as to enable the Minister (instead of the Governor) to appoint public holidays in local government areas, parts of local government areas and other parts of the State while retaining the Governor's powers to appoint public holidays throughout the State. The amendment will also confer a new power on the Minister to cancel or postpone a holiday appointed by the Minister in appropriate circumstances (for example, when the day for a country show is cancelled because of floods). The amendment will avoid the need for the

SCHEDULE 1—MINOR AMENDMENTS—*continued*

Governor to make numerous appointments of public holidays limited to particular localities.

**BISHOPSGATE INSURANCE AUSTRALIA LIMITED
ACT 1983 No. 81**

Amendments

(1) Section 10 (**Application of fund**):

After "fund" in section 10 (1) (c) (i), insert "(including such management fee, not exceeding the maximum amount (if any) prescribed, as is reasonable having regard to the work involving the fund)".

(2) Section 15 (**Entitlements payable after dissolution of the Company**):

From section 15 (2), (3) and (4), omit "Government Insurance Office" wherever occurring, insert instead "WorkCover Authority".

Commencement

The amendments to the Bishopsgate Insurance Australia Limited Act 1983 commence on a day or days to be appointed by proclamation.

Explanatory note

The Act establishes a fund under the management of the Government Insurance Office (GIO) to meet the workers compensation liabilities of the insolvent Bishopsgate Insurance Australia Limited ("the Company"). The Act requires certain licensed insurers to pay contributions to the fund to meet those liabilities. After dissolution of the Company the Act provides for remaining entitlements to be paid out of the Insurers' Contribution Fund.

Management fees (item (1))

The proposed amendment to section 10 (1) (c) (i) removes any doubt as to whether or not the GIO is entitled to be paid management fees from the fund established by the Act as part of the costs of administration of the fund.

Obsolete references to manager of Insurers' Contribution Fund (item (2))

The proposed amendments to section 15 (2)–(4) update references to the manager of the Insurers' Contribution Fund (formerly the GIO and now the WorkCover Authority).

SCHEDULE 1—MINOR AMENDMENTS—*continued*

COMMERCIAL TRIBUNAL ACT 1984 No. 98

Amendment

Section 37A:

After section 37, insert:

Power to correct decisions of the Tribunal

37A. (1) If a decision made by the Tribunal in respect of any proceedings before it contains:

- (a) a clerical mistake; or
- (b) an error arising from an accidental slip or omission; or
- (c) a material miscalculation of figures or a material mistake in the description of any person, thing or matter referred to in the decision; or
- (d) a defect of form,

the Tribunal, of its own motion or on the application of a party to the proceedings, may correct the decision.

(2) In this section:

"decision" includes any judgment, order and determination of the Tribunal, and the reasons for a decision.

Explanatory note

The proposed amendment enables the Commercial Tribunal to correct errors of a clerical or technical nature contained in decisions made by the Tribunal in respect of proceedings before it.

SCHEDULE 1—MINOR AMENDMENTS—*continued*

COMMUNITY JUSTICE CENTRES ACT 1983 No. 127

Amendments

Schedule 1 (**Constitution and Procedure of Council**):

- (a) Omit clause 3 (**Age of members**).
- (b) After "Minister;" in clause 5 (1) (h), insert "or".
- (c) From clause 5 (1) (i), omit "member; or", insert instead "member."
- (d) Omit clause 5 (1) (J).

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 Community Justice Centres Council

COMMUNITY LAND DEVELOPMENT ACT 1989 No. 201

Amendment

Schedule 11 (**Initial unit entitlements**):

After "lots" wherever occurring in clauses 2 and 3, insert "(as if the lots were vacant)".

Explanatory note

The proposed amendment makes it clear that the unit entitlements lodged with a community plan, precinct plan or neighbourhood plan are assessed on the basis of the value of the land as if it was vacant.

COMMUNITY SERVICE ORDERS ACT 1979 No. 192

Amendment

Section 16 (**Duration of community service order**):

After "order" in section 16 (2) (b), insert "(or the total number of accumulated hours specified by a court pursuant to section 7 (2))".

SCHEDULE 1—MINOR AMENDMENTS—*continued*

Explanatory note

At present, if the number of hours of community service work to be performed by a person in respect of whom a community service order is made exceeds 300 hours, the order expires after the period of 18 months. The proposed amendment makes it clear that if a court specifies that the hours to be performed by a person in respect of whom an order is made are to be additional to or concurrent with those specified in any other order made in respect of the person, and the total number of accumulated hours exceeds 300, the order expires after the period of 18 months.

COMMUNITY WELFARE ACT 1987 No. 52

Amendments

- (1) **Section 38 (Co-ordination of welfare services for victims of declared disasters):**

From section 38 (2), omit "State Emergency Services and Civil Defence Act 1972", insert instead "State Emergency and Rescue Management Act 1989".

- (2) **Section 56 (Presiding member may compel attendance of witnesses etc.):**

From section 56 (1) (a), omit "personally or by post".

- (3) **Sections 74A and 74B:**

After section 74, insert:

Service of documents etc.

74A. (1) Any document or other instrument authorised or required by this Part to be served on a person is sufficiently served if the document or other instrument is:

- (a) delivered personally to the person; or
- (b) left with a person who is apparently of or above the age of 16 years at, or sent by post to, the address last known to the Tribunal of the person on whom the document or other instrument is to be served; or
- (c) where no address of the person is known to the Tribunal, published or otherwise dealt with as may be prescribed by the regulations.

(2) If such a document or instrument is published or otherwise dealt with as referred to in subsection (1) (c), it

SCHEDULE 1—MINOR AMENDMENTS—*continued*

is taken to have been served at such time as may be prescribed by the regulations.

Notices etc. to be written in other languages

74B. (1) If:

- (a) the Tribunal is required, by or under this Act, to cause a document or other instrument to be served on any person; and
- (b) it appears to the Tribunal that the person is not literate in the English language but is literate in another language,

the Tribunal is, in so far as it is reasonably practicable, to cause the document or other instrument to be written in that other language.

(2) Failure to comply with subsection (1) does not vitiate any thing done under any other provision of this Act.

Explanatory note

Notices (items (2) and (3))

Proposed section 74A makes provision for the service of documents and other instruments by the Community Welfare Appeals Tribunal. Proposed section 74B provides for the service of such notices in languages other than English where this appears to be appropriate and is reasonably practicable.

A consequential amendment is made to section 56.

Statute law revision (item (1))

The proposed amendment to section 38 updates a reference to a repealed Act by replacing it with a reference to the Act that replaced it.

CONFISCATION OF PROCEEDS OF CRIME ACT 1989 No. 90

Amendments

Section 18 (Forfeiture orders):

After "section 13 (1) (a)" wherever occurring in section 18 (1) and (4), insert "or (2)".

Commencement

The amendments to the Confiscation of Proceeds of Crime Act 1989 commence (or are taken to have commenced) on the day appointed by proclamation for the commencement of Division 2 of Part 2 of that Act.

SCHEDULE 1—MINOR AMENDMENTS—*continued*

Explanatory note

Although section 13 (1) (a) and (2) of the Act provide for applications for forfeiture orders against tainted property to be made in respect both of serious offences other than drug trafficking offences and drug trafficking offences, the provisions of Division 2 of Part 2 make provision only for orders in respect of serious offences other than drug trafficking offences. The proposed amendment to section 18 will remove this inconsistency.

CONVEYANCING ACT 1919 No. 6

Amendments

(1) Section 52A (Contracts for sale of land):

Omit section 52A (6), insert instead:

(6) The regulations may make provision for or with respect to the remedies and relief available to a purchaser under a contract for the sale of land and the penalties which may be incurred by a vendor under such a contract:

- (a) for any failure or refusal to comply with any of the provisions of this section or the regulations made for the purposes of this section; and
- (b) for any breach of a term, condition or warranty deemed to be included in the contract under this section.

(2) Section 66ZA (Option to contain certain terms, conditions and warranties):

Omit section 66ZA (2), insert instead:

(2) The regulations may make provision for or with respect to the remedies and relief available to a purchaser under an option to purchase residential property and the penalties which may be incurred by a vendor under such an option:

- (a) for any failure or refusal to comply with any of the provisions of the regulations made for the purposes of this section; and
- (b) for any breach of a term, condition or warranty deemed to be included in the option under this section.

SCHEDULE 1—MINOR AMENDMENTS—*continued*

Explanatory note

Section 52A of the Act requires a vendor to attach prescribed documents to the contract for the sale of land and also deems the vendor to have included prescribed terms, conditions and warranties in the contract. Similarly, section 66ZA of the Act deems a vendor under an option to purchase residential property to have included prescribed terms, conditions and warranties in the option.

The proposed amendments provide that the regulations under sections 52A (6) (which currently enables regulations to be made for or with respect to the remedies and relief available to a purchaser and the penalties which may be incurred by a vendor for failing or refusing to comply with the section or regulations) and 66ZA (2) (which currently enables regulations to be made for the same purpose in respect of options for the purchase of residential property) may make similar provision for the breach of a prescribed term, condition or warranty deemed to be included in the contract or in the option to purchase.

CRIMES ACT 1900 No. 40

Amendments

(1) **Section 360A (Indictment etc of corporations):**

After section 360A (6), insert:

(6A) In subsection (6), "imprisonment" includes penal servitude.

(2) **Section 405H (Warning to jury):**

From section 405H, omit "or Magistrate" wherever occurring.

(3) **Section 476 (Indictable offences punishable summarily with consent of accused):**

(a) After section 476 (6) (e), insert:

(ea) any offence mentioned in section 109 where:

- (i) the felony intended is stealing or
- (ii) the felony alleged is stealing and the value of the property stolen does not exceed \$ 5,000,

and the person charged was neither armed with an offensive weapon or instrument, nor in company with a person so armed;

SCHEDULE 1—MINOR AMENDMENTS—*continued*

(b) Before "(f)" in section 476 (6) (i), insert "(ea)".

Commencement

Item (1) of the amendments to the Crimes Act 1900 commences or is taken to have commenced on the commencement of Schedule 2 (1) to the Crimes (Amendment) Act 1989.

Item (2) of the amendments to the Crimes Act 1900 is taken to have commenced on 12 November 1990 (the commencement of Schedule 1 (2) to the Crimes (Child Victim Evidence) Amendment Act 1990).

Item (3) of the amendments to the Crimes Act 1900 commences on a day to be appointed by proclamation.

Explanatory note

Indictment of corporations (item (1))

Schedule 2 (1) of the Crimes (Amendment) Act 1989 substitutes section 360A (6) of the Crimes Act 1900. The new subsection was intended to increase the pecuniary penalties that may be imposed on a body corporate but to otherwise retain the effect of the existing provision. The proposed amendment will ensure that the substituted provision has the effect intended by including in section 360A an interpretation provision contained in the existing subsection.

Warning to jury (item (2))

The proposed amendment removes unnecessary references to Magistrates.

Indictable offences punishable summarily with consent of accused (item (3))

The proposed amendments to section 476 will enable certain indictable offences under section 109 of the Act (and the offences of attempting to commit and being an accessory to such an offence) to be punished summarily with the consent of the accused. The amendments will ensure that the offences are able to be dealt with in a manner that is consistent with that applicable to the related offences under sections 112 (break, enter and steal), 111 (enter a dwelling-house at night with intent to steal) and 113 (breaking and entering with intent to steal).

CRIMINAL APPEAL, ACT 1912 No. 16

Amendments

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

Renumber section 2 (2) (a11) as section 2 (2) (a1).

(2) Section 28 (**Rules of court**):

From section 28 (2) (h), omit "court", insert instead "Rule Committee of the Supreme Court".

SCHEDULE 1—MINOR AMENDMENTS—*continued*

Explanatory note

Rules of court (item (2))

Rules of court for the purposes of the Act are made under the Supreme Court Act 1970.

The proposed amendment to section 28 (2) (h) rationalises that provision by enabling rules to be made if, in the opinion of the Rule Committee of the Supreme Court (instead of the Court of Criminal Appeal), they are necessary or expedient for giving effect to the Act.

Statute law revision (item (1))

The proposed amendment to section 2 renumbers an incorrectly numbered paragraph.

CROWN LANDS ACT 1989 No. 6

Amendments

(1) Section 19 (**Appointment of Chairpersons and Senior Chairperson**):

Omit section 19 (5), insert instead:

(5) If the Minister is satisfied that the Chairperson of a local land board:

- (a) will be absent at a time when the board is to sit; or
- (b) for any reason, will be unable to act, or should not act, at a particular sitting of the board,

the Minister may appoint a person to act as Chairperson at the sitting.

(2) Section 53 (**Release of easements**):

From section 53 (1), omit "The Minister may, at any time that land having the benefit of an easement created under this Act or an Act repealed by this Act or by an Act so repealed is vested in the Crown", insert instead "Where an easement benefiting any Crown land or other land vested in the Crown has been created in respect of the land, the Minister may, at any time".

(3) Section 78 (**Definitions**):

After "of a reserve" in the definition of "reserve trust", insert "or part of a reserve".

SCHEDULE 1—MINOR AMENDMENTS— *continued*

- (4) Section 92 (**Reserve trusts**):
- (a) From section 92 (1), omit "specified reserve", insert instead "specified reserve or part of a reserve".
 - (b) After "the reserve" in section 92 (5), insert "(or part of the reserve)".
- (5) Section 93 (**Membership of trust board**):
- (a) Omit "Apart from ex officio members, a", insert instead "A".
 - (b) After "Gazette", insert "and such number of ex officio members as are so appointed".
- (6) Section 98 (**Application of Local Government Act where a council manages a reserve trust**):
- After "and the reserve" in section 98(1), insert "(or the part of the reserve)".
- (7) Section 102 (**Consent of Minister to sale, lease, licence or mortgage**):
- After "published" in section 102 (2), insert "in a newspaper circulating".
- (8) Sections 112 (**Preparation of draft plan of management**), 113 (**Referral of draft plans**):
- In sections 112 and 113, before "plan" wherever occurring, insert "draft".
- (9) Section 117 (**Appointment of administrator**):
- At the end of section 117, insert:
- (2) Subject to this Act, an administrator holds office for such period as may be specified in the administrator's instrument of appointment.
- (10) Section 119 (**Vacancies in office of administrator**):
- At the end of section 119, insert:
- (2) The office of an administrator becomes vacant if the administrator:
 - (a) completes a term of office; or
 - (b) resigns the office by instrument in writing addressed to the Minister; or

SCHEDULE 1—MINOR AMENDMENTS— *continued*

- (e) is removed from office by the Minister under this section.
- (11) Section 129 (**Minister may forfeit holdings**):
At the end of the section, insert:
(4) In this section:
"holding" includes a lease to the Commonwealth under Part 8 of Schedule 2 to the Crown Lands (Continued Tenures) Act 1989.
- (12) Section 139 (**Alterations of conditions or purposes and suspension etc. of conditions**):
(a) After "be" in section 139 (1), insert "conditionally or unconditionally".
(b) At the end of the section, insert:
(4) If any such exemption is made, the Minister may redetermine the rent in respect of a holding for the remainder of the current rent redetermination period applicable to the holding.
- (13) Section 145 (**Certificate as to amount due**):
At the end of the section, insert:
(3) In this section:
"holding" includes:
(a) an enclosure permit; and
(b) a lease to the Commonwealth under Part 8 of Schedule 2 to the Crown Lands (Continued Tenures) Act 1989; and
(c) any tenure, lease, licence or permit granted under the Crown Lands Acts which ceased to exist before the commencement of this Act.
- (14) Section 171 (**Exclusion of minerals, other reservations, exceptions etc.**):
After "Register" in section 171 (2), insert "in respect of land".

SCHEDULE 1—MINOR AMENDMENTS—*continued*

(15) Section 177 (**Certificate as to status of land etc.**):

At the end of the section, insert:

(3) In this section:

"holding" includes:

- (a) an enclosure permit; and
- (b) a lease to the Commonwealth under Part 8 of Schedule 2 to the Crown Lands (Continued Tenures) Act 1989; and
- (c) any tenure, lease, licence or permit granted under the Crown Lands Acts which ceased to exist before the commencement of this Act.

