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OF THE STATE OF

NEW SOUTH WALES

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DEADLINES

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Government Gazette

OF THE STATE OF
NEW SOUTH WALES

Number 136
Wednesday, 25 August 2004

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SPECIAL SUPPLEMENT

LOCAL GOVERNMENT ACT 1993 – PROCLAMATION

MARIE BASHIR, Governor

I, Professor Marie Bashir AC, Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of Part 1 of Chapter 9, Part 5 of Chapter 12 and section 736 of the Local Government Act 1993, do, by this my Proclamation declare that on and from 25 August 2004:

- (a) the Areas of Coolah and Coonabarabran are amalgamated so as to constitute the new Area having the name of Warrumbungle Shire as described in Schedule A hereto;
- (b) the Proclamation published in the Special Supplement of the Government Gazette No. 90 of 26 May 2004 amalgamating the areas of the City of Bathurst, City of Lithgow, Evans, Merriwa, Mudgee, Oberon, Rylstone and Upper Hunter Shire so as to constitute new Areas having the names of Bathurst Regional, City of Lithgow, Oberon, Mid-Western Regional and Upper Hunter Shire is amended by omitting:
 - (i) clauses (b) and (d) appearing on page 3184 of the Special Supplement;
 - (ii) the definition of “staged commencement date” in clause 1 of Schedule D appearing on page 3205 of the Special Supplement; and
 - (iii) clause 1A of Schedule D appearing on page 3205 of the Special Supplement.
- (c) the land described in Schedule B hereto is taken from the Area of Mid-Western Regional, as last described by Proclamation in Government Gazette No. 90 of 26 May 2004, and transferred to the Area of Upper Hunter Shire, as described in Schedule C hereto;
- (d) the Mid-Western County Council is dissolved with its operations subsumed into the Area of Mid-Western Regional, the new Area of Warrumbungle Shire or the Castlereagh-Macquarie County Council in accordance with the provisions set out in Schedule A hereto;
- (e) the Proclamations in force constituting or varying the constitution of the Castlereagh-Macquarie County Council are amended by:

- (i) excluding the former Coonabarabran Shire Council as a constituent Council of the County Council and by including the new Warrumbungle Shire Council as a constituent Council of the County Council; and
- (ii) increasing the County Council’s area of operations to include the former Area of Coolah that is included in the new Council as described in Schedule A hereto; and
- (iii) providing that two persons are to be elected as members by the Warrumbungle Shire Council to the County Council’s governing body following the declaration of the first election.
- (f) the Proclamations in force constituting or varying the constitution of the Upper Hunter County Council are amended by increasing the area of operations to include the land described in Schedule B that is included in the Area of Upper Hunter Shire as described in Schedule C hereto;
- (g) the provisions set out in Schedule A hereto apply (unless another date is stated), to the Areas effected by this Proclamation, where applicable.

Signed and sealed at Sydney, this 25th day of August 2004.

By Her Excellency’s Command,

TONY KELLY, M.L.C.,
Minister for Local Government

GOD SAVE THE QUEEN!

Schedule A

Land included in the Warrumbungle Shire Local Government Area

Area about 12465.85 square kilometres: Commencing at the junction of the eastern boundary of the Parish of Bungaba, County of Bligh with Talbragar River: and bounded thence by part of that boundary southerly, the generally northern boundary of the Parish of Bligh generally easterly and part of the generally south-eastern boundary of the Parish of Nandoura northerly to the generally south-western boundary of Portion 138; by that boundary and the generally north-

western and northern boundaries of that portion generally north-westerly, generally north-easterly and generally easterly to the generally south-eastern boundary of the Parish of Nandoura; again by part of that boundary generally north-easterly to the Great Dividing Range; by that range generally north-easterly to the generally south-eastern boundary of the Parish of Nandoura; again by part of that boundary and the generally northern boundary of that parish generally north-easterly and generally westerly to Talbragar River, aforesaid; by that river upwards to the generally northern boundary of Portion 77, Parish of Warung; by part of that boundary generally easterly and part of the generally western boundary of Portion 12, Parish of Cunna easterly and northerly to the generally northern boundary of the County of Bligh; by part of that boundary and part of the generally south-eastern boundary of the Parish of Moredevil, County of Pottinger generally north-westerly to the generally south-western boundary of Portion 191, of Parish of Bundella; by that boundary and the generally south-western boundaries of Portions 189, 187 and 195 (part) generally north-westerly, the generally eastern boundary of Portion 186 generally southerly and part of the generally north-eastern, the generally south-eastern and the southern boundaries of Portion 143 south-easterly, generally south-westerly and westerly to Cox Creek; by that creek upwards to the north-eastern prolongation of the south-eastern boundary of Portion 58; by that prolongation and boundary south-westerly to the generally south-western boundary of the County of Pottinger; by part of that boundary generally north-westerly, the generally southern boundary of the Parish of Clarke, County of Pottinger generally easterly to Coxs Creek, aforesaid; by that creek downwards to the eastern prolongation of a southern boundary of Portion 147, Parish of Premer; by that prolongation and part of that boundary westerly to a point 400 metres east of the westmost western boundary of Portion 151, a line 100 metres southerly, a line 260 metres easterly, a line 100 metres southerly, a line westerly to the generally eastern boundary of Portion 104, Parish of Bomera; by part of that boundary and part of the generally eastern boundary of Portion 119 generally southerly to a point 260 metres south of the north boundary of Portion 119, a line westerly to the southern prolongation of the western boundary of Portion 140; by that prolongation, boundary and its prolongation northerly to the road from Breeza to Binnaway and by that road generally easterly to Coxs Creek; by that creek downwards and Bombera Creek, upwards to the eastern prolongation of northern boundary of Portion 42, Parish of Tambar, County of Pottinger; by that prolongation, boundary and part of the western boundary of that portion westerly and southerly to the north-eastern corner of Portion 46; by the northern boundary of that portion and Portion 9, a line, the northernmost boundary of portion 33, Parish of Wilson, and the generally northern boundary of Portion 18, generally westerly to the north-western corner of the said Portion 18; by a line north to the southern boundary of Portion 63, Parish of Urangera; by part of that boundary, the generally southern boundary of Portion 43, the generally western boundary of that portion and Portions 24, 54 and 44 and Portion 15, Parish of Nombi, generally westerly and northerly, the northern boundary of that portion and Portion 9 and part of the northern boundary Portion 29, Parish of Bingle, easterly, the western boundary of that portion and the westernmost and part of the westernmost northern boundary of Portion 100, northerly and easterly, the western boundary of that portion and Portion 34, northerly, by part of the southern boundary and the eastern boundary of Portion 87, easterly and northerly, the generally

northernmost northern boundary of Portion 101 and the northern boundary of Portion 105, generally easterly to Coxs Creek, aforesaid, by that creek downwards to the eastern prolongation of the generally southern boundary of the Parish of Coogal; by that prolongation and boundary and part of the generally western boundary of that parish generally westerly and northerly, the south-eastern and north-eastern boundaries of Portion 195 north-easterly and north-westerly, again the generally western boundary of the Parish of Coogal generally northerly to the north-western corner of the south-western boundary of Portion 191; by a line due east for a distance of 705.9 metres and a line due north for a distance of 2 845 metres; by a line westerly to the westernmost south-western corner of Portion 54; by the westernmost western boundary of that portion and Portion 53 northerly, by the western boundary of that Portion 50, Portion 194 and Portion 49, the westernmost boundary of Portion 46 and a line northerly to the westernmost northern boundary of Portion 86, Parish of Denison; by that boundary westerly, by a line along the eastern boundary of Portion 85, by the northern boundary and by a line along the western boundary of that portion, northerly, westerly and southerly to the generally northern boundary of the Parish of Brigalow; by part of that boundary generally westerly to Kerringle Creek; by that creek upwards to a point about 221.3 metres east of the south-western corner of Portion 7, Parish of Denison West; by a line south to a line point east of the south-eastern corner of Portion 2; by a line west to that corner; by the generally southern boundary of that portion and the southern boundary of Portion 157, generally westerly, part of the generally southern and part of the generally north-western boundaries of the Parish of Denison West generally westerly and generally north-easterly, the eastern prolongation of the southernmost southern boundary of the Parish of Galloway, County of White; by that prolongation, boundary and its prolongation westerly to Borah Creek; by that creek downwards to the southernmost southern boundary of Portion 5, Parish of Cocaboy; by a line south-westerly to a line parallel to and distance 650 metres south of the southern boundary of Portion 1, Parish of Loftus; by that line westerly to a point south-east of the intersection of the eastern prolongation of the southern boundary of the Parish of Denobollie and Timmallallie Creek; by a line north-westerly to that point; by the eastern prolongation and the southern boundary of the Parish of Denobollie westerly to its junction with the generally eastern boundary of the County of Baradine; by a line south-westerly to a point on the eastern boundary of Portion 23, Parish of Coolangoola distant 440 metres north of the south-eastern corner of that portion; by a line north-westerly to a point on the northern boundary of Portion 7, Parish of Cumbil distant 280 metres west of the north-eastern corner of that portion; by the continuation of that line for a further 200 metres; by a line south-westerly to the south-western corner of that portion; by Etoo Creek downwards to the north-eastern corner of Portion 3, Parish of Euligal; by a line generally westerly to a point on the southern boundary of Portion 11 distant 1 220 metres west of the south-eastern corner of that portion; by a line north-westerly to a point on the southernmost southern boundary of Portion 1, Parish of Boorimah distant 940 metres west of the southernmost south-eastern corner of that portion; by a line north-easterly to a point on the western boundary of Portion 2 distant 400 metres north of the south-western corner of that portion; by the continuation of that line for a further 520 metres; by a line north-westerly to a point on the north-western boundary of Portion 48, Parish of Wangan distant 1 380 metres south-west of the northern

corner of that portion; by a line south-westerly to the north-eastern corner of Portion 3; by the northern boundary of that portion and its prolongation westerly to the road from Pilliga to Baradine via Gwabegar; by that road southerly to Baradine Creek; by that creek upwards to its intersection with the Gwabegar Branch Railway; by a line south-westerly to Merriwee Creek; by a line north-westerly to the southern prolongation of the western boundary of Portion 2, Parish of Gwabegar; by a line south-westerly to a point on the western boundary of the Parish of Ceelnoy distant 2 200 metres north of the south-western corner of that parish; by part of the western boundaries of the last mentioned parish and the Parish of White generally southerly, part of the north-eastern and south-eastern boundaries of the Parish of Terembone, County of Leichhardt south-easterly and south-westerly to Teridgerie Creek; by that creek upwards to the generally eastern boundary of the Parish of Teridgerie; by part of that boundary and part of the generally eastern boundary of the Parish of Narratigah generally southerly and the northern boundary of the Parish of Goorianawa easterly to Warrumbungle Range; by that range generally south-easterly to the generally western boundary of the Parish of Woorut; by part of that boundary generally southerly, part of the generally northern, the generally western and part of the generally southern boundaries of the Parish of Gowang generally westerly, generally south-westerly and generally easterly to Wallumburrawang Creek; by that Creek downwards to the western prolongation of the northern boundary of portion 44, Parish of Kirban, County of Gowen; by that prolongation and boundary, a line and the northern boundaries of Portions 66, 67, 56 and 57 and its prolongation easterly to Yarragrinn Creek; by that creek and Castlereagh River, downwards to the generally western boundary of the Parish of Richardson, County of Lincoln; by that boundary and part of the generally southern boundary of that parish generally southerly and generally easterly and the eastern boundary of the Parish of Breelong South and its prolongation southerly to a point approximately 310 metres south of the southern boundary of Portion 2, Parish of Spring Creek; by a line westerly to Spring Creek; by that creek downwards to the northern prolongation of the eastern boundary of Portion 5; by that prolongation, boundary and its prolongation southerly to Talbragar River, aforesaid; by that river and Sandy Creek upwards to the generally western boundary of the Parish of Dapper; by part of that boundary generally southerly to the southernmost southern boundary of Portion 89; by that boundary easterly and the southern prolongation of the westernmost eastern boundary of that portion southerly to a point west of the westernmost south-western corner of Portion 82; by a line easterly to that corner; by part of the generally south-eastern boundary of the County of Lincoln generally north-easterly to the southern boundary of Portion 44, Parish of Rouse, County of Bligh; by part of that boundary and the southern boundaries of Portions 33 and 184 easterly and the eastern boundary of the last mentioned portion and its prolongation northerly to the southern boundary of Portion 26; by part of that boundary easterly, part of the western, the southern and the eastern boundaries of Portion 25 southerly, easterly and northerly and the eastern boundaries of Portions 24, 23, a line, 29 and 119 northerly to the south-eastern boundary of the County of Lincoln, aforesaid; by part of that boundary generally northerly and part of the generally southern boundary of the Parish of Wargundy, County of Bligh, generally easterly to the south-western boundary of the land shown on plan Ms16980e; by that boundary north-westerly and the north-western and north-eastern boundaries

of that land north-easterly and south-easterly to the generally southern boundary of the Parish of Wargundy; again by part of that boundary generally northerly and easterly to Talbragar River, aforesaid, and by that river upwards to the point of commencement.

1 Definitions

In this Schedule:

clause means a clause in this schedule.

Director General means the Director General of the Department of Local Government.

former Area means any or all of the following:

- that part of the former Area of Coolah which, by this Proclamation, is constituted as the new Area
- that part of the former Area of Coonabarabran which, by this Proclamation, is constituted as the new Area

former County Council means the former Mid-Western County Council.

former Council means any of the former Councils of Coolah Shire or Coonabarabran Shire.

Minister means the Minister for Local Government.

new Area means the Area of Warrumbungle Shire.

new Council means the Warrumbungle Shire Council.

proclamation date means 25 August 2004.

the Act means the Local Government Act 1993.

2 First election

- (1) The date of the first election of the Councillors of the new Council is 5 March 2005.
- (2) Unless otherwise required by the Act or the context, the provisions relating to ordinary elections shall be taken to apply to the first election of the Councillors.
- (3) For the purposes of:
 - (a) the entitlements of persons to be enrolled as electors for the new Area and to vote at the election, and
 - (b) the entitlements of persons to be nominated for election as Councillors for the new Area at the election, and
 - (c) the conduct of the election by the State Electoral Commissioner, and
 - (d) any other matter relating to the election, the new Area is taken to have been constituted on the date of publication of this proclamation.

3 Administration of new Council for interim period

- (1) For the interim period between 25 August 2004 and the declaration of the first election, one Administrator is appointed and is Mr Bruce Rindfleish (former Mayor of former Coolah Shire Council) to direct and control the affairs of the new Council.
- (2) If Mr Bruce Rindfleish declines to be appointed as the Administrator, resigns from the position or is otherwise unable to act as the Administrator, then Mr Peter Shinton (former Mayor of former Coonabarabran Shire Council) is appointed as the Administrator for the period set out in sub-clause (1) or the remainder of that period. If Mr Shinton declines the appointment, resigns from the position, or is otherwise unable to act as the Administrator then the Minister may appoint an alternate person as the

Administrator for the period set out in sub-clause (1) or the remainder of that period.

- (3) The Administrator will be paid \$50,000 per annum on a pro-rata basis for the interim period.
- (4) Any matters before the new Council that the Administrator appointed under either subclause (1) or subclause (2) is unable or unavailable to determine for such reasons that may include, but are not limited to, the declaration of a pecuniary interest, the declaration of a conflict of interest, illness, or other absence may be determined by a substitute Administrator appointed by the Minister for that limited purpose.
- (5) The Administrator is to complete and lodge with the Acting General Manager within 21 days, a disclosure of interests written return in accordance with Division 2 of Part 2 of Chapter 14 of the Act in the form prescribed by the regulations.
- (6) For the purposes of the Local Government Act 1993, the Administrator does not hold an office or a position of profit under the new Council.

4 Appointment of Acting General Manager

- (1) The Acting General Manager of the new Area shall be Mr Robert Geraghty (former Acting General Manager of the former Coonabarabran Shire Council) for the term commencing on 25 August 2004 until 5 September 2005.
- (2) The Acting General Manager of the new Council may be confirmed as the General Manager of the new Council at the council meeting prior to the expiry of the period set out in subclause (1), or otherwise recruitment processes commenced.
- (3) If the new Council resolves to commence recruitment processes for a General Manager, the term of the Acting General Manager named in subclause (1) is extended until the General Manager commences with the new Council.

5 Number of Councillors

- (1) The number of Councillors to be elected to the new Council at its first election is nine (9).
- (2) Subclause (1) does not limit the power of the new Council to re-determine, after the first election the number of its Councillors under section 224 of the Act.

6 Ward Structure

- (1) The new Council shall not be divided into wards for the first election.
- (2) Nothing in subclause (1) limits the power of the new Council following the first election to hold a constitutional referendum to obtain approval to divide its Area into wards in accordance with Division 1 of Part 1 of Chapter 9 of the Act.

7 Election of Mayor following the first election

- (1) The Mayor of the new Council is to be elected by the Councillors as referred to in sections 227 (a), 282 and 290 (1) (c) of the Act at the new Council's first meeting following the first election.
- (2) Nothing in subclause (1) limits the power of the new Council following the first election to hold a constitutional referendum to determine the basis on

which the Mayor attains office in accordance with Division 2 of Part 2 of Chapter 9 of the Act.

8 Appointment of the General Manager and other senior staff

The operation of this clause and clause 4 is not to be regarded as a breach of contract between a former Council or former County Council or the new Council and a senior staff member (including a General Manager).

9 Activities of former Councils and former County Council

- (1) Anything that was done or omitted to be done by a former Council or former County Council and that had effect immediately before the proclamation date continues to have effect as if it had been done or omitted to be done by the new Council.
- (2) Anything that was commenced by a former Council or former County Council may be completed by the new Council as if it had been commenced by the new Council.
- (3) Without limiting subclause (1) any approval, order or notice that was given or made by a former Council or former County Council, and that had effect immediately before the proclamation date, continues to have effect as if it had been done or made by the new Council.

10 Delegations

- (1) Any delegation from a former Council or former County Council that was in force immediately before the proclamation date is taken to be a delegation from the new Council and may be revoked or amended accordingly.
- (2) Subclause (1) ceases to have effect when the new Council adopts new delegations under the relevant provisions of the Act.

11 Codes, policies and plans

- (1) The following policies and plan of the new Council are, as far as practicable and where applicable, to be a composite of the corresponding policies and plans of each of the former Councils and former County Council:
 - (a) local policies for approvals and orders (Part 3 of Chapter 7).
 - (b) management plan (Part 2 of Chapter 13).
- (2) The new Council shall adopt a new social and community plan by 30 November 2006.
- (3) Each of the following codes, policies and plans of the former Coonabarabran Shire Council apply, as far as practicable, to the new Council:
 - (a) code of conduct (section 440).
 - (b) code of meeting practice (Division 1 of Part 2 of Chapter 12).
 - (c) expenses and facilities policy (Division 5 of Part 2 of Chapter 9).
 - (d) EEO management plan (Part 4 of Chapter 11).
- (4) Subclauses (1) and (3) cease to have effect in relation to a code, policy or plan of the new Council when the new Council adopts a new code, policy or plan under the relevant provisions of the Act.

12 Fees

- (1) The annual fee paid to each Councillor of the new Council and the annual fee paid to the Mayor of the new Council is to be equal to the highest of the corresponding fees paid by the former Councils.
- (2) Subclause (1) ceases to have effect in relation to an annual fee when the new Council fixes the annual fee in accordance with the appropriate determination of the Local Government Remuneration Tribunal.

13 Organisation Structure

The initial organisation structure of the new Council is, as far as practicable, to be a composite of the organisation structures of each of the former Councils and former County Council.

14 Transfer of Senior Staff

- (1) Any position that, immediately before the proclamation date, was a senior staff position of:
 - (a) the former Coolah Shire Council is transferred to the Council of the Area of Warrumbungle Shire.
 - (b) the former Coonabarabran Shire Council is transferred to the Council of the Area of Warrumbungle Shire.
 - (c) the former Mid-Western County Council is transferred to the Council of the Area of Mid-Western Regional or the Council of the Area of Warrumbungle Shire as determined by agreement between the Councils of the Areas of Mid-Western Regional and Warrumbungle Shire.
- (2) The senior staff of each former Council and former County Council are taken to be senior staff of the new Council or Mid-Western Regional Council as determined with reference to subclause (1).
- (3) This clause ceases to have effect when a new organisation structure is determined by the new Council under Part 1 of Chapter 11 of the Act.
- (4) A senior staff member of a former Council or former County Council can be confirmed in a senior staff position in the new Council, that has an equivalent level of responsibility and remuneration, when the organisation structure is determined by the new Council in accordance with subclause (3), or otherwise recruitment processes commenced.

15 Transfer and maintenance of other staff

- (1) It is intended that the making of any determinations as to the transfer of staff (other than senior staff) by virtue of the constitution of the new Areas made in this proclamation is to be in accordance with this clause:
 - (a) Each member of staff of the former Coolah Shire Council (a transferred staff member) is transferred to the Council of the Area of Warrumbungle Shire.
 - (b) Each member of staff of the former Coonabarabran Shire Council (a transferred staff member) is transferred to the Council of the Area of Warrumbungle Shire.
 - (c) Each member of staff of the former Mid-Western County Council (a transferred staff member) is transferred to the Council of the Area of Mid-Western Regional or the Council of the Area

of Warrumbungle Shire or the Castlereagh-Macquarie County Council as determined by agreement between the Councils of the Areas of Mid-Western Regional and Warrumbungle Shire and the Castlereagh-Macquarie County Council.

- (2) Section 218CA (maintenance of staff numbers in rural centres) and Part 6 of Chapter 11 of the Act (employment protection) applies to the employment of a transferred staff member.

16 Transfer of assets, rights and liabilities

- (1) It is intended that the making of any determinations as to the transfer of assets, rights and liabilities of the former Councils and former County Council by virtue of the constitution of the new Area made in this proclamation is to be in accordance with this clause:
 - (a) The assets, rights and liabilities of the former Coolah Shire Council are transferred to the Council of the Area of Warrumbungle Shire.
 - (b) The assets, rights and liabilities of the former Coonabarabran Shire Council are transferred to the Council of the Area of Warrumbungle Shire.
 - (c) The assets, rights and liabilities of the former Mid-Western County Council are transferred to the Council of the Area of Mid-Western Regional or Warrumbungle Shire as determined by agreement between the Councils of the Areas of Mid-Western Regional and Warrumbungle Shire.
- (2) The following provisions have effect in relation to any assets, rights or liabilities that are transferred by operation of subclause (1):
 - (a) The assets of the former Councils or former County Council vest in the new Council or Mid-Western Regional Council by virtue of this clause and without the need for any further conveyance, transfer, assignment or assurance.
 - (b) The rights or liabilities of the former Councils or former County Council become, by virtue of this clause, the rights and liabilities of the new Council or Mid-Western Regional Council.
 - (c) All proceedings relating to the assets, rights or liabilities commenced before the transfer by or against the former Councils or former County Council or a predecessor of any of the former Councils or former County Council, and pending immediately before the transfer, are taken to be proceedings pending by or against the new Council.
 - (d) Any act, matter or thing done or omitted to be done in relation to the assets, rights or liabilities before the transfer by, to or in respect of the former Councils or former County Council or a predecessor of any of the former Councils or former County Council (to the extent to which that act, matter or thing has any force or effect) is taken to have been done or omitted by, to or in respect of the new Council.
 - (e) Anything that was commenced by a former Council or former County Council and uncompleted at the proclamation date may be

completed by the new Council as if it had been commenced by the new Council. This includes but is not limited to any application for approval or consent under the Act or any other Act.

- (f) In so doing, the new Council must make any determinations required to be made in accordance with any relevant code, policy or plan of the relevant former Council or former County Council, until such time as the new Council makes a new code, policy or plan in relation to that matter in accordance with the Act or any other Act.
- (g) Anything that was done by a former Council or former County Council, and that had effect immediately before the proclamation date, or that was commenced by a former Council or former County Council and completed by the new Council as a result of this proclamation, continues to have effect and may be enforced by the new Council as if it had been done by the new Council.
- (h) Without limiting subclause (2) (g) any approval, order or notice that was given or made by a former Council or former County Council, and that had effect immediately before the proclamation date, continues to have effect and for all the purposes of the Act or any other Act shall be deemed to have been given or made by the new Council.
- (i) Any decision of the Land and Environment Court in an appeal from a decision of a former Council or former County Council, determined by the Court after the proclamation date, shall be deemed to be a decision of the new Council.
- (3) In this clause:

Assets means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property of any description (including money), and includes securities, streams of income, choses in action and documents.

Liabilities means any liabilities, debts or obligations (whether present or future and whether vested or contingent) and includes liabilities relating to criminal acts.

Rights means any rights, powers, privileges or immunities (whether present or future and whether vested or contingent).

17 General provisions with respect to transfers

- (1) A transfer affected by this Schedule takes effect on the proclamation date.
- (2) The Minister may, by notice in writing, confirm a transfer affected by this Schedule.
- (3) Such a notice is conclusive evidence of the transfer.

18 Effect of transfer on third party rights

- (1) The operation of clause 16 (Transfer of assets, rights and liabilities) is not to be regarded:
 - (a) as an event of default under any contract or other instrument, or
 - (b) as a breach of contract or confidence or otherwise as a civil wrong, or

(c) as a breach of a contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities, or

(d) as giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability.

- (2) No attornment to the new Council by a lessee from a former Council or former County Council is required in relation to a transfer affected by clause 16.
- (3) No compensation is payable to any person or body in connection with a transfer affected by clause 16.
- (4) Subclause (3) does not affect the rights of any person or body in connection with the early termination of a contract between a former Council or former County Council and that person or body.

19 Reports and reviews of the new Council

- (1) A duty of the new Council under any Act, including a duty to report or review, which relates to a period before the proclamation date, is to be performed by reference to the former Areas and the former Councils or former County Council as appropriate.
- (2) Until 30 June 2005 the records and statutory reports of the new Council are to be kept as a continuation of the records and statutory reports of each of the former Councils or former County Council and the new Council's financial transactions are to be apportioned between the various accounting records in such a manner as the new Council determines.
- (3) The new Council's financial and statutory reports for the year ended 30 June 2005 are to be prepared in the form of separate reports for each set of records of the former Councils and former County Council for the whole of that year.
- (4) The new Council may pass a resolution to consolidate the records and statutory reports of the former Councils and former County Council and prepare and submit consolidated financial and statutory reports for the new Council for the year ended 30 June 2005. The new Council is to advise the Director General if such a resolution is passed.

20 Auditor

- (1) The Auditor, Spencer Steer will be the Auditor of the new Council unless the new Council appoints another Auditor in accordance with Division 3 of Part 3 of Chapter 13 of the Act.
- (2) If the Auditor named in sub-clause (1) declines or is not capable of accepting the appointment, the Minister may appoint an alternate Auditor.

21 References to former Areas, Councils and County Council

In any Act, in any instrument made under any Act or in any document of any kind:

- (1) A reference to any of the former Areas, or to a predecessor of any of the former Areas, is taken to include a reference to the new Area and is to be read as a reference to the new Area, and
- (2) A reference to any of the former Councils or former County Council, or to a predecessor of any of the former Councils or former County Council, is to be

taken as a reference to the new Council and is to be read as a reference to the new Council.

22 Rating Structures

- (1) The new Council's maximum general income for 2005/06 is to be determined by estimating the proportionate amount of general income for 2004/05 from land in the former Areas that are included in the new Area.
- (2) The new Council is to determine its rating structure taking into consideration subclause (1).
- (3) The rating structure is to be reviewed within the first year of the new Council.

23 Mid-Western County Council

The Mid-Western County Council is dissolved with its operations subsumed into the Councils of the Areas of Mid-Western Regional and Warrumbungle Shire or the Castlereagh-Macquarie County Council as determined by agreement between the Councils of the Areas of Mid-Western Regional and Warrumbungle Shire and the Castlereagh-Macquarie County Council.