(16) Schedule 3 (**Provisions relating to the members of a trust board**):

- (a) From clause 2 (1), omit "reserve trust", insert instead "trust board".
- (b) From clause 2 (2), omit "is constituted", insert instead "board was constituted".

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

After clause 5, insert:

Administrators of reserves

5A. A person holding office (immediately before the commencement of Part 5) under section 37EE or 37FF of the Crown Lands Consolidation Act 1913 as administrator of a reserve is taken to have been appointed as administrator of the reserve trust under Part 5 which replaced the reserve for which the administrator was appointed if, on that commencement, that reserve trust is not managed by a trust board with members appointed under section 93 or by a corporation appointed under section 95.

Commencement

Item (17) of the amendments to the Crown Lands Act 1989 is taken to have commenced on 1 May 1990 (the commencement of that Act).

SCHEDULE 1—MINOR AMENDMENTS—*continued*

Explanatory note

Reserve trusts (items (4) and (5))

The proposed amendment to section 92 makes it clear that the Minister may, when establishing a reserve trust, appoint it as trustee of part of a reserve. Items (3) and (6) are consequential.

The proposed amendment to section 93 makes it clear that a trust board (which manages the affairs of a reserve trust) is comprised of at least 3 but not more than 7 members plus such number of ex officio members as are appointed by the Minister. Item (16) is consequential.

Plans of management (item (8))

The proposed amendments to sections 112 and 113 make it clear that the plans of management for a reserve that are prepared and referred to the Minister before being adopted by the Minister are draft plans of management.

Administrators of reserve trusts (items (9), (10) and (17))

Proposed sections 117 (2) and 119 (2) make it clear that the administrator of a reserve trust holds office for the period for which the administrator is appointed by the Minister and also provide that the office becomes vacant if the administrator completes a term, resigns or is removed by the Minister. The proposed amendment to Schedule 8 provides for the saving of the appointment of administrators under the repealed Crown Lands Consolidation Act 1913.

Holdings (items (11), (13) and (15))

The proposed amendment to section 129 provides that a holding (which the Minister may declare to be forfeited) includes a lease to the Commonwealth. The proposed amendments to sections 145 and 177 enable certification to be given under the Act in respect of matters relating to certain tenures, leases, licences or permits which ceased to exist before the Crown Lands Act 1989 commenced and to certain other leases.

Miscellaneous (items (1), (2), (7), (12) and (14))

The proposed amendment to section 19 rationalises a provision relating to the appointment of persons to sit as Chairpersons of a local land board in the absence of the Chairperson. In its present form, a Chairperson must inform the Minister that a Chairperson will not be present at a meeting before the Minister can appoint a person to act as Chairperson. The provision as amended will enable the Minister to do so if satisfied that this is the case although not so informed.

The proposed amendment to section 53 clarifies a provision relating to the Minister's power to release easements benefiting Crown lands.

The amendment to section 102 makes it clear that notice of the Minister's intention to give consent to the sale etc. of land by a reserve trust is to be published in a newspaper circulating in the locality in which the land is situated.

SCHEDULE 1—MINOR AMENDMENTS—*continued*

The proposed amendments to section 139 provide:

- (a) for the conditional or unconditional alteration, modification, addition or revocation of a condition attaching to a holding; and
- (b) that if the Minister has exempted the holder of a holding from complying with a condition attaching to the holding, the Minister may redetermine the rent for the remainder of the current rent redetermination period applicable to the holding.

The proposed amendment to section 171 makes it clear that the folio of the Register created by the Registrar-General is created in respect of land.

CROWN LANDS (CONTINUED TENURES) ACT 1989 No. 7

Amendments

- (1) Schedule 2 (**Provisions applicable to continued tenures etc.**):

At the end of Part 5 of Schedule 2, insert:

Occupancy after expiration of lease for a term

6. The holder of a special lease for a term who, with the consent of the Minister, remains in possession of land after the expiration of the special lease, does so as a tenant from month to month

- (a) at a rent per month equal to one-twelfth of the yearly rent; and
- (b) subject to the conditions, applicable to the lease immediately before its expiration.

- (2) Schedule 5 (**Rent etc.**):

- (a) From clause 7, omit "more", insert instead "less".
- (b) From clause 9 (5), omit "subclause (6)", insert instead "subclause (7) or (7A)".
- (c) After clause 9 (7), insert:

(7A) If a lease to which this clause applies is an irrigation farm lease of an area of 2 hectares or less created by a subdivision, the Minister is to redetermine the rent of the lease as at the date of the approval of the subdivision and after that at 5-yearly intervals.

SCHEDULE 1—MINOR AMENDMENTS—*continued*

- (3) Schedule 7 (**Purchase of land held under lease**):
- (a) From clause 2 (1) (b) of Part 1, omit "subclause (2)", insert instead "subclauses (2) and (3)".
 - (b) After clause 9 (2) of Part 1, insert:
 - (2A) For the purposes of subclause (2) (a), the purchase price of a closer settlement lease is the capital value only of the lease as shown in the records of the Department and does not include any balance of the capital value owing to the Crown for structural or other improvements in respect of the land.
 - (c) From clause 9 (1) of Part 2, omit "as at the date of the application to purchase the land", insert instead "immediately before the commencement of this clause".
 - (d) After "commencement" in clause 9 (2) (a) of Part 2, insert "; subject to any adjustment under subclause (4)".

Explanatory note

Special leases (item (1))

The proposed amendment to Schedule 2 provides for the holding over of a special lease that has expired in the same way as other term leases under the Act are held over when expired

Rent (item (2))

The proposed amendments to Schedule 5 provide that the Minister is to give at least 3 months' notice before the end of a yearly lease of any redetermination of rent and for the redetermination by the Minister of rent and the setting of a redetermination period for irrigation farm leases of less than 2 hectares in area. Before the repeal of the Crown Lands Consolidation Act 1913, the redetermination of rent and the setting of a redetermination period for irrigation farm leases of less than 2 hectares in area was dealt with under Part 6 of that Act in the same way as that proposed by the amendment.

Purchase of land held under lease (item (3))

The proposed amendments to Schedule 7:

- (a) clarify that the purchase price of a closer settlement lease is the capital value only of the lease as shown in the records of the Department of Lands and is not to include any balance of the capital value owing to the Crown for structural or other improvements of the land (any such debts that are outstanding in respect of the lease will continue to be payable to the Crown under the Act); and
- (b) make it clear that the purchase price of land held under a lease in an irrigation area is 20 times the annual rent of the lease immediately before

SCHEDULE 1—MINOR AMENDMENTS—*continued*

the commencement of the clause being amended (that is, 1 May 1990) instead of as at the date of the application to purchase the land.

DENTAL TECHNICIANS REGISTRATION ACT 1975 No. 40

Amendments

(1) **Section 6 (Constitution of Dental Technicians Registration Board):**

(a) Omit section 6 (1) (a), insert instead:

(a) one shall be a person nominated by the Minister, being a person who is not a dental technician or a dentist within the meaning of the Dentists Act 1989;

(b) Omit section 6 (2), insert instead:

(2) The member referred to in subsection (1) (a):

(a) is to be an officer of the Department of Health, an employee of an area health service constituted under the Area Health Services Act 1986 or an employee of an incorporated hospital or separate institution within the meaning of the Public Hospitals Act 1929; and

(b) is, in and by the relevant instrument of appointment as a member, to be appointed as chairman of the board.

(2A) The Minister may, from time to time, appoint a member to act in the office of chairman of the board during the illness or absence of the chairman, and the member, while so acting, has all the functions of the chairman and is taken to be the chairman.

(2) **Section 9 (Meetings of the board):**

Omit section 9 (2), insert instead:

(2) The chairman of the board or, in the absence of the chairman, another member elected as chairman for the meeting by the members present is to preside at a meeting of the board.

SCHEDULE 1—MINOR AMENDMENTS—*continued*

Explanatory note

The proposed amendments to section 6 enable the Minister to nominate an employee of an area health service or public hospital for appointment as a member of the Dental Technicians Registration Board and make provision for the Minister to appoint an acting chairman of that Board (item (1)). The proposed amendment to section 9 is consequential (item (2)).

DENTISTS ACT 1989 No. 139

Amendments

(1) Section 8 (**Membership of the Board**):

Omit section 8 (2) (b) (iii), insert instead:

- (iii) a person nominated by the Minister, being an officer of the Department of Health, an employee of an area health service constituted under the Area Health Services Act 1986 or an employee of an incorporated hospital or separate institution within the meaning of the Public Hospitals Act 1929; and

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

From clause 6 (2) (b), omit "of the Department of Health", insert instead "or employee referred to in that subparagraph".

Explanatory note

The proposed amendment to section 8 enables the Minister to nominate an employee of an area health service or public hospital for appointment as a member of the Dental Board (item (1)). The amendment to Schedule 1 is consequential (item (2)).

SCHEDULE 1—MINOR AMENDMENTS— *continued*

DISTRICT COURT ACT 1973 No. 9

Amendments

(1) Section 18 (Acting Judges):

After section 18 (3), insert

(3A) The person so appointed may, despite the expiration of the period of the person's appointment, complete or otherwise continue to deal with any matters relating to proceedings that have been heard, or partly heard, by the person before the expiration of that period.

(2) Section 18D (Meetings of the Rule Committee):

After section 18D (7), insert

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

Explanatory note

Acting judges (item (1))

The proposed amendment to section 18 will make it clear that Acting or Associate Judges of the District Court may complete any part-heard matter and deliver or edit reasons for judgment despite the expiration of the period of their appointments.

Rule Committee (item (2))

The proposed amendment to section 18D will enable the Rule Committee to transact business outside its meetings.

SCHEDULE 1—MINOR AMENDMENTS—*continued*

DRIED FRUITS ACT 1939 No. 7

Amendment

Section 7:

Omit the section, insert instead:

Election of members and terms of office

7. (1) An election of members is to be held during August 1991 and then during August in each third year after August 1991.

(2) An elected member.

(a) takes office on 1 September in the year in which an election is held; and

(b) holds office, subject to this Act, for a term of 3 years; and

(c) is eligible, if otherwise qualified, for re-election from time to time as a member.

Transitional

An elected member of the New South Wales Dried Fruits Board holding office immediately before the date of assent to this Act, being a member whose term of office would expire on 28 February 1991, is taken to have been elected for a term expiring on 31 August 1991.

Explanatory note

The proposed amendment enables an election of members of the Dried Fruits Board to be held every 3 years in August (instead of February). Provision is also made for the existing elected members to continue in office until elections are held in August 1991 even though their terms of office would otherwise expire in February 1991.

**ENVIRONMENTAL RESTORATION AND REHABILITATION
TRUST ACT 1990 No. 24**

Amendments

(1) Section 6:

Omit the section, insert instead:

Objects of the Trust

6. The objects of the Trust are:

SCHEDULE 1—MINOR AMENDMENTS— *continued*

- (a) to encourage and support restoration and rehabilitation projects in both the public and private sectors that will or are likely to reduce pollution, the waste-stream or environmental degradation, of any kind, within the geographical area of operations of the Water Board; and
- (b) to provide for emergency pollution clean-up throughout the State.

(2) Section 7 (**Functions of the Trust**):

Omit "object", insert instead "objects".

Commencement

The amendments to the Environmental Restoration and Rehabilitation Trust Act 1990 commence on a day to be appointed by proclamation.

Explanatory note

Section 14 of the Act enables the Trust to expend income from investment of the Environmental Restoration and Rehabilitation Trust Fund on measures for the removal, dispersal or mitigation of serious pollution when those measures need to be taken immediately. In its present form, section 6 might be read as limiting such expenditure to measures within the geographical area of operations of the Water Board. The proposed amendments will ensure expenditure may be made on emergency measures throughout the State.

FISHERIES AND OYSTER FARMS ACT 1935 No. 58

Amendment

Section 42 (**Returns**):

After section 42 (1), insert:

(1A) The notice may require that a return is to be furnished even if the operations in respect of which the return is required indicate a nil return.

Explanatory note

The proposed amendment provides that a notice of the Minister under section 42 of the Act which requires persons who are engaged in operations (such as the taking of fish for sale) to furnish returns as to the catch, may also require that returns are to be furnished in respect of the operations even if the return is a nil return.

SCHEDULE 1—MINOR AMENDMENTS— *continued*

**FLUORIDATION OF PUBLIC WATER SUPPLIES
ACT 1957 No. 58**

Amendment

Section 4 (Fluoridation of Public Water Supplies Advisory Committee):

Omit section 4 (2) (a), insert instead:

- (a) a person nominated by the Minister, being an officer of the Department of Health, an employee of an area health service constituted under the Area Health Services Act 1986 or an employee of an incorporated hospital or separate institution within the meaning of the Public Hospitals Act 1929; and

Explanatory note

The proposed amendment enables the Minister' to nominate an employee of an area health service or a public hospital as a member of the Fluoridation of Public Water Supplies Advisory Committee.

FOOD ACT 1989 No. 231

Amendments

(1) **Section 77 (Advisory Committee):**

After "Department of Health" in section 77 (2) (a), insert", an employee of an area health service constituted under the Area Health Services Act 1986 or an employee of an incorporated hospital or separate institution within the meaning of the Public Hospitals Act 1929".

(2) **Schedule 1 (Members and procedure of the Food Advisory Committee):**

(a) Omit clause 5 (2) (b), insert instead

- (b) the member referred to in section 77 (2) (a) or that member's deputy appointed under clause 6 (or, in the absence of both the member and that member's deputy, another member of the committee elected by the members present) is to preside; and

SCHEDULE 1—MINOR AMENDMENTS—*continued*

- (b) Omit clause 5 (3).
- (c) From clause 6 (**Deputy presiding member**), omit "of the Department of Health", insert instead "or employee referred to in that paragraph".

Explanatory note

The proposed amendment to section 77 enables the Minister to appoint an employee of an area health service or public hospital as a member of the Food Advisory Committee (item (1)). The proposed amendments to Schedule 1 are consequential (item (2)).

GOVERNMENT INSURANCE ACT 1927 No. 18

Amendments

- (1) Section 3 (**Incorporation of Government Insurance Office of New South Wales**):

Omit section 3 (3), insert instead:

(3) The corporate name of such body corporate is to be "Government Insurance Office of New South Wales" or "GIO" and the use of either of those names by or in relation to the Office is to have the same effect for all purposes as the use of the other of them.

- (2) Section 18A (**References in certain documents to the GIO**):

Omit "It", insert instead "Without limiting the operation of section 3 (3), it".

Explanatory note

The proposed amendment will give statutory authority for the general practice of using the name "GIO" by or in relation to the Government Insurance Office of New South Wales.

SCHEDULE 1—MINOR AMENDMENTS—*continued*

HAY IRRIGATION ACT 1902 No. 57

Amendment

Section 17A (Restrictions as to assigns of holdings):

From section 17A (1) (b), omit "the prescribed form", insert instead "a form approved by the Ministerial Corporation".

Explanatory note

The proposed amendment removes the need for the form of an application for the consent of the Water Administration Ministerial Corporation in respect of the transfer, lease or assignment of land to be prescribed by the regulations.

HUNTER WATER BOARD ACT 1988 No. 119

Amendments

(1) Section 13 (Area of operations):

After section 13 (4) (a), insert:

- (a1) the function relates to drainage services and is exercised by the council of a local government area; or

(2) Section 23 (Exercise of certain functions in special areas):

Before "not less" in section 23 (3) (a), insert "before the exercise of its functions,".

(3) Section 34 (Determinations by Board):

- (a) From section 34 (1), omit "Before the end of each charging period the Board shall", insert instead "The Board must".
- (b) From section 34 (1), omit "the next succeeding charging period", insert instead "a charging period".
- (c) Omit section 34 (3), insert instead:
- (3) A determination under this section:
- (a) is required to be approved by the Minister and does not have effect unless it is so approved; and

SCHEDULE 1—MINOR AMENDMENTS— *continued*

- (b) is to be published in the Gazette; and
 - (c) takes effect on the commencement of the first charging period to which it relates; and
 - (d) remains in force during subsequent charging periods until another determination is made under this section.
- (d) Before "charging" wherever occurring in section 34 (4) and (6), insert "first".
- (4) **Section 35 (Assessment of service charges):**
From section 35 (1), omit "After making a determination under section 34, the Board shall, in accordance with the determination", insert instead "Before or during each charging period the Board is required, in accordance with the determination in force under section 34, to".