24 Castlereagh-Macquarie County Council

For the interim period between 25 August 2004 and the election of members of the County Council by the Warrumbungle Shire Council following the declaration of the first election, the Administrator of the Warrumbungle Shire Council is entitled to two votes at meetings of the County Council.

25 Matters to be determined by Minister

- (1) In order to give effect to this proclamation, the Minister may determine from time to time any matter or thing, including, without limitation, the content of the matters set out in clause 11.
- (2) In pursuance of this clause, any matter or thing requiring determination may be referred to the Minister by the new Council, Mid-Western Regional Council or Upper Hunter Shire Council.
- (3) The Minister may also determine any matter or thing that has not been referred to him by the new Council if the Minister concludes that the matter or thing cannot be determined by agreement between the new Council, Mid-Western Regional Council and Upper Hunter Shire Council or if the Minister is not satisfied with any agreement reached between the aforementioned new Council, Mid-Western Regional Council and Upper Hunter Shire Council, including in relation to subclauses (2) and (4) herein.
- (4) A matter to be determined by the Minister may be referred to the Director General, and/or another person or persons nominated by the Minister, for advice and recommendation, as appropriate.
- (5) The Director General and/or another person or persons nominated by the Minister, shall, if required by the Minister, convene a meeting between the new Council, Mid-Western Regional Council or Upper Hunter Shire Council to assist in the determination of the matter.
- (6) The Director General and/or any person or persons nominated by the Minister under this clause, shall have regard to the Statement of Intent herein and any other principles or guidelines considered appropriate in the circumstances.

26 Statement of Intent

- (1) The Minister will consider an application made by the new Council for a Special Variation to increase its General Income.
- (2) There will be meaningful cooperation between the Councils of the Areas of Mid-Western Regional, Warrumbungle Shire and Upper Hunter Shire and Castlereagh-Macquarie County Council in the sharing of information and agreement of all matters necessary to facilitate the provisions of this proclamation.
- (3) The Councillors of the new Council are to exercise community leadership for the whole local government area as set out in the Act.

Schedule B

Land to be transferred from the Mid-Western Regional local government area to the Upper Hunter Shire local government area

Area about 710.89 square kilometres. Commencing at the junction of the generally northern boundary of the County of Bligh and the generally north-western boundary of Portion 26, Parish of Moan, County of Bligh; and bounded thence by that portion boundary, the western and the southmost southern boundaries of that portion and its prolongation, generally south-westerly, southerly and easterly to the Munmurra River; by that river, downwards to the western prolongation of the northern boundary of Lot 1, DP 779029; by that prolongation, boundary and the generally north-eastern and part of the southern boundaries of that lot, easterly, generally south-westerly and westerly, the generally eastern boundary of Lot 3, DP 184405, generally southerly, and the generally south-eastern boundaries of Lot 1, DP 384909, Lots 33 and 34, DP 131506, generally south-westerly, by a line, south-easterly to the south-eastern side of the road running through Lot 1, DP 381806; by that side of that road, generally south-westerly to the western boundary of Lot 1, DP 381806; by part of that boundary and the western boundary of Lot 1, DP 131801, southerly, the western and part of the southern boundaries of Portion 88, Parish of Nagora, southerly and westerly to the north-eastern prolongation of the south-eastern side of the road running through Portion 113; by that prolongation and side of road, generally south-westerly to the south-western corner of Portion 219, Parish of Bellaleppa; by a line south-westerly to the north-eastern corner of Lot 3, DP 232743; by the generally northern boundary of that lot, generally westerly, part of the generally eastern boundary of the Parish of Borambil, generally southerly to the generally north-eastern side of the Golden Highway; by that side of that highway, generally north-easterly to Borambil Creek; by that creek and Munmurra River, aforesaid, downwards to generally south-eastern boundary of the Parish of Tomimbil; by part of that boundary, generally south-westerly to the southern prolongation of the western boundary of Lot 92, DP 750769; by that prolongation, boundary and part of the northern boundary of that lot, northerly and easterly, the western boundaries of Lots 91 and 21, DP 750769, northerly, part of the southern boundaries of Lots 51 and 20, DP 750769, westerly, the eastern, southern and western boundaries of Lot 3, DP 820707, southerly, westerly and northerly, the western boundary of Lot 98, DP 750769, northerly, part of the southern boundary of Lot 63, DP 750769, westerly, the northern prolongation of the eastern boundary of Lot 6, DP 256129, that boundary, a line, the eastern boundary of Lot 7, DP 256129 and its prolongation, southerly, the eastern

and southern boundaries of Lot Pt 96, DP 750769, southerly and westerly, the southern boundary of Lot 94, DP 750769, westerly, part of the eastern and the southern boundaries of Lot 99, DP 750748 and its prolongation southerly and westerly, part of the south-eastern and the western boundaries of Lot 29, DP 750748, south-westerly and northerly, the southern boundaries of Lots 30, 37, 20 and 72, DP 750748, westerly, part of the eastern, the southern and western boundaries of Lot 76, DP 750748, southerly, westerly and northerly, the generally south-western boundary of Lot 153, DP 750748, generally north-westerly, the generally southern and part of the generally western boundaries of Lot 160, DP 750748, generally westerly and generally northerly, part of the northern boundary of Lot 134, DP 750748 westerly and the western boundary of Lot 128, DP 750748, northerly to the Great Dividing Range; by that range generally north-easterly to generally south-eastern boundary of the Parish of Nandoura, on the southern boundary of Portion 125; by part of that boundary and the generally northern boundary of that parish, generally north-easterly and generally westerly to the Talbragar River; by that river upwards to the generally northern boundary of Portion 77, Parish of Warung; by part of that boundary, generally easterly and part of the generally western boundary of Portion 12, Parish of Cunna, generally northerly to the generally northern boundary of the County of Bligh, aforesaid and by part of that boundary, generally easterly to the point of commencement.

Schedule C

Land included in the Upper Hunter Shire local government area (as altered)

Area about 8,060.21 square kilometres: Commencing at the junction of Dart Brook with the Hunter River; and bounded thence by that river upwards to the north-western corner of portion 123, parish of Russell, county of Durham; by a line along the northern boundary of that portion and the northern boundary of portion 122 easterly to a point about 15 chains east of the south-western corner of portion 128; by a line north-easterly to the southernmost corner of portion 131; by the generally south-eastern boundary of that portion and portion 132 generally north-easterly to the easternmost south-eastern corner of the latter portion; by a line easterly to the northern-most corner of portion 82; by part of the generally southern boundary of 135 generally easterly to the south-eastern corner of that portion; by the southernmost boundary and the generally south-eastern boundary of portion 120 and the generally south-eastern boundary of portion 83 easterly and generally north-easterly to the southern boundary of portion 44; by part of the southern boundary of that portion, the southern boundary of portion 42, the southern boundary and part of the eastern boundary of portion 41 and the southern boundary of portion 7, easterly, northerly and again easterly to the western boundary of portion 150, parish of St. Aubins; by part of that boundary and the southern boundary of that portion and the southern boundary of portion 149, southerly and easterly to the south-eastern corner of the latter portion; by the generally southern boundary of portion 164, the south-western and south-eastern boundaries of portion 26 and the generally northern boundary of portion 146, generally easterly to the western boundary of portion 12; by part of that boundary, the northern boundary of that portion and a line along the northern boundary of portions 13 and 14, northerly and easterly to the western boundary of portion 266, parish of Tudor; by part of that boundary and a line along the southern boundary of that portion southerly

and easterly to the south-western boundary of portion 268; by a line along the south-western boundary of portions 268, 271 and 272 and the southern boundary of the lastmentioned portion, south-easterly and easterly to the south-eastern corner of the said portion 272; by part of the eastern boundary of that portion and a line along the southern boundary of portions 276, 280 and 283, northerly and easterly to the north-western corner of portion 287; by a line along the western, southern and eastern boundaries of portion 287, southerly, easterly and northerly to the north-western corner of portion 295; by a line along the northern and eastern boundaries of that portion easterly and southerly to the northern boundary of portion 298; by a line along that boundary easterly to the western boundary of portion 319; by part of that boundary and the western boundary of portion 320 southerly to the south-western corner of the latter portion; by the southern boundary of that portion easterly; by the westernmost, the northern and north-eastern boundaries of 302, parish of Foy and the north-eastern boundaries of portions 301, 300 and 299, northerly and generally south-easterly to the westernmost boundary of portion 80, parish of Rosamond; by the range dividing the waters of Fal Brook and Davis Creek through portion 80 generally north-easterly to the easternmost boundary of that portion; again by that range forming the south-eastern boundary of the said parish of Rosamond generally north-easterly to the Mount Royal Range; by that range generally northerly to the source of the Manning River; by that river downwards to its confluence with Kangaroo Creek; by that creek upwards to the south-western corner of portion 113, parish of Myra, county of Hawes; by a line along the western boundary of that portion and portions 107 and 10 northerly to Pigna Barney River; by that river upwards to the south-western corner of portion 28, parish of Curricabark; by a line along the western boundary of that portion, the westernmost boundary of portions 29 and 19 and the western boundary of portion 37 of the said parish of Curricabark, the westernmost boundary of portion 37, parish of Mernot, and the western boundary of portion 36 northerly to McKenzies Creek; by that creek downwards to its confluence with the Barnard River at the north-western corner to portion 23; by a line north-easterly to the south-western corner of portion 8, parish of Hall; by a line along the western boundary of that portion northerly to Tuggolo or Lawsons Creek; by that creek upwards to the northernmost corner of portion 7 of the said parish of Hall; by a western, a northern and the westernmost boundary of that portion, southerly, westerly and again southerly to the Barnard River; by that river upwards to the north-western corner of portion 10, parish of Barry; by a line along the western boundary of that portion southerly to Ben Halls Creek; by that creek upwards to the northern boundary of portion 13; by part of that boundary westerly to the north-western corner of the said portion 13; by part of the western boundary of the said parish of Barry generally southerly to the southernmost corner of portion 34, parish of Yeerawun; by part of the generally northern boundary of the County of Brisbane, generally westerly, part of the generally western boundary of Lot 222, DP 750952, generally easterly and generally southerly, the generally north-eastern, the generally south-eastern and part of the generally south-western boundaries of Lot 1, DP 732462, generally south-easterly, generally south-westerly and generally north-westerly, the generally eastern and the generally southern boundaries of Lot 2, DP 732462, generally southerly and generally westerly to the generally northern boundary of the County of Brisbane, aforesaid; by that boundary and the generally northern

boundary of the County of Bligh generally westerly, part of the generally western boundary of Portion 12, Parish of Cunna, generally southerly and part of the generally northern boundary of Portion 77, parish of Warung, generally westerly to the Talbragar River; by that river downwards to the generally northern boundary of the Parish of Nandoura; by that boundary and part of the generally south-eastern boundary of that parish, generally easterly and generally south-westerly to the Great Dividing Range, on the southern boundary of Portion 215; by that range generally south-westerly to the western boundary of Lot 128, DP 750748; by that boundary, southerly, part of the northern boundary of Lot 134, DP 750748, easterly, the generally western and the generally southern boundaries of Lot 160, DP 750748, generally southerly and generally easterly, the generally south-western boundary of Lot 153, DP 750748, generally south-easterly, the western, southern and part of the eastern boundaries of Lot 76, DP 750748, southerly, easterly and northerly, the southern boundaries of Lots 72, 20, 37 and 30, easterly, the western and part of the south-eastern boundaries of Lot 29, DP 750748, southerly and north-easterly, the western prolongation of the southern boundary of Lot 99, DP 750748, that boundary and part of the eastern boundary of that lot, easterly and northerly, the southern boundary of Lot 94, DP 750769 easterly, the southern and eastern boundaries of Lot Pt 96, DP 750769, easterly and northerly, the southern prolongation of the eastern boundary of Lot 7, DP 256129, that boundary, a line, the eastern boundary of Lot 6, DP 256129 and its prolongation, northerly, part of the southern boundary of Lot 63, DP 750769, easterly, the western boundary of Lot 98, DP 750769, southerly, the western, southern and eastern boundaries of Lot 3, DP 820707, southerly, easterly and northerly, part of the southern boundaries of Lot 20 and 51, DP 750769, easterly, the western boundaries of Lots 21 and 91, DP 750769, southerly, part of the northern and the western boundaries of Lot 92, DP 750769 and its prolongation, westerly and southerly, the generally south-eastern boundary of the Parish of Tomimbil, generally north-easterly to the Munmurra River; by that river and Goulburn River downwards to the north-western corner of portion 25, parish of Dangar, county of Brisbane; by a line along the northern boundary of portions 25 and 26 and the western boundary of portion 29, easterly and northerly to the range forming the generally eastern watershed of Smith's Rivulet of Merriwa Creek; by that range generally north-easterly to the range forming the generally south-western watershed of Worondi Rivulet; by the latter range generally south-easterly to the northernmost corner of portion 93; by the generally north-eastern boundary of that portion and part of the northern boundary of portion 88 generally south-easterly and easterly to the western boundary of portion 38, parish of Wickham; by part of the western, the northern and part of the eastern boundary of that portion northerly, easterly and southerly to the north-western corner of portion 50; by the northern boundary of that portion, part of the western boundary and the northern boundary of portion 305, easterly, northerly and again easterly to the western boundary of portion 61; by a line along that boundary northerly to the southern boundary of portion 353; by part of that boundary and the southernmost boundary of portion 235 westerly to the south-western corner of the lastmentioned portion; by the generally western and northern boundaries of the said portion 235, generally northerly and easterly to the western boundary of portion 354; by part of that boundary and a line along the northern boundary of portion 354; northerly and easterly to the western boundary of portion 32; by part of

that boundary northerly to the south-eastern corner of portion 249; by boundaries of that portion generally westerly, northerly and easterly to the western boundary of portion 126; by a line along the western boundary of that portion northerly to the southern boundary of portion 131; by part of the southern boundary and the western boundary of that portion westerly and northerly; by a line along the northern boundary of portions 131, 47 and 33 easterly to the south-western corner of portion 312; by the western boundary of that portion northerly to the southern boundary of portion 222; by boundaries of that portion westerly, northerly and easterly to the south-western corner of portion 213; by boundaries of portion 213 northerly and easterly to the western boundary of portion 185; by part of that boundary and a line along the western and northern boundaries of portion 184, northerly and easterly to a point south of the south-eastern corner of portion 138; by a line along the eastern boundary of portion 138 northerly to Gungal or Halls Creek; by that creek upwards to the south-western corner of portion 9, parish of Myrabluan; by the southern boundary of that parish generally easterly to Wybong Creek; by that creek downwards to the south-western corner of portion 4 Rem, Parish of Guan Gua; by a line along the southernmost boundary of that portion easterly to the south-western corner of portion 1, parish of Halscot; by the southern boundary of that Parish and the Parish of Strathearn generally easterly to Dart Brook; and by that brook downwards to the point of commencement.

Schedule D

Land included in the Mid-Western Regional local government area (as altered)

Area about 8,691.96 square kilometres. Commencing at the confluence of the Macquarie River and Tambaroora Creek: and bounded thence by that creek, upwards to the generally western boundary of Hill End – Tambaroora Common; by that boundary and the northern boundary of that Common, generally northerly and easterly to a point 50 metres offset on the south-eastern side of Dixons Long Point Road; by that 50 metre offset, generally south-easterly to the south-western boundary of Lot 78, DP 756873; by part of that boundary, the north-western boundary of that lot and its prolongation, north-westerly and north-easterly to the generally south-eastern side of the road from Hill End to Hargraves; by that side of that road, generally north-easterly to, again the generally eastern boundary of the Parish of Tambaroora; by part of that boundary, generally northerly to, again the south-eastern side of the road from Hill End to Hargraves; by that side of that road, generally north-easterly to Green Valley Creek; by that creek, upwards to the generally northern boundary of the Parish of Cunningham; by part of that boundary generally easterly to Crudine River; by that river downwards and Turon River aforesaid, and Round Swamp Creek upwards to the western prolongation of the southern boundary of Portion 34, Parish of Hearne, County of Roxburgh; by that prolongation and boundary, the southern and eastern boundaries of Portion 85, the eastern boundary of Portion 96 and part of the western boundary of Portion 152 easterly and northerly and the western prolongation of the northernmost boundary of the lastmentioned portion westerly for a distance of approximately 217 metres; by lines northerly 370 metres, easterly 80 metres and again northerly 446 metres to the western prolongation of the southern boundary of Portion 156; by that prolongation easterly and the western and part of the northern boundaries of that portion

northerly and easterly to the generally western boundary of the Parish of Airly; by part of that boundary generally northerly to the Great Dividing Range; by that range, generally north-easterly and generally north-westerly to the source of Coricudgy Creek at Mount Coricudgy; by that creek and Widdin Brook downwards to the southern prolongation of the western boundary of Portion 31, Parish of Pomany, County of Phillip; by that prolongation, boundary and its prolongation northerly to the range forming the eastern watershed of Emu Creek; by that range generally northerly to the eastern prolongation of the southern boundary of Portion 72, Parish of Simpson; by that prolongation easterly for a distance of approximately 115 metres; by a line northerly to the eastern prolongation of the southern boundary of Portion 44, Parish of Widdin; by that prolongation westerly and the eastern and northern boundaries of that portion northerly and westerly to its north-western corner; by a line north-westerly to Cedar Creek; by a line westerly to The Livery Stable; by part of the generally north-western boundary of the Parish of Simpson generally north-easterly to the eastern prolongation of the generally southern boundary of the Parish of Bylong; by that prolongation westerly to the range forming the eastern watershed of Reedy, Wattle and Stockyard Creeks; by that range and the range forming the north-western watershed of Birds Creek and Kerrabee Arm generally north-easterly to the western boundary of Portion 34, Parish of Kerrabee; by part of that boundary and the northern boundary of that portion and its prolongation northerly and easterly to Goulburn River; by that river and Munmurra River, upwards to generally south-eastern boundary of the Parish of Tomimbil; by part of that boundary, generally south-westerly to the southern prolongation of the western boundary of Lot 92, DP 750769; by that prolongation, boundary and part of the northern boundary of that lot, northerly and easterly, the western boundaries of Lots 91 and 21, DP 750769, northerly, part of the southern boundaries of Lots 51 and 20, DP 750769, westerly, the eastern, southern and western boundaries of Lot 3, DP 820707, southerly, westerly and northerly, the western boundary of Lot 98, DP 750769, northerly, part of the southern boundary of Lot 63, DP 750769, westerly, the northern prolongation of the eastern boundary of Lot 6, DP 256129, that boundary, a line, the eastern boundary of Lot 7, DP 256129 and its prolongation, southerly, the eastern and southern boundaries of Lot Pt 96, DP 750769, southerly and westerly, the southern boundary of Lot 94, DP 750769, westerly, part of the eastern and the southern boundaries of Lot 99, DP 750748 and its prolongation southerly and westerly, part of the south-eastern and the western boundaries of Lot 29, DP 750748, south-westerly and northerly, the southern boundaries of Lots 30, 37, 20 and 72, DP 750748, westerly, part of the eastern, the southern and western boundaries of Lot 76, DP 750748, southerly, westerly and northerly, the generally south-western boundary of Lot 153, DP 750748, generally north-westerly, the

generally southern and part of the generally western boundaries of Lot 160, DP 750748, generally westerly and generally northerly, part of the northern boundary of Lot 134, DP 750748 westerly and the western boundary of Lot 128, DP 750748, northerly to the Great Dividing Range; by that range, generally south-westerly, the generally south-eastern boundary of the Parish of Nandoura, generally south-westerly, the northern, the generally north-western and the generally south-western boundaries of Portion 138, westerly, generally south-westerly and generally south-easterly, again, the generally south-eastern boundary of the Parish of Nandoura, generally southerly, the generally northern boundary of the Parish of Bligh, generally westerly and part of the eastern boundary of the Parish of Bungaba, northerly to the Talbragar River, aforesaid; by that river, downwards to the generally southern boundary of the Parish of Wargundy; by part of that boundary, generally westerly and generally southerly, the north-eastern, north-western and south-western boundaries of land Ms 16980e, north-westerly, south-westerly and south-easterly, again, the generally southern boundary of the Parish of Wargundy, generally westerly, part of the generally south-eastern boundary of the County of Lincoln, generally southerly, the eastern boundaries of Portions 119, 29, a line, 23 and 24, Parish of Rouse, County of Bligh, southerly, the eastern, southern and part of the western boundaries of Portion 25, southerly, westerly and northerly, part of the southern boundary of Portion 26, westerly, the northern prolongation of the eastern boundary of Portion 184, that boundary, southerly, the southern boundaries of the last mentioned portion and Portions 33 and 44, westerly, again, part of the generally south-eastern boundary of the County of Lincoln, generally south-westerly, the generally southern boundary of the Parish of Worobil, County of Bligh, generally easterly to the Cudgegong River; by that river, downwards and Meroo Creek; upwards to the northern prolongation of the eastern boundaries of Portions Pt 17 and 51, Parish of Canning, County of Wellington; by that prolongation and boundaries, southerly, the generally south-western boundaries of Portions 34, 20, 22, 32 and 31 generally, south-easterly, the generally north-eastern boundaries of Portions 10, 14 and 21, Parish of Suttor, generally south-westerly, the northern and eastern boundaries of Portion 12, easterly and southerly, the eastern boundary of Portion 11 and its prolongation, southerly to Gundowda Creek; by that creek, downwards and Black Willow Creek, upwards to the northern prolongation of the generally western boundary of Portion 39, Parish of Walters; by that boundary and part of the southern boundary of that portion, generally southerly and easterly, the western boundaries of Portions 60 and 50, southerly and part of the northern boundary of the Parish of Triamble, westerly to the Macquarie River; by that river, aforesaid, upwards to the point of commencement.

Authorised to be printed

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Government Gazette

OF THE STATE OF
NEW SOUTH WALES

Number 137
Wednesday, 25 August 2004

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SPECIAL SUPPLEMENT

DEATH OF MARCEL JACQUES CAUX

Sydney, 25 August 2004

HER Excellency the Governor announces with deep regret, the death on Sunday 22 August 2004, of:

MARCEL JACQUES CAUX

17th. Inf. Bn. 2nd Div
20th. Inf. Bn. 2nd Div, Company C
Australian Imperial Force

A State Funeral Service will be held at The Salvation Army Sydney Congress Hall, 140 Elizabeth Street, Sydney at 10.00 am on Friday 27 August 2004.

Her Excellency, with the advice of Ministers and with a desire to show respect to the memory of such a notable citizen, invites the attendance of all Members of the Legislature, Officers of the Government and other citizens who may desire to be present.

BOB CARR,
Premier

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OF THE STATE OF
NEW SOUTH WALES

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LEGISLATION

Proclamation



New South Wales

Proclamation

under the

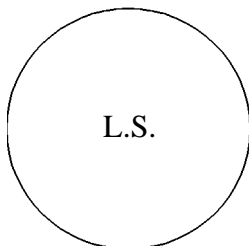
Health Records and Information Privacy Act 2002 No 71

MARIE BASHIR, Governor

I, Professor Marie Bashir AC, Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 2 of the *Health Records and Information Privacy Act 2002*, do, by this my Proclamation, appoint 1 September 2004 as the day on which that Act commences.

Signed and sealed at Sydney, this 25th day of August 2004.

By Her Excellency's Command,



L.S.

MORRIS IEMMA, M.P.,
Minister for Health

GOD SAVE THE QUEEN!



Proclamation

under the

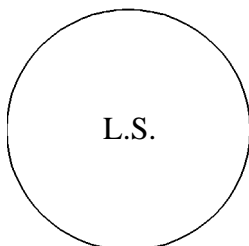
Legal Profession Legislation Amendment (Advertising) Act 2003
No 98

MARIE BASHIR, Governor

I, Professor Marie Bashir AC, Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 2 of the *Legal Profession Legislation Amendment (Advertising) Act 2003* do, by this my Proclamation, appoint 1 September 2004 as the day on which the uncommenced provisions of that Act commence.

Signed and sealed at Sydney, this 25th day of August 2004.

By Her Excellency's Command,



BOB DEBUS, M.P.,
Attorney General

GOD SAVE THE QUEEN!

Explanatory note

The object of this Proclamation is to commence the uncommenced provisions of the *Legal Profession Legislation Amendment (Advertising) Act 2003*. Those provisions enable the Bar Council, the Law Society Council or the Legal Services Commissioner to apply to the Administrative Decisions Tribunal for a direction that a barrister, solicitor or other person cease advertising (see proposed section 38JA (4)–(7) of the *Legal Profession Act 1987*). The remainder of the Act commenced on 19 December 2003.



Proclamation

under the

Licensing and Registration (Uniform Procedures) Act 2002 No 28

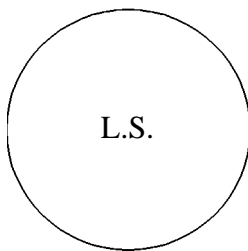
MARIE BASHIR, Governor

I, Professor Marie Bashir AC, Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 2 of the *Licensing and Registration (Uniform Procedures) Act 2002*, do, by this my Proclamation, appoint 1 September 2004 as the day on which the following provisions of that Act commence:

- (a) Schedule 1 with respect to the matter relating to the *Home Building Act 1989*,
- (b) the uncommenced provisions of Schedule 4.6.

Signed and sealed at Sydney, this 25th day of August 2004.

By Her Excellency's Command,



BOB CARR, M.P.,
Premier

GOD SAVE THE QUEEN!

Explanatory note

The object of this Proclamation is to commence:

- (a) the provisions of the *Licensing and Registration (Uniform Procedures) Act 2002* that apply the uniform procedures of that Act to the licensing scheme under the *Home Building Act 1989*, and

Proclamation

Explanatory note

- (b) the uncommenced amendments to the *Home Building Act 1989* contained in Schedule 4.6 to the *Licensing and Registration (Uniform Procedures) Act 2002*. Those provisions relate to the issue of licences, certificates and permits under the *Home Building Act 1989*.

Regulations



Administrative Decisions Tribunal (General) Regulation 2004

under the

Administrative Decisions Tribunal Act 1997

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Administrative Decisions Tribunal Act 1997*.

BOB DEBUS, M.P.,
Attorney General

Explanatory note

The object of this Regulation is to remake the *Administrative Decisions Tribunal (General) Regulation 1998* (with certain additions and alterations). That Regulation will be repealed on 1 September 2004 by section 10 (2) of the *Subordinate Legislation Act 1989*.

The new Regulation deals with the following:

- (a) formal matters, including the meaning of certain terms used in the Regulation (Part 1),
- (b) the oaths of office for members of the Administrative Decisions Tribunal (Part 2 and Schedule 1),
- (c) fees for applications and appeals to the Tribunal (Part 3),
- (d) the manner in which draft rules of the Tribunal are to be publicly exhibited (Part 4),
- (e) the exclusion of certain classes of decisions from the internal review provisions of the *Administrative Decisions Tribunal Act 1997* (Part 5),
- (f) miscellaneous other matters, including the scale of expenses and allowances for witnesses before the Tribunal and a savings provision (Part 6).

The new Regulation also amends the provisions of the *Administrative Decisions Tribunal Act 1997* that deal with the composition and functions of the Administrative Decisions Tribunal to provide that the Tribunal is to be constituted by a judicial member, a barrister member or a solicitor member of the Legal Services Division of the Tribunal for the purposes of proceedings under section 38JA (Regulation of advertising and other marketing of services) of the *Legal Profession Act 1987*.

Administrative Decisions Tribunal (General) Regulation 2004

Explanatory note

This Regulation is made under the *Administrative Decisions Tribunal Act 1997*, including sections 23, 43 (1), 53 (11) (b), 56 (1), 98 (1), 141 (1) and 145 (the general regulation-making power) and clause 4 of Schedule 3.

With the exception of Parts 3 and 5, this Regulation comprises or relates to matters of a machinery nature, matters of a savings or transitional nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

Administrative Decisions Tribunal (General) Regulation 2004

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Clause 1 Administrative Decisions Tribunal (General) Regulation 2004

Part 1 Preliminary

Administrative Decisions Tribunal (General) Regulation 2004

under the

Administrative Decisions Tribunal Act 1997

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Administrative Decisions Tribunal (General) Regulation 2004*.

2 Commencement

This Regulation commences on 1 September 2004.

Note. This Regulation replaces the *Administrative Decisions Tribunal (General) Regulation 1998*, which is repealed on 1 September 2004 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

original application means an application to the Tribunal for an original decision.

review application means an application to the Tribunal for a review of a reviewable decision.

the Act means the *Administrative Decisions Tribunal Act 1997*.

(2) Notes included in the text of this Regulation do not form part of this Regulation.

Administrative Decisions Tribunal (General) Regulation 2004

Clause 4

Oaths of office

Part 2

Part 2 Oaths of office

4 Oath to be taken by members of Tribunal

- (1) The members of the Tribunal are to take the following oaths of office before entering into office:
 - (a) in the case of the President—the oath set out in Part 1 of Schedule 1,
 - (b) in the case of a Deputy President—the oath set out in Part 2 of Schedule 1,
 - (c) in the case of a non-presidential judicial member—the oath set out in Part 3 of Schedule 1,
 - (d) in the case of a non-judicial member—the oath set out in Part 4 of Schedule 1.
- (2) Subclause (1) does not apply to the following members:
 - (a) a judicial officer who is taken to have been duly appointed to act as a member of the Tribunal by or under section 14 of the Act,
 - (b) a state tribunal member (within the meaning of section 14A of the Act) who is taken to have been duly appointed to act as a member of the Tribunal by or under that section,
 - (c) a person who is appointed a member of the Tribunal by operation of Schedule 5 to the Act,
 - (d) a member who is re-appointed as a member no later than 14 days after the expiry of the member's previous term of office.
- (3) However, nothing in subclause (2) prevents any such member from taking an oath specified in subclause (1) before commencing to exercise his or her functions as a member.

Clause 5	Administrative Decisions Tribunal (General) Regulation 2004
Part 3	Fees for applications and appeals to Tribunal

Part 3 Fees for applications and appeals to Tribunal

5 Fees for original applications

- (1) For the purposes of section 43 (1) of the Act, the fee prescribed in respect of an original application is:
 - (a) if the Act or any other law requires the application to be determined by the Tribunal constituted by 2 or more members—\$115, or
 - (b) in any other case—\$55.
- (2) Subclause (1) does not apply to the following:
 - (a) original applications made under an enactment specified in clause 2 of Part 3 of Schedule 2 to the Act (being applications that are allocated to the Legal Services Division for determination),
 - (b) original applications referred to in section 43 (3) of the Act.

Note. Section 43 (1) of the Act provides that an application cannot be made to the Tribunal unless the fee prescribed by the regulations (if any) in respect of the application has been paid. Section 43 (3) provides that the section does not apply to applications for an original decision made under the *Anti-Discrimination Act 1977*.

6 Fees for review applications

- (1) For the purposes of section 56 (1) of the Act, the fee prescribed in respect of a review application is:
 - (a) if the Act or any other law requires the application to be determined by the Tribunal constituted by 2 or more members—\$115, or
 - (b) in any other case—\$55.
- (2) Subclause (1) does not apply to the following:
 - (a) review applications under section 90 (3) of the *Anti-Discrimination Act 1977*,
 - (b) review applications referred to in section 56 (3) of the Act.

Note. Section 56 (1) of the Act provides that an application cannot be made to the Tribunal unless the fee prescribed by the regulations (if any) in respect of the application has been paid. Section 56 (3) provides that the section does not apply to applications for a review of a reviewable decision made under the *Community Services (Complaints, Reviews and Monitoring) Act 1993*.

7 Fees for internal and external appeals

A person lodging an internal appeal or external appeal must pay a fee of \$230 in respect of the appeal.

Administrative Decisions Tribunal (General) Regulation 2004	Clause 8
Fees for applications and appeals to Tribunal	Part 3

8 Fees not payable by Crown

Despite clauses 5–7, no fee is payable in respect of any original application or review application or any internal appeal or external appeal if the application or appeal is made by or on behalf of:

- (a) the Government of New South Wales, or
- (b) any New South Wales Government Department, or
- (c) any statutory body whose expenditure is paid out of the Consolidated Fund.

9 Waiver of fees

The Registrar may waive the payment of any fee prescribed by this Part in respect of an application to the Tribunal or internal appeal or external appeal (either at the time of the lodgment of the application or appeal or otherwise) if the Registrar is satisfied that the payment of the fee would result in undue hardship to the applicant or appellant concerned.

Note. Section 43 (2) of the Act provides that an application for an original decision in respect of which a fee is waived under the regulations (whether at the time of lodgment or otherwise) is taken to be made at the time the application is lodged with the Tribunal. Section 56 (2) makes similar provision in respect of review applications.

Clause 10	Administrative Decisions Tribunal (General) Regulation 2004
Part 4	Rules of the Tribunal

Part 4 Rules of the Tribunal

10 Public consultation under section 98 of the Act

- (1) For the purposes of section 98 (1) of the Act, the manner of public exhibition of a draft rule of the Tribunal specified in this clause is prescribed.
- (2) The Rule Committee must:
 - (a) cause notice to be given in a newspaper circulating generally in New South Wales (or in such other publication or publications determined by the Rule Committee) of the places, dates and times for inspection of the draft rule during the exhibition period, and
 - (b) specify in the notice the exhibition period for the draft rule, and
 - (c) specify in the notice that the period within which submissions about the draft rule may be made to the Rule Committee is the exhibition period or such further period as may be specified in the notice, and
 - (d) publicly exhibit during the exhibition period a copy of the draft rule at the places, on the dates and during the times specified in the notice.
- (3) Copies of the draft rule are to be made available to interested persons by the Rule Committee during the exhibition period, either free of charge or on payment of reasonable copying charges.
- (4) In this clause:

exhibition period means the period specified in a notice published in a newspaper or other publication for the public exhibition of a draft rule, being a period of at least 2 months from the date on which the notice is published.

Administrative Decisions Tribunal (General) Regulation 2004

Clause 11

Internal reviews

Part 5

Part 5 Internal reviews

11 Reviewable decisions excluded from internal review under section 53 of the Act

For the purposes of section 53 (11) (b) of the Act, the following reviewable decisions are excluded from the operation of section 53 of the Act:

- (a) a decision referred to in section 90 (3) of the *Anti-Discrimination Act 1977*,
- (b) a decision referred to in section 126A (6) of the *Anti-Discrimination Act 1977*,
- (c) a decision referred to in section 31 or 44 of the *Architects Act 2003*,
- (d) a decision referred to in section 64A (8) of the *Fair Trading Act 1987*,
- (e) a decision referred to in section 45 (1) of the *Motor Vehicle Repairs Act 1980*,
- (f) a decision referred to in section 14 of the *Surveying Act 2002*,
- (g) a decision referred to in section 45 of the *Tow Truck Industry Act 1998* involving the exercise of a function conferred on the Tow Truck Authority under Division 4 of Part 3 of that Act,
- (h) a decision referred to in section 22 (3) or (4) of the *Travel Agents Act 1986*,
- (i) a decision referred to in section 34, 48 or 75 of the *Veterinary Practice Act 2003*,
- (j) a decision referred to in section 21, 31 or 53 of the *Veterinary Surgeons Act 1986*.

Clause 12 Administrative Decisions Tribunal (General) Regulation 2004

Part 6 Miscellaneous

Part 6 Miscellaneous

12 Witness allowances and expenses: sec 141

For the purposes of section 141 (1) of the Act, the prescribed scale of allowances and expenses for witnesses required to appear or give evidence before the Tribunal is as follows:

(a) **Attendance as a witness**

- (i) for attending to give expert evidence—the amount that is agreed between the person and the party calling the person as an expert witness,
- (ii) for attending to give non-expert evidence—the amount of wages, salary, remuneration or fees actually lost because of the person's attendance (including travelling time), but not exceeding \$100 an hour, or \$500 for any one day,

(b) **Travelling expenses**

for travelling expenses to and from a person's usual place of residence or business and the Tribunal—the amount actually paid for public transport or the amount actually paid for petrol used for travel by private transport plus parking fees (but only if the Tribunal considers that travel by public transport was not practicable),

(c) **Other costs of complying with summons**

- (i) for photocopying—25 cents a page,
- (ii) for any other costs of complying with a summons issued under section 84 of the Act that the Tribunal considers were necessarily incurred—the amount actually paid,

(d) **Accommodation and meal costs**

for accommodation and meals, if a person is required to be absent over night from the person's usual place of residence—the amount actually paid, but not exceeding:

- (i) for accommodation—the applicable allowance specified in relation to Item 2 (Travelling Allowances When Staying in Non-Govt Accommodation) of Table 1 of Part B of the *Crown Employees (Public Service Conditions of Employment) Award 2002*,
- (ii) for meals—the applicable allowance specified in relation to Item 1 (Meal Expenses on One Day Journeys) of Table 1 of Part B of that Award.

Administrative Decisions Tribunal (General) Regulation 2004	Clause 13
Miscellaneous	Part 6

13 Amendment of Act

Schedule 2 (Composition and functions of Divisions) to the Act is amended by inserting after clause 4 of Part 3:

4AA Legal Profession Act 1987 (Advertising contraventions)

For the purposes of proceedings under section 38JA (Regulation of advertising and other marketing of services) of the *Legal Profession Act 1987*, the Tribunal is to be constituted by one member of the Legal Services Division of the Tribunal, being a judicial member, a barrister member or a solicitor member.

14 Transitional provision: references to senior judicial members of former Equal Opportunity Tribunal

Any reference in section 112 of the *Anti-Discrimination Act 1977* to the senior judicial member of the Tribunal is to continue to be read as a reference to a Deputy President of the Administrative Decisions Tribunal.

Note. This clause continues in effect the transitional provision previously contained in Schedule 2 to the *Administrative Decisions Tribunal (General) Regulation 1998*, which updated references to the senior judicial member of the former Equal Opportunity Tribunal.

15 Saving

Any act, matter or thing that, immediately before the repeal of the *Administrative Decisions Tribunal (General) Regulation 1998*, had effect under that Regulation continues to have effect under this Regulation.

Administrative Decisions Tribunal (General) Regulation 2004

Schedule 1 Oaths of office

Schedule 1 Oaths of office

(Clause 4)

Part 1 Oath of office for President

I, _____, do

*swear/*solemnly, sincerely and truly declare and affirm that I will faithfully and impartially discharge the duties of the office of President of the Administrative Decisions Tribunal of New South Wales.

Part 2 Oath of office for a Deputy President

I, _____, do

*swear/*solemnly, sincerely and truly declare and affirm that I will faithfully and impartially discharge the duties of the office of a Deputy President of the Administrative Decisions Tribunal of New South Wales.

Part 3 Oath of office for a non-presidential judicial member

I, _____, do

*swear/*solemnly, sincerely and truly declare and affirm that I will faithfully and impartially discharge the duties of the office of a non-presidential judicial member of the Administrative Decisions Tribunal of New South Wales.

Part 4 Oath of office for a non-judicial member

I, _____, do

*swear/*solemnly, sincerely and truly declare and affirm that I will faithfully and impartially discharge the duties of the office of a non-judicial member of the Administrative Decisions Tribunal of New South Wales.

* Delete whichever is inapplicable



Centennial Park and Moore Park Trust Regulation 2004

under the

Centennial Park and Moore Park Trust Act 1983

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Centennial Park and Moore Park Trust Act 1983*.

SANDRA NORI, M.P.,
Minister for Tourism and Sport and Recreation

Explanatory note

The object of this Regulation is to remake, with minor changes of substance, the *Centennial Park and Moore Park Trust Regulation 1999*, which will be repealed on 1 September 2004 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation makes provision with respect to the following matters:

- (a) the management, use and regulation of the lands vested in the Centennial Park and Moore Park Trust,
- (b) the issue of penalty notices in relation to certain offences committed on those lands,
- (c) the composition of the Centennial Park and Moore Park Trust Community Consultative Committee, the appointment and removal of members of that Committee and other related matters.

This Regulation is made under the *Centennial Park and Moore Park Trust Act 1983*, including sections 7A (Community consultation, which requires the establishment of the Community Consultative Committee), 20A (Use of Trust lands for events attracting large crowds), 22 (the general regulation-making power) and 24 (Penalty notices for certain offences).

Centennial Park and Moore Park Trust Regulation 2004

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Centennial Park and Moore Park Trust Regulation 2004

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Clause 1 Centennial Park and Moore Park Trust Regulation 2004

Part 1 Preliminary

Centennial Park and Moore Park Trust Regulation 2004

under the

Centennial Park and Moore Park Trust Act 1983

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Centennial Park and Moore Park Trust Regulation 2004*.

2 Commencement

This Regulation commences on 1 September 2004.

Note. This Regulation replaces the *Centennial Park and Moore Park Trust Regulation 1999* which is repealed on 1 September 2004 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

animal includes any bird, fish, reptile or mammal.

authorised person means:

- (a) a police officer, and
- (b) any other person appointed in writing by the Trust as an authorised person for the purposes of this Regulation.

horse track means the track that is adjacent to the inner boundary of Grand Drive.

sell includes any of the following:

- (a) sell by wholesale, retail, auction or tender,
- (b) hire,
- (c) barter or exchange,
- (d) supply for profit,
- (e) offer for sale or hire, receive for sale or hire, have in possession for sale or hire or expose or exhibit for sale or hire,
- (f) conduct negotiations for sale or hire,
- (g) consign or deliver for sale or hire,

Centennial Park and Moore Park Trust Regulation 2004

Clause 4

Preliminary

Part 1

-
- (h) solicit for sale or hire,
 - (i) cause or permit anything referred to above.

sign includes a board, post, banner, notice or painted marking, flag or electronic or similar device, whether temporary or permanent.

the Act means the *Centennial Park and Moore Park Trust Act 1983*.

vehicle includes any of the following:

- (a) a motor vehicle,
- (b) a bicycle,
- (c) a trailer or caravan, whether or not it is in the course of being towed,
- (d) an apparatus that is propelled by human or mechanical power, or by the wind, and is wholly or partly used for the conveyance of persons or things, other than a wheelchair, pram or stroller,
- (e) a motorised wheelchair that is capable of a speed of more than 10 kilometres per hour over level ground,
- (f) a vehicle that is being drawn by an animal,
- (g) an animal that is being ridden or is drawing a vehicle,
- (h) a boat, raft, canoe, ski, barge or other vessel,

but does not include a train or a wheeled toy or a wheeled recreational device (such as a skateboard).

- (2) Notes included in this Regulation do not form part of this Regulation.

4 Application of Regulation to revested land

This Regulation does not apply to revested land within the meaning of Part 3A of the Act.

Clause 5 Centennial Park and Moore Park Trust Regulation 2004

Part 2 Use of Trust lands

Part 2 Use of Trust lands

5 Entry to Trust lands

- (1) The Trust may designate points on the perimeter of the Trust lands as entrances to the Trust lands for vehicles by a sign or signs displayed adjacent to those points.
- (2) A person must not drive a vehicle into the Trust lands other than at a point designated in accordance with this clause.
Maximum penalty: 10 penalty units.
- (3) A person must not ride or lead a horse into or within the Trust lands between sunset and sunrise.
Maximum penalty: 10 penalty units.
- (4) A person must not drive or ride a vehicle into or within the Trust lands between sunset and sunrise, except with the permission of the Trust, the Director or an authorised person.
Maximum penalty: 10 penalty units.
- (5) Without limiting the way in which the Trust, the Director or an authorised person may grant a permission referred to in subclause (4), such a permission may be granted:
 - (a) by public notice or advertisement, or
 - (b) in relation to any function or meeting to be held on the Trust lands—by notice in writing to the organiser of the function or meeting.
- (6) Without limiting clause 10, it is a condition of a permission referred to in subclause (4) that the person driving or riding the vehicle concerned complies with any reasonable directions given by an authorised person in relation to the vehicle.
- (7) Pedestrians may enter the Trust lands at any time.

6 Bus roadway

- (1) A person must not cross any part of the bus roadway except at a pedestrian crossing or at a bicycle crossing light.
Maximum penalty: 10 penalty units.
- (2) In this clause:
bicycle crossing light has the same meaning as it has in the *Australian Road Rules*.
bus roadway means the roadway to the east of Anzac Parade and north of Alison Road that is reserved for the sole use of buses and authorised vehicles.

Centennial Park and Moore Park Trust Regulation 2004

Clause 7

Use of Trust lands

Part 2

pedestrian crossing has the same meaning as it has in Rule 81 of the *Australian Road Rules*.

7 Parking

- (1) The Trust, the Director or an authorised person may regulate the parking of vehicles on any part of the Trust lands by a sign or signs displayed on or adjacent to the part.
- (2) A person must not park a vehicle on a part of the Trust lands in contravention of a sign displayed in accordance with this clause.
Maximum penalty: 10 penalty units.
- (3) A person must not park, or leave a vehicle parked, on the Trust lands after sunset and before sunrise except with the written permission of, and in the manner approved by, the Trust, the Director or an authorised person.
Maximum penalty: 10 penalty units.
- (4) The Trust is entitled to require payment of a fee determined by it for the opening of a gate after sunset and before sunrise to permit the removal of a vehicle from the Trust lands.
- (5) Subclauses (3) and (4) do not apply to or in respect of a vehicle that is on the Trust lands in accordance with a permission referred to in clause 5 (4).

8 Parts approved for designated purposes

- (1) The Trust or the Director may designate part of the Trust lands for use for the purpose of:
 - (a) an organised sporting activity, or
 - (b) an organised ceremony or other event, or
 - (c) any other organised activity.
- (2) A person may, with the written permission of, and in the manner approved by, the Trust or the Director:
 - (a) use any part of the Trust lands designated under subclause (1) (the *designated space*) for the purpose for which it is designated, and
 - (b) designate points on the perimeter of the designated space as entrances for persons attending the organised activity, ceremony or event concerned by a sign or signs displayed adjacent to those points, and
 - (c) prevent people from entering the designated space other than through those entrances, and

Clause 9 Centennial Park and Moore Park Trust Regulation 2004

Part 2 Use of Trust lands

- (d) prevent people from entering the designated space without paying a fee approved by the Trust or the Director.
- (3) The use of a part of the Trust lands in accordance with a permission granted under this clause is not a contravention of clause 13.

9 Fees for use of Trust lands

- (1) The Trust may from time to time determine the fees that are payable by a person to whom the Trust or the Director has given any permission to use part of the Trust lands. The Trust may require payment of such a fee by a date specified by the Trust (including a date in advance of the date of the relevant use).
- (2) The person to whom the permission is granted is liable to the Trust for payment of the fee.
- (3) Any unpaid fee may be recovered by the Trust from the person liable to pay it as a debt in a court of competent jurisdiction.
- (4) The Trust may reduce, or waive payment of, a fee payable under this clause.
- (5) The Trust may accept, or determine, consideration in kind in lieu of a fee under this clause.

10 Conditions attaching to permission to use Trust lands

- (1) The Trust or the Director may give a permission under this Regulation subject to such conditions as the Trust or the Director considers appropriate.
- (2) Conditions may relate to, but are not limited to, the following matters:
 - (a) the necessary standard of care of the parklands environment,
 - (b) maintenance of adequate insurance,
 - (c) site preparation,
 - (d) provision and disposal of food and beverages,
 - (e) advertising, signs and merchandising,
 - (f) vehicle access, control and parking,
 - (g) security and emergency procedures,
 - (h) crowd management,
 - (i) cleaning and waste management services,
 - (j) noise control,
 - (k) erection and removal of temporary structures.

Centennial Park and Moore Park Trust Regulation 2004

Clause 11

Use of Trust lands

Part 2

-
- (3) The Trust or the Director may require a person to whom a permission under this Regulation is proposed to be given to give security in such amount and form as the Trust or the Director determines for fulfilment of the person's obligations under the conditions of that permission.
- (4) A person who fails to comply with a condition to which a permission is subject is guilty of an offence.
Maximum penalty (subclause (4)): 10 penalty units.

11 Parts of Trust lands and buildings may be closed to public

- (1) The Trust, the Director or an authorised person may close to the public any part of the Trust lands or any building within the Trust lands by the use of a sign or signs displayed on or adjacent to the part or building.
- (2) A person must not enter (whether on foot or by vehicle) any part of the Trust lands, or any building within the Trust lands, that is fenced off, or locked, or closed to the public by a sign or signs displayed under this clause, except with the written permission of, and in the manner approved by, the Trust or the Director.
Maximum penalty: 10 penalty units.
- (3) In this clause:
building includes part of a building.
fenced off means surrounded by a fence, barricade or other structure (whether temporary or permanent) with no open pedestrian or vehicular access.
part of the Trust lands includes any road, footpath, cycle track, horse track, equestrian grounds and playing fields within the Trust lands.

12 Alcohol-free zones

- (1) The Trust, the Director or an authorised person may declare any part of the Trust lands or any building within the Trust lands to be an alcohol-free zone by the use of a sign or signs displayed on or adjacent to the part or building.
- (2) A person must not consume any alcohol in any such alcohol-free zone, except with the written permission of, and in the manner approved by, the Trust or the Director.
Maximum penalty: 10 penalty units.
- (3) In this clause:
alcohol has the same meaning as in the *Local Government Act 1993*.
building includes part of a building.

Clause 13 Centennial Park and Moore Park Trust Regulation 2004

Part 2 Use of Trust lands

13 Commercial and other activities on Trust lands

- (1) A person must not on the Trust lands, except with the written permission of, and in the manner approved by, the Trust or the Director, do any of the following things or assist a person to do any of the following things:
- (a) collect or attempt to collect money,
 - (b) sell or attempt to sell any papers, printed matter, food, article, thing or service,
 - (c) sell or attempt to sell (or purchase or attempt to purchase) any tickets to any activity or ceremony or other event,
 - (d) conduct or cause the conduct of an amusement, event, promotion, instruction or performance, whether free of charge or for money or consideration of any kind or so as to compete with or hinder the commercial operations of any person holding a lease or licence from the Trust,
 - (e) establish or operate a business,
 - (f) organise or participate in, or cause to be organised, a public meeting, public function, public demonstration, public gathering or other public activity,
 - (g) use television, cinematographic or photographic equipment for commercial or promotional purposes,
 - (h) erect a hoarding, banner or notice, or display or distribute commercial, promotional or political advertising matter or a sign, bill, poster or other printed matter,
 - (i) erect a sign or attach a sign to a tree, pole, rail or fence.
- Maximum penalty: 10 penalty units.
- (2) A person who uses equipment in the course of committing an offence under this clause must, when directed to do so by the Trust, the Director, or an authorised person, immediately remove the equipment from the Trust lands.
- Maximum penalty: 10 penalty units.
- (3) If a person fails to comply with a direction under this clause, the Trust, the Director or an authorised person may remove the equipment:
- (a) to the care of the person to whom the direction was given, or
 - (b) to a place of safe keeping at the expense of the owner or the person responsible for it.
- (4) The Trust, the Director or an authorised person acting under subclause (3) is not responsible for the safe keeping of, or for damage to, equipment removed under this clause.

Centennial Park and Moore Park Trust Regulation 2004

Clause 14

Use of Trust lands

Part 2

14 Races on Trust lands

A person must not on the Trust lands, except with the written permission of, and in the manner approved by, the Trust or the Director, organise or conduct a foot race, cycle race, horse race, wheelchair race, fun run, rollerblade run or similar event.

Maximum penalty: 10 penalty units.

15 Camping, erection of tents and other structures on Trust lands

(1) A person must not on the Trust lands, except with the written permission of, and in the manner approved by, the Trust or the Director:

- (a) camp or reside, or
- (b) erect or occupy or cause to be erected or occupied a building, tent, screen, awning, enclosure or other structure or thing.

Maximum penalty: 10 penalty units.

(2) A person who has erected or occupied or caused to be erected or occupied a building, tent, screen, awning, enclosure or other structure or thing contrary to this clause must, when directed to do so by the Trust, the Director or an authorised person, immediately remove that building, tent, screen, awning, enclosure or other structure or thing.

Maximum penalty: 10 penalty units.

(3) If a person fails to comply with a direction given under this clause, the Trust, the Director or an authorised person may remove, or cause to be removed, the building, tent, screen, awning, enclosure or other structure or thing:

- (a) to the care of the person to whom the direction was given, or
- (b) to a place of safe keeping at the expense of the owner or the person responsible for it.

(4) The Trust, the Director or an authorised person acting under this clause is not responsible for the safe keeping of, or any damage to, a building, tent, screen, awning, enclosure or other structure or thing removed under this clause.

16 Damage to Trust lands

A person must not on the Trust lands, except with the written permission of, and in the manner approved by, the Trust, the Director or an authorised person:

- (a) damage a lawn, playing field or green except in the course of, and as a normal incident of, recreational or sporting activity on any part of the Trust lands designated for use for that activity under clause 8, or

Clause 17 Centennial Park and Moore Park Trust Regulation 2004

Part 2 Use of Trust lands

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- (b) remove, uproot, or cause damage to, or remove a part from, a tree, shrub, plant or other vegetation, or
 - (c) climb on any tree, or
 - (d) remove any timber, log or stump, standing or fallen, or
 - (e) deface, dig up or remove any rock, soil, sand, stone or similar substance, or
 - (f) write on, paint on, climb on, damage, deface, interfere with, destroy or remove any fixture, fitting or machinery displayed or placed by the Trust or the Director, or
 - (g) block or inhibit (whether wholly or partially) access through, to or on a gate, access-way, path or road, or
 - (h) damage, destroy, remove, interfere with, pass through or step over any temporary or permanent fencing or any barricade or other structure regulating access to any part of the Trust lands or any building within the Trust lands by foot or vehicle, or
 - (i) destroy, capture, injure or annoy, or attempt to destroy, capture, injure or annoy, an animal within the Trust lands, or
 - (j) destroy or interfere with the habitat of an animal, or
 - (k) abandon any animal, or
 - (l) light a fire:
 - (i) at a time when the lighting of fires on the Trust lands is prohibited by the Trust or the Director by signs displayed on or near the Trust lands or a time when the lighting of fires in the area in which the Trust lands are situated is prohibited by or under the provisions of the *Rural Fires Act 1997*, or
 - (ii) at any other time, except in a fireplace or on equipment provided for the purpose by the Trust or in portable cooking equipment, or
 - (m) empty coals or any other material from a barbecue on to any grass, lawn, playing field, green or vegetation, or
 - (n) deposit or throw any article or substance into any lake, pond, stream or ornamental water.

Maximum penalty: 10 penalty units.

17 Disposal of waste

- (1) A person must not except with the written permission of, and in the manner approved by, the Trust or the Director do any of the following:
 - (a) bring any waste onto the Trust lands,

Centennial Park and Moore Park Trust Regulation 2004

Clause 18

Use of Trust lands

Part 2

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- (b) leave any litter on Trust lands otherwise than in a receptacle provided and designated for the receipt of litter of that kind,
 - (c) deposit any oil or similar product, or any hot or frozen liquid, or allow such a product or liquid to escape, on Trust lands.

Maximum penalty: 10 penalty units

- (2) In this clause:

litter includes:

- (a) any solid or liquid domestic or commercial refuse, debris or rubbish and, without limiting the generality of the above, includes any glass, metal, cigarette butts, paper, fabric, wood, food, abandoned vehicles, abandoned vehicle parts, construction or demolition material, garden remnants and clippings, soil, sand or rocks, or
- (b) any other material, substance or thing deposited in or on a place if its size, shape, nature or volume makes the place where it is deposited disorderly or detrimentally affects the proper use of that place.

waste includes:

- (a) any substance (whether solid, liquid or gaseous) that is discharged, emitted or deposited in the environment in such volume, constituency or manner as to cause an alteration in the environment, or
- (b) any discarded, rejected, unwanted, surplus or abandoned substance, or
- (c) any otherwise discarded, rejected, unwanted, surplus or abandoned substance intended for sale or for recycling, reprocessing, recovery or purification by a separate operation from that which produced the substance,

deposited in or on a place, whether or not it has any value when or after being deposited in or on the place.

- (3) A substance is not precluded from being waste for the purposes of this clause merely because it can be reprocessed, re-used or recycled.