Commencement

Item (1) of the amendments to the Hunter Water Board Act 1988 is taken to have commenced on 10 February 1989 (the day on which that Act commenced).

Items (3) and (4) of the amendments to the Hunter Water Board Act 1988 commence on a day or days to be appointed by proclamation.

Explanatory note

Drainage functions (item (1))

The proposed amendment to section 13 makes it clear that the council of a local government area may exercise functions relating to drainage services within the area of operations of the Hunter Water Board.

Notice of exercise of functions by public agency (item (2))

The proposed amendment to section 23 makes it clear that a public agency is required to give 2 different kinds of notice to the Hunter Water Board under that section - one to enable representations to be made by the Board and another after the making of such representations if the agency intends to exercise functions contrary to the representations.

Determinations by Hunter Water Board (items (3) and (4))

At present under section 34, the Hunter Water Board must, before the end of each charging period, determine the amounts, factors, bases and rates at or on which service charges are to be levied for the next succeeding charging period. The proposed amendments to section 34 provide that a determination of the Board relating to the levying of service charges does not need to be made for each charging period but instead will remain in force and apply to successive charging periods until

SCHEDULE 1—MINOR AMENDMENTS— *continued*

another determination is made by the Board (item (3)). The proposed amendment to section 35 is consequential (item (4)).

Items (1), (3) and (4) are similar to amendments made in respect of the Water Board Act 1987 set out elsewhere in this Schedule.

Item (2) is an amendment similar to that made to the Water Board Act 1987 by the Statute Law (Miscellaneous Provisions) Act 1989.

IRRIGATION ACT 1912 No. 73

Amendments

- (1) Section 7B (**Water rights etc. on conversion or purchase**):
From section 7B (5), omit “; as the case may be”.
- (2) Section 11C (**Conversion of leaseholds**):
From section 11C (3) (a), omit "or as may be prescribed".
- (3) Section 11E (**Reappraisal of purchase money and rentals**):
From section 11E (3) (c), omit "may be prescribed", insert instead "the Minister may determine in respect of the member".

Explanatory note

Removal of requirement to prescribe certain matters (items (2) and (3))

The proposed amendment to section 11C removes the need to prescribe certain covenants in connection with the sale of land.

The proposed amendment to section 11E provides that certain members of the Board constituted under section 11E of the Act for the purposes of determining certain purchase money and rentals are entitled to be paid a fee determined by the Minister instead of a fee prescribed by the regulations.

Statute law revision (item (1))

The proposed amendment to section 7B omits unnecessary words.

JURY ACT 1977 No. 18

Amendment

Section 63 (Failure to attend for jury service):

From section 63, omit "2 penalty units", insert instead "5 penalty units".

SCHEDULE 1—MINOR AMENDMENTS—*continued*

Commencement

The amendment to the Jury Act 1977 commences on a day to be appointed by proclamation.

Explanatory note

The proposed amendment increases from 2 penalty units to 5 penalty units (currently \$500) the maximum penalty under section 63 of the Act for failure to attend for jury service.

LAW FOUNDATION ACT 1979 No. 32

Amendments

Schedule 1 (Constitution and procedure of Board of Governors):

- (a) Omit clause 3 (**Age of appointed members**).
- (b) After successor;" in clause 8 (h), insert "or".
- (c) From clause 8 (i), omit "17; or", insert instead "17".
- (d) Omit clause 8 (j).

Explanatory note

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

LEGAL AID COMMISSION ACT 1979 No. 78

Amendments

(1) Section 8 (**Part-time commissioners**):

After "Commonwealth" in section 8 (1) (b1), insert "to represent the Attorney-General".

(2) Schedule 2 (**Provisions relating to the constitution and membership of the Commission**):

- (a) Omit clause 2 (**Age of commissioner**).
- (b) After "matter;" in clause 7 (g) (ii), insert "or".
- (c) From clause 7 (h), omit "Minister; or", insert instead "Minister".

SCHEDULE 1—MINOR AMENDMENTS—*continued*

(d) Omit clause 7 (i).

Commencement

Item (1) of the amendments to the Legal Aid Commission Act 1979 commences on a day to be appointed by proclamation.

Explanatory note

Part-time commissioners (item (1))

The proposed amendment to section 8 will provide that the part-time commissioners nominated by the Attorney-General of the Commonwealth are to represent the Attorney-General on the Legal Aid Commission.

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

8. (1) The part-time commissioners shall consist of:

(b1) 2 persons nominated by the Attorney-General of the Commonwealth to **represent the Attorney-General;**

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

Removal of age restriction (item (2))

The proposed amendments to Schedule 2 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 commissioner under the Act.

LEGAL PROFESSION ACT 1987 No. 109

Amendment

Schedule 7 (**The Legal Fees and Costs Board**):

From clauses 3 (4) and 5, omit "(other than the Chairperson)" wherever occurring.

Commencement

The amendment to the Legal Profession Act 1987 is taken to have commenced on 1 November 1989 (the day on which Schedule 3 to the Legal Profession (Amendment) Act 1989 commenced).

Explanatory note

The proposed amendment will enable the Chairperson of the Legal Fees and Costs Board to be paid remuneration (including travelling and subsistence allowances) determined by the Attorney General from time to time. The amendment is consequential on amendments made by the Legal Profession (Amendment) Act 1989 which removed the requirement that the Chairperson be a judicial member of the Industrial Commission.

SCHEDULE 1—MINOR AMENDMENTS—*continued*

MARITIME SERVICES ACT 1935 No. 47

Amendment

Section 38 (Board may make regulations):

From section 38 (3) (d) (ii), omit "four hundred dollars", insert instead "\$1,500".

Explanatory note

The proposed amendment increases the maximum penalty that may be imposed for a breach of regulations made under the Act (other than those made under section 38 (2) (c) of the Act for the purpose of preventing, prohibiting or regulating things likely to cause certain pollution by dangerous goods or volatile or furnace or lubricating oil etc.) from \$400 to \$1,500. An example of an offence for which the maximum penalty is currently \$400 is Regulation 3 (1) of the Water Traffic Regulations - N.S.W. which involves the navigation of a vessel on any enclosed water recklessly or negligently or at such a speed or in any other way that is dangerous or likely to cause injury or damage. The maximum penalty has not been increased since 1972.

MEDICAL PRACTITIONERS ACT 1938 No. 37

Amendments

(1) Section 5 (The Board):

After "Department of Health" in section 5 (4) (a), insert "an employee of an area health service constituted under the Area Health Services Act 1986 or an employee of an incorporated hospital or separate institution within the meaning of the Public Hospitals Act 1929".

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

From clause 7 (2) (a), omit "of the Department of Health", insert instead "or employee referred to in that paragraph".

Explanatory note

The proposed amendment to section 5 enables the Minister to nominate an employee of an area health service or public hospital for appointment as a member of the New South Wales Medical Board (item (1)). The proposed amendment to Schedule 2 is consequential (item (2)).

SCHEDULE 1—MINOR AMENDMENTS— *continued*

MENTAL HEALTH ACT 1990 No. 9

Amendments

(1) **Section 84 (Release of persons after review):**

From section 84 (2), omit "must", insert instead "may".

(2) **Section 85 (Treatment etc. of persons found not guilty by reason of mental illness and forensic patients after review by Tribunal):**

After "recommended" in section 85 (1), insert "or ordered".

(3) **Section 131 (Making of community treatment orders):**

After section 131 (2), insert:

(2A) Before the expiration of a community treatment order affecting a person, the Tribunal or a Magistrate may, on the application of the Director of the health care agency responsible for implementing the community treatment order, make a community treatment order for implementation by a health care agency in relation to the person.

(2B) At the hearing of an application under subsection (2A), there is to be presented a written report of the psychiatric case manager of the person subject to the community treatment order then in force as to the efficacy of the order.

(4) **Schedule 4 (Constitution, membership and meetings of the Psychosurgery Review Board):**

(a) From clause 1 (2) (f), omit "Australian and New Zealand College of Psychiatrists", insert instead "Royal Australian and New Zealand College of Psychiatrists".

(b) After clause 8, insert:

Liability of members

9. A matter or thing done by a member in good faith for the purpose of executing this Act does not subject the member personally to any action, liability, claim or demand.

SCHEDULE 1—MINOR AMENDMENTS—*continued*

Commencement

Item (4) (a) of the amendments to the Mental Health Act 1990 is taken to have commenced on 3 September 1990 (the day on which that Act commenced).

Explanatory note

Release of forensic patients after review (items (1) and (2))

Under Part 2 of Chapter 5 (Forensic patients) of the Act the Mental Health Review Tribunal may recommend the release of a forensic patient after review of the patient's case. Section 84 (which is modelled on section 119 of the Mental Health Act 1983 ("the former Act")) enables the Attorney General to object to the person's release on certain grounds. Section 84 (2) presently provides that the prescribed authority i.e., depending on the circumstances, the Governor-General, the Governor or the Minister) ~~must~~ order the person's release if the Attorney General does not indicate an objection within 30 days of notification of the Tribunal's recommendation. This contrasts with section 119 (6) of the former Act which provided that the prescribed authority ~~may~~ order release. The Steering Committee on Mental Health in its Report to the Minister for Health on the Mental Health Act 1983 (p. 66, para 4.17) recommended that such powers be discretionary.

The proposed amendment to section 84 (2) (item (1)) will ensure that the provision operates as intended.

The amended provision will read as follows:

(2) If, within 30 days after the date of any such notification, the Attorney General has not indicated any such objection to the person's release, the prescribed authority [must] may, subject to the regulations, make an order (either unconditionally or subject to conditions) for the person's release.

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

A consequential amendment is made to section 85 (item (2)).

Community treatment orders (item (3))

Under section 131 of the Act, the Mental Health Review Tribunal or a Magistrate may make a community treatment order to be implemented by a health care agency in relation to a person who is a temporary patient or continued treatment patient in a hospital or a person the subject of an inquiry under Part 2 of Chapter 4. The orders may be made on the application of a medical superintendent of a hospital, during review of the patient's case or during the course of the inquiry.

Section 135 (3) makes it clear that further community treatment orders may be made in respect of the person. However section 131 does not specify who may make applications for such orders when the person is not a temporary patient or continued treatment patient in a hospital or the subject of a review or inquiry. The proposed amendment to section 131 will enable the Director of the health care agency implementing an order to make an application for a further order. The application will be required to be made within the duration of the preceding order.

SCHEDULE 1—MINOR AMENDMENTS—*continued*

Liability of members of Psychosurgery Review Board (item (4) (b))

Proposed clause 9 of Schedule 4 will exculpate members of the Psychosurgery Review Board from personal liability for matters or things done in good faith for the purpose of executing the Act. The provision is similar to clause 20 of Schedule 5 to the Mental Health Act 1983.

Statute law revision (item (4) (a))

The proposed amendment to clause 1 of Schedule 4 corrects a misdescription of an organisation that nominates panels from which certain members of the Psychosurgery Review Board are selected.

MOTOR VEHICLES TAXATION ACT 1988 No. 111

Amendment

Section 3 (Definitions):

At the end of paragraph (b) of the definition of "pensioner" in section 3 (1), insert:

; or

(b1) who is a woman who is the holder of a Dependant Treatment Entitlement Card issued on behalf of the Commonwealth Department of Veterans' Affairs and:

(i) in the case of a woman who is of or above the age of 60 years - is entitled to receive an age pension under the Social Security Act 1947 of the Commonwealth at the maximum rate applicable under section 41 of that Act; or

(ii) in the case of a woman who is under the age of 60 years - would be entitled (if she were, in fact, of or above the age of 60 years) to so receive an age pension at that maximum rate,

Explanatory note

The proposed amendment extends pensioner status to any war widow who holds a Dependant Treatment Entitlement Card and whose income is less than that (currently \$267 per week) above which an age pensioner ceases to be entitled to an age pension at the maximum rate. The effect of the amendment is to entitle such a

SCHEDULE 1—MINOR AMENDMENTS—*continued*

war widow to an exemption from motor vehicle tax in respect of a single motor vehicle owned by her.

**NATIONAL CRIME AUTHORITY (STATE PROVISIONS) ACT
1984 No. 157**

Amendments

- (1) **Section 12 (Search warrants):**
 - (a) From section 12 (1), omit "of the Authority".
 - (b) From section 12 (1) (a), omit "Authority has", insert instead "member has".
 - (c) From section 12 (1) (b), omit "the Authority", insert instead "the member".
 - (d) From section 12 (8) (b), omit "the Authority shall", insert instead "a member is to".
 - (e) From section 12 (9), omit "The Authority", insert instead "A member".
 - (f) From section 12 (9), omit "the Authority", insert instead "the member".
- (2) **Section 13 (Application by telephone for search warrants):**
 - (a) From section 13 (1), omit "the Authority considers", insert instead "a member considers".
 - (b) From section 13 (1), omit "a member of the Authority", insert instead "the member".
- (3) **Section 15 (Order for delivery to Authority of passport of witness):**
 - (a) From section 15 (1), omit "of the Authority".
 - (b) From section 15 (3), omit "by the Authority", insert instead "by a member".
 - (c) From section 15 (4), omit "the Authority shall", insert instead "a member is to".

SCHEDULE 1—MINOR AMENDMENTS—*continued*

(4) Section 16 (**Hearings**):

(a) From section 16 (2), omit "or acting members".

(b) Omit section 16 (3), insert instead:

(3) The Chairman is to preside at all hearings at which the Chairman is present.

(3A) If the Chairman is not present at a hearing at which there are 2 or more members, the members present are to elect one of their number to preside at that hearing.

(3B) Questions arising at a hearing are to be determined by a majority of the votes of the members present.

(3C) The person presiding at a hearing has a deliberative vote, and, if necessary, also has a casting vote.

(3D) The Authority may regulate the conduct of proceedings at a hearing as it thinks fit.

(c) From section 16 (7), omit "or an acting member".

(d) After section 16 (9), insert:

(9A) Subject to subsection (9B), the Chairman may, in writing, vary or revoke a direction under subsection (9).

(9B) The Chairman must not vary or revoke a direction if to do so might prejudice the safety or reputation of a person or prejudice the fair trial of a person who has been or may be charged with an offence.

(5) Section 17 (**Power to summon witnesses and take evidence**):

(a) From section 17 (1), omit "or an acting member".

(b) From section 17 (3), omit "unless the Authority", insert instead "unless the member issuing the summons".

(c) From section 17 (4), (5) (a) and (b), omit "or acting member" wherever occurring.

(d) From section 17 (6), omit "or by a person acting as Chairman".

(6) Section 18 (**Power to obtain documents**):

From section 18 (1), omit "or acting member" wherever occurring.

SCHEDULE 1—MINOR AMENDMENTS—*continued*

- (7) Section 19 (**Failure of witness to attend and answer questions**):
- (a) From section 19 (1), omit "or an acting member".
 - (b) From section 19 (2) and (3), omit "or acting member" wherever occurring.
- (8) Section 20 (**Warrant for arrest of witness**):
- (a) After "chambers" in section 20 (1), insert "or the Supreme Court".
 - (b) After "the Judge" in section 20 (1), insert "or the Supreme Court".
 - (c) After "Federal Court" wherever occurring in section 20 (3) and (4), insert "or the Supreme Court".
 - (d) After "Judge" where secondly, thirdly and fourthly occurring in section 20 (3), insert "or the Supreme Court".
 - (e) After "Judge" where secondly, thirdly, fourthly, fifthly and sixthly occurring in section 20 (4), insert "or the Supreme Court".
- (9) Section 21 (Applications to Federal Court of Australia):
- From section 21 (9), omit "as the Authority", insert instead "as a member".
- (10) Sections 24 (**Protection of witnesses etc.**), 29 (**Protection of members etc.**), 30 (**Appointment of Judge as member not to affect tenure etc.**) and 31 (**Secrecy**):
- Omit "or acting member" wherever occurring.
- (11) Sections 25 (**Contempt of Authority**) and 29 (**Protection of members etc.**):
- Omit "or an acting member" wherever occurring.
- (12) Section 27 (**Powers of acting members of the Authority**):
- (a) After "Act" in section 27 (1), insert "and is taken to be the Chairman".
 - (b) After "Act" in section 27 (2), insert "and is taken to be the member".
- (13) Section 31 (**Secrecy**):
- From section 31 (3), omit "or acting member's".