18 Recreational activities on Trust lands

A person must not on the Trust lands, except with the written permission of, and in the manner approved by, the Trust or the Director, do any of the following:

- (a) operate a motorised model aircraft, boat, car or similar thing,

Clause 19 Centennial Park and Moore Park Trust Regulation 2004

Part 2 Use of Trust lands

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- (b) bathe, wade, wash or swim, or operate a boat, canoe, kayak or any other water craft or vessel or flotation device, in any lake, pond or stream or in any ornamental water (other than the fountain located in the Centennial Park Cafe forecourt area),
 - (c) enter land that is situated within any lake, pond or stream or in any ornamental water (other than the fountain located in the Centennial Park Cafe forecourt area),
 - (d) play or practise golf except in an area designated by the Trust or the Director for that activity under clause 8,
 - (e) use ski stocks with roller blades or roller skis except in an area designated by the Trust or the Director for that activity under clause 8,
 - (f) operate or attempt to operate a hang-glider,
 - (g) use a land sailing vehicle except in an area designated by the Trust or the Director for that activity under clause 8,
 - (h) launch or land an aircraft, helicopter, airship, hot-air balloon or parachute,
 - (i) discharge fireworks,
 - (j) use a starting pistol except in an area designated by the Trust or the Director under clause 8 for an activity that involves the use of a starting pistol,
 - (k) have in his or her possession a firearm within the meaning of the *Firearms Act 1996* unless the person is a police officer,
 - (l) ride a cycle, horse or scooter without wearing a protective helmet,
 - (m) ride a cycle, horse, scooter, rollerblade or skateboard except in an area designated by the Trust or the Director for that activity under clause 8,
 - (n) practise or demonstrate (using a fishing rod or line) the casting of a fishing line.
 - (o) throw or propel by any means any javelin, shot put, sharp instrument or other object that is likely to cause damage or injury to any person, animal or thing.

Maximum penalty: 10 penalty units.

19 Activities involving horses and animals

A person must not on the Trust lands, except with the written permission of, and in the manner approved by, the Trust or the Director, do any of the following:

- (a) bring stock (other than horses) or poultry,

Centennial Park and Moore Park Trust Regulation 2004

Clause 19

Use of Trust lands

Part 2

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- (b) bring any animal (being an animal that is not prohibited from being on Trust lands) unless it is under the effective control of a competent person by means of an adequate chain, cord, leash or cage,
 - (c) allow stock (including a horse) to graze,
 - (d) ride a horse unless the horse is properly saddled and bridled with a bit,
 - (e) ride a horse except on a track or other part of the Trust lands designated for the purpose by the Trust or the Director by a sign or signs displayed on or near the track or the part,
 - (f) break-in a horse,
 - (g) permit a horse to gallop or canter except on a part of the Trust lands designated as equestrian grounds in the part of the Trust lands known as Centennial Park and at the Centennial Park Equestrian Centre,
 - (h) train a racehorse or harness racing horse,
 - (i) lead a horse unless the horse is wearing a bit,
 - (j) lead more than one horse at a time,
 - (k) lunge a horse except in an area designated for the purpose by the Trust or the Director by a sign or signs displayed on or near the area,
 - (l) drive a horse-drawn vehicle on a road or track that is situated within the area surrounded by the horse track and Grand Drive,
 - (m) long rein a horse,
 - (n) use the horse track for a purpose other than riding or leading a horse,
 - (o) leave a horse unattended or untethered (except in a stable box at the Centennial Park Equestrian Centre),
 - (p) lead a dog on a leash:
 - (i) while in control of a horse, or
 - (ii) from or attached to a moving vehicle,
 - (q) run or exercise a dog that is not on a leash from a moving vehicle.
- Maximum penalty: 10 penalty units.

Clause 20 Centennial Park and Moore Park Trust Regulation 2004

Part 2 Use of Trust lands

20 Equestrian Code of Conduct

A person who uses that part of the Trust lands known as the Centennial Parklands Equestrian Centre and Grounds must comply with the requirements of the document called *Centennial Parklands Equestrian Centre and Grounds—Code of Conduct and Regulations*, being the Code made by the Trust and a copy of which is available from the office of the Trust.

Maximum penalty: 10 penalty units.

21 Vehicles

- (1) A person must not abandon a vehicle on the Trust lands.
Maximum penalty: 10 penalty units.
- (2) A person must not on Trust lands, except with the written permission of, and in the manner approved by, the Trust or the Director, do any of the following:
 - (a) drive, ride, stand or park a vehicle other than on a sealed road or on part of the Trust lands designated under paragraph (d),
 - (b) teach a person to drive or ride a motor vehicle,
 - (c) learn to drive or ride a motor vehicle,
 - (d) cause or permit a vehicle (other than an authorised vehicle) to be driven, ridden, stood or parked on a lawn, grass, parkland, green, garden, footpath or cycle track or the horse track unless the area is designated for that purpose by the Trust or the Director by a sign or signs displayed on or near the area,
 - (e) drive, ride or park a vehicle (other than an authorised vehicle) contrary to, or act contrary to, a sign approved by the Trust or the Director that regulates the movement or parking of vehicles or the movement or confinement of animals,
 - (f) drive an omnibus or a vehicle:
 - (i) with a tare weight of more than 3 tonnes, or
 - (ii) with a height of more than 4 metres.

Maximum penalty: 10 penalty units.
- (3) For the purposes of subclause (2), **authorised vehicle** means a golf buggy when operated within the Moore Park Golf Course.

22 Speed of vehicles

A person must not, except with the written permission of, and in the manner approved by, the Trust or the Director, drive or ride a vehicle on any Trust lands at a speed exceeding that determined by the Trust in

Centennial Park and Moore Park Trust Regulation 2004

Clause 23

Use of Trust lands

Part 2

respect of the land concerned and specified on a sign erected on that land by or on behalf of the Trust.

Maximum penalty: 10 penalty units.

23 Certain provisions not to apply to emergency vehicles

- (1) A provision of this Regulation concerning vehicles or drivers of vehicles does not apply to or in respect of an emergency vehicle if:
 - (a) in the circumstances:
 - (i) the driver is taking reasonable care, and
 - (ii) it is reasonable that the provision should not apply, and
 - (b) if the vehicle is a motor vehicle that is moving—the vehicle is displaying a blue or red flashing light or sounding an alarm.
- (2) Subclause (1) (b) does not apply to the driver if, in the circumstances, it is reasonable:
 - (a) not to display the light or sound the alarm, or
 - (b) for the vehicle not to be fitted or equipped with a blue or red flashing light or an alarm.
- (3) In this clause, *emergency vehicle* means a vehicle driven by a person who is:
 - (a) a police officer acting in the course of his or her duties as a police officer, or
 - (b) a member of the Ambulance Service rendering or providing transport for sick or injured persons, or
 - (c) a member of a fire brigade providing transport in the course of an emergency, or
 - (d) an authorised person acting in the course of his or her duties as an authorised person.

24 Use of cycles, pedal cars and rollerblades

- (1) A person must not on the Trust lands, except with the written permission of, and in the manner approved by, the Trust or the Director, do any of the following:
 - (a) ride a cycle or rollerblades in a group of more than 16 persons,
 - (b) ride a cycle or rollerblades alongside 2 or more persons,
 - (c) ride a cycle or rollerblades closer than 3 metres behind, or while holding onto, a moving motor vehicle (that is, slip streaming),
 - (d) ride a pedal-car or a similar device except on a part of the Trust lands designated by the Trust or the Director for that activity,

Clause 25 Centennial Park and Moore Park Trust Regulation 2004

Part 2 Use of Trust lands

- (e) ride a cycle or rollerblades on a footway, building forecourt or paved or grassed area or on an area in which the activity is prohibited by the Trust or the Director by a sign displayed on or near the area.

Maximum penalty: 10 penalty units.

- (2) For the purposes of subclause (1) (c), *holding onto* a moving motor vehicle includes being towed behind the vehicle by means of a rope or other similar item.

25 Personal conduct

A person must not on the Trust lands do any of the following:

- (a) use indecent, obscene, insulting or threatening language,
- (b) behave in an offensive or indecent manner,
- (c) cause serious alarm or affront to a person by disorderly or unsafe conduct,
- (d) obstruct a person in the performance of that person's work or duties,
- (e) fail to comply with a reasonable request or direction given for the purpose of securing good order, security and safety and management and enjoyment of the Trust lands by a member of the Trust, the Director or an authorised person.

Maximum penalty: 10 penalty units.

26 Persons to leave Trust lands on request

- (1) A person who does any of the following on Trust lands must leave the Trust lands if requested to do so by the Trust, the Director or an authorised person:
 - (a) trespasses,
 - (b) causes annoyance or inconvenience to any person,
 - (c) commits a breach of this Regulation.
- (2) A request made under this clause may specify any one or more of the following:
 - (a) the part of the Trust lands to which the request relates,
 - (b) the period within which the person must leave the Trust lands concerned,
 - (c) the period during which the person must not return to the Trust lands concerned.

Centennial Park and Moore Park Trust Regulation 2004

Clause 27

Use of Trust lands

Part 2

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- (3) In specifying a period under subclause (2)(b) or (c), the Trust, Director or authorised person must take into consideration the seriousness and persistence of the conduct concerned.
 - (4) A person who fails to comply with a request made under this clause may be removed from the Trust lands by the Director or an authorised person.
 - (5) A person who leaves or is removed from the Trust lands under this clause must remove any equipment, vehicle or animal, or any other item belonging to or associated with the person, from the Trust lands.
 - (6) A person must not remain on, enter or return to Trust lands in contravention of a request made under this clause.
Maximum penalty: 10 penalty units.

27 Noise on Trust lands

A person must not on the Trust lands, except with the written permission of, and in the manner approved by, the Trust, the Director or an authorised person:

- (a) operate a radio, cassette player, record player, compact disc player or other similar device, or play a musical instrument, at a volume likely to cause nuisance or annoyance to a person, or
- (b) operate a public address system or similar device, or
- (c) sound, or cause, or allow to be sounded, a motor vehicle intruder alarm or sounding device continuously or intermittently for more than 90 seconds after the device or alarm has first sounded.

Maximum penalty: 10 penalty units.

28 Authorisation of use of Trust lands for Mardi Gras and Livid Arts Festival

For the purposes of section 20A of the Act, the use of the Trust lands is authorised for the purpose of the following events, being events for which it is reasonably anticipated that more than 20,000 persons at one time will resort to the land:

- (a) Sydney Gay and Lesbian Mardi Gras Parade and Sydney Gay and Lesbian Mardi Gras Party for the year 2005,
- (b) the Livid Arts Festival for the year 2005.

Clause 29 Centennial Park and Moore Park Trust Regulation 2004

Part 3 Centennial Park and Moore Park Trust Community Consultative Committee

Part 3 Centennial Park and Moore Park Trust Community Consultative Committee

29 Centennial Park and Moore Park Trust Community Consultative Committee

In this Part, *the Committee* means the Centennial Park and Moore Park Trust Community Consultative Committee constituted for the purposes of section 7A (2) of the Act.

30 Composition

- (1) The Committee is to consist of 10 members.
- (2) The Director may recommend himself or herself for appointment as a member, and may recommend any other person whom the Director is satisfied:
 - (a) has a sound knowledge of the Trust lands and of Trust activities, and
 - (b) is able to communicate effectively with local residents, local community groups and other persons who use the Trust lands.
- (3) A trustee is not eligible to be appointed as a member of the Committee (but this does not prevent the appointment of a member of the Committee as a trustee under section 7 (1) (b) of the Act and does not prevent that trustee being re-appointed as a member of the Committee).

31 Term of office

- (1) Subject to this Part, a member (other than the Director) holds office for a term of 2 years, and is eligible for re-appointment as a member for any number of terms (but not so as to hold office as a member for more than 2 consecutive terms).
- (2) If the Director is appointed as a member of the Committee, the Director holds office as a member for so long as the Director holds office as Director, subject to this Part.

32 Deputies of members

- (1) Subject to subclause (2), the Trust may, from time to time, appoint a person to be the deputy of a member, and the Trust may revoke any such appointment.
- (2) If the Director is appointed as a member of the Committee, the Director may, from time to time, appoint a person to be the Director's deputy as such a member, and may revoke any such appointment.
- (3) In the absence of a member, the member's deputy may, if available, act in the place of the member.

Centennial Park and Moore Park Trust Regulation 2004

Clause 33

Centennial Park and Moore Park Trust Community Consultative Committee

Part 3

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- (4) While acting in the place of a member, a person has and may exercise all the functions of the member and is taken to be a member.

33 Removal from office

The Trust may remove any member from office for any cause that seems to the Trust sufficient.

34 Vacancy in office of member

A member of the Committee is taken to have vacated office if the member:

- (a) becomes a member of the Trust (except pursuant to an appointment under section 7 (1) (b) of the Act), or
- (b) completes a term of office and is not re-appointed, or
- (c) resigns the office by instrument in writing addressed to the Trust, or
- (d) is absent, without having been excused by the Committee, for 2 consecutive meetings of the Committee of which notice has been given to the member, or
- (e) is removed from office by the Trust under this Part, or
- (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
- (g) becomes a mentally incapacitated person, or
- (h) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or
- (i) dies.

35 Filling vacancy

The Trust may, on the recommendation of the Director, appoint a person to fill any vacancy in the office of a member of the Committee.

36 Chairperson

- (1) The chairperson of the Committee is to be the member elected as chairperson by a majority of the Committee at the first meeting of the Committee after the commencement of this clause.
- (2) In the absence of the chairperson, the deputy of that member may, if available, act in the place of the chairperson.

Clause 37 Centennial Park and Moore Park Trust Regulation 2004

Part 3 Centennial Park and Moore Park Trust Community Consultative Committee

- (3) If the chairperson of the Committee vacates office as a member of the Committee, another member of the Committee is to be elected as chairperson by a majority of the Committee at the first meeting of the Committee after the chairperson vacates office.
- (4) The person holding the office of chairperson of the Committee immediately before the commencement of this clause ceases to hold that office on that commencement.

37 Chairperson's vote

The chairperson is to have a deliberative vote and, in the event of an equality of votes, a second or casting vote.

38 Quorum

- (1) The chairperson and 5 other members form a quorum at any meeting of the Committee and any duly convened meeting at which a quorum is present is competent to transact any business of the Committee.
- (2) Questions arising at a meeting of the Committee are to be determined by a majority of the votes of the members present and voting.

39 Procedure

The procedure for the calling of meetings of the Committee and for the conduct of business at those meetings is, subject to the Act and this Regulation, to be as determined by the Trust.

40 Minutes

- (1) The chairperson of the Committee is to cause minutes of each meeting of the Committee to be recorded and preserved.
- (2) A copy of the minutes is to be submitted to the Trust for its consideration as soon as practicable after being confirmed by a meeting of the Committee.

41 Existing members

Subject to this Part, a person who held office as a member of the Committee as constituted immediately before the commencement of this Regulation:

- (a) continues to hold that office until the end of the term of the person's office as such a member, and
- (b) is eligible for re-appointment as a member of the Committee.

Centennial Park and Moore Park Trust Regulation 2004

Clause 42

Miscellaneous

Part 4

Part 4 Miscellaneous

42 Requirement to state name and address

- (1) The Director or an authorised person who suspects on reasonable grounds that a person on the Trust lands has committed an offence against the Act or this Regulation may require the person to state his or her full name and residential address.
- (2) A person must not:
 - (a) fail without reasonable excuse to comply with a requirement under this clause, or
 - (b) in purported compliance with such a requirement, furnish information that the person knows to be false or misleading in a material particular.Maximum penalty: 10 penalty units.
- (3) A person is not guilty of an offence under subclause (2) unless it is established that the Director or authorised person warned the person that the failure to comply with the requirement is an offence.

43 Lessees and licensees

An act or omission does not constitute a breach of this Regulation, despite any other provision of this Regulation, if the act or omission is authorised expressly or impliedly by the terms or conditions of any lease or licence granted by the Trust or of any agreement entered into by the Trust.

44 Application of Regulation to officers and employees

- (1) Nothing in this Regulation prevents a person employed under section 13 of the Act or an authorised person from doing, in the exercise of his or her functions under the Act, any act or thing the doing of which is otherwise prohibited by this Regulation.
- (2) This clause does not, however, authorise any such person (other than a police officer) to have in his or her possession a firearm (within the meaning of the *Firearms Act 1996*) while on the Trust lands except with the written permission of the Trust or the Director.

45 Penalty notices

For the purposes of section 24 of the Act:

- (a) the Director and an authorised person are prescribed officers, and

Clause 46 Centennial Park and Moore Park Trust Regulation 2004

Part 4 Miscellaneous

- (b) the amount specified in Column 2 of Schedule 1 with respect to each offence described in Column 1 of that Schedule is the prescribed amount of penalty prescribed for the offence against this Regulation if dealt with under that section.

46 Saving

Any act, matter or thing that, immediately before the repeal of the *Centennial Park and Moore Park Trust Regulation 1999*, had effect under that Regulation is taken to have effect under this Regulation.

Centennial Park and Moore Park Trust Regulation 2004

Penalty notice offences

Schedule 1

Schedule 1 Penalty notice offences

(Clause 45)

Column 1	Column 2
Offence	Penalty
clause 5 (2)	\$115
clause 5 (3)	\$115
clause 5 (4)	\$115
clause 6 (1)	\$115
clause 7 (2)	\$175
clause 7 (3)	\$175
clause 10 (4)	\$115
clause 11 (2)	\$115
clause 12 (2)	\$115
clause 13 (1) (a)	\$350
clause 13 (1) (b)	\$350
clause 13 (1) (c)	\$350
clause 13 (1) (d)	\$350
clause 13 (1) (e)	\$350
clause 13 (1) (f)	\$230
clause 13 (1) (g)	\$175
clause 13 (1) (h)	\$115

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Schedule 1 Penalty notice offences

Column 1	Column 2
Offence	Penalty
clause 13 (1) (i)	\$115
clause 13 (2)	\$115
clause 14	\$230
clause 15 (1) (a)	\$175
clause 15 (1) (b)	\$175
clause 15 (2)	\$115
clause 16 (a)	\$175
clause 16 (b)	\$500
clause 16 (c)	\$85
clause 16 (d)	\$115
clause 16 (e)	\$115
clause 16 (f)	\$115
clause 16 (g)	\$175
clause 16 (h)	\$175
clause 16 (i)	\$500
clause 16 (j)	\$500
clause 16 (k)	\$175
clause 16 (l)	\$330
clause 16 (m)	\$330
clause 16 (n)	\$175

Centennial Park and Moore Park Trust Regulation 2004

Penalty notice offences

Schedule 1

Column 1	Column 2
Offence	Penalty
clause 17 (1)	\$175
clause 18 (a)	\$85
clause 18 (b)	\$85
clause 18 (c)	\$85
clause 18 (d)	\$85
clause 18 (e)	\$85
clause 18 (f)	\$85
clause 18 (g)	\$85
clause 18 (h)	\$350
clause 18 (i)	\$85
clause 18 (j)	\$85
clause 18 (k)	\$500
clause 18 (l)	\$85
clause 18 (m)	\$85
clause 18 (n)	\$85
clause 18 (o)	\$85
clause 19 (a)	\$85
clause 19 (b)	\$85
clause 19 (c)	\$85
clause 19 (d)	\$85

Centennial Park and Moore Park Trust Regulation 2004

Schedule 1 Penalty notice offences

Column 1	Column 2
Offence	Penalty
clause 19 (e)	\$85
clause 19 (f)	\$85
clause 19 (g)	\$85
clause 19 (h)	\$85
clause 19 (i)	\$85
clause 19 (j)	\$85
clause 19 (k)	\$85
clause 19 (l)	\$85
clause 19 (m)	\$85
clause 19 (n)	\$85
clause 19 (o)	\$85
clause 19 (p)	\$85
clause 19 (q)	\$85
clause 20	\$115
clause 21 (1)	\$175
clause 21 (2) (a)	\$175
clause 21 (2) (b)	\$115
clause 21 (2) (c)	\$115
clause 21 (2) (d)	\$115
clause 21 (2) (e)	\$115

Centennial Park and Moore Park Trust Regulation 2004

Penalty notice offences

Schedule 1

Column 1	Column 2
Offence	Penalty
clause 21 (2) (f)	\$115
clause 22	\$175
clause 24 (1) (a)	\$115
clause 24 (1) (b)	\$115
clause 24 (1) (c)	\$115
clause 24 (1) (d)	\$175
clause 24 (1) (e)	\$115
clause 25 (a)	\$115
clause 25 (b)	\$115
clause 25 (c)	\$115
clause 25 (d)	\$175
clause 25 (e)	\$175
clause 26 (6)	\$175
clause 27 (a)	\$115
clause 27 (b)	\$350
clause 27 (c)	\$350
clause 42 (2) (a)	\$175
clause 42 (2) (b)	\$175



Coastal Protection Regulation 2004

under the

Coastal Protection Act 1979

Her Excellency the Governor, with the advice of the Executive Council, on the recommendation of the Minister for Natural Resources, has made the following Regulation under the *Coastal Protection Act 1979*.

CRAIG KNOWLES, M.P.,
Minister for Natural Resources

Explanatory note

The object of this Regulation is to remake (with only minor changes in substance) the *Coastal Protection (Non-Local Government Areas) Regulation 1994* (the **1994 Regulation**) which is due to be repealed on 1 September 2004 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation applies to such part of the coastal zone as is below the mean high water mark, excluding any estuary, lake or artificial harbour. (The provision in the 1994 Regulation relating to the application of that Regulation has been modified to reflect amendments to the *Coastal Protection Act 1979* made by the *Coastal Protection Amendment Act 2002*, and to more specifically refer to the part of the coastal zone to which this Regulation applies.)

This Regulation:

- (a) prohibits the carrying out of development on any part of the coastal zone to which this Regulation applies except with the concurrence of the Minister for Natural Resources, and
- (b) prohibits public authorities from granting any right or consent to the use or occupation of, or the carrying out of any development on, any such part of the coastal zone except with the consent of the Minister.

This Regulation is made under section 39 (2) of the *Coastal Protection Act 1979*.

Coastal Protection Regulation 2004

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Coastal Protection Regulation 2004

Clause 1

Coastal Protection Regulation 2004

under the

Coastal Protection Act 1979

1 Name of Regulation

This Regulation is the *Coastal Protection Regulation 2004*.

2 Commencement

This Regulation commences on 1 September 2004.

Note. This Regulation replaces the *Coastal Protection (Non-Local Government Areas) Regulation 1994* which is repealed on 1 September 2004 under section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

the Act means the *Coastal Protection Act 1979*.

(2) The expressions *coastal zone* and *public authority* are defined in section 4 (1) of the Act and the expressions *consent* and *development* are defined in section 37 (1) of the Act.

4 Notes

Notes in the text of this Regulation do not form part of this Regulation.

5 Application of Regulation

(1) This Regulation applies to such part of the coastal zone as is below the mean high water mark, excluding any estuary, lake or artificial harbour.

(2) In this clause, *estuary* includes:

(a) any part of a river whose level is affected (including intermittently affected) by coastal tides, or

Clause 6 Coastal Protection Regulation 2004

- (b) any partially enclosed body of water that is intermittently open to the sea.

Note. Under section 39 (3) of the Act, the provisions of this Regulation do not apply to or in respect of an area that is subject to an environmental planning instrument (other than a State environmental planning policy).

6 Regulation of development generally

A person (including a public authority) must not, without the concurrence of the Minister, carry out development on any part of the coastal zone to which this Regulation applies.

Note. Contravention of this clause (otherwise than by the Crown) constitutes an offence for which the maximum penalty under section 58 of the Act is 10 penalty units.

7 Granting of rights and consents by public authorities

A public authority must not, without the concurrence of the Minister, grant any right or consent to a person:

- (a) to use or occupy any part of the coastal zone to which this Regulation applies, or
- (b) to carry out development on any part of the coastal zone to which this Regulation applies.

Note. Contravention of this clause (otherwise than by the Crown) constitutes an offence for which the maximum penalty under section 58 of the Act is 10 penalty units.

8 Savings

Any act, matter or thing that, immediately before the repeal of the *Coastal Protection (Non-Local Government Areas) Regulation 1994*, had effect under that Regulation continues to have effect under this Regulation.



New South Wales

Community Services (Complaints, Reviews and Monitoring) Regulation 2004

under the

Community Services (Complaints, Reviews and Monitoring) Act 1993

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under *Community Services (Complaints, Reviews and Monitoring) Act 1993*.

CARMEL TEBBUTT, M.L.C.,
Minister for Community Services

Explanatory note

The object of this Regulation is to remake such of the provisions of the *Community Services (Complaints, Reviews and Monitoring) Regulation 1996* under the *Community Services (Complaints, Reviews and Monitoring) Act 1993 (the 1993 Act)* as are of continuing utility.

The 1996 regulation is to be repealed on 1 September 2004 by section 10 (2) of the *Subordinate Legislation Act 1989*. The new Regulation contains the following provisions:

- (a) a provision prescribing the functions of Official Community Visitors for the purposes of section 8 of the 1993 Act (clause 4),
- (b) a provision prescribing classes of decisions in respect of which an application for review may be made under section 28 of the 1993 Act (clause 5),
- (c) a provision prescribing classes of decisions in respect of which reasons must be given under section 45 of the 1993 Act (clause 6),
- (d) a provision prescribing 1 December 2002 as the date from which deaths must be recorded in the register of reviewable deaths kept under section 36 of the 1993 Act (clause 7),
- (e) a transitional provision with respect to the activities of the Child Death Review Team in relation to deaths registered before 31 December 2002 (clause 8),
- (f) other provisions of a minor nature (clauses 1, 2, 3 and 9).

This Regulation is made under the *Community Services (Complaints, Reviews and Monitoring) Act 1993*, including section 52 (the general power to make regulations), sections 8, 28, 36 and 45 and clause 1 of Schedule 1 (the power to make savings and transitional regulations).

Community Services (Complaints, Reviews and Monitoring) Regulation 2004

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Community Services (Complaints, Reviews and Monitoring) Regulation
2004

Clause 1

Community Services (Complaints, Reviews and Monitoring) Regulation 2004

under the

Community Services (Complaints, Reviews and Monitoring) Act 1993

1 Name of Regulation

This Regulation is the *Community Services (Complaints, Reviews and Monitoring) Regulation 2004*.

2 Commencement

This Regulation commences on 1 September 2004.

Note. This Regulation replaces the *Community Services (Complaints, Reviews and Monitoring) Regulation 1996* which is repealed on 1 September 2004 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

the Act means the *Community Services (Complaints, Reviews and Monitoring) Act 1993*.

(2) Notes in the text of this Regulation do not form part of this Regulation.

4 Functions of Official Community Visitors

For the purposes of section 8 of the Act, the following are prescribed as functions that an Official Community Visitor may exercise:

- (a) to inform the Minister and the Ombudsman on matters affecting the welfare, interests and conditions of persons using visitable services,
- (b) to encourage the promotion of legal and human rights of persons using visitable services, including the right to privacy, confidentiality, adequate information and consultation in relation to those services and the right to complain,
- (c) to consider matters raised by persons using visitable services, staff of providers of visitable services and people having a genuine concern for the welfare, interests and conditions of persons using visitable services,

Clause 5 Community Services (Complaints, Reviews and Monitoring) Regulation
2004

- (d) to provide information to persons using visitable services as to the advocacy services available to help them in the presentation of any grievance or matter of concern and, in appropriate cases, to assist such persons to obtain such services,
- (e) to facilitate, wherever it is reasonable and practicable to do so, the early and speedy resolution of grievances or matters of concern affecting persons using visitable services by referring those grievances or matters to the providers of the relevant services or to other appropriate bodies.

5 Decisions subject to review by Tribunal

(1) Decisions of the following kind are prescribed classes of decisions for the purposes of section 28 (1) (c) of the Act:

- (a) a decision made by a service provider not to take action recommended by the Ombudsman under section 26 of the *Ombudsman Act 1974* as a result of an investigation of a complaint under Part 4 of the Act, or to take part only of the action so recommended,

Note. Part 4 of the *Community Services (Complaints, Reviews and Monitoring) Act 1993* enables a person to complain to the Ombudsman about the provision, failure to provide, withdrawal, variation or administration of a community service in respect of a particular person or group of persons.

- (b) a decision made by the Minister or the Director-General to provide, or to continue to provide, a designated service within the meaning of the *Disability Services Act 1993*, where the provision of the service in accordance with the decision does not conform with the objects of that Act or the principles or applications of principles set out in Schedule 1 to that Act,

Note. As at the commencement of this Regulation, designated services were prescribed by the regulations under the *Disability Services Act 1993* to mean all services provided or funded by the Minister, including all services co-funded by the Commonwealth Government through the Home Care Service.

- (c) a decision made by the Minister to adopt or amend a transition plan, or to refuse to adopt or amend a transition plan, within the meaning of section 7 of the *Disability Services Act 1993*.

Note. A transition plan under section 7 of the *Disability Services Act 1993* is a plan by which the provision of non-conforming services (that is, designated services that, prior to the commencement of that Act, had not been provided in accordance with the principles and applications of principles set out in Schedule 1 to that Act) is to be brought into conformity with those principles and applications of principles.

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- (2) A decision of the kind referred to in subclause (1) (a) belongs to a prescribed class of decisions in relation only to the person from whose complaint the recommendation referred to in that paragraph arose. Accordingly, only that person may apply to the Tribunal for a review of that decision.
 - (3) A decision of the kind referred to in subclause (1) (b) belongs to a prescribed class of decisions only if the decision relates to designated services that are provided directly or indirectly as referred to in section 8 (2) (a) of the *Disability Services Act 1993*.
 - (4) In particular, a decision of the kind referred to in subclause (1) (b) does not belong to a prescribed class of decisions if the decision relates to the provision of financial assistance referred to in section 8 (2) (b) of the *Disability Services Act 1993*.
 - (5) Subclause (4) does not affect any right of review that exists under section 20 of the *Disability Services Act 1993*.

6 Reasons to be given for certain decisions

The following classes of decisions are prescribed for the purposes of section 45 (1) of the Act:

- (a) any decision in respect of which there is a right of review by the Tribunal, other than a decision of a kind referred to in clause 5 (1),
- (b) any decision by a service provider that is likely to have a significant impact on the quality or availability of a community service, and that directly affects one or more persons using the service, being a decision in respect of which a request for reasons is made to the service provider by or on behalf of a person so affected within 28 days after the decision is notified to that person.

7 Systemic review of deaths of children at risk of harm, children in care or other persons in care

For the purposes of section 36 (1) (c) of the Act, the prescribed date is 1 December 2002.

Note. This date was (effectively) prescribed by clause 11 of the *Community Services (Complaints, Reviews and Monitoring) Regulation 1996*.

8 Reports required to be prepared by Child Death Review Team

- (1) This clause applies to functions of the Child Death Review Team concerning reports and recommendations relating to deaths of children due to abuse or neglect or that occur in suspicious circumstances, being deaths registered in the period ending on 31 December 2002.

Clause 9 Community Services (Complaints, Reviews and Monitoring) Regulation
 2004

- (2) The Child Death Review Team is to exercise functions relating to any such reports and recommendations as if the amendments made in respect of those functions by the *Community Services Legislation Amendment Act 2002* had not been made.
- (3) In this clause, ***Child Death Review Team*** means the Child Death Review Team established under the *Commission for Children and Young People Act 1998*.

9 Saving

Any act, matter or thing that, immediately before the repeal of the *Community Services (Complaints, Reviews and Monitoring) Regulation 1996*, had effect under that Regulation continues to have effect under this Regulation.



Criminal Procedure Amendment (Penalty Notices) Regulation 2004

under the

Criminal Procedure Act 1986

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Criminal Procedure Act 1986*.

BOB DEBUS, M.P.,
Attorney General

Explanatory note

The object of this Regulation is to extend the operation of Part 3A of the *Criminal Procedure Regulation 2000*, which establishes a trial period for a penalty notice scheme for certain offences under the *Crimes Act 1900* and the *Summary Offences Act 1988*, until 30 June 2005. This Regulation is made under the *Criminal Procedure Act 1986*, including sections 4 (the general regulation-making power) and 343.

Clause 1 Criminal Procedure Amendment (Penalty Notices) Regulation 2004

Criminal Procedure Amendment (Penalty Notices) Regulation 2004

under the

Criminal Procedure Act 1986

1 Name of Regulation

This Regulation is the *Criminal Procedure Amendment (Penalty Notices) Regulation 2004*.

2 Amendment of Criminal Procedure Regulation 2000

The *Criminal Procedure Regulation 2000* is amended as set out in Schedule 1.

Criminal Procedure Amendment (Penalty Notices) Regulation 2004

Amendments

Schedule 1

Schedule 1 Amendments

(Clause 2)

[1] Clause 11B Limitation of areas in which penalty notices may be issued

Insert “ending on the day” after “the period”.

[2] Clause 11C

Omit the clause. Insert instead:

11C Repeal of Part and Schedule 2

This Part and Schedule 2 are repealed on 30 June 2005.



New South Wales

Election Funding Regulation 2004

under the

Election Funding Act 1981

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Election Funding Act 1981*.

BOB CARR, M.P.,
Premier

Explanatory note

The object of this Regulation is to remake, with minor changes only, the provisions of the *Election Funding Regulation 1999*. This Regulation provides for the following matters:

- (a) the maximum expenditure that may be allowed in relation to the audit of a claim for a payment under Part 5 of the *Election Funding Act 1981*,
- (b) the expenditure that is excluded from a claim for a Part 5 payment,
- (c) the manner of vouching for expenditure,
- (d) the manner of payment of claims,
- (e) the manner of vouching for political contributions received,
- (f) the manner of vouching for expenditure incurred on election campaign advertising,
- (g) the keeping of accounting records by parties and by groups of candidates,
- (h) the form of declaration to be made by a proposed appointee to the Election Funding Authority,
- (i) the valuation of property disposed of,
- (j) the keeping and production of the records of parties, groups or candidates,
- (k) the keeping and production of video tapes and films used in advertisements,
- (l) the matters to be included in a declaration of political contributions received.

This Regulation is made under the *Election Funding Act 1981*, including sections 9, 55, 76, 94 and 117 (the general regulation-making power).

Election Funding Regulation 2004

Explanatory note

This Regulation is made in connection with the staged repeal of subordinate legislation under the *Subordinate Legislation Act 1989*.

Election Funding Regulation 2004

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Election Funding Regulation 2004

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Election Funding Regulation 2004

Clause 1

Preliminary

Part 1

Election Funding Regulation 2004

under the

Election Funding Act 1981

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Election Funding Regulation 2004*.

2 Commencement

This Regulation commences on 1 September 2004.

Note. This Regulation replaces the *Election Funding Regulation 1999* which is repealed on 1 September 2004 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

Part 5 payment means a payment under Part 5 of the Act.

Part 6 declaration means a declaration under Part 6 of the Act.

party records means the accounting records required to be kept by a party under Division 2 of Part 3.

property does not include money.

registered agent includes a candidate who is taken by the Act to be his or her own official agent or the official agent of a group.

the Act means the *Election Funding Act 1981*.

(2) Notes in this Regulation do not form part of this Regulation.

Clause 4 Election Funding Regulation 2004

Part 2 Public funding of election campaigns

Part 2 Public funding of election campaigns

4 Maximum expenditure allowed on audit

For the purposes of section 55 (1) (a) (iii) of the Act, the maximum expenditure that may be allowed in relation to the audit of a claim for a Part 5 payment or the audit of a Part 6 declaration is:

- (a) \$1,500 for parties, and
- (b) \$500 for groups or candidates.

5 Expenditure excluded from claim for Part 5 payment

- (1) For the purposes of section 55 (1) (b) (iii) of the Act, expenditure incurred in the use or acquisition of any of the following items is prescribed as expenditure that is not expenditure for election campaign purposes:

- (a) a motor vehicle,
- (b) motor vehicle accessories,
- (c) a vessel or aircraft used for the purpose of navigation,
- (d) a broadcasting receiver,
- (e) a television receiver,
- (f) transmitting or receiving equipment,
- (g) electronic equipment for recording sounds or visual images,
- (h) photographic equipment,
- (i) automatic data processing equipment,
- (j) office furniture and equipment,

unless the use or acquisition is exercised or effected within a period of 10 weeks that includes a polling day and is terminated or disposed of within that period.

- (2) If there is a purchase and disposal of property in the circumstances referred to in subclause (1), expenditure for election campaign purposes includes only so much of the purchase price of the property as is not recovered in the disposal of the property.

- (3) In this clause:

automatic data processing equipment includes the following:

- (a) a digital machine capable of storing data and a processing program and that is directly accessible for the execution of a program,
- (b) an analogue machine capable of simulating mathematical models,

Election Funding Regulation 2004

Clause 5

Public funding of election campaigns

Part 2

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- (c) a magnetic or optical reader,
 - (d) a machine for transcribing data onto data media in coded form or for processing such data,
 - (e) prepared tapes, wires, strips and like goods of a kind commonly used for magnetic recording of sound or similar recording, being goods for use with equipment referred to in paragraphs (a)–(d).

broadcasting receiver means an appliance capable of being used for the reception, by means of wireless telegraphy, of broadcasting programs, and includes a loudspeaker or other receiving device that is connected to the appliance.

motor vehicle means any motor car, motor carriage, motor cycle or other vehicle propelled wholly or partly by any volatile spirit, steam, gas, oil or electricity, or by any means other than human or animal power, and includes a trailer or caravan.

motor vehicle accessories includes radios, sound reproducing equipment, air conditioning units, spare tyres or tools to be used with a motor vehicle.

office furniture and equipment includes desks, tables, chairs, filing cabinets, library shelving, typewriters, word processors, calculators, accounting machines, cash registers, photocopiers, printing machines, paper collating machines, water coolers, air conditioners, refrigerators, lockers or other items of a durable nature utilised in or ancillary to a work function.

polling day includes the day appointed for the taking of the poll at a by-election.

television receiver means an appliance capable of being used for the reception, by means of wireless telegraphy, of television programs.

transmitting or receiving equipment means equipment for transmitting (or for receiving) by means of electric or electro-magnetic energy any of the following:

- (a) sounds,
- (b) visual images,
- (c) signals for the communication of any matter other than sounds or visual images,
- (d) signals for the actuation or control of machinery or apparatus.

Clause 6	Election Funding Regulation 2004
Part 2	Public funding of election campaigns

6 Vouching of election campaign expenditure in claim for Part 5 payment

- (1) For the purposes of section 76 of the Act, the prescribed manner of vouching for expenditure specified in a claim for a Part 5 payment is:
 - (a) by the registered agent for the party, group or candidate attaching to the claim the relevant Part 6 declaration or a copy of the declaration, and
 - (b) if the amount claimed exceeds the amount of expenditure vouched for under paragraph (a), by the registered agent attaching to the claim the originals of either the accounts or receipts (or a mixture of both) issued in respect of so much of the expenditure not vouched for under that paragraph as in aggregate at least equals the excess amount.
- (2) An account or receipt is to be disregarded for the purposes of subclause (1) (b) if it does not set out such particulars as are sufficient to identify clearly the nature of the expenditure to which it relates.

7 Part 5 payments generally

- (1) In respect of expenditure incurred by a party or group, the Authority must not direct that the whole or any part of a Part 5 payment be made to a person, body or organisation (other than the registered agent of the party or group) unless:
 - (a) the payment is for an amount of \$5,000 or more, and
 - (b) the registered agent has authorised the Authority in writing to make the payment.
- (2) In respect of expenditure incurred by a candidate, the Authority must not direct that the whole or any part of a Part 5 payment be made to a person, body or organisation other than the candidate or the registered agent of the candidate.
- (3) Subclause (2) does not apply to a payment referred to in section 76A of the Act.

8 Part 5 payments to joint party group

- (1) If:
 - (a) a party endorses a candidate who is a member of, or 2 or more candidates who are members of, a group, and
 - (b) another party endorses another candidate who is a member of, or other candidates who are members of, that same group,the Authority may direct that the whole of a Part 5 payment be made to the registered agent of the party that endorsed the candidate whose name first appears on the list of members of the group.

Election Funding Regulation 2004

Clause 8

Public funding of election campaigns

Part 2

- (2) This clause does not apply:
- (a) if a common agent has been registered by the parties, or
 - (b) if the group has notified the Authority in writing of the party agent to whom the whole or any part of a Part 5 payment is to be made.

Clause 9	Election Funding Regulation 2004
Part 3	Political contributions and electoral expenditure

Part 3 Political contributions and electoral expenditure

Division 1 Vouching

9 Vouching for political contributions

For the purposes of section 94 of the Act, the prescribed manner of vouching for political contributions received by a party, group or candidate is by the registered agent for the party, the official agent of the group or the candidate, as the case requires, lodging with the relevant Part 6 declaration:

- (a) the receipt book, containing the triplicate forms of each receipt issued and the original, duplicate and triplicate of each unused receipt, and
- (b) the acknowledgment book, containing the triplicate forms of each acknowledgment issued and the original, duplicate and triplicate of each unused acknowledgment.

10 Vouching for election campaign advertising expenditure

- (1) For the purposes of section 94 of the Act, the prescribed manner of vouching for the expenditure incurred on election campaign advertising by radio or television or in cinemas, newspapers or periodicals, or incurred on other printed election campaign material, is by the registered agent for the party, the official agent of the group or the candidate, as the case requires, attaching to the relevant Part 6 declaration:
 - (a) the originals of either the accounts or receipts (or a mixture of both) issued in respect of the expenditure, and
 - (b) the advertising material to which the expenditure relates.
- (2) The advertising material to be attached in accordance with subclause (1) (b) is to comprise:
 - (a) if the expenditure is incurred in respect of an advertisement by radio or television or in a cinema, a copy of the text (if any) of each advertisement, or
 - (b) if the expenditure is incurred in respect of an advertisement in one or more newspapers or periodicals:
 - (i) a full page of a newspaper or periodical in which the advertisement is displayed, and

Election Funding Regulation 2004

Clause 11

Political contributions and electoral expenditure

Part 3

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- (ii) a statement identifying the advertisement and listing the name of each newspaper and periodical in which the advertisement was published, the size of the advertisement and the date of each publication, or
 - (c) if the expenditure is incurred in respect of other printed election campaign material, a copy of each printed item.
- (3) An account or receipt is to be disregarded for the purposes of this clause if it does not set out such particulars as are sufficient to identify clearly the nature of the expenditure to which it relates.

Division 2 Accounting records of party

11 Party records

- (1) A party must keep at its party headquarters in New South Wales, or at some other address approved by the Authority, the following accounting records:
- (a) a receipt book,
 - (b) an acknowledgment book,
 - (c) a deposit book,
 - (d) a cash book, or a receipts cash book and payments cash book,
 - (e) a cheque book,
 - (f) a journal,
 - (g) a ledger.
- Maximum penalty: 20 penalty units.
- (2) The party records must be kept in accordance with the requirements of this Division.

12 Party records may be maintained by computer

- (1) Despite clauses 14–19, a party may maintain its party records by means of a computer system.
- (2) If a party maintains its party records by means of a computer system, the party must ensure that:
- (a) the records comply with the requirements of clauses 14–19 to the extent that those requirements may reasonably be expected to be complied with in relation to computer records, and
 - (b) any entry produced in visible form appears in chronological sequence, and

Clause 13	Election Funding Regulation 2004
Part 3	Political contributions and electoral expenditure

- (c) all entries are numbered sequentially under program control in a manner that enables the completeness of the party records to be conveniently verified, and
- (d) no amendment to the particulars of a transaction already recorded can be made otherwise than by a separate transaction effecting the amendment, and
- (e) a back-up copy of all records that are less than 6 years old is made at least once a month, and
- (f) the most recent back-up copy is kept in a separate location so that any incident that might adversely affect the records would not affect the back-up copy.

13 Maintenance of party records other than by computer

Except in the case where a party maintains its party records by means of a computer system, the party records concerned must be kept either in book or loose-leaf form or in a system of cards.

14 Receipt book

- (1) The receipt book must contain forms of receipt in duplicate.
- (2) Each copy must be machine numbered serially.
- (3) Provision must be made for the following to be entered on each form:
 - (a) the date of the receipt,
 - (b) the amount of money received by the party,
 - (c) the form (cash, cheque or postal order) in which the money was received,
 - (d) the name and address of the person, body or organisation by whom or on whose behalf the amount was paid,
 - (e) the purpose of the payment.
- (4) If:
 - (a) a political contribution in the form of money, including a contribution referred to in section 89 (a) of the Act, or
 - (b) an annual subscription referred to in section 89 (b) of the Act, or
 - (c) an amount of money, being the proceeds of fundraising ventures or functions, or
 - (d) an amount of money, being the proceeds of the sale of a gift donated to the party, or
 - (e) any other money,is received by the party, the party must issue from the receipt book a receipt for the amount received.

Election Funding Regulation 2004

Clause 15

Political contributions and electoral expenditure

Part 3

-
- (5) The particulars referred to in subclause (3) must be entered on each receipt in ink or indelible pencil and the receipt must be signed by a person authorised by the party.
 - (6) A carbon impression of the receipt must be made on the duplicate form, which must be retained by the party.
 - (7) If the cash book or receipts cash book is used by the party for the purpose of issuing receipts and a carbon impression of the receipt is recorded as a cash book entry, subclause (2) does not require that carbon impression to be machine numbered if the machine number on the original is recorded as part of the cash book entry by some other process.
 - (8) A receipt must be cancelled by writing the word "CANCELLED" across the face of the original and copy of the form.
 - (9) The party must retain in the receipt book the original form of a cancelled receipt and the copy.

15 Acknowledgment book

- (1) The acknowledgment book must contain forms of acknowledgment in duplicate.
- (2) Each copy must be machine numbered serially.
- (3) Provision must be made for the following to be entered on each form:
 - (a) the date of the acknowledgment,
 - (b) the value of any gift donated to the party,
 - (c) a description of the gift,
 - (d) the name and address of the person, body or organisation by whom or which or on whose behalf the donation was made,
 - (e) the purpose for which the donation was made.
- (4) If a donation of a gift is received by the party, the party must issue from the acknowledgment book an acknowledgment of the donation.
- (5) The particulars referred to in subclause (3) must be entered on each acknowledgment in ink or indelible pencil and the acknowledgment must be signed by a person authorised by the party.
- (6) A carbon impression of the acknowledgment must be made on the duplicate form, which must be retained by the party.
- (7) An acknowledgment must be cancelled by writing the word "CANCELLED" across the face of the original and copy of the form.
- (8) The party must retain in the acknowledgment book the original form of a cancelled acknowledgment and the copy.

Clause 16	Election Funding Regulation 2004
Part 3	Political contributions and electoral expenditure

- (9) In this clause, *gift* does not include a gift in the form of money.

16 Deposit book

- (1) The deposit book must contain deposit forms in duplicate for each authorised deposit-taking institution at which the party keeps accounts.
- (2) Provision must be made for the following to be entered on each form:
 - (a) the date of the deposit,
 - (b) the amount of the deposit,
 - (c) the form (cash, cheque or postal order) of the deposit,
 - (d) in the case of a deposit by cheque, the name of the drawer of the cheque.
- (3) A carbon impression of the deposit must be made on the duplicate form which must be retained by the party.
- (4) The party must ensure that:
 - (a) the deposit book is produced to the authorised deposit-taking institution at the time of making a deposit of a political contribution, and
 - (b) the particulars referred to in subclause (2) are entered on each deposit form at the time of making such a deposit, and
 - (c) the carbon impression of each complete deposit entry is initialled by an officer of the authorised deposit-taking institution at which the deposit is being made and is stamped with the stamp of that authorised deposit-taking institution.

17 Cash book

- (1) The cash book must be a book or books, the sheets of which are consecutively numbered.
- (2) The consecutive numbers of receipts issued or cheques drawn must be shown on the respective sheets.
- (3) If the loose-leaf principle is used, separate sheets may be kept for the receipts cash book and the payments cash book, and it is not necessary to number the sheets consecutively.
- (4) As soon as practicable after a transaction is effected, the party must enter:
 - (a) on the receipts side of the cash book, on the receipts cash sheets or in the receipts cash book—particulars of all money received by the party by way of political contributions, and

Election Funding Regulation 2004

Clause 18

Political contributions and electoral expenditure

Part 3

-
- (b) on the disbursements side of the cash book, on the payments cash sheets or in the payments cash book—particulars of all money disbursed by the party by way of electoral expenditure.
 - (5) At the end of each month, the cash book or books must be balanced and the balance carried forward to the commencement of the next month and to a ledger account provided for that purpose.
 - (6) At the end of each month:
 - (a) the entries in the cash book or books must be compared with the pass book or statement of the relevant authorised deposit-taking institution, and
 - (b) amounts credited to the authorised deposit-taking institution account and appearing in the relevant pass book or statement for which no receipt had been written and amounts debited to the authorised deposit-taking institution account and appearing in the relevant pass book or statement for which no cheque had been drawn must be entered in the cash book or books.
 - (7) Any necessary reconciliation (showing the balance in the authorised deposit-taking institution account as indicated in the relevant pass book or statement, and adding any money received but not banked and deducting any cheques drawn but not presented for payment) must be entered in the cash book at the end of the entries for the month.

18 Journal

- (1) As soon as practicable after a transaction is effected, the party must enter in the journal particulars of:
 - (a) the value of any interest in property donated to the party, and
 - (b) particulars of any interest in property disposed of by the party otherwise than for money, and
 - (c) all adjustments to be made to accounts in the ledger, and
 - (d) all transfers to be effected from one ledger account to another, and
 - (e) all other transactions affecting any ledger account which are not posted or to be posted from the cash book to the ledger, being transactions relating to political contributions received or electoral expenditure incurred.
- (2) The particulars of each entry in the journal must be sufficient to identify the transaction in respect of which the entry is made and the reason for that entry.

Clause 19	Election Funding Regulation 2004
Part 3	Political contributions and electoral expenditure

19 Ledger

- (1) The ledger must contain particulars of all political contributions received and electoral expenditure incurred.
- (2) The particulars must, if taken in conjunction with other particulars in the receipt book, cash book or books and journal, be sufficient to identify the transaction in respect of which the political contribution was received or the electoral expenditure incurred.
- (3) Each entry in the cash book or books relating to a political contribution received or an electoral expenditure incurred must be posted as soon as practicable to the appropriate account in the ledger.
- (4) Against each entry in the ledger account there must be recorded:
 - (a) a reference to the folio of the cash book from which the entry is posted, or
 - (b) if the cash book is kept on the loose-leaf principle, a reference to the receipt number or cheque number.
- (5) Each entry in the journal relating to a political contribution received or an electoral expenditure incurred must be posted as soon as practicable to the appropriate account in the ledger.
- (6) There must be recorded against each entry in the ledger account a reference to the folio of the journal from which the entry is posted, preceded by the letter "J".
- (7) At the end of each month, each account in the ledger must be balanced and the balance (if any) must be carried forward to the commencement of the next month.

20 Party records to be retained

A party must retain its party records for at least 6 years.
Maximum penalty: 20 penalty units.

21 Alternative system of accounts

- (1) The registered agent for a party may apply to the Authority for approval for the party to keep a system of accounting records other than that described in this Division.
- (2) Such an application must be accompanied by a statement of an auditor indicating that, in his or her opinion, the information to be included in a declaration under section 83 of the Act is ascertainable from the proposed system.

Election Funding Regulation 2004

Clause 22

Political contributions and electoral expenditure

Part 3

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- (3) The Authority may approve an application, either unconditionally or subject to such conditions as it thinks proper to impose at the time of giving the approval, if it is satisfied:
 - (a) that the proposed system will accurately record and explain the transactions in respect of which the party agent is to lodge a declaration under section 83 of the Act, and
 - (b) that the information to be included in such a declaration is ascertainable from the proposed system.
 - (4) The Authority may, for any reason, and on giving at least one month's notice, cancel an approval.
 - (5) While an approval is in force, the party to which the approval relates must keep a system of accounting records that complies with the terms of the application and any condition subject to which the approval was given.

Maximum penalty: 20 penalty units.
 - (6) In the event of an inconsistency between the terms of an application for approval and a condition subject to which the approval was given, the condition prevails to the extent of the inconsistency.

Division 3 Accounting records of group or candidate

22 Records of group or candidate

- (1) An official agent of a group or candidate must keep the following accounting records in respect of an election campaign:
 - (a) a receipt book,
 - (b) an acknowledgment book,
 - (c) a cheque book,
 - (d) a petty cash book,
 - (e) a cash book, or a receipts cash book and payments cash book.

Maximum penalty: 20 penalty units.
- (2) The accounting records must be kept in accordance with the requirements of this Division.

23 Accounting records may be maintained by computer

- (1) Despite clauses 24–27, the accounting records referred to in clause 22 may be maintained by means of a computer system.
- (2) If an official agent of a group or candidate maintains the accounting records by means of a computer system, the official agent must ensure that:

Clause 24	Election Funding Regulation 2004
Part 3	Political contributions and electoral expenditure

- (a) the records comply with the requirements of clauses 24–27 to the extent that those requirements may reasonably be expected to be complied with in relation to computer records, and
- (b) any entry produced in visible form appears in chronological sequence, and
- (c) all entries are numbered sequentially under program control in a manner that enables the completeness of the records to be conveniently verified, and
- (d) no amendment to the particulars of a transaction already recorded can be made otherwise than by a separate transaction effecting the amendment, and
- (e) a back-up copy of all records that are less than 6 years old is made at least once a month, and
- (f) the most recent back-up copy is kept in a separate location so that any incident that might adversely affect the records would not affect the back-up copy.

24 Receipt book

- (1) The receipt book must be one issued by the Authority containing forms of receipt in triplicate.
- (2) If:
 - (a) a political contribution in the form of money, including a contribution referred to in section 89 (a) of the Act, or
 - (b) an amount of money, being the proceeds of fundraising ventures or functions, or
 - (c) an amount of money, being the proceeds of the sale of a gift donated to the group or candidate,
 is received by the group or candidate or the official agent of the group or candidate, the official agent must issue from the receipt book a receipt for the amount received.
- (3) The following particulars must be entered on each receipt in ink or indelible pencil:
 - (a) the date of the receipt,
 - (b) the amount of money received by the group or candidate or the official agent of the group or candidate,
 - (c) the form (cash, cheque or postal order) in which the money was received,

Election Funding Regulation 2004

Clause 25

Political contributions and electoral expenditure

Part 3

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- (d) the name and address of the person, body or organisation by whom or which or on whose behalf the amount was paid,
 - (e) the purpose of the payment.
- (4) The receipt must be signed by a person authorised by the official agent.
 - (5) Carbon impressions of the receipt must be made on the duplicate and triplicate forms.
 - (6) The duplicate form must be retained by the official agent for his or her records.
 - (7) The triplicate form must be retained in the receipt book.
 - (8) A receipt must be cancelled by writing the word "CANCELLED" across the face of the original and the 2 copies of the form.
 - (9) The official agent must retain in the receipt book the original form of a cancelled receipt and the 2 copies until the book is lodged with the relevant Part 6 declaration.

25 Acknowledgment book

- (1) The acknowledgment book must be one issued by the Authority containing forms of acknowledgment in triplicate.
- (2) If a donation of a gift is received by the group or candidate or the official agent of the group or candidate, the official agent must issue from the acknowledgment book an acknowledgment of the donation.
- (3) The following particulars must be entered on each acknowledgment in ink or indelible pencil:
 - (a) the date of the acknowledgment,
 - (b) the value of any gift donated for election campaign purposes to the group or candidate or the official agent of the group or candidate,
 - (c) a description of the gift,
 - (d) the name and address of the person, body or organisation by whom or which or on whose behalf the donation was made,
 - (e) the purpose for which the donation was made.
- (4) The acknowledgment must be signed by a person authorised by the official agent.
- (5) Carbon impressions of the acknowledgment must be made on the duplicate and triplicate forms.
- (6) The duplicate form must be retained by the official agent for his or her records.