SCHEDULE 1—MINOR AMENDMENTS — *continued*

Commencement

The amendments to the National Crime Authority (State Provisions) Act 1984 commence on a day or days to be appointed by proclamation.

Explanatory note

The National Crime Authority (State Provisions) Act 1984 makes provision for the operation of the National Crime Authority in New South Wales. The Act is complementary to the National Crime Authority Act 1984 of the Commonwealth. The proposed amendments amend the State Act as a consequence of amendments to the Commonwealth Act made by the Crimes Legislation Amendment Act 1989 and the Crimes Legislation Amendment Act (No. 2) 1989 of the Commonwealth.

Hearings (item (4))

Section 16 (3) of the State Act requires the provisions of section 46 of the Commonwealth Act (Meetings of the Authority) to apply to hearings of the Authority as if the hearings were meetings. Section 46 of the Commonwealth Act has been amended (by the Crimes Legislation Amendment Act 1989 of the Commonwealth) to ensure that the Chairman of the Authority supports any decision made by the Authority and so give the Chairman clear responsibility for management decisions. It is therefore no longer appropriate to apply section 46 to hearings. Accordingly, the proposed substitution of section 16 (3) (item (4) (b)) will establish procedures for a hearing before the Authority. The amendment will complement an amendment made for the same reason to section 25 of the Commonwealth Act.

Proposed section 16 (9A) and (9B) (item (4) (d)) will enable a direction of the Authority relating to publication of evidence given before it and certain other matters to be varied or revoked by the Chairman. The amendment will remove the need for meetings of the Authority to review such directions.

Warrants for arrest of witness (item (8))

The proposed amendment to section 20 (item (8)) will enable the State Supreme Court to issue warrants for the arrest of National Crime Authority witnesses who have absconded or are likely to abscond. It complements an amendment to section 31 of the Commonwealth Act made by the Crimes Legislation Amendment Act (No. 2) 1989 of the Commonwealth.

References to Authority changed to references to member

The Crimes Legislation Amendment Act 1989 of the Commonwealth included a number of amendments intended to streamline the Authority's day-to-day operations by reducing the need for meetings of the Authority. The amended provisions provide for a member of the Authority to exercise functions formerly executed by the Authority (for example, a member will be able to apply for a telephone search warrant if the member (instead of the Authority) considers it is necessary to do so).

SCHEDULE 1—MINOR AMENDMENTS—*continued*

The proposed amendments to the following provisions make complementary amendments to the State Act:

- section 12 (item (1))
- section 13 (item (2))
- section 15 (item (3))
- section 17 (3) (item (5) (b))
- section 21 (item (9)).

Acting members

The Crimes Legislation Amendment Act 1989 of the Commonwealth removes a number of unnecessary references to "acting member". The proposed amendments to the following provisions make complementary amendments to the State Act:

- section 16 (2) and (7) (item (4) (a) and (c))
- section 17 (1), (4), (5) (a) and (b) and (6) (item (5) (a), (c) and (d))
- section 18 (item (6))
- section 19 (item (7))
- sections 24, 29, 30 and 31 (item (10))
- sections 25 and 29 (item (11))
- section 31 (item (13)).

The references to acting members are no longer necessary because:

- (a) section 27 of the Act (as amended (item 12)) provides that a person acting as Chairman or a member has all the powers and functions of the Chairman or member and is to be taken to be the Chairman or member; and
- (b) section 48 (2) of the Interpretation Act 1987 provides that if an Act imposes a function on a particular officer or the holder of a particular office, the function may be exercised by the person for the time being occupying or acting in the office concerned.

NATIONAL PARKS AND WILDLIFE ACT 1974 No. 80

Amendment

Section 5 (Definitions):

From the definition of "take or kill" in section 5 (1), omit "or kill".

Explanatory note

At present under the Act, the expression "take or kill" is defined as a composite term to include, in relation to offences concerning fauna, hunt, shoot, poison, net, snare, spear, pursue, capture, disturb, lure or injure fauna. The word "kill", however, does not need to be so defined in relation to the offence of killing fauna.

SCHEDULE 1—MINOR AMENDMENTS—*continued*

**NEW SOUTH WALES INSTITUTE OF PSYCHIATRY ACT
1964 No. 44**

Amendment

Section 5 (Members of the Institute):

After "Department of Health" in section 5 (2) (b), insert
“; an employee of an area health service constituted under
the Area Health Services Act 1986 or an employee of an
incorporated hospital or separate institution within the
meaning of the Public Hospitals Act 1929”.

Explanatory note

The proposed amendment enables the Minister to nominate an employee of an area health service or public hospital for appointment as a member of the New South Wales Institute of Psychiatry.

**NEW SOUTH WALES STATE CANCER COUNCIL ACT
1955 No. 25**

Amendment

Section 5 (Members of Council):

Omit section 5 (1) (a), insert instead:

- (a) one shall be a medical practitioner nominated by the Minister, being a medical practitioner who is an officer of the Department of Health, an employee of an area health service constituted under the Area Health Services Act 1986 or an employee of an incorporated hospital or separate institution within the meaning of the Public Hospitals Act 1929;

Explanatory note

The proposed amendment enables the Minister to nominate an employee of an area health service or public hospital for appointment as a member of the New South Wales State Cancer Council.

SCHEDULE 1—MINOR AMENDMENTS—*continued*

NURSES REGISTRATION ACT 1953 No. 10

Amendment

Section 5 (Members of the Board):

Omit section 5 (2) (f), insert instead:

- (f) 1 shall be a registered nurse nominated by the Director-General of the Department of Health, being a registered nurse who is an officer of that Department, an employee of an area health service constituted under the Area Health Services Act 1986 or an employee of an incorporated hospital or separate institution within the meaning of the Public Hospitals Act 1929;

Explanatory note

The proposed amendment enables the Director-General of the Department of Health to nominate a registered nurse who is an employee of an area health service or public hospital for appointment as a member of the Nurses Registration Board.

PESTICIDES ACT 1978 No. 57

Amendments

(1) **Section 5 (Interpretation):**

Insert in section 5 (1) in alphabetical order:

"**approved form**" means a form approved by the person for the time being holding office as the Chief, Division of Animal Health, Department of Agriculture and Fisheries;

(2) **Sections 15 (Registration of certain labels prohibited), 41 (Manufacture of date-controlled pesticide), 46 (Application for certificate), 50 (Prohibited residue notices) and 53 (Powers of inspectors):**

Omit "prescribed form" wherever occurring, insert instead "approved form".

SCHEDULE 1—MINOR AMENDMENTS—*continued*

(3) Section 18 (**Duties of Registrar**):

After section 18 (2), insert:

(2A) Subsection (2) does not require the Registrar to keep more than one sample of a number of labels that are identical except for particulars relating to net contents.

(4) Section 22 (**Fees to be paid**):

After section 22 (2), insert:

(3) If the fees payable for 2 successive prescribed periods in respect of a registered pesticide have not been paid by the end of the second of those periods, registration of the pesticide expires.

(5) Section 29 (**Sale of pesticides**):

After "identical" in section 29 (2) (c), insert "(or identical except for particulars relating to net contents)".

(6) Section 32 (**Preparation, use etc. of certain pesticides**):

After "identical", insert "(or identical except for particulars relating to net contents)".

(7) Section 40 (**Guarantee to be a defence in certain circumstances**):

After "identical" wherever occurring in section 40 (1) (b) (i) and (2) (b) (iii), insert "(or identical except for particulars relating to net contents)".

(8) Section 53 (**Powers of inspectors**):

From section 53 (1) (b), omit "to be a pesticide or", insert instead "to contain a pesticide, to be a pesticide or to be".

(9) Section 73 (**Regulations**):

After "Act" in section 73 (1) (c), insert "or providing for such forms to be approved by the Chief, Division of Animal Health".

Commencement

The amendments to the Pesticides Act 1978 commence on a day or days to be appointed by proclamation.

SCHEDULE 1—MINOR AMENDMENTS—*continued*

Explanatory note

Approved forms (items (1), (2), (9))

The proposed amendments to sections 5, 15, 41, 46, 50 and 73 provide for the Chief, Division of Animal Health to approve the forms of labels, records, notices and receipts under the Act instead of the forms being prescribed by the regulations.

Sample labels (items (3), (5)–(7))

The proposed amendment to section 18 will provide that only one sample label need be kept of a number of labels that are identical except for particulars of net contents. This will reduce the number of substantially identical labels presently held by the Registrar of Pesticides. Consequential amendments are made to sections 29, 32 and 40.

Registration fee (item (4))

The proposed amendment to section 22 provides that if the registration fee payable in respect of a pesticide has not been paid for 2 successive registration periods, the registration of the pesticide expires.

Samples of substances and articles (item (8))

The proposed amendment to section 53 enables an inspector to take, for the purposes of examination or testing, samples of any substance or article that the inspector reasonably suspects contains a pesticide. At present, an inspector may take samples of any substance or article that is a pesticide or a prescribed foodstuff containing a prohibited residue. The amendment will allow, for example, the testing of samples of substances (such as wool) for residues of arsenic. The amended provision (section 53 (1) (b)) will read as follows:

53. (1) An inspector may at any time:

- (b) subject to subsection (3), take without payment, for the purpose of examination or testing, samples of any substance or article that he suspects on reasonable grounds [to be a pesticide or] to contain a pesticide, to be a pesticide or to be a prescribed foodstuff containing a prohibited residue and, in exercising his powers under this paragraph, open any container or cause any container to be opened;

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

SCHEDULE 1—MINOR AMENDMENTS—*continued*

PHARMACY ACT 1964 No. 48

Amendments

(1) Section 6 (**Membership of the Board**):

Omit section 6 (2) (c), insert instead:

- (c) 1 is to be a person nominated by the Minister, being an officer of the Department of Health, an employee of an area health service constituted under the Area Health Services Act 1986 or an employee of an incorporated hospital or separate institution within the meaning of the Public Hospitals Act 1929.

(2) Section 13 (**Qualifications for registration—New South Wales graduates**):

(a) Omit section 13 (1A), insert instead:

(1A) The regulations may:

- (a) prescribe different periods in respect of the qualifications or level of pass obtained in a course in pharmacy, and
- (b) otherwise require that a prescribed period is to be served in accordance with the regulations.

(1B) If a person who has been awarded a pass degree in pharmacy satisfies the Board that the person has served as an assistant to a pharmacist in charge of approved premises, the prescribed period that the person is required to serve under subsection (1) (b) is to be reduced by the period (not exceeding 1,000 hours or such other period as may be prescribed) that the person has served in approved premises.

- (b) From section 13 (2), omit "In paragraph (b) of subsection (1) and in subsection (1A)", insert instead "In this section".
- (c) From section 13 (2), omit the definition of "prescribed period".

SCHEDULE 1—MINOR AMENDMENTS—*continued*

(3) Section 39:

After section 38, insert:

Savings provision relating to persons affected by certain amendments concerning qualifications for registration

39. Section 13 as in force immediately before the day on which amendments to that section made by the Statute Law (Miscellaneous Provisions) Act (No. 2) 1990 took effect continues to apply in respect of persons who have completed or commenced a degree in pharmacy before that day.

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

From clause 5 (2) (b), omit “of the Department of Health”, insert instead “or employee referred to in that paragraph”.

Commencement

Items (2) and (3) of the amendments to the Pharmacy Act 1964 commence on a day to be appointed by proclamation.

Explanatory note

Pharmacy Board (items (1) and (4))

The proposed amendment to section 6 enables the Minister to nominate an employee of an area health service or public hospital for appointment as a member of the Pharmacy Board.

The proposed amendment to Schedule 1 is consequential.

Qualifications for registration as pharmacist (items (2) and (3))

At present under the Act, a person is entitled to be registered as a pharmacist if the person has a degree in pharmacy and satisfies the Board that the person has served as an assistant in a pharmacy for 6 months in the case of an honours graduate or for 12 months in other cases. The period to be served as an assistant is reduced if the person serves as an assistant in approved premises (not being pharmacies).

The Pharmacy (Amendment) Act 1989 contains certain uncommenced amendments to section 13 providing for the regulations (instead of the Act) to specify the period which pharmacists (who qualify for registration by being New South Wales graduates) are required to serve as assistants. The intention was to provide greater flexibility in this respect. The proposed amendments to section 13 (and the repeal of the uncommenced provisions set out elsewhere in this Schedule) will ensure that this intention is achieved by making it clear that the regulations may prescribe the periods to be served on a differential basis and may make other provisions relating to service as an assistant and by clarifying the existing provisions relating to the service as an assistant in approved premises (item (2)).

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

Item (3) inserts a new section 39 which provides that the proposed amendments to section 13 apply only in respect of persons commencing a degree in pharmacy after the Commencement of the amendments to section 13.

PHARMACY (AMENDMENT) ACT 1989 No. 224

Amendment

Schedule 3 (Miscellaneous amendments):

From Schedule 3, omit item (2) (a), (e) and (f).

Explanatory note

The proposed amendment omits uncommenced amendments that are unnecessary as a result of the amendments to the Pharmacy Act 1964 set out elsewhere in this Schedule.

PHYSIOTHERAPISTS REGISTRATION ACT 1945 No. 9

Amendment

Section 5 (Membership of the Board):

Omit section 5 (2) (b) (iv), insert instead:

- (iv) a person nominated by the Minister, being an officer of the Department of Health, an employee of an area health service constituted under the Area Health Services Act 1986 or an employee of an incorporated hospital or separate institution within the meaning of the Public Hospitals Act 1929; and

Explanatory note

The proposed amendment enables the Minister to nominate an employee of an area health service or public hospital for appointment as a member of the Physiotherapists Registration Board.

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

PODIATRISTS ACT 1989 No. 23

Amendment

Section 19 (Podiatrists Registration Board):

After "Department of Health" in section 19 (4) (b) (iv), insert "an employee of an area health service constituted under the Area Health Services Act 1986 or an employee of an incorporated hospital or separate institution within the meaning of the Public Hospitals Act 1929",

Explanatory note

The proposed amendment enables the Minister to nominate an employee of an area health service or public hospital for appointment as a member of the Podiatrists Registration Board.

POISONS ACT 1966 No. 31

Amendments

(1) Section 6 (**Poisons Advisory Committee**):

Omit section 6 (2) (a), insert instead:

- (a) 1 is to be a person for the time being nominated by the Minister, being an officer of the Department of Health, an employee of an area health service constituted under the Area Health Services Act 1986 or an employee of an incorporated hospital or separate institution within the meaning of the Public Hospitals Act 1929;

(2) Section 28 (**Prohibition on prescribing drugs of addiction in certain cases**):

- (a) From section 28, omit "A medical practitioner", insert instead "Except as may be authorised by the regulations, a medical Practitioner".
- (b) From section 28 (c), omit "except as may be authorised by the regulations,".

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

(3) Schedule 1 (**Provisions relating to the members of the Advisory Committee**):

From clause 2, omit "officer of the Department of Health", insert instead "person".

Explanatory note

Poisons Advisory Committee (items (1) and (3))

The proposed amendment to section 6 enables the Minister to nominate an employee of an area health service or public hospital to be a member of the Poisons Advisory Committee. The proposed amendment to Schedule 1 is consequential.

Exemptions relating to drugs of addiction (item (2))

Section 28 prohibits a medical practitioner from prescribing or supplying drugs of addiction in 3 instances specified in the section unless the medical practitioner is authorised to do so by the Director-General of the Department of Health.

As it is presently cast the section also authorises the prescription or supply of drugs of addiction in one of the 3 instances if authorised by the regulations. The proposed amendment recasts the section to make it clear that the regulations may authorise prescription or supply in each instance specified in the section.

PRICES REGULATION ACT 1948 No. 26

Amendments

(1) Section 4E (**Ineligibility by reason of age**):

Omit the section.

(2) Section 4F (**Full-time commissioner may be retired from office**):

(a) Omit section 4F (1).

(b) From section 4F (2), omit "and before he attains the age of 70 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 commissioner appointed under the Prices Regulation Act 1948.

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

PRISONS ACT 1952 No. 9

Amendments

- (1) Section 4 (**Definitions**):
 - (a) Insert in section 4 (1) in alphabetical order:

"Director, Prison Medical Service" means the person for the time being holding office as the Director, Prison Medical Service in the Department of Health;
 - (b) From the definition of "medical officer" in section 4 (1), omit "the person", insert instead "a person".
- (2) Section 9 (**Medical officers**):
 - (a) From section 9 (1), omit "a medical officer", insert instead "one or more medical officers".
 - (b) After section 9 (5), insert:

(6) A medical officer is, in the exercise of his or her functions, subject to the control and direction of the Director, Prison Medical Service.
- (3) Section 12 (**Exercise**):

From section 12 (1), omit "the medical officer", insert instead "a medical officer".
- (4) Section 16 (**Medical attention**):

Omit "the medical officer" wherever occurring, insert instead "the Director, Prison Medical Service".
- (5) Section 28 (**Removal of prisoners to hospital**):

From section 28 (1), omit ", or in cases of exigency by order of", insert instead "or".
- (6) Section 40A (**Gaol delivery**):
 - (a) From section 40A (1), omit "Every governor of a prison", insert instead "The Director-General".
 - (b) From section 40A (1), omit "such prison", insert instead "each prison".
 - (c) Omit section 40A (2).
 - (d) From section 40A (4), omit "a governor of a prison", insert instead "the Director-General".

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

(7) Section 50 (**Regulations**):

After section 50 (1) (k1), insert:

(k2) the use of firearms for the purposes of this Act;

Commencement

The amendments to the Prisons Act 1952 commence on a day or days to be appointed by proclamation.

Explanatory note

Medical officers (items (1) - (4))

At present one medical officer may be appointed for a prison. The proposed amendments provide for the appointment of more than one medical officer and for medical officers generally to be subject to the direction and control of the Director, Prison Medical Service.

Removal of prisoners to hospital (item (5))

At present the Director-General or, in cases of exigency, the governor of a prison may order the removal of a prisoner from a prison to a hospital or other place specified in the order for medical attendance and treatment. The proposed amendment will enable a governor of a prison to make such an order whenever medical attendance or treatment for a prisoner appears to be necessary or desirable not only in cases of exigency.

The amended provision (section 28 (1)) will read as follows:

(1) Any prisoner may, by order of the Director-General, *or in cases of exigency by order of* or the governor of the prison in which he is detained, where it appears to the Director-General or the governor of the prison, as the case may be, that medical treatment for the prisoner is necessary or desirable, be removed from a prison to a hospital or other place specified in the order for medical attendance and treatment.

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

Gaol delivery (item (6))

The proposed amendments to section 40A will require the Director-General (instead of the governor of each prison) to furnish returns to the Supreme Court concerning all prisoners detained in prisons. The amendments will enable the more efficient supply of such information from the centralised computer system of the Department of Corrective Services.

Regulations for use of firearms (item (7))

Clauses 46-49 of the Prisons (Administration) Regulation 1989 regulate the use of firearms for the purposes of the Act. The making of such regulations is authorised by section 50 (1) (a) of the Act (which enables regulations to be made for the management, control, good government, supervision and inspection of prisons and prison complexes). Section 50 specifically authorises the making of certain

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

regulations also authorised by this general power (for example, regulations for the use of dogs for the purposes of the Act). So as to be consistent in approach, the proposed amendment will specifically authorise the making of regulations for and with respect to the use of firearms.

PROTECTED ESTATES ACT 1983 No. 179

Amendments

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

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

"**patient**" has the same meaning as in the Mental Health Act 1990;

(2) Section 5B (**Protective Commissioner to be corporation sole for certain purposes**):

At the end of section 5B, insert:

(2) The seal of the corporation sole is to be affixed to a document only:

- (a) in the presence of the Protective Commissioner, the Deputy Protective Commissioner or a member of staff referred to in section 5 (2) for the time being authorised by the Protective Commissioner for the purpose; and
- (b) with an attestation by the signature of such a person of the fact of the affixing of the seal.

Commencement

The amendment to section 4 of the Protected Estates Act 1983 is taken to have commenced on 3 September 1990 (the day on which the Mental Health Act 1990 commenced).

Explanatory note

Affixing of seal (item (2))

The proposed amendment to section 5B makes provision for the affixing of the seal of the corporation sole constituted under that section.

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

Statute law revision (item (1))

The proposed amendment to section 4 is consequential on the enactment of the Mental Health Act 1990 and changes a reference to the Mental Health Act 1983 which it replaced.

PSYCHOLOGISTS ACT 1989 No. 51

Amendment

Section 19 (Psychologists Registration Board):

After "Department of Health" in section 19 (4) (b) (iv), insert "an employee of an area health service constituted under the Area Health Services Act 1986 or an employee of an incorporated hospital or separate institution within the meaning of the Public Hospitals Act 1929".

Explanatory note

The proposed amendment enables the Minister to nominate an employee of an area health service or public hospital for appointment as a member of the Psychologists Registration Board.

PUBLIC FINANCE AND AUDIT ACT 1983 No. 152

Amendments

Schedule 3 (Departments):

- (a) After "Director" in the matter relating to the State Emergency Service, insert "-General".
- (b) Omit:
State Rescue and Emergency Services Board.

Explanatory note

Paragraph (a) of the proposed amendments is consequential on the amendments to the State Emergency Service Act 1989 set out elsewhere in this Schedule.

Paragraph (b) of the proposed amendments removes the State Rescue and Emergency Services Board from Schedule 3 as that Board is not to be audited separately as a department but rather as a unit within the State Emergency Service.

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

PUBLIC SECTOR MANAGEMENT ACT 1988 No. 33

Amendments

(1) Schedule 2 (**Administrative Offices**):

After "Director" in the matter relating to the State Emergency Service, insert "-General".

(2) Schedule 3A (**Chief Executive Positions**):

From Part 2 of Schedule 3A, omit "Director of the State Emergency Service", insert instead "Director-General of the State Emergency Service".

(3) Schedule 3B (**Senior Executive Positions**):

(a) After "Director" in the positions relating to the State Emergency Service in Part 1 of Schedule 3B, insert "-General".

(b) At the beginning of the positions in Part 2 (Statutory positions) of Schedule 3B, insert:

Chief executive officer of an area health board

Commencement

Item (3) (b) of the proposed amendments to the Public Sector Management Act 1988 commences on the commencement of the amendments to the Area Health Services Act 1986 set out elsewhere in this Schedule.

Explanatory note

Items (1), (2) and (3) (a) of the proposed amendments are consequential on the amendments to the State Emergency Service Act 1989 set out elsewhere in this Schedule.

Item 3 (b) of the proposed amendments is consequential on the amendments to the Area Health Services Act 1986 set out elsewhere in this Schedule.

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

RADIATION CONTROL ACT 1990 No. 13

Amendments

(1) Section 29 (**Radiation Advisory Council**):

After "Department," in section 29 (2) (a), insert "an employee of an area health service constituted under the Area Health Services Act 1986 or an employee of an incorporated hospital or separate institution within the meaning of the Public Hospitals Act 1929, and".

(2) Section 40 (**Regulations**):

From section 40 (2), omit "radioactive apparatus", insert instead "radiation apparatus".

Explanatory note

Item (1) of the proposed amendments enables the Minister to appoint an employee of an area health service or public hospital as a member of the Radiation Advisory Council.

Item (2) of the proposed amendments corrects a reference to a defined term.

**RETURNED SAILORS AND SOLDIERS' IMPERIAL LEAGUE
OF AUSTRALIA (NEW SOUTH WALES BRANCH)
INCORPORATION ACT 1935 No. 39**

Amendments

(1) Long title:

Omit the long title, insert instead:

An Act to provide for the incorporation of the Returned and Services League of Australia (New South Wales Branch).

(2) Omit section 1, insert instead:

Short title

1. This Act may be cited as the Returned and Services League of Australia (New South Wales Branch) Incorporation Act 1935.

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

(3) Section 2 (**Definitions**):

From the definitions of "Constitution" and "League" in section 2 (1), omit "Sailors and Soldiers' Imperial" wherever occurring, insert instead "and Services".

(4) Section 3 (**Incorporation of League**):

From section 3, omit "Sailors and Soldiers' Imperial", insert instead "and Services".

(5) Sections 3 4 3B (**Change of name of Corporation**):

Omit the sections.

(6) Section 4:

Omit the section, insert instead:

Rights, liabilities, property etc. of League

4 The Schedule to this Act has effect.

Explanatory note

The proposed amendment to section 3 changes the name of the corporation constituted under the Act from the Returned Sailors and Soldiers' Imperial League of Australia (New South Wales Branch), known generally as the N.S.W. Branch of the R.S.L., to the Returned and Services League of Australia (New South Wales Branch) (item (4)).

The other amendments to the Act are consequential.

**ROAD OBSTRUCTIONS (SPECIAL PROVISIONS) ACT
1979 No. 9**

Amendment

Section 2A:

Omit the section, insert instead:

Operation of Act

2 A (1) The road obstruction powers under this Act may be exercised only during a period specified in an order in force under subsection (2).

(2) The Governor, by order published in the Gazette, may, from time to time, declare that the road obstruction

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

powers under this Act may be exercised during such period (not exceeding 3 months) as is specified in the order.

(3) Any period so specified in an order is to commence on the date of publication of the order or such later date as is specified in the order.

(4) In this section, "the road obstruction powers under this Act" means the powers conferred on the Commissioner or an authorised officer by sections 4 (1), 5 (1) and 5 (3).

Transitional provision

If an order under section 2A of the Road Obstructions (Special Provisions) Act 1979 is in force on the date of assent to this Act, the order is to be taken to be an order made under that section as substituted by this Act.

Explanatory note

At present section 2A of the Act provides that the Act operates only during any period (not exceeding 3 months) specified by order of the Governor-in-Council. As a result it is necessary to remake the regulations every time the Act is invoked (the regulations provide machinery provisions for the operation of the Act).

The proposed amendment will remove the necessity to remake the regulations.

RURAL LANDS PROTECTION ACT 1989 No. 197

Amendments

(1) Section 10 (**Purchase, sale and rental of certain articles by a board**):

(a) From section 10 (1), omit "ratable".

(b) After section 10 (2), insert:

(3) A board may lease an article or substance referred to in subsection (1) (a), (c), (d) or (e) to an occupier of land in the district for which the board is established.

(4) When leasing an article or substance referred to in subsection (3), a board is not entitled to recover from an occupier of land an amount exceeding the actual expense that the board has incurred in leasing the article or substance to the occupier.

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

(2) Section 22 (**District veterinarians**):

After section 22 (10), insert:

(10A) Consultation between the Chief of the Division of Animal Health and the board must take place before a veterinarian is suspended from duty.

(3) Section 77 (**Functions of a board with respect to animal health**):

(a) After "for" in section 77 (4) (b), insert "the district veterinarian and".

(b) After section 77 (5), insert:

(6) The district veterinarian for the board concerned is required to attend the meeting.

(4) Section 92 (Issue of walking stock permits):

From section 92 (13), omit "employed" where secondly occurring, insert instead "appointed".

Explanatory note

Purchase, sale and rental of certain articles by a board (item (1))

The proposed amendments to section 10 enable a board

- (a) to purchase and sell to an occupier of any land in its district (not only, as at present, of ratable land) certain articles (for example, devices that may lawfully be used to suppress and destroy noxious animals and insects); and
- (b) to hire such articles to occupiers of land in its district.

District veterinarians(item (2))

The proposed amendment to section 22 provides that consultation between the Chief, Division of Animal Health, Department of Agriculture and Fisheries and the rural lands protection board established for the district concerned must take place before a district veterinarian (who is employed by the board) is suspended from duty.

Functions of boards (item (3))

The proposed amendments to section 77:

- (a) provide that a board must, for the purpose of enabling it to exercise its functions in relation to animal health, provide working accommodation and equipment for the district veterinarian that it employs; and
- (b) require the district veterinarian for a board to attend annual meetings convened by the Regional Director of Veterinary Services.

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

Issue of walking stock permits (item (4))

Section 92 relates to the issue of walking stock permits by prescribed officers who are defined to include permit officers "appointed" by the board.

The proposed amendment to section 92 (13) replaces a reference to permit officers "employed" by the board so that the subsection will be consistent with this definition.

**SMALL BUSINESS DEVELOPMENT CORPORATION ACT
1984 No. 119**

Amendments

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

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

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 Small Business Development Corporation.

SPORTING INJURIES INSURANCE ACT 1978 No. 141

Amendments

Schedule 2 (Constitution and procedure of Sporting Injuries Committee):

- (a) Omit clause 3 (Age of appointed member).
- (b) At the end of clause 9 (1) (f), insert "or".
- (c) From clause 9 (1) (g), omit "(2) of this clause; or", insert instead "(2).".
- (d) Omit clause 9 (1) (h).

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 70 years from being eligible to be appointed as, or from continuing to hold office as, a member of the Sporting Injuries Committee.

**STATE EMERGENCY AND RESCUE MANAGEMENT ACT
1989 No. 165**

Amendments

(1) Section 18 (**State Emergency Operations Controller**):

After "Director" in section 18 (3), insert "-General".

(2) Section 43 (**Composition of Board**):

After "Director" in section 43 (1) (b) and (2) wherever occurring, insert "-General".

(3) Section 69 (**Consequential amendment of Public Finance and Audit Act 1983 No. 152**):

Omit the section.

Explanatory note

The proposed amendments to sections 18 and 43 are consequential on the amendments to the State Emergency Service Act 1989 set out elsewhere in this Schedule (items (1) and (2)).

Item (3) of the proposed amendments repeals, by way of statute law revision, a provision containing an amendment the effect of which has now been superseded.

STATE EMERGENCY SERVICE ACT 1989 No. 164

Amendments

(1) Sections 3, 7, 9–24, 27:

After "Director" wherever occurring, insert "-General".

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

- (2) Part 3, heading:
After "DIRECTOR", insert "-GENERAL".
- (3) Sections 12 (1), 13, 21(1):
Omit "Director's" wherever occurring, insert instead "Director-General's".
- (4) Section 16 (**Division controllers**):
From section 16 (1), omit "an emergency officer", insert instead "any person".
- (5) Section 17 (**Local controllers**):
From section 17 (1), omit "an emergency officer", insert instead "any person".
- (6) Schedule 1 (**Savings, transitional and other provisions**):
 - (a) After "Director" where secondly occurring in clause 2 (b), insert "-General".
 - (b) From clause 3, omit "Director, Deputy Director or", insert instead "person holding office as the Director or as the Deputy Director of the State Emergency Service at the time of that repeal or of".

Transitional

A reference in any Act, or in any instrument made under any Act or in any other instrument of any kind to the Director or the Deputy Director of the State Emergency Service is to be read as a reference to the Director-General or the Deputy Director-General, respectively, of that Service.

Explanatory note

Items (1), (2), (3) and (6) of the proposed amendments change the title of the Director of the State Emergency Service and the title of the Deputy Director of that Service to Director-General and Deputy Director-General, respectively.

Items (4) and (5) of the proposed amendments provide that the Director-General may appoint any person as the division controller for a division of the State or as the local controller for a local government area. At present, only an emergency officer (who is appointed by the Director-General) may be appointed as a division controller or as a local controller.