Clause 26	Election Funding Regulation 2004
Part 3	Political contributions and electoral expenditure

- (7) The triplicate form must be retained in the acknowledgment book.
- (8) An acknowledgment must be cancelled by writing the word "CANCELLED" across the face of the original and the 2 copies of the form.
- (9) The official agent must retain in the acknowledgment book the original form of a cancelled acknowledgment and the 2 copies until the book is lodged with the relevant Part 6 declaration.
- (10) In this clause, *gift* does not include a gift in the form of money.

26 Petty cash book

The petty cash book must be a book for recording cash payments for items of expenditure of \$50 or less.

27 Cash book

- (1) The cash book must be a book or books, the sheets of which are consecutively numbered.
- (2) The consecutive numbers of receipts issued or cheques drawn must be shown on the respective sheets.
- (3) If the loose-leaf principle is used, separate sheets may be kept for the receipts cash book and the payments cash book, and it is not necessary to number the sheets consecutively.
- (4) As soon as practicable after a transaction is effected, the official agent must enter:
 - (a) on the receipts side of the cash book, on the receipts cash sheets or in the receipts cash book—particulars of all money received by the group or candidate or the official agent of the group or candidate by way of political contributions, and
 - (b) on the disbursements side of the cash book, on the payments cash sheets or in the payments cash book—particulars of all money disbursed by the group or candidate or the official agent of the group or candidate by way of electoral expenditure.
- (5) At the end of each month, the cash book or books must be balanced and the balance carried forward to the commencement of the next month.
- (6) At the end of each month:
 - (a) the entries in the cash book or books must be compared with the pass book or statement of the relevant authorised deposit-taking institution, and

Election Funding Regulation 2004

Clause 28

Political contributions and electoral expenditure

Part 3

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- (b) amounts credited to the authorised deposit-taking institution account and appearing in the relevant pass book or statement for which no receipt had been written and amounts debited to the authorised deposit-taking institution account and appearing in the relevant pass book or statement for which no cheque had been drawn must be entered in the cash book or books.
- (7) Any necessary reconciliation (showing the balance in the authorised deposit-taking institution account as indicated in the relevant pass book or statement, and adding any money received but not banked and deducting any cheques drawn but not presented for payment) must be entered in the cash book at the end of the entries for the month.

28 Records of group or candidate to be retained

The official agent of a group or candidate must retain the accounting records for an election campaign for at least 6 years.

Maximum penalty: 20 penalty units.

Clause 29 Election Funding Regulation 2004

Part 4 Miscellaneous

Part 4 Miscellaneous

29 Eligibility for appointment to Authority

For the purposes of section 9 (2) (b) of the Act, the prescribed form of written notice to be lodged by a prospective appointed member or alternate is the statutory declaration as set out in Schedule 1.

30 Determination of value of property disposed of

- (1) The Authority may employ any of the following persons to assess the value of property disposed of if it is of the opinion that the value of the property has not been correctly stated:
 - (a) in respect of real property—persons who are registered as practising real estate valuers under section 15 (1) of the *Valuers Registration Act 1975*,
 - (b) in respect of property other than real property—persons who have, for a period of (or for periods totalling not less than) 5 years, been engaged in making valuations of property of the same kind as the property disposed of.
- (2) However, the Authority may not employ any of the following persons to assess the value of the property:
 - (a) candidates,
 - (b) registered agents,
 - (c) persons who are not eligible under section 9 (1) of the Act for appointment as appointed members or alternates for appointed members of the Authority,
 - (d) persons appointed to any office or position under the Act,
 - (e) persons appointed to any office or position under the *Parliamentary Electorates and Elections Act 1912*.
- (3) A valuation made by a person employed in accordance with this clause is, for the purposes of the Act, taken to be a true valuation of the amount of a contribution or expenditure consisting of a disposition of property.

31 Accounts and records to be kept to facilitate audit

The agent of a party, group or candidate must keep all accounts, records, documents and papers that relate directly or indirectly to an expenditure referred to in a claim for a Part 5 payment or any matter required to be set out in a Part 6 declaration in such a manner as:

- (a) to disclose a true and fair view of the transactions of the party, group or candidate, and

Election Funding Regulation 2004

Clause 32

Miscellaneous

Part 4

-
- (b) to enable an auditor conveniently and properly to issue a certificate under section 75 or 93 of the Act.

Maximum penalty: 20 penalty units.

32 Direction by Authority to lodge certain records

- (1) If a claim for a Part 5 payment or a Part 6 declaration is not validly lodged or is, in the opinion of the Authority, incorrect in a material particular, the Authority may by notice in writing require:
- (a) a current or former party, group or candidate, or
 - (b) a current or former agent of a party, group or candidate,
- to lodge with the Authority within the time specified in the notice such records as the Authority may require of political contributions given or received or electoral expenditure incurred by the party, group or candidate.
- (2) A person must not fail to comply with any such requirement.
Maximum penalty: 20 penalty units.
- (3) The Authority may copy any records lodged with it which it considers may be of assistance in determining:
- (a) the reason why a claim for a Part 5 payment or a Part 6 declaration was not validly lodged, or
 - (b) whether, in a claim for a Part 5 payment or a Part 6 declaration, the agent of a party, group or candidate has made a statement that is false or misleading in a material particular.

33 Video tapes or films

- (1) This clause applies to any video tape, film or transparency that is used:
- (a) for the purposes of an advertisement appearing on television or at a cinema, and
 - (b) at the direction, or with the approval, of a party or an official agent of a group or candidate.
- (2) The party or an official agent of the group or candidate must retain any such video tape, film or transparency for a period of 12 months after the date of the last presentation of the advertisement concerned.
Maximum penalty: 20 penalty units.
- (3) If so required by the Authority, the party or an official agent of the group or candidate must arrange for any such video tape, film or other transparency to be viewed by a member of the Authority or by a person authorised by the Authority.
Maximum penalty: 20 penalty units.

Clause 34 Election Funding Regulation 2004

Part 4 Miscellaneous

- (4) It is a defence to a prosecution for an offence arising under this clause if it is established that a video tape, film or other transparency to which this clause applies did not give rise to:
- (a) electoral expenditure that is included in a claim for a Part 5 payment, or
 - (b) electoral expenditure that is required to be disclosed by the agent of a party, group or candidate in accordance with the Act.

34 Small contributions

A Part 6 declaration is exempted from section 89 (a) of the Act if there is included in the declaration:

- (a) the total amount of contributions that are excluded from the declaration by virtue of section 87 (3), (3A) or (4) of the Act and that fall within a monetary range specified in the guidelines under section 24 (1) of the Act, and
- (b) the number of donors making the contributions that fall within that range.

35 Savings

Any act, matter or thing that, immediately before the repeal of the *Election Funding Regulation 1999*, had effect under that Regulation is taken to have effect under this Regulation.

Election Funding Regulation 2004

Statutory declaration of eligibility for appointment

Schedule 1

Schedule 1 Statutory declaration of eligibility for appointment

(Clause 29)

Election Funding Act 1981

I *[full name]* of *[residential address]* do solemnly and sincerely declare that I am not ineligible for appointment as an appointed member/alternate for an appointed member* of the Election Funding Authority by reason of any of the matters set out in section 9 (1) of the *Election Funding Act 1981*, and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act 1900*.

Declared before me on the *[date and place]*.

Declarant *[Print name and insert signature]*

Justice of the Peace *[Print name and insert signature]*

*[*Delete whichever does not apply]*



Entertainment Industry Regulation 2004

under the

Entertainment Industry Act 1989

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Entertainment Industry Act 1989*.

JOHN DELLA BOSCA, M.L.C.,
Minister for Industrial Relations

Explanatory note

The object of this Regulation is to remake, with only a minor change in substance, the *Entertainment Industry Regulation 1995*. That Regulation will be repealed on 1 September 2004 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation deals with the following matters:

- (a) the maximum fees that may be charged for the management of performers (clause 4),
- (b) the financial statements that must be kept in relation to money received on behalf of performers (clause 5),
- (c) the Minister's power of delegation (clause 6),
- (d) formal matters (clauses 1–3 and 7).

This Regulation is made under the *Entertainment Industry Act 1989*, including sections 38 (Fees of entertainment industry representatives etc), 53 (Delegation) and 64 (the general regulation-making power).

Entertainment Industry Regulation 2004

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Entertainment Industry Regulation 2004

Clause 1

Entertainment Industry Regulation 2004

under the

Entertainment Industry Act 1989

1 Name of Regulation

This Regulation is the *Entertainment Industry Regulation 2004*.

2 Commencement

This Regulation commences on 1 September 2004.

Note. This Regulation replaces the *Entertainment Industry Regulation 1995* which is repealed on 1 September 2004 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definition and notes

(1) In this Regulation:

the Act means the *Entertainment Industry Act 1989*.

(2) Notes included in this Regulation do not form part of this Regulation.

4 Fees of entertainment industry representatives: section 38

(1) For the purposes of section 38 (1) and (4) of the Act, the following percentages are prescribed:

- (a) in the case of an engagement involving film, television or electronic media—10 per cent,
- (b) in the case of an engagement involving live theatre or a live musical or variety performance (being an engagement that does not involve film, television or electronic media)—10 per cent for any period up to 5 weeks and then 5 per cent for any period after 5 weeks,
- (c) in all other cases—10 per cent.

(2) The following amounts (being amounts payable to performers) are to be excluded when calculating the percentage of fees or other remuneration that an entertainment industry agent or manager may

Clause 5 Entertainment Industry Regulation 2004

demand or receive for or in respect of the engagement of a performer:

- (a) travelling and meal allowances,
- (b) holiday pay,
- (c) any long service leave and superannuation payments,
- (d) any overtime or penalty payments that are paid on an irregular basis,
- (e) any award or minimum payments in respect of rehearsals.

5 Financial statements for money received for performers

- (1) As soon as practicable after receiving money on behalf of a performer, an entertainment industry agent or manager must give appropriate financial statements to:
 - (a) the performer, and
 - (b) any entertainment industry representative who has represented the performer, or carried out activities on behalf of the performer, in connection with the engagement for which the money has been received, and
 - (c) the entertainment industry employer (or other person) by whom or on whose behalf the money has been paid.
- (2) The appropriate financial statements for the purposes of subclause (1) (a) and (b) are:
 - (a) a statement of the amount of money received by the agent or manager on behalf of the performer, and
 - (b) a statement of the amount of money paid to the performer for the engagement.
- (3) The appropriate financial statement for the purposes of subclause (1) (c) is a statement of the amount of money received by the agent or manager on behalf of the performer.

6 Delegation: section 53

The class of persons that consists of the following persons is prescribed for the purposes of section 53 (3) (b) of the Act (that is, the class of persons to whom the Minister may delegate functions):

- (a) the Director-General, Department of Commerce,
- (b) the Deputy Director-General, Office of Industrial Relations, Department of Commerce,

Entertainment Industry Regulation 2004

Clause 7

-
- (c) the Assistant Director-General, Industrial Relations Service Delivery, Office of Industrial Relations, Department of Commerce.

7 Savings

Any act, matter or thing that, immediately before the repeal of the *Entertainment Industry Regulation 1995*, had effect under that Regulation continues to have effect under this Regulation.



Fisheries Management (General) Amendment (Manning River Prawn Nets) Regulation 2004

under the

Fisheries Management Act 1994

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Fisheries Management Act 1994*.

IAN MICHAEL MACDONALD, M.L.C.,
Minister for Primary Industries

Explanatory note

The object of this Regulation is to revise the requirements relating to the lawful use of prawn nets (hauling) in the Manning River by commercial fishers. In particular, the amendments require nets to be operated from a boat that is at least 10 metres from the water's edge and restrict the use of mechanically powered boats in connection with prawn hauling operations.

This Regulation is made under the *Fisheries Management Act 1994*, including sections 23, 24 and 289 (the general regulation-making power).

Clause 1 Fisheries Management (General) Amendment (Manning River Prawn Nets) Regulation 2004

Fisheries Management (General) Amendment (Manning River Prawn Nets) Regulation 2004

under the

Fisheries Management Act 1994

1 Name of Regulation

This Regulation is the *Fisheries Management (General) Amendment (Manning River Prawn Nets) Regulation 2004*.

2 Commencement

This Regulation commences on 1 September 2004.

3 Amendment of Fisheries Management (General) Regulation 2002

The *Fisheries Management (General) Regulation 2002* is amended as set out in Schedule 1.

Fisheries Management (General) Amendment (Manning River Prawn Nets)
Regulation 2004

Amendments

Schedule 1

Schedule 1 Amendments

(Clause 3)

[1] Clause 33 Prawn net (hauling): Manning River

Omit “subclauses (3), (4) and (5)” from clause 33 (1).

Insert instead “subclauses (3)–(10)”.

[2] Clause 33 (2) (f)

Insert after clause 33 (2) (e):

- (f) a marker buoy with a diameter of not less than 100 millimetres must be affixed to the hauling line at intervals of 55 metres.

[3] Clause 33 (4) (a)

Omit the paragraph. Insert instead:

- (a) one end of the hauling line run on the first leg (first rope shot) to the net must be attached to a stationary licensed fishing boat that:
 - (i) does not have a motor on or in it, and
 - (ii) does not contain any rope other than the mooring line, the anchor line and a maximum of 220 metres of hauling line, and
 - (iii) is secured by an anchor (with the length of the anchor line not exceeding 50 metres) in such a position that both the boat and the anchor are at least 10 metres from the water’s edge (regardless of the tide) during the entire hauling operation,

[4] Clause 33 (4) (b)

Insert “(or laid out)” after “the line must then be cast”.

[5] Clause 33 (4) (f) and (g)

Omit the paragraphs. Insert instead:

- (f) once the shooting of the first hauling line of the net has commenced, the two hauling lines of the net must not be shortened or manipulated in any way so as to alter the shape of the haul (other than as a necessary part of the process of landing the net),

Fisheries Management (General) Amendment (Manning River Prawn Nets)
Regulation 2004

Schedule 1 Amendments

- (g) once any part of the net other than the hauling line has been shot or cast, the shooting and hauling operation is to be continued without interruption or delay until the hauling lines have been removed from the water and the net landed in such depth of water, or onto the tray of the boat in such a way, as to enable any prohibited size fish in the net to escape.

[6] Clause 33 (6)–(11)

Omit clause 33 (6). Insert instead:

- (6) The entire hauling operation must take place at least 10 metres from the water's edge (regardless of the tide).
- (7) The hauling lines must not be towed by more than one boat at any stage in the hauling operation.
- (8) A crew that uses a net must not operate more than one mechanically powered boat in the Manning River.
- (9) A crew that uses a net must not operate a mechanically powered boat within 50 metres of another crew that is taking prawn from the Manning River, except as provided by subclause (10).
- (10) A crew may operate a mechanically powered boat within 50 metres of another crew that is taking prawn from the Dawson River for the purpose of passing the other crew. The crew passing must pass the other crew as quickly as possible and must not assist the other crew.
- (11) For the purposes of this Regulation or any other instrument under the Act, a net described in this clause may be referred to as a prawn net (hauling).



Fisheries Management (General) Amendment (Recreational Fishing Fee) Regulation 2004

under the

Fisheries Management Act 1994

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Fisheries Management Act 1994*.

IAN MICHAEL MACDONALD, M.L.C.,
Minister for Primary Industries

Explanatory note

The object of this Regulation is to exempt fishers taking fish from the waters of Lake Hume from the requirement to pay a recreational fishing fee under the *Fisheries Management Act 1994*. The Regulation is made pursuant to an agreement between New South Wales and Victoria.

This Regulation is made under the *Fisheries Management Act 1994*, including section 34C (2) (g) and section 289 (the general regulation-making power).

Clause 1 Fisheries Management (General) Amendment (Recreational Fishing Fee)
Regulation 2004

Fisheries Management (General) Amendment (Recreational Fishing Fee) Regulation 2004

under the

Fisheries Management Act 1994

1 Name of Regulation

This Regulation is the *Fisheries Management (General) Amendment (Recreational Fishing Fee) Regulation 2004*.

2 Commencement

This Regulation commences on 1 September 2004.

3 Amendment of Fisheries Management (General) Regulation 2002

The *Fisheries Management (General) Regulation 2002* is amended as set out in Schedule 1.

Fisheries Management (General) Amendment (Recreational Fishing Fee)
Regulation 2004

Amendment

Schedule 1

Schedule 1 Amendment

(Clause 3)

Clause 118 Exempt bodies of water

Omit clause 118 (1). Insert instead:

- (1) For the purposes of section 34C (2) (g) of the Act, the following bodies of water are exempt:
 - (a) a body of water comprising the backed up waters of a dam or impoundment located on private land if the surface area of the body of water (at full capacity) does not exceed 2 hectares,
 - (b) the waters of Lake Hume, being all waters (and land covered by water when the lake is at full capacity) in the Murray River arm of Lake Hume, from the weir wall upstream to the point where 7 Mile Creek enters the Murray River on the northern bank of the Murray River, and in the Mitta Mitta River arm of Lake Hume, from the weir wall upstream to the Murray Valley Highway Bridge situated east of Tallangatta.



Forestry Regulation 2004

under the

Forestry Act 1916

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Forestry Act 1916*.

IAN MICHAEL MACDONALD, M.L.C.,
Minister for Primary Industries

Explanatory note

The object of this Regulation is to remake, with various modifications, the *Forestry Regulation 1999* which will be repealed on 1 September 2004 by section 10 (2) of the *Subordinate Legislation Act 1989*. The new Regulation contains provisions with respect to the following matters:

- (a) the establishment and organisation of State forests, special management zones and flora reserves (Part 2),
- (b) the control and management of State forests, timber reserves and flora reserves, including the control of fires and camping (Part 3),
- (c) timber, products and forest materials licences, contractors' and operators' licences, sawmill licences, clearing licences, occupation permits, forest leases, hunting permits and special purposes permits (Part 4),
- (d) the branding of timber and the payment of royalties (Part 5),
- (e) miscellaneous offences (Part 6),
- (f) provisions relating to penalty notices issued under the Act and the proposed Regulation (Part 7),
- (g) other matters of a minor, consequential or ancillary nature (Parts 1 and 7).

This Regulation is made under the *Forestry Act 1916*, including section 41 (the general regulation-making power).

Forestry Regulation 2004

Explanatory note

This Regulation refers to AS 1742 *Manual of uniform traffic control devices* and Australian Standard AS 1319—1994, *Safety signs for the occupational environment*, both published by Standards Australia.

Forestry Regulation 2004

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Forestry Regulation 2004

Clause 1

Preliminary

Part 1

Forestry Regulation 2004

under the

Forestry Act 1916

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Forestry Regulation 2004*.

2 Commencement

This Regulation commences on 1 September 2004.

Note. This Regulation replaces the *Forestry Regulation 1999* which is repealed on 1 September 2004 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Interpretation

(1) In this Regulation:

approved means approved for the time being by the Commission.

authorised officer means:

- (a) a person authorised by the Commission in writing, or
- (b) an employee of the Commission directed by the Commission in writing,

to exercise the function conferred or imposed on an authorised officer by the provision of this Regulation in which the expression is used.

contractor's licence means a contractor's licence issued under clause 46.

Eastern and Central Division has the meaning given by the *Crown Lands Act 1989*.

employee of the Commission includes an officer or other person appointed by the Governor under section 10 of the Act.

exercise a function includes perform a duty.

Clause 3	Forestry Regulation 2004
Part 1	Preliminary

flammable matter includes vegetable matter whether it is still growing or not.

forestry area means a State forest, timber reserve or flora reserve, and includes any part of a State forest, timber reserve or flora reserve.

function includes a power, authority or duty.

hunting permit means a hunting permit granted under section 32B of the Act.

machine means a device powered by an internal combustion engine, and includes a motor vehicle, a stationary engine, a chainsaw, or any felling, logging, welding or road making equipment.

occupation permit means an occupation permit granted under section 31 of the Act.

operator's licence means an operator's licence issued under clause 46.

prescribed fee for a licence, permit or other matter specified in Column 1 of Schedule 1, means the amount specified in Column 2 of that Schedule opposite the description of the licence, permit or other matter.

Region means a part of New South Wales that the Commission has for the time being designated as a Region for the purpose of administering the Act.

Regional Manager means the person for the time being in charge of the forestry administration of a Region.

sale agreement means an agreement in force under section 11 (1) (m) (i) of the Act.

sawmill licence means a sawmill licence issued under section 28 of the Act.

special management zone means land declared as a special management zone under section 21A of the Act.

special purposes permit means a special purposes permit granted under section 32F of the Act.

the Act means the *Forestry Act 1916*.

timber harvesting or hauling equipment means any equipment, plant, machinery or vehicle used in the felling, cutting, pushing, pulling, lifting or hauling of timber.

Forestry Regulation 2004

Clause 3

Preliminary

Part 1

use a machine includes operate or control the machine.

way includes a road, track, trail, bridge and causeway.

Western Division has the meaning given by the *Crown Lands Act 1989*.

- (2) Notes in the text of the Regulation do not form part of this Regulation.

Clause 4	Forestry Regulation 2004
Part 2	Establishment and organisation of State forests, special management zones and flora reserves

Part 2 Establishment and organisation of State forests, special management zones and flora reserves

4 State forests to be named and numbered

The Commission must ensure that every State forest (including a State forest constituted under section 18 (2A) of the Act) has a distinctive name and a distinctive number.

5 State forest to be managed in accordance with management plan

- (1) Following appropriate investigation and survey work, the Commission must ensure that every State forest is managed in accordance with an approved management plan.
- (2) The management plan may be for the State forest concerned, or for that State forest together with other State forests or other nearby Crown-timber lands.
- (3) The Commission must not approve a management plan (or a significant amendment to a management plan) for a forest unless:
 - (a) a draft management plan (or draft amendment to a management plan) has been dealt with in accordance with subclauses (4)–(6), or
 - (b) the draft plan or amendment is in accordance with the terms of an approval given by the Minister under Division 4 of Part 5 of the *Environmental Planning and Assessment Act 1979* within 5 years before the date on which the plan (or amendment) is to take effect.
- (4) A draft management plan (or draft amendment to a management plan) is to be publicly advertised in a notice that:
 - (a) is published in a daily newspaper circulating throughout the State and a local newspaper (if any) circulating in any local government area in which the forest to which the draft plan or amendment applies is located, and
 - (b) includes a brief description of the draft plan or amendment, and
 - (c) includes a statement indicating a location at which members of the public may examine a copy of the draft plan or amendment, and

Forestry Regulation 2004	Clause 6
Establishment and organisation of State forests, special management zones and flora reserves	Part 2

- (d) indicates a closing date on or before which written submissions may be made to the Commission concerning the draft plan or amendment, being a date that is not less than 30 days after the date on which the notice is first published.
- (5) The Commission is to consider any submissions made to it on or before the closing date for submissions specified in a notice under subclause (4).
- (6) A draft management plan must specify:
 - (a) the ecologically sustainable forest management strategy to be adopted by the Commission in relation to the forest to which the plan applies, and
 - (b) the conditions under which any timber, products or forest material may be taken from the forest, and
 - (c) the conditions subject to which the forest may otherwise be used.
- (7) The Commission must ensure that the management plan for a State forest is departed from only with its approval. The Commission's approval may only be given if the proposed departure from the plan is publicly advertised in accordance with subclause (4) and the Commission has considered any submissions made in relation to the proposal.

6 Management plans to be consistent with integrated forestry operations approvals

- (1) In this clause:

integrated forestry operations approval means an approval under Division 2 of Part 4 of the *Forestry and National Park Estate Act 1998*.

relevant area means the area to which an integrated forestry operations approval applies.
- (2) The Commission must not approve a management plan (or a significant amendment to a management plan) for a forest that is wholly or partly located in a relevant area unless the draft plan or amendment is in accordance with the terms of the integrated forestry operations approval for the area.
- (3) A management plan for a forest that is wholly or partly located in a relevant area must be consistent with the terms of the integrated forestry operations approval for the area. To the extent that the

Clause 7	Forestry Regulation 2004
Part 2	Establishment and organisation of State forests, special management zones and flora reserves

provisions of any such management plan are inconsistent with the terms of the integrated forestry operations approval, the terms of the approval prevail.

- (4) The requirements of this clause relating to a management plan for a forest that is wholly or partly located in a relevant area are in addition to the requirements specified under clause 5.

7 Special management zones

The Commission must ensure that every special management zone has a distinctive name and a distinctive number.

8 Flora reserves to be named

The Commission must ensure that every flora reserve has a distinctive name and a distinctive number. This clause applies whether or not the reserve comprises land dedicated as a State forest.

9 Public access to plans

The Commission must ensure that copies of approved management plans for State forests and of the working plans for flora reserves, together with any approved amendments of such plans:

- (a) are kept at the offices of the Regional Manager for the Region in which the State forest or flora reserve is situated and at the head office of the Commission, and
- (b) are available for inspection by members of the public free of charge at those offices during the normal business hours of the Commission.

Forestry Regulation 2004

Clause 10

Control and management of State forests, timber reserves and flora reserves

Part 3

Part 3 Control and management of State forests, timber reserves and flora reserves

Division 1 Control of forestry areas generally

10 Definition of “authorised officer”

In this Division, *authorised officer* includes a police officer.

11 Persons to leave forestry area when requested

- (1) A person who:
- (a) enters or remains in a forestry area in contravention of the Act or this Regulation, or
 - (b) while in a forestry area:
 - (i) causes annoyance or inconvenience to any other person in the area, or
 - (ii) otherwise contravenes the Act or this Regulation,
- must, on being requested to do so by an authorised officer, leave the area, or a part of the area, specified by the officer.
- (2) Without limiting subclause (1), an authorised officer may request a person to leave a forestry area if:
- (a) in the area:
 - (i) logging operations or other forest activities are in progress, or
 - (ii) a bushfire is burning, or
 - (iii) in the opinion of the Commission or the officer, conditions of high fire danger exist, or
 - (iv) the Commission, the officer or another authorised officer is undertaking deliberate or controlled burning of any kind, or
 - (v) very wet or windy conditions exist, or
 - (vi) a way has been damaged, or
 - (vii) a way needs maintenance or protection as a result of adverse weather, and
 - (b) the Commission or officer believes that:
 - (i) those activities or conditions constitute a danger or potential danger to the safety of persons or property, or

Clause 12 Forestry Regulation 2004

Part 3 Control and management of State forests, timber reserves and flora reserves

- (ii) there is likely to be conflict with other uses of the area by other persons, or
- (iii) there is a risk of a significant adverse impact on the area.
- (3) The Commission may erect or cause to be erected such enclosures, gates or ramps as it considers necessary for the purpose of preventing or restricting the entry of persons into the forestry area concerned.
- (4) A person who fails to comply with a request under this clause is guilty of an offence.
Maximum penalty: 20 penalty units.
- (5) Subclause (4) applies to a person irrespective of any provisions of a lease, licence or permit that the person holds in relation to the forestry area concerned.
- (6) A person is guilty of an offence under this clause only if the authorised officer when making the request:
 - (a) discloses to the person that he or she is an authorised officer, and
 - (b) informs the person that failure to comply with the request is an offence under this Regulation.

12 Removal of persons from forestry area

- (1) An authorised officer may remove from a forestry area a person:
 - (a) who has entered or is remaining in the area in contravention of the Act or this Regulation, or
 - (b) who is causing annoyance or inconvenience to other persons in the area, or
 - (c) who otherwise contravenes the Act or this Regulation, and who fails to leave the area after being requested to do so by the officer.
- (2) The removal of a person under this clause does not prevent the person from being charged with an offence under clause 11.