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

STATE OWNED CORPORATIONS ACT 1989 No. 134

Amendments

(1) Section 24 (**Annual reports and accounts**):

After section 24 (8), insert:

(9) This section does not require the board of a subsidiary of a State owned corporation to deliver an annual report of its operations or financial statements conforming to the requirements of the Companies (New South Wales) Code or any other applicable law if:

- (a) the corporation has complied with all requirements of the Code or applicable law concerning group accounts in respect of the subsidiary; and
- (b) the Code or law relieves or otherwise exempts the board from compliance with the requirement to prepare the financial statements.

(2) Section 37 (**Amendment of Freedom of Information Act 1989 No. 5**):

After "inserting" in section 37 (a), insert "in section 9".

Commencement

Item (2) of the amendments to the State Owned Corporations Act 1989 is taken to have commenced on 22 September 1989 (the day on which that Act commenced).

Explanatory note

Annual reports and accounts (item (1))

State owned corporations (SOCs) and their subsidiaries are accountable under the Companies (New South Wales) Code and any other applicable law in relation to financial statements to the same extent as companies in the private sector. Section 24 of the Act imposes certain additional requirements on SOCs and their subsidiaries relating to preparation of financial statements (that conform to the requirements of the Code or other applicable law) concerning reporting by the Auditor-General.

The proposed amendments will ensure that the section operates as intended in relation to its subsidiaries by making it clear:

- (a) that, in preparing annual reports and financial statements for the purposes of section 24, a SOC is required to comply with all relevant requirements of the Code or applicable law in respect of subsidiaries (for example, requirements relating to group accounts under the Code); and
- (b) that if the Code or applicable law relieves or otherwise exempts a subsidiary from any requirement (for example, by a class order under section 273 (5)

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

of the Code) it is relieved or exempted from compliance for the purposes of the section.

Statute law revision (item (2))

The proposed amendment to section 37 rectifies an incorrect incorporating direction.

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

Amendments

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

After "Master or acting master (under the Supreme Court Act 1970)." insert:

Chief Magistrate (under the Local Courts Act 1982).

Deputy Chief Magistrate (under the Local Courts Act 1982).

Magistrate (under the Local Courts Act 1982), other than the Chief Magistrate, a Deputy Chief Magistrate or a Magistrate who has limited tenure or is the holder of a prescribed office, within the meaning of that Act.

Chairman of the Licensing Court of New South Wales (under the Liquor Act 1982).

Deputy Chairman of the Licensing Court of New South Wales (under the Liquor Act 1982).

Licensing magistrate (under the Liquor Act 1982), other than the Chairman, and the Deputy chairman, of the Licensing Court of New South Wales.

Chief Industrial Magistrate.

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

Omit the following:

Chairman of the Licensing Court of New South Wales (under the Liquor Act 1982).

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

Deputy Chairman of the Licensing Court of New South Wales (under the Liquor Act 1982).

Licensing magistrate (under the Liquor Act 1982), other than the Chairman, and the Deputy Chairman, of the Licensing Court of New South Wales.

Chief Industrial Magistrate.

Chief Magistrate (under the Local Courts Act 1982).

Deputy Chief Magistrate (under the Local Courts Act 1982).

Magistrate (under the Local Courts Act 1982), other than the Chief Magistrate, a Deputy Chief Magistrate or a Magistrate who has limited tenure or is the holder of a prescribed office, within the meaning of that Act.

Explanatory note

The proposed amendments provide for the removal of the public offices of certain magistrates from Schedule 2 to the Act and for the inclusion of those offices in Schedule 1. Offices already included in Schedule 1 include the offices of certain other judicial offices.

STOCK (ARTIFICIAL BREEDING) ACT 1985 No. 196

Amendments

- (1) Section 3 (**Application of Act**):
 - (a) From section 3 (3) (c), omit "and".
 - (b) After section 3 (c), insert:
 - (c1) a member of a family:
 - (i) which owns all interests in the stock, whether or not through a partnership consisting of members of the family only, or
 - (ii) which wholly owns a company that owns all interests in the stock; and
- (2) Sections 5 (**Premises to be licensed**), 10 (**Technical aspects and restricted activities to be supervised**), 12 (**Requirements for certificates of competency**), 25 (**Importation from a State or**

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

Territory), 28 (Stock to comply with certain requirements), 29 (Offences relating to semen and ova), 30 (Offences relating to licences, approvals and certificates), 31 (Offences relating to inspectors) and 34 (Orders):

Omit "\$2,000" wherever occurring, insert instead "20 penalty units".

(3) Section 15 (**Authority conferred by certificates**):

(a) From section 15 (1) (b), omit "and" where lastly occurring.

(b) At the end of section 15 (1) (c), insert:

; and

(d) to distribute the semen or ova or semen and ova.

(4) Sections 16 (**Conduct of certain courses**), 30 (**Offences relating to licences, approvals and certificates**), 34 (**Orders**) and 42 (**Regulations**):

Omit "\$1,000" wherever occurring, insert instead "10 penalty units".

Commencement

The amendments to the Stock (Artificial Breeding) Act 1985 commence on a day or days to be appointed by proclamation.

Explanatory note

Application of Act (item (1))

The proposed amendment to section 3 extends the class of persons permitted under the Act to artificially inseminate stock on unlicensed premises without holding a certificate of competency to include family members who jointly own the stock or a family company that owns the stock. At present, if such persons wish to be permitted to so artificially inseminate stock they must obtain the approval of the Director-General.

Penalty units (items (2) and (4))

The proposed amendments convert various penalties to penalty unit equivalents.

Authority conferred by certificates (item (3))

The proposed amendment to section 15 will authorise the holder of a Class "A" certificate of competency to distribute semen or ova or semen and ova.

The amended provision will read as follows:

(1) A Class "A" certificate of competency authorises the holder.

(a) to collect semen or ova or semen and ova from stock of the species specified in the certificate; and

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

- (b) to process the semen or ova or semen and ova; and
- (c) to handle and store the semen or ova or semen and ova; and
- (d) to distribute the semen or ova or semen and ova.

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

STOCK (CHEMICAL RESIDUES) ACT 1975 No. 26

Amendments

- (1) Section 7 (**Temporary notice for detention of residue affected stock**):

After "a notice" in section 7 (1), insert "(in a form approved by the Chief, Division of Animal Health)".

- (2) Section 8 (**Minister or prescribed officer may give notice for detention of residue affected stock**):

After "a notice" in section 8 (1), insert "(in a form approved by the Chief, Division of Animal Health)".

- (3) Section 9 (**Permits for movement of stock subject to detention notice**):

From section 9 (1), omit "or to the effect of the prescribed form", insert instead "a form approved by the Chief, Division of Animal Health".

- (4) Section 15 (**Proceedings for offences**):

Omit "court of petty sessions held before a stipendiary magistrate", insert instead "Local Court constituted by a Magistrate"

- (5) Section 16 (**Regulations**):

Omit section 16 (2) (a).

Repeal of regulations

Clause 2 of, and the Schedule to, the Stock (Chemical Residues) Regulation 1975 are repealed.

Explanatory note

Approved forms (items (1)–(3) and (5))

The proposed amendments to sections 7, 8, 9 and 16 provide that detention notices and permits that are given or issued under the Act are to be in a form

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

approved by the Chief, Division of Animal Health, Department of Agriculture and Fisheries instead of being in a form prescribed by the regulations.

Statute law revision (item (4))

The proposed amendment to section 15 replaces an outdated reference to a court of petty sessions with a reference to a Local Court.

SUPREME COURT ACT 1970 No. 52

Amendments

(1) Section 37 (**Acting Judges**):

After section 37 (3), insert:

(3A) The person so appointed may, despite the expiration of the period of the person's appointment, complete or otherwise continue to deal with any matters relating to proceedings that have been heard, or partly heard, by the person before the expiration of that period.

(2) Section 123 (**Rule Committee**):

After section 123 (8), insert:

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

Explanatory note

Acting Judges (item (1))

The proposed amendment to section 37 will make it clear that Acting Judges of the Supreme Court may complete any partly heard matters and deliver or edit reasons for judgment despite the expiration of the period of their appointments.

Rule Committee (item (2))

The proposed amendment to section 123 will enable the Rule Committee to transact business outside its meetings.

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

TEACHER HOUSING AUTHORITY ACT 1975 No. 27

Amendments

- (1) Section 7 (**Appointment etc. of members**):
 - (a) From section 7 (1), omit "five", insert instead "6".
 - (b) After section 7 (1) (a), insert:
 - (a1) one is to be the Director, Property Policy Unit of the Ministry of Education, Youth and Women's Affairs;
 - (c) After section 7 (1), insert:
 - (1A) The member referred to in subsection (1) (a1) is to be the Chairman of the Authority.
 - (d) Omit section 7 (2) (a), insert instead:
 - (a) one is to be nominated by the Director-General of the Department of School Education, being an officer of that Department serving in the western or north western region of the State;
- (2) Section 10 (**Provisions relating to members generally**):
 - (a) From section 10 (1), omit "A member (other than the member holding office under section 7 (1) (b) or (c))", insert instead "An appointed member".
 - (b) From section 10 (7), omit " , if a person has not been appointed under subsection (3) to act in the office of Chairman,".
- (3) Section 11 (**Vacation of office**):

In section 11 (1) (k) and (1) and (2), after "section 7 (1)" wherever occurring, insert "(a1)".
- (4) Section 18 (**Meetings of the Authority**):
 - (a) From section 18 (3), omit " , of the Deputy Chairman and of any person appointed under section 10 (3) to act in the office of Chairman", insert instead "and the Deputy Chairman".
 - (b) From section 18 (4), omit "Three members shall form a quorum at any meeting of the Authority", insert instead

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

"The quorum for a meeting of the Authority is a majority of the members of the Authority for the time being".

Commencement

The amendments to the Teacher Housing Authority Act 1975 commence on a day or days to be appointed by proclamation.

Explanatory note

The proposed amendments to section 7 provide:

- (a) for an additional member (being an officer of the Department of School Education serving in the western or north western region of the State) to be appointed to the Teacher Housing Authority (item (1) (a) and (d)); and
- (b) for the Chairman of the Authority to be the member of the Authority who holds the position of Director, Property Policy Unit of the Ministry of Education, Youth and Women's Affairs (item (1) (b) and (c)).

Consequential amendments are made by items (2)–(4).

THERAPEUTIC GOODS AND COSMETICS ACT 1972 No. 14

Amendments

(1) Section 7 (Constitution of Committee):

(a) Omit section 7 (2) (a), insert instead:

- (a) a medical practitioner nominated by the Minister, being an officer of the Department of Health, an employee of an area health service constituted under the Area Health Services Act 1986 or an employee of an incorporated hospital or separate institution within the meaning of the Public Hospitals Act 1929; and

(b) After "Committee" in section 7 (6), insert ", and a member of a subcommittee established under section 11,".

(2) Section 11 (Sub-committees):

Omit section 11 (6).

Repeal of Regulations

Clause 6 of the Therapeutic Goods and Cosmetics Regulations is repealed.

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

Explanatory note

Therapeutic Goods and Cosmetics Advisory Committee (item (1) (a))

Item (1) (a) of the proposed amendments to section 7 enables the Minister to nominate an employee of an area health service or public hospital to be a member of the Therapeutic Goods and Cosmetics Advisory Committee.

Remuneration of members of subcommittees (items (1) (b) and (2))

Item (1) (b) of the proposed amendments to section 7 and the proposed amendment to section 11 (item (2)) provide that a member of a subcommittee established by the Advisory Committee is entitled to remuneration that is determined by the Minister instead of being prescribed by the Regulations.

TOW TRUCK ACT 1989 No. 158

Amendment

Section 19 (What are the qualifications for a driver's certificate?):

After "1935" in section 19 (b), insert "or is a person who is not resident in New South Wales and is the holder of a licence issued under the law in force in another State or a Territory which, in the opinion of the Council, is the equivalent of such a licence".

Explanatory note

At present, a person must hold a silver or gold driver's licence issued under the Motor Traffic Regulations 1935 as one of the qualifications for holding a tow truck driver's certificate. However those Regulations prevent the holder of an interstate driver's licence from obtaining a New South Wales driver's licence unless the interstate driver's licence is cancelled.

The proposed amendment enables the Tow Truck Industry Council to grant a tow truck driver's certificate to an interstate resident who holds a licence that is equivalent, in the opinion of the Council, to a silver or gold driver's licence issued under those Regulations.

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

TRAFFIC ACT 1909 No. 5

Amendments

(1) Section 3 (**Regulations**):

After "licences" in section 3 (1) (m1) (iv), insert "(including, in respect of probationary licences, fees that are higher than those for other licences)".

(2) Section 4G (**Analysis of samples of blood**):

From section 4G (11 A), omit ", (1G) or (1L)", insert instead "or (1G)".

(3) Omit section 10AA, insert instead:

Effect of disqualification

10AA. (1) When, as a consequence of being convicted of an offence by a court, a person is disqualified (whether or not by an order of the court) from holding a driver's licence, any driver's licence held by the person is to be regarded as being cancelled.

(2) A person who is so disqualified must:

- (a) if present at the court and in possession of the licence, surrender the licence to the court immediately after being convicted; or
- (b) if present at the court but not in possession of the licence, or if not present at the court, surrender the licence to the Authority as soon as practicable after being convicted.

(3) No licence may be obtained by the person during the period of disqualification.

(4) If a licence is surrendered to the court, the licence is to be delivered to the Authority.

(5) If a person fails to surrender a licence as required by this section, the person is guilty of an offence against this Act.

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

From section 18B (1) (c), omit "Transport Licensing Act 1931", insert instead "Passenger Transport Act 1990".

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

Commencement

Item (3) of the amendments to the Traffic Act 1909 commences on a day to be appointed by proclamation.

Explanatory note

Probationary licences (item (1))

The proposed amendment to section 3 makes it clear that any regulations under the Traffic Act 1909 which make provision for the payment of fees in respect of the issue or renewal of probationary drivers' licences (which are issued, for example, following the cancellation of a licence), may prescribe fees that are higher than the fees for other types of drivers' licences. At present, the fees for probationary drivers' licences are higher than those for other types of drivers' licences as a result of an order made under section 265B of the Transport Act 1930 (which, pursuant to clause 44 of Schedule 7 to the Transport Administration Act 1988, continues to apply until another fee is prescribed by the regulations under the Traffic Act 1909).

Surrendering of disqualified drivers' licences (item (3))

At present, section 10AA provides that a person who is disqualified from holding a driver's licence as a consequence of being convicted of an offence must deliver the licence to the Roads and Traffic Authority immediately after being convicted. The proposed amendment provides that if the person is present at the court and has the licence, the person must surrender it to the court. If the person is present but does not have the licence or if the person is not present at the court, the person must surrender it as soon as practicable to the Authority.

Statute law revision (items (2) and (4))

The proposed amendment to section 4G omits a cross-reference to a provision that has been repealed.

The proposed amendment to section 18B replaces a reference to the Transport Licensing Act 1931 (now repealed) with a reference to the Passenger Transport Act 1990 (which replaced the repealed Act).

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

TRANSPORT ADMINISTRATION ACT 1988 No. 109

Amendment

Section 106A:

After section 106, insert:

Grants to charitable organisations

106A. (1) The Roads and Traffic Authority is, in accordance with such directions as may be given by the Minister, to administer any scheme approved by the Minister for the making of grants in respect of the operation of eligible motor vehicles by eligible charitable organisations.

(2) The purpose for which such grants may be made is to assist eligible charitable organisations to meet the increased cost of operating eligible motor vehicles resulting from the Road Improvement (Special Funding) Act 1989.

(3) Grants under this section are to be made from the Roads and Traffic Authority Fund.

(4) In this section:

"eligible charitable organisation" means a charitable organisation determined by the Minister to be an eligible Charitable organisation for the purposes of this section;

"eligible motor vehicle" means a motor vehicle operated by an eligible charitable organisation in accordance with the guidelines for assistance prepared by the Roads and Traffic Authority from time to time for the purposes of this section.

Explanatory note

The proposed amendment enables the Roads and Traffic Authority to make grants to certain charitable organisations to assist them in meeting the increased costs of operating motor vehicles as a result of the "3" x "3" fuel levy imposed by the Road Improvement (Special Funding) Act 1989. That Act increased for 3 years the proportion of the value of petroleum products sold that is required to be paid in licence fees under the Business Franchise Licences (Petroleum Products) Act 1987.

The grants are to be made to charitable organisations determined by the Minister to be eligible for such assistance (examples of the organisations that might be assisted

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

are Mission Beat and Meals on Wheels). Grants may be made to eligible charitable organisations only in respect of motor vehicles operated in accordance with the guidelines for assistance prepared by the Authority (an example of a guideline that might apply is that the vehicle must be used for the provision of a welfare service for underprivileged persons).

UNIVERSITY OF NEW ENGLAND ACT 1989 No. 67

Amendments

Section 9 (The Board):

- (a) From section 9 (4) (c), omit "and".
- (b) After section 9 (4) (c), insert:
 - (c1) the Principal of the Orange Agricultural College (being a college of the University); and

Explanatory note

The proposed amendments provide for the Principal of the Orange Agricultural College (which has, since 1 January 1990, been a college of the University of New England) to be an official member of the Board of Governors of the University.

UNIVERSITY OF TECHNOLOGY, SYDNEY, ACT 1989 No. 69

Amendment

Schedule 3 (Savings and transitional provisions):

After clause 9, insert:

Validation relating to elections

10. Any act, matter or thing done in relation to the conduct of elections referred to in Chapter 3 of the University of Technology, Sydney, By-law 1990 before the commencement of that By-law that would have been validly done if that By-law were then in force, is validated.

Explanatory note

The Interim Council of the University of Technology, Sydney, is required to make all necessary by-laws and take all necessary steps to ensure the Council of the University is duly constituted under section 9 of the Act by 30 November 1990 (clause 1 (5) of Schedule 3 to the Act and proclamation of 31 August 1990). The University of Technology, Sydney, By-law 1990 (which included provisions relating to the

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

conduct of elections for the new Council) took effect on 14 September 1990. The proposed amendment will put it beyond doubt that any action taken with regard to the election of the Council in accordance with the By-law (but before the commencement of the By-law) is valid.

VETERINARY SURGEONS ACT 1986 No. 55

Amendment

Schedule 2 (Provisions relating to the members and procedure of the Investigating Committee):

Omit clauses 3 and 8 (1) (f).

Explanatory note

The proposed amendment removes 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 Veterinary Surgeons Investigating Committee.

WATER BOARD ACT 1987 No. 141

Amendments

(1) Section 13 (Area of operations):

After section 13 (4) (a), insert:

- (a1) the function relates to drainage services and is exercised by the council of a local government area;

(2) Section 34 (Determinations by Board):

- (a) From section 34 (1), omit "Before the end of each charging period the Board shall", insert instead "The Board must".
- (b) From section 34 (1), omit "the next succeeding charging period", insert instead "a charging period".
- (c) Omit section 34 (3), insert instead:
- (3) A determination under this section:
- (a) is required to be approved by the Minister and does not have effect unless it is so approved; and

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

- (b) is to be published in the Gazette; and
 - (c) takes effect on the commencement of the first charging period to which it relates; and
 - (d) remains in force during subsequent charging periods until another determination is made under this section.
- (d) Before "charging" wherever occurring in section 34 (4) and (6), insert "first".
- (3) **Section 35 (Assessment of service charges):**
From section 35 (1), omit "After making a determination under section 34, the Board shall, in accordance with the determination", insert instead "Before or during each charging period the Board is required, in accordance with the determination in force under section 34, to".

Commencement

Item (1) of the amendments to the Water Board Act 1987 is taken to have commenced on 3 July 1987 (the day on which that Act commenced).

Items (2) and (3) of the amendments to the Water Board Act 1987 commence on a day to be appointed by proclamation.

Explanatory note

Drainage functions (item (1))

The proposed amendment to section 13 makes it clear that the council of a local government area may exercise functions relating to drainage services within the area of operations of the Water Board.

Determinations of Water Board (items (2) and (3))

At present under section 34, the Water Board must, before the end of each charging period, determine the amounts, factors, bases and rates at or on which service charges are to be levied for the next succeeding charging period. The proposed amendments to section 34 provide that a determination of the Board relating to the levying of service charges does not need to be made for each charging period but instead will remain in force and apply to successive charging periods until another determination is made by the Board.

The proposed amendment to section 35 is consequential.

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

WENTWORTH IRRIGATION ACT 1890 (54 Vic. No. 7)

Amendments

- (1) Section 17 (**Qualified engineers to be employed**):
Omit "Commission", insert instead "Ministerial Corporation".
- (2) Section 22A (**Restrictions as to assigns of holdings**):
 - (a) From section 22A (1), omit "the prescribed form", insert instead "a form approved by the Ministerial Corporation".
 - (b) From section 22A (4), omit "his", insert instead "its".

Explanatory note

Restrictions as to assigns of holdings (item (2) (a))

The proposed amendment to section 22A removes the need for the form of an application for the consent of the Water Administration Ministerial Corporation in respect of the transfer, lease or assignment of land to be prescribed by the regulations.

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

The proposed amendments to sections 17 and 22A (4) update a reference to the Water Administration Ministerial Corporation and make a consequential change to a word.

WESTERN LANDS ACT 1901 No. 70

Amendments

- (1) Section 9 (**Power to establish administrative districts**):
From section 9 (2C), omit "knows", insert instead "is satisfied".
- (2) Schedule B (**Applicable provisions of the Crown Lands Act 1989**):
Before paragraph (a) of the matter relating to Part 7, Division 6, insert:
 - (aa) section 171 (exclusion of minerals, other reservations, exceptions etc.) is to apply to the sale, lease or other disposal of land by the Crown under the Western Lands Act 1901;

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

(3) Schedule D (**Provisions relating to purchases of certain leased land**):

From clause 4 (4), omit "1988", insert instead "1989".

Explanatory note

Item (1) of the proposed amendments is a minor amendment consistent with the amendment to section 19 (5) of the Crown Lands Act 1989 set out elsewhere in this Schedule.

Section 171 of the Crown Lands Act 1989 relates to the exclusion of minerals from sales etc. of Crown land. Item (2) of the proposed amendments will ensure that the sale, lease or other disposal of land under the Western Lands Act 1901 is subject to such an exclusion. (Leases of western lands were subject to reservation in favour of the Crown of minerals under section 18 of and Schedule A to that Act as in force before the commencement of the Crown Lands Act 1989).

Item (3) of the proposed amendments corrects a reference to the Crown Lands Act 1989.

WILDERNESS ACT 1987 No. 196

Amendments

Section 8 (Declaration of wilderness areas):

(a) After section 8 (1), insert:

(1A) The Minister may, by notification published in the Gazette, declare any lands reserved or dedicated under the National Parks and Wildlife Act 1974 to be a wilderness area.

(1B) The Minister may not declare lands referred to in subsection (1A) to be a wilderness area unless the Director has identified those lands as wilderness in accordance with this Act.

(b) In section 8 (2), after "notification", insert "under subsection (1)".

(c) After section 8 (4), insert:

(4A) A declaration under subsection (1 A) may be varied by a further notification by the Minister published in the Gazette but must not be revoked except by an Act of Parliament.

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

Explanatory note

The proposed amendments will enable lands reserved or dedicated under the National Parks and Wildlife Act 1974 to be declared to be a wilderness area by declaration under the Wilderness Act 1987. The amendments provide an alternative means of declaring land to be wilderness to that provided under the National Parks and Wildlife Act 1974.

WORKERS COMPENSATION ACT 1987 No. 70

Amendments

(1) Section 39 (**Incapacity treated as total - "odd-lot" rule**):

Omit "suitable employment" wherever occurring, insert instead "employment for which the worker is fit".

(2) Part 3, Division 4, Table (**Compensation for permanent injuries**):

Omit the matter relating to "Sensory loss", insert instead:

Sensory loss

Loss of sense of taste or smell	17
Loss of senses of taste and smell	34

(3) Section 92 (**Making of claim for compensation**):

After section 92 (1), insert:

(1A) A claim for compensation need not be accompanied by a medical certificate or other document referred to in subsection (1) (c) if:

- (a) reasonable cause can be shown for not giving or serving it; and
- (b) the medical certificate or other document relates to information which is substantially available to the person on whom the claim is made from other appropriate documentation given or served by or on behalf of the claimant.

(4) Schedule 6, Part 15 (**Savings and transitional provisions relating to insurance**):

From clause 15 (2), omit "for injuries received before 4 pm on 30 June 1987", insert instead "including liability for

SCHEDULE 1 - MINOR AMENDMENTS - *continued*

injuries received before, at or after 4 p.m. on 30 June 1987".

Explanatory note

Clarification of "suitable employment" for "odd-lot" workers (item (1))

Under the "odd-lot" rule certain incapacitated workers who are fit for employment of a kind not commonly available for persons in the workers' circumstances are treated as totally incapacitated. Section 39 requires such workers to be seeking "suitable employment" in order to qualify for certain higher benefits. The term "suitable employment" is also used in section 38 (partially incapacitated unemployed workers compensated as if totally incapacitated) but in a different sense to that in which it is used in section 39. The proposed amendment to section 39 removes the references to "suitable employment" from that section and substitutes references to "employment for which the worker is fit" to make it clear that the requirements of each section regarding the seeking of employment are different.

Compensation for loss of senses of taste and smell (item (2))

At present losses of the senses of taste and smell are treated in the Table of Disabilities as separate items for which lump sum compensation may be paid although the senses are inter-related. The proposed amendment will enable a claim to be made where both senses are affected so as to avoid unnecessary duplication.

Lodgment of documents with claims for compensation (item (3))

The proposed amendment to section 92 makes it clear that a claim for compensation need not be accompanied by a medical certificate or other document as required by that section if reasonable cause can be shown as to why it was not given or served and the information contained in it is available to the person on whom the claim is made from other appropriate documentation (for example, if a medical certificate is given that contains the relevant information though not in the prescribed form).

Savings and transitional provisions relating to insurance (item (4))

The proposed amendment to Schedule 6 clarifies the effect of clause 15 of Part 15 to ensure that the clause (which relates to the extension of policies of insurance issued before the commencement of the Act to liabilities for injuries received before that commencement) does not suggest that policies of insurance issued before the commencement of the Act do not apply to injuries received after the commencement.

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

(Sec. 3)

ABORIGINAL LAND RIGHTS (AMENDMENT) ACT 1990 No. 60

Amendments

Schedule 7 (Miscellaneous amendments):

- (a) From item (7) (f), omit "(d)", insert instead "(e)".
- (b) From item (7) (f), omit "(d1)", insert instead "(e1)".

Explanatory note

The proposed amendments rectify an incorrect incorporating direction.

AMBULANCE SERVICES ACT 1990 No. 16

Amendments

- (1) Section 23 (**Unauthorised provision of ambulance transport**):

Omit section 23 (3) (b), insert instead:

- (b) the St. John Ambulance Australia (N.S.W.) in respect of operations similar to the operations lawfully carried on by that body immediately before the day on which this provision commences; or

- (2) Schedule 2 (**Consequential amendment of other Acts**):

From the matter relating to the Superannuation Act 1916, omit "Schedule 1 (Employers)", insert instead "Schedule 3 (List of Employers)".

Commencement

The amendments to the Ambulance Services Act 1990 are taken to have commenced on 1 July 1990.

Explanatory note

The proposed amendments update a reference to the St. John Ambulance Australia (N.S.W.) (item (1)) and rectify an incorrect incorporating direction (item (2)).

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

BUILDING SERVICES CORPORATION ACT 1989 No. 147

Amendment

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

From clause 4 (Continuation of legal entity), omit "continued", insert instead "constituted".

Explanatory note

The proposed amendment provides for a more accurate description of the Corporation referred to in clause 4.

CHARLES STURT UNIVERSITY ACT 1989 No. 76

Amendment

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

Omit clause 1 (4).

Commencement

The amendment to the Charles Sturt University Act 1989 is taken to have commenced on 30 August 1989 (the date of assent to the Miscellaneous Acts (Higher Education) Repeal and Amendment Act 1989).

Explanatory note

The proposed amendment removes a provision that has been made superfluous by an amendment to section 6 of the Charles Sturt University Act 1989 by the Miscellaneous Acts (Higher Education) Repeal and Amendment Act 1989.

**COAL AND OIL SHALE MINE WORKERS (SUPERANNUATION)
ACT 1941 No. 45**

Amendment

Section 13 (**Deductions from pensions**):

From section 13 (1) and (5), omit "under the that" wherever occurring, insert instead "under that".

Explanatory note

The proposed amendment omits an unnecessary word.

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

COMMUNITYLAND MANAGEMENT ACT 1989 No. 202

Amendment

Section 63 (Community Schemes Boards):

From section 63 (2), omit "Titles", insert instead "Schemes".

Explanatory note

The proposed amendment corrects a reference to a Community Schemes Board.

CREDIT (ADMINISTRATION) ACT 1984 No. 95

Amendment

Section 61 (Annual report):

Omit the section.

Commencement

The amendment to the Credit (Administration) Act 1984 is taken to have commenced on 1 July 1998.

Explanatory note

The proposed amendment will repeal a superfluous provision relating to an annual report concerning administration of the Act and certain cognate Acts. The provision has been superseded by the Annual Reports (Departments) Act 1985.

CREDIT UNION ACT 1969 No. 8

Amendment

Section 102 (Report to Parliament):

Omit the section.

Commencement

The amendment to the Credit Union Act 1969 is taken to have commenced on 1 July 1990.

Explanatory note

The proposed amendment will repeal a superfluous provision relating to an annual report concerning administration of the Act. The provision has been superseded by the Annual Reports (Departments) Act 1985.

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

CRIMES (AMENDMENT) ACT 1989 No. 198

Amendments

Schedule 1 (Amendments relating to sexual assault):

(a) Omit Schedule 1 (10) (a), insert instead

(a) Section 476 (6). (ba):

(b) After section 476 (6) (b), insert:

(ba) any offence mentioned in section 61M or 61O
(2);

Explanatory note

The amendments currently made by Schedule 1 to the Crimes (Amendment) Act 1989 have the effect of applying the provisions of both section 476 (Indictable offences punishable summarily with consent of accused) and 495 (Indictable offences punishable summarily without consent of accused assaults) of the Crimes Act 1900 to proceedings for certain offences under proposed sections 61L, 61N and 61O (1) (as to be inserted by that Schedule) of the Crimes Act 1900. The proposed amendment removes this unnecessary duality.

FUNERAL FUNDS ACT 1979 No. 106

Amendment

Section 10 (**Report to Parliament**):

Omit the section.

Commencement

The amendment to the Funeral Funds Act 1979 is taken to have commenced on 1 July 1990.

Explanatory note

The proposed amendment will repeal a superfluous provision relating to an annual report concerning administration of the Act. The provision has been superseded by the Annual Reports (Departments) Act 1985.

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

GAS ACT 1986 No. 213

Amendments

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

From section 3 (1), omit the definition of "Tariff Stabilisation Account".

(2) Section 57 (**Disposal of certain assets prohibited**):

From section 57 (1), omit "company" wherever occurring, insert instead "distributor".

Explanatory note

The proposed amendments remove an unnecessary definition (item (1)) and update a reference as a consequence of the enactment of the Gas (Amendment) Act 1990 (item (2)).

HEALTH ADMINISTRATION ACT 1982 No. 135

Amendments

(1) Section 20K (**Regulations relating to Committees**):

From section 20K (c), omit "health".

(2) Schedule 2A, heading

Omit the heading, insert instead:

SCHEDULE 2A - HEALTH PROFESSIONAL BOARDS

Explanatory note

The proposed amendments omit an unnecessary word (item (1)) and correct a reference to Health Professional Boards (item (2)).

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

INTERPRETATION ACT 1987 No. 15

Amendment

Section 21 (Meaning of commonly used words and expressions):

From the definition of "Government Printer" in section 21 (1), omit "printer", insert instead "person".

Explanatory note

The proposed amendment updates the definition so that it will better reflect arrangements for the publication of Acts, instruments and other documents by or on behalf of the Government.