13 Control of persons, vehicles and machines in forestry area

- (1) The Commission may, by displaying a notice to that effect in a conspicuous position in or in the immediate vicinity of a forestry area, prohibit:

Forestry Regulation 2004

Clause 13

Control and management of State forests, timber reserves and flora reserves

Part 3

-
- (a) all persons, or all persons of a class specified in the notice, or
- (b) all vehicles, or all vehicles of a class specified in the notice, or
- (c) all machines, or all machines of a class specified in the notice, from entering the area or a part of the area specified in the notice.
- (2) Any such prohibition may be for an indefinite period or for such period or periods as are specified in the notice.
- (3) The Commission may erect or authorise the erection of such enclosures, gates or ramps as it considers necessary for the purposes of such a prohibition.
- (4) A person who, without the prior written permission of the Commission:
- (a) enters a forestry area, or
- (b) drives a vehicle into a forestry area, or
- (c) drives a machine into a forestry area, or
- (d) having entered a forestry area, remains in, drives a vehicle in, or drives or uses a machine in, the area,
- in contravention of a notice displayed in accordance with subclause (1) is guilty of an offence.
- Maximum penalty: 20 penalty units.
- (5) The Commission may, by displaying a notice to that effect in a conspicuous position in or in the immediate vicinity of a forestry area or a part of a forestry area, fix the maximum speed at which any vehicle or machine, or any vehicle or machine of a class specified in the notice, may be driven in that area or that part of an area.
- (6) A person who drives a vehicle or machine in a forestry area in excess of the speed specified in a notice displayed in accordance with subclause (5) is guilty of an offence.
- Maximum penalty: 20 penalty units.
- (7) A person who does any of the following in a forestry area is guilty of an offence:
- (a) drives or parks a vehicle that is not registered,
- (b) drives or parks a vehicle that does not display a valid registration label,

Clause 14	Forestry Regulation 2004
Part 3	Control and management of State forests, timber reserves and flora reserves

- (c) drives or parks a vehicle that has no number-plate or registration plate or that has its number-plate or registration plate covered or obscured.

Maximum penalty: 20 penalty units.

- (8) Subclause (7) does not apply in relation to a vehicle that is timber harvesting or hauling equipment.
- (9) In this clause:

drive a vehicle or machine, includes ride, take or place the vehicle or machine.

number-plate means a number-plate issued:

- (a) under the *Road Transport (Vehicle Registration) Act 1997*, or
 (b) by a competent authority of another jurisdiction.

registered means registered:

- (a) under the *Road Transport (Vehicle Registration) Act 1997*, or
 (b) by a competent authority of another jurisdiction, or
 (c) in New South Wales under the *Interstate Road Transport Act 1985* of the Commonwealth.

registration plate means a registration plate issued:

- (a) under the *Recreation Vehicles Act 1983*, or
 (b) by a competent authority of another jurisdiction.

vehicle includes a caravan or other trailer.

14 Reservation of forestry area for separate or exclusive use

- (1) The Commission may, by displaying a notice to that effect in a conspicuous position in or in the immediate vicinity of a forestry area, reserve for such periods as it thinks fit the area for separate or exclusive use for the purpose of:
- (a) recreational use and enjoyment, or
 (b) enabling any person to exercise a right or privilege conferred by a licence, permit, forest lease or other authority issued or granted by the Commission, or
 (c) enabling any exercise or activity to be carried on by members of the Australian Defence Force, or
 (d) enabling the Commission to exercise any of its functions.

Forestry Regulation 2004

Clause 15

Control and management of State forests, timber reserves and flora reserves

Part 3

- (2) The Commission may erect or authorise the erection of such enclosures, gates or ramps as it considers necessary for the purposes of such a reservation.
- (3) A person who, without the prior permission of the Commission, enters or remains in an area set aside under this clause for separate or exclusive use is guilty of an offence.

Maximum penalty: 20 penalty units.

15 Offences relating to dangerous activities and damaging forests and reserves

- (1) A person who, while in a forestry area, engages in any activity or recreational pursuit that involves risking the safety of the person or the safety of other persons or damaging the environment is guilty of an offence.

Maximum penalty: 20 penalty units.

- (2) Without limiting the generality of subclause (1), the activities and recreational pursuits to which that subclause applies include abseiling, base jumping, bungee jumping, rock climbing, caving, parachuting, white water boating, paragliding, parasailing and hang gliding.

- (3) A person who, while in a forestry area:
 - (a) causes damage to, interferes with or destroys vegetation (other than timber), or
 - (b) obstructs, damages or interferes with a way or a drainage structure associated with a way, or
 - (c) damages, obstructs or interferes with a drainage feature such as a watercourse or a drainage line, or
 - (d) in a manner that does not involve committing an offence under section 27 (1) (b) of the Act—interferes with material that is not part of a way, or
 - (e) erects a fence or other obstruction, or
 - (f) obstructs or interferes with the flow of water in a watercourse, or
 - (g) causes damage to, defaces, interferes with, destroys or removes a standard, sign, notice, barrier or device erected by the Commission, or

Clause 16	Forestry Regulation 2004
Part 3	Control and management of State forests, timber reserves and flora reserves

(h) causes damage to, defaces, or destroys a building, enclosure, dam or other structure, or plant or equipment, of the Commission or of a lessee or licensee of the Commission,

is guilty of an offence.

Maximum penalty: 20 penalty units.

(4) However, an offence is not committed under this section if the act in question:

- (a) is done with the prior written consent of the Commission, or
- (b) is authorised by a licence, permit, forest lease or other authority issued or granted under the Act or this Regulation or under some other law.

(5) Damage caused to a way is not an offence under subclause (3) (b) if it was a natural consequence of travelling over the way in accordance with any direction contained in a notice or control sign.

(6) In this clause:

drainage structure includes a drain, drop down structure and dissipater, road drainage pipe, culvert and cross bank.

material includes soil, sand and gravel.

Note. Section 27 of the Act creates certain offences relating to timber, products and forest materials on Crown-timber lands. The expressions **timber**, **products** and **forest materials** are defined in section 4 of the Act.

Division 2 Fire

16 Definitions

In this Division:

fire means combustion of any kind, whether burning gas, liquid or solid fuel.

fireplace means the site or location in which a fire is lit, and includes a naturally occurring site or a fixed or portable barbecue.

17 Lighting of fire in forestry area for cooking or other purposes

- (1) A person must not light, maintain or use a fire in a forestry area, or cause a fire to be lit, maintained or used in such an area, for preparing meals or for boiling water, or for personal warmth, or for repairing tools or for another similar purpose, unless:

Forestry Regulation 2004

Clause 18

Control and management of State forests, timber reserves and flora reserves

Part 3

- (a) the site of the fire at any point is at least 4.5 metres from the nearest log, stump or tree, and the ground within 2 metres of the site of the fire at all points is cleared of all flammable matter, or
- (b) the fire is lit in a fireplace of a kind approved by an authorised officer.

Maximum penalty: 20 penalty units.

- (2) However, subclause (1) does not apply in relation to any fire:
 - (a) that is authorised to be lit, maintained or used in accordance with a special purposes permit or by an authorised officer, or
 - (b) that is in a part of a building, caravan or other vehicle (being a part that is specially constructed for containing a fire).

18 Lighting of fire in forestry area to process timber, products or materials

- (1) A person must not light, maintain or use a fire in a forestry area, or cause a fire to be lit, maintained or used in such an area, for the purpose of processing timber, products or forest materials, unless the land within a minimum of 30 metres distance (or such other distance as may be specified or allowed by an authorised officer in the particular case) of all points of the site of the fire:
 - (a) has been cleared of all flammable matter, and
 - (b) is kept cleared of that matter until the fire has been extinguished.

Maximum penalty: 20 penalty units.

- (2) This clause is subject to clause 19.

19 Lighting of fire in forestry area to destroy waste material

A person must not, for the purpose of destroying waste resulting from the processing of timber, products or forest materials, light, maintain or use a fire in a forestry area, or cause a fire to be lit, maintained or used in such an area, in the open air, unless:

- (a) the fire is lit in an incinerator from which the escape of all sparks and incandescent and burning material is prevented, or
- (b) if an authorised officer is satisfied that such an incinerator is not available—the fire is lit with the permission of and in accordance with the written conditions specified by that officer.

Maximum penalty: 20 penalty units.

Clause 20	Forestry Regulation 2004
Part 3	Control and management of State forests, timber reserves and flora reserves

20 Lighting of fire in forestry area to clear vegetation or to make firebreak

- (1) A person must not light, maintain or use a fire in a forestry area, or cause a fire to be lit, maintained or used in such an area, for the purpose of clearing trees, grass or other vegetation or material or for burning a firebreak unless:
- (a) the person has obtained authority to do so from an authorised officer, and
 - (b) the fire is lit, maintained and used in accordance with the conditions specified by an authorised officer.
- Maximum penalty: 20 penalty units.
- (2) This clause does not apply to an employee of the Commission acting in the execution of the employee's duty.

21 Leaving lighted tobacco product or lighted match in forestry area

A person who leaves or deposits in a forestry area a lighted cigarette or other lighted tobacco product or a lighted match is guilty of an offence.

Maximum penalty: 20 penalty units.

22 Lighting fire for unauthorised purpose

A person who lights, maintains or uses a fire in a forestry area, or causes a fire to be lit, maintained or used in a forestry area, for a purpose other than a purpose authorised by this Division is guilty of an offence.

Maximum penalty: 20 penalty units.

23 Use of machine in forestry area

- (1) A person who in a forestry area drives or uses a machine is guilty of an offence, unless:
- (a) a spark arrester that is in a serviceable condition is securely fixed to the exhaust of the machine, and
 - (b) the fuel, electrical and braking systems and all combustion chambers, manifolds, exhaust pipes and expansion chambers of the machine and their joints are in all respects in safe working order, and

Forestry Regulation 2004

Clause 24

Control and management of State forests, timber reserves and flora reserves

Part 3

-
- (c) the machine is free of surplus oil, dust impregnated with oil and vegetable matter.

Maximum penalty: 20 penalty units.

- (2) Subclause (1) (a) does not apply in respect of a motor vehicle.

24 Storage of liquid fuel in forestry area

- (1) A person who, while in a forestry area, stores liquid fuel is guilty of an offence unless the fuel is stored:

- (a) under, or for the purposes of carrying out an activity authorised by, a licence, permit or other authority issued or granted by the Commission, and
- (b) in accordance with any conditions relating to the storage of liquid fuel imposed by the licence, permit or authority.

Maximum penalty: 20 penalty units.

- (2) This clause does not apply to liquid fuel stored in the fuel tank of a machine.

25 Refuelling machine near flammable matter

A person must not, while in a forestry area, refuel a machine except at a location at which the ground is clear of all flammable matter for a distance of at least 1.5 metres from every part of the machine.

Maximum penalty: 20 penalty units.

26 Stopping dangerous operations in forestry area

- (1) An authorised officer who believes that a machine that is in such mechanical condition as to create a danger of fire:

- (a) is being used in a forestry area, or
- (b) is being used in such a way as to create such a danger,

may direct the person who is using the machine to stop using it until such time as an authorised officer considers it can be safely used without creating such a danger.

- (2) A person who fails to comply with a direction under this clause is guilty of an offence.

Maximum penalty: 20 penalty units.

Clause 27	Forestry Regulation 2004
Part 3	Control and management of State forests, timber reserves and flora reserves

27 Fire prevention measures in forestry area

- (1) If a building or group of buildings located in a forestry area are used in connection with forest operations, a person who is carrying on forest operations in the area must:
 - (a) surround the building or group of buildings with a road or fire break that is cleared of all flammable matter to a width of not less than 4.5 metres, and
 - (b) ensure that the road or fire break is adequately maintained, and
 - (c) carry out or cause to be carried out such burning or other protective operations in the vicinity of the building or group of buildings as an authorised officer directs from time to time, and
 - (d) ensure that:
 - (i) all flammable matter lying within 1.5 metres of the building or group of buildings is removed, and
 - (ii) the area is kept clear of all flammable matter.
- (2) A person who fails to comply with this clause is guilty of an offence.
Maximum penalty: 20 penalty units.
- (3) In this clause:
building includes a hut, tent, caravan or temporary dwelling.
forest operations includes sawmilling and logging.

28 Stopping certain activity in forestry area

- (1) An authorised officer may direct a person to stop carrying on an activity in a forestry area if the officer believes that the weather conditions are such that continuation of the activity is likely to cause the ignition or the spread of fire.
- (2) A person who is given such a direction:
 - (a) must immediately comply with the direction, and
 - (b) must not resume the activity until an authorised officer permits it to be resumed.
- (3) A person who contravenes subclause (2) is guilty of an offence.
Maximum penalty: 20 penalty units.

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- (4) This clause applies to a person to whom a direction under this clause is given even if the direction is inconsistent with the conditions or limitations specified in a licence, permit, forest lease or other authority issued or granted to the person under the Act or this Regulation.
- (5) A person is guilty of an offence under this clause only if the authorised officer when giving the direction:
- (a) discloses to the person that he or she is an authorised officer, and
 - (b) informs the person that failure to comply with the direction is an offence under this Regulation.

29 Extinguishing fire in forestry area

- (1) A person who lights or uses a fire in a forestry area must not leave the site of the fire, temporarily or otherwise, unless:
- (a) the fire is extinguished, or
 - (b) another person has undertaken to remain at that site to tend or extinguish the fire.
- (2) A person does not contravene subclause (1) merely because he or she leaves the site of the fire temporarily in order to report the escape or escalation of the fire to an employee of the Commission or to obtain help.
- (3) A person who lights or uses a fire in a forestry area must, if directed to do so by an authorised officer, take all reasonable steps to extinguish the fire.
- (4) A person who lights or uses a fire in a forestry area must, if the fire escapes from the site at which it was lit or escalates so as to endanger any other person or any property, immediately take all reasonably practicable measures to ensure that the fire is extinguished.
- (5) A person who contravenes a provision of this clause is guilty of an offence.

Maximum penalty: 20 penalty units.

30 Duties of holder of written authority in forestry area

- (1) A person who holds a licence, permit or forest lease in respect of part of a forestry area, or who is acting in accordance with an

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authorisation in force under section 30I of the Act that relates to a forestry area:

- (a) must take all reasonable precautions to prevent unauthorised damage by fire to the area, and
 - (b) must, on becoming aware of an outbreak of fire within the area, ensure that the outbreak is immediately reported to an employee of the Commission, and
 - (c) must attempt to extinguish the fire or, if it cannot be extinguished, must attempt to prevent the fire from spreading.
- (2) A person who fails to comply with a requirement of this clause is guilty of an offence.

Maximum penalty: 20 penalty units.

Division 3 Camping

31 Camping in forestry area

- (1) The Commission may, by displaying a notice to that effect in a conspicuous position in or in the immediate vicinity of a forestry area:
 - (a) prohibit persons from camping in the area, or
 - (b) permit persons to camp in the area but only in accordance with conditions specified in the notice.
- (2) An authorised officer may give directions to a person who is camping or proposing to camp in the forestry area as to:
 - (a) the number of persons who are allowed to camp, and
 - (b) the duration for which camping in that area is allowed, and
 - (c) the location and removal of the camp.
- (3) Directions under subclause (2) must not be inconsistent with the conditions specified in any notice displayed in relation to the area concerned.
- (4) A person who contravenes:
 - (a) a prohibition or conditions specified in a notice displayed in accordance with subclause (1), or
 - (b) a direction given in accordance with subclause (2),
 is guilty of an offence.

Maximum penalty: 20 penalty units.

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Control and management of State forests, timber reserves and flora reserves

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32 Imposition of charges for camping in forestry areas

- (1) The Commission:
 - (a) may impose and collect charges for camping in a forestry area, and
 - (b) may display notices at or in the vicinity of a road that provides access to the area to the effect that persons are prohibited from camping in the area unless they have paid to the Commission or an authorised officer the requisite camping charge.
- (2) If a notice is displayed in accordance with subclause (1) in relation to a forestry area, a person must not camp in the area, unless the requisite camping charge has been paid to the Commission or to an authorised officer.

Maximum penalty: 20 penalty units.
- (3) A court may, in addition to imposing a penalty for a contravention of this clause, make an order for the payment of the charge to which the contravention relates.

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Division 1 Provisions applicable to all written authorities

33 Definition

In this Division:

written authority means any of the following:

- (a) a timber licence,
- (b) a products licence,
- (c) a forest materials licence,
- (d) a contractor's licence,
- (e) an operator's licence,
- (f) a sawmill licence,
- (g) a clearing licence,
- (h) a grazing permit,
- (i) an occupation permit,
- (j) a forest lease,
- (k) a hunting permit,
- (l) a special purposes permit.

34 Application for written authority

- (1) An application for a written authority relating to Crown-timber land may be lodged at:
 - (a) the office of the Regional Manager for the Region in which the land is located, or
 - (b) any other office approved by the Commission.
- (2) However, an application for:
 - (a) a special purposes permit to authorise the carrying out of a research project or a scientific or other investigation or survey under clause 56 (1) (d) may be lodged at the office of the Research and Development Division of the Commission, and
 - (b) a sawmill licence must be made to the Regional Manager for the Region in which the mill is located, and
 - (c) a clearing licence to clear trees from Crown-timber land in the Western Division (other than Crown-timber land that is a

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State forest or timber reserve) must be lodged at the office of the Western Lands Commissioner.

35 Form of application for written authority

- (1) An application for a written authority must be made in the approved form.
- (2) However, an application for a clearing licence to clear trees from Crown-timber land in the Western Division (other than Crown-timber land that is a State forest or timber reserve) is not required to be in an approved form but must be made in writing.
- (3) The Commission may also require an applicant for a written authority to provide it with such further particulars with respect to an application as it considers necessary to determine the application.
- (4) The Commission may refuse an application for which a form of application is required if:
 - (a) a requirement under subclause (3) is not complied with within a reasonable period, or
 - (b) the application is not accompanied by the application fee (if any) required by this Regulation.

36 Payment of fees

- (1) An application for:
 - (a) a sawmill licence, or
 - (b) a hunting permit, or
 - (c) a forest lease,must be accompanied by the prescribed fee.
- (2) An application for an occupation permit must be accompanied by the prescribed fee, unless the Commission waives payment of that fee.
- (3) If an application referred to in subclause (1) is refused or withdrawn, the Commission may retain the fee or such part of it as the Commission determines.
- (4) The prescribed fee for a written authority must be paid before the authority is issued or granted.
- (5) The Commission may, as a condition of issuing a grazing permit, require the payment of a fee for agistment, as assessed by the Commission.

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- (6) The Commission may waive or reduce any fee in relation to a written authority if, in the opinion of the Commission, the granting of the written authority will be beneficial to the management or protection of a forestry area or part of a forestry area.

37 Refusal by Commission to issue written authority

- (1) The Commission may refuse to issue, grant or renew a written authority for any reason that it considers appropriate.
- (2) In particular, the Commission may refuse an application for the issue, grant or renewal of a written authority, unless the applicant has deposited with the Commission an amount of money as a guarantee for the payment of any amount (other than a penalty) that may become payable to the Crown or the Commission as a consequence of a contravention of any of the conditions or limitations of the authority.

38 Form of written authority

- (1) A written authority is to be in a form determined by the Commission, subject to this clause.
- (2) A timber licence, products licence or forest materials licence must describe the locality from which the relevant timber, products or forest materials specified in the licence is or are authorised to be taken.
- (3) A grazing permit must specify:
- (a) the number and kind of animals to be agisted on the land described in the permit, and
 - (b) the weekly agistment fees per head.

39 Variation of written authority

- (1) The Commission may, by notice in writing served on the holder of a written authority, add conditions or limitations to, or vary or revoke any existing conditions or limitations of, the written authority.
- (2) However, any conditions or limitations added or varied under subclause (1) are void in so far as they are inconsistent with conditions or limitations of the licence imposed by the Act or by this Regulation.
- (3) A notice served under this clause may be served personally or by post but is not effective until 1 month after the day of service.

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40 Transfer of written authority

- (1) An application for the Commission's consent to the transfer of a written authority in accordance with section 34 of the Act must:
 - (a) be made in the approved form, and
 - (b) be lodged at the office of the Regional Manager for the Region in which the land or sawmill to which the application relates is located, and
 - (c) be accompanied by the prescribed fee, and
 - (d) be accompanied by any duty payable in relation to the transfer.
- (2) The Commission may require the written authority concerned to be lodged with an application or at some later time.
- (3) An application may be withdrawn at any time before the Commission notifies the transferor that the consent has been granted or refused (as the case may be).
- (4) The withdrawal of an application must be in writing.
- (5) If an application is withdrawn, the Commission may, at its discretion, retain all or part of the prescribed fee for the application towards meeting any costs incurred in dealing with the application.
- (6) The Commission is to notify the applicant in writing that the consent has been granted or refused (as the case may be).

Note. Section 34 of the Act provides that a licence, permit or forest lease is transferable only with the written consent of the Commission.

41 Refusal of consent to transfer of written authority

- (1) The Commission may refuse consent to the transfer of a written authority for any reason that it considers appropriate.
- (2) In particular, the Commission may refuse its consent to the transfer of a written authority in respect of which the transferor owes any amount of money to the Commission, unless the Commission is satisfied that arrangements have been made for the payment of that amount.

42 Commission to record consent to transfer

If the Commission consents to the transfer of a written authority, it must record the consent by an appropriate endorsement:

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- (a) either on the authority or by attaching to it a document containing the endorsement, and
- (b) in the records of the Commission.

43 Application to obtain duplicate written authority

- (1) A person may apply in writing to the Commission for a duplicate written authority if the written authority held by the person has been lost or destroyed.
- (2) An application must be accompanied by the fee (if any) fixed by the Commission.
- (3) On receipt of such an application, the Commission must issue an applicant with a duplicate of a written authority if satisfied that:
 - (a) the written authority concerned has been lost or destroyed, and
 - (b) the applicant is the person entitled to hold that authority.

Division 2 Timber, products and forest materials licences

44 Licences to specify royalty

A timber licence, products licence and forest materials licence must contain particulars (current at the time of issue of the licence) of the royalty that must be paid, or of the rate or rates at which the royalty must be paid, in respect of the timber, products or forest materials authorised to be taken by the licence.

Division 3 Contractors' and operators' licences

45 Person who does not hold contractor's or operator's licence not to be engaged or employed

- (1) The holder of a timber licence, products licence or forest materials licence, a party to a sale agreement, or a party to a merchandising agreement with the Commission, must ensure that:
 - (a) every timber contractor who is engaged to cut, obtain or remove timber, products or forest materials for the purpose of the licence or agreement is the holder of a contractor's licence, and
 - (b) every person (not being a timber contractor) who is engaged or employed to cut, obtain or remove timber, products or forest materials for that purpose is the holder of an operator's licence.

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- (2) A timber contractor who is engaged by the holder of a timber licence, products licence or a forest materials licence, or by a party to a sale agreement, or by a party to a merchandising agreement, for the purpose of the licence or agreement:
- (a) must not:
 - (i) cut, obtain or remove timber, products or forest materials, or
 - (ii) authorise or direct another person to cut, obtain or remove timber, products or forest materials,for that purpose, unless the contractor is the holder of a contractor's licence, and
 - (b) must not engage or employ another person to cut, obtain or remove timber, products or forest materials for that purpose, unless the other person is the holder of an operator's licence.
- (3) A person (not being a timber contractor) who is engaged or employed:
- (a) by the holder of a timber licence, products licence or forest materials licence, or
 - (b) by a party to a sale agreement or a merchandising agreement,
- must not cut, obtain or remove timber, products or forest materials for the purpose of the licence or agreement, unless the person is the holder of an operator's licence.
- (4) A person who contravenes this clause is guilty of an offence.
Maximum penalty: 20 penalty units.
- (5) In this clause:
- employed*** means employed under a contract of service.
- engaged*** means engaged under a contract for the performance of services.
- merchandising agreement*** means an agreement between the Commission and a timber contractor for the purpose of harvesting timber.
- timber contractor*** means a person who operates as a contractor to cut, obtain or remove timber, products or forest materials and who engages or employs one or more other persons to perform the work involved.

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46 Commission may issue contractor's or operator's licence

- (1) The Commission may issue a contractor's licence or an operator's licence for such period, and subject to such conditions and limitations, as it thinks fit.
- (2) The prescribed fee for a contractor's licence or an operator's licence must be paid before the licence is issued.

47 Suspension and cancellation of contractor's or operator's licence

The Commission:

- (a) may suspend a contractor's licence or an operator's licence if it believes on reasonable grounds that a condition or limitation of the licence has been contravened, and
- (b) may cancel the licence if, after giving the holder of the licence an opportunity to be heard, it finds the condition or limitation to have been contravened.

Division 4 Sawmill licences

48 Scope of sawmill licence

- (1) The authority conferred by a sawmill licence is conferred only in relation to the site specified in the licence.
- (2) However, the Commission may, on the application in writing of the holder of the licence to vary the site of the mill specified in the licence, agree in writing to the relocation of that site.
- (3) If the Commission has so agreed to the relocation of the site of a sawmill to another site, that other site is taken to be the site of the mill specified in the sawmill licence.

49 Renewal of sawmill licence

- (1) An application for the renewal of a sawmill licence must be made to the Regional Manager for the Region in which the mill is located.
- (2) The prescribed fee for renewal of a sawmill licence must be paid before the licence is renewed.
- (3) The Commission may refuse to renew a sawmill licence for any reason that it considers appropriate.

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Clause 50

Licences, permits and forest leases

Part 4

50 Conditions of written permission to work mill

- (1) For the purposes of section 29 (1) (b) of the Act, the prescribed circumstances in which a person may work a mill for the sawing or treatment of timber are that, during the period for which the permission is in force, the person to whom permission is granted will use the timber sawn or treated at the mill concerned only for that person's own use and not for sale.
- (2) A person seeking permission under this clause must apply in writing to the Regional Manager for the Region in which the mill is located.
- (3) The prescribed fee for the permission must be paid before the permission is granted.
- (4) The Commission may refuse to grant the permission for any reason that it considers appropriate.

Note. Section 29 of the Act prohibits a person from working a mill for sawing or treating timber except under the authority of a sawmill licence or in accordance with the written permission of the Commission.

Division 5 Clearing licences

51 Fee for clearing licence

- (1) The Commission may, as a condition of issuing a clearing licence to clear trees, require the payment of a fee to meet the costs of dealing with the application and to be incurred in supervising the operations to be undertaken under the licence.
- (2) The fee is to be an amount in accordance with a scale determined by the Commission, but must not exceed \$1,000.

52 Holder of clearing licence may conduct further clearing operations

- (1) This clause applies if:
 - (a) the Commission has issued a clearing licence authorising the clearing of trees on Crown-timber land located in the Eastern and Central Division or on a State forest or timber reserve located in the Western Division, and
 - (b) further work is proposed to be carried out within 10 years from the date of issue of the licence for the purpose of keeping the land concerned cleared of trees.
- (2) The holder of a clearing licence may carry out the work referred to in subclause (1) (b) if the holder:

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- (a) notifies the Commission, before starting the work, of the holder's intention to carry out the work, and
- (b) carries out the work in accordance with any directions given by an authorised officer.

Division 6 Forest leases

53 Application to vary conditions of forest lease

- (1) A lessee under a forest lease who wishes to have a condition of the lease varied must apply in writing to the Regional Manager for the Region in which the leased land is located.
- (2) The application must be accompanied by the prescribed fee.
- (3) The fee is not refundable to the applicant even if the application is refused.

54 Surrender of forest lease

- (1) The lessee under a forest lease may apply to the Commission in writing to surrender the lease.
- (2) The Commission must, on receipt of such an application, accept the surrender of the lease, unless the lessee is in arrears with the payment of rent or is otherwise in breach of the terms of the lease.

Division 7 Hunting permits

55 Conditions of hunting permit

- (1) It is a condition of a hunting permit that the holder of the permit must not use a means of hunting other than one specified in the permit.
- (2) A person claiming to be the holder of a hunting permit must, on demand by a police officer or an employee of the Commission, produce the permit for inspection.
- (3) A person who fails to comply with such a demand is guilty of an offence.

Maximum penalty: 20 penalty units.