LIQUOR ACT 1982 No. 147

Amendment

Section 47 (Grant of application is discretionary in certain cases):

At the end of section 47 (2) (a1), insert "or".

Explanatory note

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

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

**MISCELLANEOUS ACTS (DISABILITY SERVICES AND
GUARDIANSHIP) REPEAL AND AMENDMENT ACT
1987 No. 262**

Amendments

- (1) Section 2 (**Commencement**):
Omit section 2 (5).
- (2) Schedule 1 (**Amendments**):
Omit the matter relating to the Coroners Act 1980.

Explanatory note

The proposed amendments repeal redundant provisions. The provisions relate to amendments to be made to the Coroners Act 1980 which are unnecessary because of changes made to that Act by the Coroners (Miscellaneous Amendments) Act 1989.

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

Amendments

- Schedule 1 (**Amendment of Acts**):
- (a) From item (1) (1) of the matter relating to the Sydney Cove Redevelopment Authority Act 1968, omit "14", insert instead "4".
 - (b) From item (2) of the matter relating to the Transport Administration Act 1988, omit "62 (c)", insert instead "62 (2) (c)".

Explanatory note

The proposed amendments rectify incorrect incorporating directions.

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

**MISCELLANEOUS ACTS (PUBLIC SECTOR
EXECUTIVES SUPERANNUATION) AMENDMENT ACT 1989
No. 107**

Amendment

Schedule 1 (**Amendments**):

After "servant" in item (3) of the matter relating to the Local Government and Other Authorities (Superannuation) Act 1927, insert "where firstly occurring"

Explanatory note

The proposed amendment rectifies an incorrect incorporating direction.

**MISCELLANEOUS ACTS (THEATRES AND PUBLIC
HALLS) AMENDMENT ACT 1989 No. 11**

Amendment

Schedule 1 (**Amendments**):

From the matter relating to the Gaming and Betting Act 1912, omit "- 1937".

Explanatory note

The proposed amendment rectifies an incorrect incorporating direction.

**MISCELLANEOUS ACTS (WORKERS' COMPENSATION)
AMENDMENT ACT 1984 No. 93**

Amendments

(1) Section 2 (**Commencement**):

Omit section 2 (4).

(2) Schedule 1 (**Amendments consequent on the enactment of the
Principal Acts**):

Omit Part 2.

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

- (3) Schedule 2 (**Savings, transitional and other provisions**):
Omit clauses 3, 4 (2) and 10 (2).

Explanatory note

The proposed amendments omit obsolete uncommenced provisions. The provisions were intended to update certain references to the manager of the Insurers' Contribution Fund established under the Workers' Compensation Act 1926 but were superseded before commencement.

PAROLE ORDERS (TRANSFER) ACT 1983 No. 190

Amendments

- (1) Section 3 (**Definitions**):
Omit the definition of "Parole Board".
- (2) Section 8 (**Registration**):
From section 8 (2) (a), omit "Chairman of the Parole Board", insert instead "Chairperson of the Offenders Review Board constituted by the Sentencing Act 1989".

Explanatory note

The proposed amendments update references to the Parole Board and its Chairman as a consequence of the enactment of the Sentencing Act 1989.

PERMANENT BUILDING SOCIETIES ACT 1967 No. 18

Amendment

- Section 116 (**Report to Parliament**):
Omit the section.

Commencement

The amendment to the Permanent Building Societies Act 1967 is taken to have commenced on 1 July 1990.

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

Explanatory note

The proposed amendment will repeal a superfluous provision relating to an annual report concerning administration of the Act. The provision has been superseded by the Annual Reports (Departments) Act 1985.

PRISONS (AMENDMENT) ACT 1988 No. 46

Amendments

Schedule 2 (**Miscellaneous amendments**):

Omit items (23) and (24).

Explanatory note

The proposed amendments omit obsolete uncommenced provisions. The provisions were to amend sections 63 and 64 of the Prisons Act 1952. Those sections have been repealed by Schedule 3 (8) to the Sentencing Act 1989.

PROHIBITED WEAPONS ACT 1989 No. 26

Amendment

Section 17 (**Proceedings for offences**):

From section 17 (2), omit "resulting from a contravention of section 5, 6 or 7 shall be so dealt with", insert instead "against this Act for which a penalty is provided if a conviction is obtained on indictment is to be dealt with summarily before a Local Court".

Explanatory note

The proposed amendment restates an existing provision concerning the disposing of indictable offences in a summary manner because of an incorrect cross-reference and to make the provision consistent with the wording of the same provision contained in the Firearms Act 1989.

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

REAL PROPERTY ACT 1900 No. 25

Amendment

Section 43B (**Statutory restrictions on alienation etc**):

From the definition of "land" in section 43B (1), omit "1988", insert instead "1989".

Explanatory note

The proposed amendment corrects a reference to an Act.

REGISTERED CLUBS ACT 1976 No. 31

Amendment

Section 48 (**Change of name of club**):

From section 48 (1), omit "with the registrar" where secondly occurring.

Explanatory note

The proposed amendment omits unnecessary words.

REPRINTS ACT 1972 No. 48

Amendments

(1) The Act:

Omit "Attorney-General" wherever occurring, insert instead "Attorney General".

(2) Long title:

Omit "by the Government Printer".

(3) Section 5 (**Reprinting of Act or Part in certified form**):

Omit section 5 (1) and (2), insert instead:

(1) The Attorney General may authorise an Act or Part that has been amended by an amending provision to be reprinted, as so amended, under the authority of the

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

Government, in the form certified as correct by the Attorney General.

(2) The Attorney General may authorise an Act or Part that has not been amended by an amending provision to be reprinted under the authority of the Government in the form certified as correct by the Attorney General.

Explanatory note

The proposed amendments:

- (a) update provisions relating to the reprinting of legislation so that they will better reflect current arrangements (items (2) and (3)); and
- (b) correct references to a name (item (1)).

STAMP DUTIES ACT 1920 No. 47

Amendments

- (1) Section 97C (**Definitions**):

From the definition of "market maker" in section 97C (1), omit "marker", insert instead "maker".

- (2) Section 124 (**Objections and appeals**):

From section 124 (1), omit "to amount", insert instead "to the amount".

Explanatory note

The proposed amendments correct grammatical errors consisting of the misspelling of a word (item (1)) and the omission of a word (item (2)).

STATE DRUG CRIME COMMISSION ACT 1985 No. 117

Amendments

- (1) Part 2, heading:

Omit the heading, insert instead:

**PART 2 - NEW SOUTH WALES CRIME
COMMISSION**

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

(2) Part 3, heading:

Omit the heading, insert instead:

**PART 3 - NEWSOUTH WALES CRIME
COMMISSION MANAGEMENT.
COMMITTEE**

(3) Section 32 (**Staff of Commission**):

- (a) From section 32 (1), omit "the" where secondly occurring.
- (b) From section 32 (2) (a) and (3) (a), omit "; and" wherever occurring.

Commencement

Items (1) and (2) of the amendments to the State Drug Crime Commission Act 1985 commence or are taken to have commenced on the commencement of Schedule 1 (3) and (10), respectively, to the State Drug Crime Commission (Amendment) Act 1990.

Item (3) of the amendments to the State Drug Crime Commission Act 1985 is taken to have commenced on 3 August 1990 (the date of commencement of Schedule 1 (12) to the State Drug Crime Commission (Amendment) Act 1990).

Explanatory note

The proposed amendments update references to the names of certain bodies and omit unnecessary words.

**STATE DRUG CRIME COMMISSION (AMENDMENT) ACT
1990 No. 50**

Amendments

Schedule 3 (**Amendment of Defamation Act 1974**):

- (a) From item (1), omit "Section 17M", insert instead "Section 17L".
- (b) From item (1), omit "17M (1)", insert instead "17L (1)".

Explanatory note

The proposed amendments renumber a provision and correct an incorporating direction.

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

**STATE POLLUTION CONTROL COMMISSION ACT
1970 No. 95**

Amendment

Section 6 (Constitution of the Commission):
From section 6 (2) (a1), omit "one shall be".

Explanatory note

The proposed amendment removes unnecessary words.

**STATUTE LAW (MISCELLANEOUS PROVISIONS) (No. 2) ACT
1989 No. 132**

Amendment

Schedule 2 (Amendments by way of statute law revision):
From item (4) (a) of the matter relating to the Library Act
1939, omit "sitting alone".

Explanatory note

The proposed amendment removes unnecessary words contained in an amendment.

STRATA TITLES ACT 1973 No. 68

Amendment

Section 60 (Power of body corporate to carry out work):
After "80" (wherever occurring), insert "(1)".

Explanatory note

The proposed amendment rectifies incorrect cross-references.

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

STRATA TITLES (LEASEHOLD) ACT 1986 No. 219

Amendment

Section 67 (**Encroachments**):

After "if" in section 67 (2) (b) (ii), insert "it".

Explanatory note

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

VICTIMS COMPENSATION ACT 1987 No. 237

Amendment

From the heading to Schedule 2, omit "OTHER" where secondly occurring.

Explanatory note

The proposed amendment omits an unnecessary word,

WATER ACT 1912 No. 44

Amendments

(1) Section 61 (**Conduits and drains**):

Before "board" in section 61 (2), insert "local land".

(2) Section 133D (**Imposition and modification etc, of certain conditions**):

From section 133B (3), omit "A", insert instead "An".

Commencement

The amendment to section 61 is taken to have commenced on 11 May 1990 (the day on which items (1) and (5)-(16) of the amendments to the Water Act 1912 in Schedule 1 to the Statute Law (Miscellaneous Provisions) Act (No. 3) 1989 commenced).

Explanatory note

The proposed amendments update a reference to a local land board and correct a grammatical error.

SCHEDULE 3 - REPEALS

(Sec. 4)

Farmers' Relief (Amendment) Act 1934 No. 13**
Farmers' Relief (Amendment) Act 1938 No. 25**
Farmers' Relief (Amendment) Act 1941 No. 53**
Crown Lands (Amendment) Act 1960 No. 32**
Crown Lands (Amendment) Act 1964 No. 7**
Crown Lands and Closer Settlement (Amendment) Act 1968
No. 61**
Crown Lands and Other Acts (Amendment) Act 1970 No. 28**
Racing (Amendment) Act 1971 No. 63**
Crown Lands and Other Acts (Amendment) Act 1975 No. 70**
Crown Lands and Other Acts (Rents and Interest Rates) Amendment
Act 1975 No. 96**
Closer Settlement (Amendment) Act 1978 No. 29**
Crown Lands (Amendment) Act 1978 No. 31**
Crimes (Compensation) Amendment Act 1979 No. 101**
Pure Food (Amendment) Act 1979 No. 179**
Crown Lands (Amendment) Act 1980 No. 4**
Closer Settlement (Amendment) Act 1980 No. 5**
Crown Lands (Miscellaneous Provisions) Amendment Act 1982 No.
6***
Closer Settlement (Miscellaneous Provisions) Amendment Act 1982
No. 7***
Supreme Court (Adoption of Children) Amendment Act 1982 No.
38***
Crown Lands (Special Lease Rents) Amendment Act 1983 No. 29**
Dentists (Amendment) Act 1983 No. 159**
Ambulance Services (Amendment) Act 1983 No. 163**
Public Health (Emergency Medical Treatment) Amendment Act 1983
No. 209**
Colleges of Advanced Education (Amendment) Act 1984 No. 152**
Foreign Judgments (Reciprocal Enforcement) (Commercial
Arbitration) Amendment Act 1984 No. 163**
Public Health (Proclaimed Diseases) Amendment Act 1985 No. 183**
Sale of Goods (Registrable Interests) Amendment Act 1986 No. 39**
Criminal Appeal (Mental Illness) Amendment Act 1986 No. 94**
Search Warrants (Exhibited Animals) Amendment Act 1986 No.
124**

SCHEDULE 3 - REPEALS - *continued*

Public Health (Necropolis) Amendment Act 1986 No. 146**
Roman Catholic Church Communities' Lands (Amendment) Act 1986
No. 191**
Prisons (Release on Licence Board) Amendment Act 1987 No. 138**
Crimes (Personal and Family Violence) Amendment Act 1987 No.
184**
Criminal Appeal (Amendment) Act 1987 No. 251**
Crimes (Railway Safety) Amendment Act 1987 No. 294**
Recreation Vehicles (Amendment) Act 1988 No. 15**
Dog (Amendment) Act 1988 No. 62**
Foreign Judgments (Reciprocal Enforcement) Amendment Act 1988
No. 65**
Crimes (Child Prostitution) Amendment Act 1988 No. 115**
State Authorities Non-contributory Superannuation (Amendment)
Act 1988 No. 135**
State Authorities Superannuation (Amendment) Act 1988 No. 136**
Defamation (Independent Commission Against Corruption)
Amendment Act 1989 No. 29**
Public Finance and Audit (Public Accounts) Amendment Act 1989 No.
57**
Crimes (Computers and Forgery) Amendment Act 1989 No. 71**
Criminal Appeal (Mental Disorder) Amendment Act 1989 No. 102**
Forestry (Amendment) Act 1989 No. 111**
Public Finance and Audit (Amendment) Act 1989 No. 193**
Public Health (Proclaimed Diseases) Amendment Act 1989 No. 206**

Note:

** indicates repeal of amending Act whose provisions have been included in a reprint and which contains no provision of substantive effect that needs to be retained or which amends a repealed' Act

*** indicates repeal of Act containing uncommenced provisions

Explanatory note

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

SCHEDULE 3 - REPEALS - *continued*

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

- (a) the proof of any past act or thing;
 - (b) any right, privilege, obligation or liability saved by the operation of the Act;
 - (c) any validation made by the Act.
-

SCHEDULE 4 - GENERAL SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

(Sec. 5)

Effect of amendment of amending provisions

1. (1) An amendment made by Schedule 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.

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

Effect of amendment or repeal on acts done or decisions made

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

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

any act done or decision made under the provision amended or repealed has effect after the amendment or repeal as if it had been done or made under the provision as so amended or repealed.

Explanatory note

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

Validation of certain fees

3. (1) The charging and collection of fees by the Roads and Traffic Authority from 1 July 1990 to 19 July 1990 under the relevant regulatory provisions, being fees that might properly have been so charged and collected if those provisions were then in force, is validated.

(2) The charging and collection of fees by the Roads and Traffic Authority from 1 July 1990 to 14 July 1990 (the day on which the Transport Licensing Act 1931 was repealed by the Passenger Transport Act 1990), being fees of an amount not more than 8.3% above the fees specified in Schedule G to the Transport Licensing Regulations 1931 as in force on 1 July 1990, is validated.

(3) In this clause "relevant regulatory provisions" means:

- (a) Schedule C to the Motor Vehicle Driving Instructors Regulations 1962;
- (b) Schedule O to the Motor Vehicles (Third Party Insurance) Regulations;
- (c) items 3–7 of Schedule 4 to the Recreation Vehicles (General) Regulation 1985;
- (d) Schedule E to the Tow-truck Regulations 1969,
as in force on 20 July 1990.

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

Explanatory note

The proposed clause validates the charging and collection of certain fees before the relevant provisions were amended to increase the fees. In the case of the fees under the Transport Licensing Regulations, amounts charged above the fees specified in the Regulations are validated.

The regulations to increase (in line with the general movement in prices) the fees were to have commenced on 1 July 1990 but were not gazetted until 20 July 1990 (or in the case of the Transport Licensing Regulations, were not gazetted at all because of the repeal of the Transport Licensing Act 1931 on 14 July 1990). The proposed clause is necessary to validate the charging and collection of fees during those periods when the increase in the amounts had not been given effect by gazettal of the regulations.

Regulations

4. (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.

NOTES

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Auctioneers and Agents Act 1941 No. 28 - Sch. 1
Banks and Bank Holidays Act 1912 No. 43 - Sch. 1
Bishopsgate Insurance Australia Limited Act 1983 No. 81 - Sch. 1
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Miscellaneous Acts (Workers' Compensation) Amendment Act 1984 No. 93 - Sch. 2
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*[Minister's second reading speech made in -
Legislative Assembly on 21 November 1990
Legislative Council on 4 December 1990]*