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Clause 56

Licences, permits and forest leases

Part 4

Division 8 Special purposes permits

56 Activities prescribed for special purposes permit

- (1) For the purposes of section 32F (1) of the Act, the following are prescribed activities:
- (a) a trial, rally, water sport or similar activity involving:
 - (i) the demonstration of motor vehicles, motorised equipment or water craft of any kind, or
 - (ii) competition between participants in the use, control, performance or navigation of any such vehicles, equipment or craft,
 - (b) an organised tour, trail-ride, safari or other similar activity (whether or not including camping) involving the use of:
 - (i) a motor vehicle, aircraft or water craft of any kind, or
 - (ii) a cycle or a horse or other pack animal,and designed to make use of a forestry area or facilities of a State forest, timber reserve or flora reserve,
 - (c) selling, letting out on hire or otherwise providing (whether or not for profit) goods, services or equipment to visitors to a State forest, timber reserve or flora reserve (except where the selling, letting out on hire or providing is done by a person in accordance with the conditions of a forest lease or an occupation permit),
 - (d) a research project or a scientific or other investigation or survey,
 - (e) taking photographs, or making motion pictures, videotape or sound recordings, for advertising or other commercial purposes,
 - (f) carrying out market research,
 - (g) organised youth or adventure activities,
 - (h) organised recreational, civil or religious activities,
 - (i) professional or technical excursions,
 - (j) regular use of a road within a forestry area as part of a commercial enterprise,
 - (k) regular use of a restricted road within a forestry area.

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- (2) However, an activity is not prescribed for the purposes of section 32F of the Act if it is being carried out by a person who is for the time being exempted by the Commission from having to comply with section 32G of the Act in relation to the activity.

Note. Section 32F of the Act enables a special purposes permit to be granted authorising its holder to engage in or conduct a *prescribed activity*.

- (3) In this clause, *restricted road* means a road on which the Commission has displayed, in a conspicuous position, a notice that states that regular users of the road are required to hold a special purposes permit for that use.

57 Fee for special purposes permit

The Commission may from time to time determine the fee to be paid for a special purposes permit.

58 Revocation of special purposes permit

- (1) The Commission may, having regard to the state of the weather, risk of fire or any other factor that it considers relevant, revoke a special purposes permit by giving notice to the holder of the permit that it is revoked.
- (2) If a special purposes permit is revoked under this clause, the Commission may refund all or part of the fee paid for the permit.

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Clause 59

Dealings with timber, products and forest materials

Part 5

Part 5 Dealings with timber, products and forest materials

59 Timber to be branded

- (1) A person who removes timber from land on which it was cut or obtained is guilty of an offence unless the timber:
- (a) has been branded with the owner's brand and the letters "PP", or
 - (b) has been marked or identified in some other manner directed or approved by the Commission for the purposes of this clause.

Maximum penalty: 20 penalty units.

- (2) This clause does not apply to the removal of timber from Crown-timber lands.

60 Offence to misrepresent brands

A person who:

- (a) applies the letter "P", or causes that letter to be applied, to timber cut or obtained on Crown-timber lands, or
- (b) represents timber to be, or not to be, timber cut or obtained on Crown-timber lands knowing that the timber has not or has been so cut or obtained,

is guilty of an offence.

Maximum penalty: 20 penalty units.

61 Prescription of Commission brands

- (1) The brands comprising a broad arrow, and a broad arrow with the letters "FC" or "RP" (with or without numbers or other symbols), are prescribed as brands to be used by employees of the Commission and persons acting with the authority of the Commission, for the purposes of branding trees, stumps, logs, poles and other timber products obtained from Crown-timber lands.
- (2) A person, other than a person referred to in subclause (1), who uses, for the purpose of branding trees, stumps, logs, poles or other timber products:
- (a) a brand prescribed by subclause (1), or

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Part 5 Dealings with timber, products and forest materials

(b) any brand that consists partly of a brand so prescribed,
is guilty of an offence.

Maximum penalty: 20 penalty units.

62 Offence to make, use or possess branding instruments unlawfully

- (1) A person who, without the approval of the Commission:
- (a) uses or has possession of an instrument designed for use by employees of the Commission for the purpose of branding timber, or
 - (b) makes, uses or has possession of an instrument purporting to be an instrument so designed,

is guilty of an offence.

Maximum penalty: 20 penalty units.

- (2) This clause does not apply to an employee of the Commission.

63 Offence to deface brands

- (1) A person who defaces, destroys or removes an identifying brand comprising a broad arrow (with or without letters, numerals or other symbols) that has been branded or marked on timber (including a tree or tree stump) by or at the direction of an employee of the Commission is guilty of an offence.

Maximum penalty: 20 penalty units.

- (2) This clause does not apply to a person who is lawfully processing the timber.

64 Payment of royalty or purchase price

- (1) The holder of a timber licence, products licence or forest materials licence, or the purchaser of timber or products under a sale agreement, must pay to the Commission the amount of royalty due under the licence, or the purchase price payable under the agreement:

- (a) within the period specified in any account issued by the Commission that requires payment of that amount or purchase price, or
- (b) within such extended period as the Commission may allow.

- (2) A person who, being the holder of a timber licence, products licence or forest materials licence, or the purchaser of timber or products

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Clause 65

Dealings with timber, products and forest materials

Part 5

under a sale agreement, fails to comply with subclause (1) is guilty of an offence.

Maximum penalty: 20 penalty units.

65 Offence to remove certain timber without permission of Commission

- (1) A person who is entitled:
- (a) to take timber or products on or from Crown-timber land otherwise than under the authority of a timber licence or products licence, and
 - (b) to use the timber or products for the purpose of building or fencing or any other purpose,

may remove the timber or products from that land, but only with the written permission of the Commission.

- (2) A person referred to in subclause (1) who removes timber or products from Crown-timber land otherwise than in accordance with that subclause is guilty of an offence.

Maximum penalty: 20 penalty units.

- (3) In giving permission for the removal of timber or products, the Commission may impose such conditions and limitations as it considers appropriate.

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Part 6 Miscellaneous offences

Part 6 Miscellaneous offences

66 Offence not to comply with directions of authorised officer

- (1) A person to whom an authorised officer gives a direction:
 - (a) relating to the taking of timber or products by the person on or from Crown-timber lands, or
 - (b) relating to the taking of forest materials by the person from a State forest,must comply with the direction.
- (2) A person who, without reasonable excuse, fails to comply with this clause is guilty of an offence.

Maximum penalty: 20 penalty units.

67 Offence to approach or interfere with certain operations

- (1) A person who:
 - (a) approaches within 100 metres of timber harvesting or hauling equipment being operated by a person in a forestry area, or
 - (b) interferes with timber harvesting or hauling equipment in a forestry area,is guilty of an offence.

Maximum penalty: 20 penalty units.

- (2) A person who is an authorised person does not commit an offence under this clause.

- (3) In this clause:

authorised person means:

- (a) an employee of the Commission, or
- (b) a person acting under the authority of a lease, licence, permit, delegation or other authority issued or granted by the Commission, or
- (c) an authorised officer, or
- (d) a police officer, or
- (e) an officer or employee of the Department of Environment and Conservation or the Department of Infrastructure, Planning and Natural Resources, while exercising functions as such an officer or employee.

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Clause 68

Miscellaneous offences

Part 6

interfere with timber harvesting or hauling equipment includes obstruct, deface, climb onto, or attach to, the equipment.

68 Offence not to comply with requirement for certain information

- (1) An authorised officer may require a person who deals with timber, products or forest materials to provide the Commission with a statement in an approved form:
 - (a) giving details of the quantity and description of timber, products or forest materials dealt with, or hewn, sawn or otherwise treated, or transported or consigned by road, rail or water by the person concerned during a specified period, and
 - (b) disclosing the land (whether Crown-timber lands, other Crown lands or other lands) from which the timber, products or forest materials has or have been cut, obtained, removed or taken delivery of, and the place to which the timber, products or forest materials were consigned.
- (2) A person of whom such a requirement is made must comply with the requirement within the period specified by the authorised officer who made the requirement.
- (3) The person must also, if requested to do so by an authorised officer, support the statement with a statutory declaration as to its accuracy.
- (4) A person who:
 - (a) without reasonable excuse, fails to comply with a requirement or request made under this clause, or
 - (b) in purporting to comply with the requirement or request, makes a statement that is, to the person's knowledge, false or misleading in a material respect,
 is guilty of an offence.
 Maximum penalty: 20 penalty units.
- (5) In this clause, *deals with*, in relation to timber, products or forest materials, includes dealing with them by cutting, obtaining, removing or taking delivery of them.

69 Offence not to comply with requirement to provide forestry statistics

- (1) The Commission may, by notice in writing, require a person who is engaged in dealing in timber or products to provide it with a statement showing the quantity and description of timber or products that the person has dealt with during the period specified in the request.

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- (2) A person to whom such a requirement is made must comply with the requirement within the period specified by the Commission.
- (3) A person who:
- (a) without reasonable excuse, fails to comply with a requirement made under this clause, or
 - (b) in purporting to comply with the requirement, makes a statement that is, to the person's knowledge, false or misleading in a material respect,
- is guilty of an offence.
- Maximum penalty: 20 penalty units.
- (4) In this clause, *dealing* includes buying, selling, milling and treating.

70 Offence for officer to trade in timber, products or forest materials

An employee of the Commission who, except with the prior written approval of the Commission:

- (a) trades as principal or agent in timber, products or forest materials, or
- (b) does any act under an interest held by the employee under a licence or agreement that authorises the taking, removal or sale of timber, products or forest materials,

is guilty of an offence.

Maximum penalty: 20 penalty units.

71 Offence to contravene conditions and limitations of licences, permits and other authorities

Any person who contravenes a condition or limitation of a licence, permit, forest lease or other authority issued or granted under the Act or this Regulation is guilty of an offence.

Maximum penalty: 20 penalty units.

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Clause 72

Miscellaneous provisions

Part 7

Part 7 Miscellaneous provisions

72 Prescribed matters

- (1) For the purposes of section 10A (1) (d) of the Act, the following are prescribed as persons or classes or descriptions of persons to whom the Commission may delegate its functions:
- (a) in relation only to the function of the Commission under section 27G (3) of the Act (except in respect of State forests and timber reserves)—any person for the time being appointed as an authorised officer under section 59 of the *Native Vegetation Conservation Act 1997* or section 34 of the *Native Vegetation Act 2003*,
 - (b) in relation only to the function of the Commission under section 30I of the Act:
 - (i) any public servant, and
 - (ii) any police officer, and
 - (iii) any officer or employee of a local council, and
 - (iv) any employee or agent of Australia Post.

Note. Section 10A of the Act authorises the Commission to delegate the exercise or performance of specified functions to a prescribed person or a member of a prescribed class or description of persons.

Section 27G (3) of the Act empowers the Commission to issue clearing licences to clear trees (not having economic value) from certain Crown-timber lands.

- (2) For the purposes of section 25E (3) of the Act, the prescribed period is 12 months.

Note. Section 25D of the Act empowers the Minister, on the recommendation of the Commission, to declare specified Crown lands not to be subject to section 25E or 25F of the Act (which respectively place restrictions on granting applications to purchase land that is subject to prescribed leases from the Crown and specify the Crown's rights to timber and products on purchase-tenure land). The expressions **timber** and **products** are defined in section 4 of the Act.

- (3) For the purposes of section 25I (1) of the Act, the prescribed form is the form set out in Schedule 2.

Note. Section 25I of the Act requires the Commission to execute a certificate releasing land from a profit à prendre in specified circumstances (such as when the relevant timber or products have been worked out).

- (4) For the purposes of section 30I (1) (a) and (b) of the Act, the prescribed amount is \$1,000.

Note. Section 30I of the Act allows the Commission to authorise a person to take timber, products or forest materials of a value not exceeding a prescribed amount from land within certain State forests or to take small quantities of timber or products from Crown lands.

Clause 73	Forestry Regulation 2004
Part 7	Miscellaneous provisions

-
- (5) For the purposes of paragraph (e) of the definition of *structure* in section 35A (1) of the Act, the following are prescribed:
- implements, machinery, tanks, troughing, piping, stands, components of a building, containers, pipes, slabs and fabricated structures,
 - any parts of those objects.

Note. Section 35A of the Act empowers the Commission to have unauthorised structures removed from a State forest, timber reserve or flora reserve.

- (6) For the purposes of section 36A of the Act, a *control sign* means a standard, sign, notice or device that:
- complies with Australian Standard AS 1742 *Manual of uniform traffic control devices* and Australian Standard AS 1319—1994, *Safety signs for the occupational environment*, both published by Standards Australia, or
 - contains directions or instructions as determined by the Commission.

Note. Section 36A of the Act empowers the Commission to give a direction, by means of a control sign, prohibiting, regulating or controlling the use or enjoyment of a State forest, timber reserve or flora reserve.

73 Prescribed penalty notice offences

- For the purposes of section 46A (2) (b) of the Act, the following offences are prescribed:
 - offences under sections 27 (1), 29, 32, 32C (2), 32D (3), 32G (1), 38 (2), 38A (4), 38B (3), 43 (1A), 44 and 45 of the Act, and
 - all offences under this Regulation (other than an offence under clause 64).
- For the purposes of section 46A (2) (c) of the Act, the prescribed amount of penalty for an offence dealt with under section 46A of the Act is the amount specified in Column 2 of Schedule 3 in relation to that offence.
- If the reference to a provision in Column 1 of Schedule 3 is qualified by words that restrict its operation to specified kinds of offences or to offences committed in specified circumstances, an offence created by the provision is a prescribed offence only if it is an offence of a kind so specified or only if it is committed in the circumstances so specified.

Forestry Regulation 2004

Clause 74

Miscellaneous provisions

Part 7

74 Savings

Any act, matter or thing that, immediately before the repeal of the *Forestry Regulation 1999*, had effect under that Regulation is taken to have effect under this Regulation.

Forestry Regulation 2004

Schedule 1 Fees

Schedule 1 Fees

(Clause 3)

Column 1	Column 2
Description	Fee
Application for a sawmill licence	\$139
Application for an occupation permit where, in the opinion of the appropriate Regional Manager, no on-site inspection is required	\$94
Application for an occupation permit where an on-site inspection is, in the opinion of the appropriate Regional Manager, required	\$231
Application for a forest lease where, in the opinion of the appropriate Regional Manager, no on-site inspection is required	\$94
Application for a forest lease where an on-site inspection is, in the opinion of the appropriate Regional Manager, required	\$231
Timber licence	\$86 for a licence the duration of which is not more than 3 months
	\$127 for a licence the duration of which is more than 3 months but not more than 6 months
	\$161 for a licence the duration of which is more than 6 months but not more than 9 months
	\$185 for a licence the duration of which is more than 9 months but not more than 12 months

Forestry Regulation 2004

Fees

Schedule 1

Column 1	Column 2
Description	Fee
	For a licence the duration of which is more than 12 months—\$185 for each year, or part of a year, of the duration of the licence
Products licence	<p>\$81 for a licence the duration of which is not more than 3 months</p> <p>\$104 for a licence the duration of which is more than 3 months but not more than 6 months</p> <p>\$122 for a licence the duration of which is more than 6 months but not more than 9 months</p> <p>\$139 for a licence the duration of which is more than 9 months but not more than 12 months</p> <p>For a licence the duration of which is more than 12 months—\$139 for each year, or part of a year, of the duration of the licence</p>
Forest materials licence	<p>\$81 for a licence the duration of which is not more than 3 months</p> <p>\$104 for a licence the duration of which is more than 3 months but not more than 6 months</p> <p>\$122 for a licence the duration of which is more than 6 months but not more than 9 months</p> <p>\$139 for a licence the duration of which is more than 9 months but not more than 12 months</p>

Forestry Regulation 2004

Schedule 1 Fees

Column 1	Column 2
Description	Fee
	For a licence the duration of which is more than 12 months—\$139 for each year, or part of a year, of the duration of the licence
Sawmill licence or any renewal of a sawmill licence	\$174 for each year ending 31 December, or any part of a year, of the duration of the licence
Grazing permit	\$6 per month, or part of a month, of the duration of the permit
Hunting permit	\$33 per month, or part of a month, of the duration of the permit
Transfer of forest lease or occupation permit	\$111
Transfer of sawmill licence, timber licence, products licence or forest materials licence	\$116
Contractor's licence	\$24 for a licence the duration of which is not more than 3 months
	\$41 for a licence the duration of which is more than 3 months but not more than 6 months
	\$52 for a licence the duration of which is more than 6 months but not more than 9 months
	For a licence the duration of which is more than 9 months—\$58 for each year, or part of a year, of the duration of the licence
Operator's licence	\$24 for a licence the duration of which is not more than 3 months

Forestry Regulation 2004

Fees

Schedule 1

Column 1	Column 2
Description	Fee
	\$41 for a licence the duration of which is more than 3 months but not more than 6 months
	\$52 for a licence the duration of which is more than 6 months but not more than 9 months
	For a licence the duration of which is more than 9 months—\$58 for each year, or part of a year, of the duration of the licence
Permission under section 29 (1) (b) of the Act to work a sawmill	\$86 for each year ending 31 December, or any part of a year, of the duration of the licence
Application to vary a condition of a forest lease where, in the opinion of the appropriate Regional Manager, no on-site inspection is required	\$58
Application to vary a condition of a forest lease where, in the opinion of the appropriate Regional Manager, an on-site inspection is required	\$174

Forestry Regulation 2004

Schedule 2 Form

Schedule 2 Form

(Clause 72 (3))

Forestry Act 1916

Certificate of release of land from profit à prendre

The land described below is land in respect of which a profit à prendre as to the timber and products on that land has been reserved to the Crown under section 25F of the *Forestry Act 1916*. The Forestry Commission of New South Wales now certifies, in accordance with section 25I (1) of that Act, that that land is free from the profit à prendre.

Description of the land

Parish:

County:

Area:

Lot:

Deposited plan no:

Reference to title

Incomplete purchase no:

Land Division of:

Folio identifier:

Dated this day of

.....
*For the Forestry Commission
of New South Wales*

Forestry Regulation 2004

Penalty notice offences

Schedule 3

Schedule 3 Penalty notice offences

(Clause 73)

Column 1	Column 2
Offence	Penalty (\$)
Forestry Act 1916	
Section 27 (1)	100
Section 29 (1)	100
Section 29 (2)	100
Section 32 (1)	100
Section 32 (2)	100
Section 32C (2)	500
Section 32D (3)	100
Section 32G (1)	100
Section 38 (2)	200
Section 38A (4)	100
Section 38B (3)	100
Section 43 (1A)	200
Section 44 (1) (a)	500
Section 44 (1) (b)	500
Section 45	100
Forestry Regulation 2004	
Clause 11 (4)	100

Forestry Regulation 2004

Schedule 3 Penalty notice offences

Column 1	Column 2
Offence	Penalty (\$)
Clause 13 (4)	100
Clause 13 (6)	100
Clause 13 (7)	200
Clause 14 (3)	100
Clause 15 (1)	100
Clause 15 (3)	100
Clause 17 (1)	350
Clause 18 (1)	350
Clause 19	350
Clause 20 (1)	550
Clause 21	350
Clause 22	550
Clause 23 (1)	350
Clause 24 (1)	250
Clause 25	250
Clause 26 (2)	550
Clause 27 (2)	250
Clause 28 (3)	550
Clause 29 (5)	250
Clause 30 (2)	550

Forestry Regulation 2004

Penalty notice offences

Schedule 3

Column 1	Column 2
Offence	Penalty (\$)
Clause 31 (4)	100
Clause 32 (2)	100
Clause 45 (4)	100
Clause 55 (3)	100
Clause 59 (1)	100
Clause 60	100
Clause 61 (2)	100
Clause 62 (1)	100
Clause 63 (1)	100
Clause 65 (2)	100
Clause 66 (2)	100
Clause 67 (1)	1,000
Clause 68 (4)	100
Clause 69 (3)	100
Clause 70	100
Clause 71, in relation to an authority being a timber licence, contractor's licence or operator's licence	1,000
Clause 71, in relation to an authority other than a timber licence, contractor's licence or operator's licence	100



Gas Supply (Network Safety Management) Amendment Regulation 2004

under the

Gas Supply Act 1996

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Gas Supply Act 1996*.

FRANK ERNEST SARTOR, M.P.,
Minister for Energy and Utilities

Explanatory note

The object of this Regulation is to amend the *Gas Supply (Network Safety Management) Regulation 2002 (the principal Regulation)*:

- (a) to provide that a person must not carry out gasfitting work with respect to a gas network otherwise than in accordance with the requirements of the relevant network operator's gasfitting rules (rather than, as is currently the case, in accordance with specified standards), and
- (b) to provide that a person carrying out gasfitting work with respect to a gas network that is not done on behalf of a network operator must be acting under an appropriate licence under the *Home Building Act 1989* and with the authority of the network operator, and
- (c) to insert a definition of *consumer service*, and
- (d) to extend the gasfitting work with respect to a gas network to which the principal Regulation applies to include the installation or maintenance of a consumer service and the installation or replacement of all or any part of basic metering equipment, and
- (e) to include requirements with respect to the testing that must be carried out immediately before completing gasfitting work to ensure that the gas installation is safe to connect to the gas network, and
- (f) to omit the natural gas standards contained in Schedule 2 to the principal Regulation and replace them with Australian Standard AS 4564—2003/AG 864—2003, *Specification for general purpose natural gas*, and

Gas Supply (Network Safety Management) Amendment Regulation 2004

Explanatory note

- (g) to add Australian Standard AS 4041—1998, *Pressure piping* to the standards with which a network operator must comply in ensuring safe gas supply, and
- (h) to incorporate the provisions of the *Gas Supply (General) Regulation 1997* (which is repealed on 1 September 2004 by section 10 (2) of the *Subordinate Legislation Act 1989*) relating to the carrying out of gasfitting work on gas installations and, as a consequence, to amend the title of the principal Regulation, and
- (i) to make further provision with respect to the content of network operators' safety and operating plans, and
- (j) to omit obsolete provisions and update certain references.

This Regulation is made under the *Gas Supply Act 1996*, including section 83 (the general regulation-making power).

Gas Supply (Network Safety Management) Amendment Regulation 2004 1

Gas Supply (Network Safety Management) Amendment Regulation 2004

under the

Gas Supply Act 1996

1 Name of Regulation

This Regulation is the *Gas Supply (Network Safety Management) Amendment Regulation 2004*.

2 Commencement

This Regulation commences on 1 September 2004.

3 Amendment of Gas Supply (Network Safety Management) Regulation 2002

The *Gas Supply (Network Safety Management) Regulation 2002* is amended as set out in Schedule 1.

Gas Supply (Network Safety Management) Amendment Regulation 2004

Schedule 1 Amendments

Schedule 1 Amendments

(Clause 3)

[1] Clause 1 Name of RegulationOmit “*Network*”.**[2] Clause 3 Definitions**

Insert in appropriate order in clause 3 (1):

AS 4041 means the Australian Standard entitled AS 4041—1998, *Pressure piping*, published by Standards Australia, as in force for the time being.

AS 4564 means the Australian Standard entitled AS 4564—2003/AG 864—2003, *Specification for general purpose natural gas*, published by Standards Australia, as in force for the time being.

consumer service means that part of a gas installation that conveys, or controls the conveyance of, gas from a gas network up to and including the first isolation valve of the basic metering equipment.

[3] Clause 3 (1), definition of “Director-General”

Omit “Ministry of Energy and Utilities”.

Insert instead “Department of Energy, Utilities and Sustainability”.

[4] Clause 4 Network operators to ensure safe gas supply

Insert “, AS 4041” after “AS 3723” in clause 4 (2) (a).

[5] Clause 6

Omit the clause. Insert instead:

6 Gasfitting work with respect to gas networks

- (1) This clause applies to the following kinds of gasfitting work:
 - (a) the connection of a gas installation to a gas network,
 - (b) the disconnection of a gas installation from a gas network,

Gas Supply (Network Safety Management) Amendment Regulation 2004

Amendments

Schedule 1

-
- (c) any other gasfitting work in relation to the connection of a gas installation to, or the disconnection of a gas installation from, a gas network,
 - (d) the installation or maintenance of a consumer service,
 - (e) the installation or replacement of all or any part of basic metering equipment.
- (2) A person must not carry out gasfitting work to which this clause applies otherwise than in accordance with the requirements of the gasfitting rules of the network operator for the gas network to which the gasfitting work relates.
- Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).
- (3) A person who carries out any gasfitting work to which this clause applies that is not done on behalf of a network operator:
- (a) must be the holder of a licence under the *Home Building Act 1989* authorising its holder to contract to do that work, or must be carrying out the work on behalf of an individual, partnership or corporation that is the holder of such a licence, and
 - (b) must be authorised by the network operator for the gas network to which the gasfitting work relates to conduct such work in accordance with the requirements of the network operator's gasfitting rules.
- Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).
- (4) Immediately before completing any gasfitting work to which this clause applies, the person carrying out the work must conduct a leak test to ensure that the gas installation is safe to connect to the gas network.
- Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).
- (5) After testing the gas installation as required under subclause (4), the person must give a notice, that complies with subclause (6), to the network operator and the consumer concerned specifying:
- (a) if the test demonstrates the gas installation is safe to connect to the gas network—that the gas installation

Gas Supply (Network Safety Management) Amendment Regulation 2004

Schedule 1 Amendments

has been tested and the gas supply to the premises has been established or re-established or is ready to be established or re-established, or

- (b) if the test demonstrates that the gas installation is unsafe to connect to the gas network—that the gas installation is defective and unsafe to connect to the gas network.

Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).

- (6) A notice issued under subclause (5):
- (a) must include, but is not limited to, the following:
- (i) the name of the consumer concerned,
 - (ii) the full address of the location,
 - (iii) the date and results of the test,
 - (iv) the name of the person (and employer) who conducted the test,
 - (v) the person's, or the person's employer's, licence number and details,
 - (vi) if the notice is given under subclause (5) (b)—details of the faults identified, and
- (b) must be given to the network operator and consumer:
- (i) for a notice given under subclause (5) (a)—within 7 days after the test is carried out, and
 - (ii) for a notice given under subclause (5) (b)—as soon as practicable after the test is carried out.
- (7) The person who conducted the test required under subclause (4) must keep a copy of the notice given to the network operator and consumer for 5 years from the date on which it was issued.

Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).

- (8) Upon receipt of a notice under subclause (5), the network operator must:
- (a) for a notice given under subclause (5) (a)—record details of the notice and keep the record for at least 10 years from the date of the test or until another notice is received under that subclause in relation to the gas installation concerned, whichever is the sooner, and

Gas Supply (Network Safety Management) Amendment Regulation 2004

Amendments

Schedule 1

- (b) for a notice given under subclause (5) (b)—record details of the notice and keep the notice until receipt of a further notice indicating that the installation has been retested and that the pressure has been found to be sound and the gas supply has been established or re-established, or is ready to be established or re-established.

Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).

- (9) If at any time the network operator becomes aware that the workmanship of the gas installation does not comply with the appropriate codes and standards, or that any gas appliance on the premises concerned is in an unsafe condition, the network operator must give a written report, providing full details of the matter, to the Director-General of the Department of Commerce.

Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).

[6] Clause 7 Refusal or discontinuance of supply

Omit “AS/NZS 1596” from clause 7 (1) (b). Insert instead “AS 4041”.

[7] Clause 19 Definitions

Omit “in Schedule 2” from the definition of *compliant natural gas*.

Insert instead “under AS 4564”.

[8] Part 5A

Insert after Part 5:

Part 5A Gasfitting work

29A Definition

In this Part:

person responsible, in relation to the carrying out of gasfitting work to which this Part applies, means the person who carries out the gasfitting work, or who supervises the carrying out of the gasfitting work, under the authority of an appropriate supervisor certificate referred to in clause 29C (1).

Gas Supply (Network Safety Management) Amendment Regulation 2004

Schedule 1 Amendments

29B Application of Part

- (1) This Part:
 - (a) applies to gasfitting work carried out:
 - (i) on a gas installation to which gas is supplied from a gas network, or
 - (ii) for the purpose of connecting a gas appliance to, or disconnecting a gas appliance from, such a gas installation, and
 - (b) does not apply to gasfitting work carried out:
 - (i) on a gas installation to which gas is supplied otherwise than from a gas network, or
 - (ii) for the purpose of connecting a gas appliance to, or disconnecting a gas appliance from, such a gas installation.
- (2) This Part does not apply to gasfitting work involving the installation, alteration, extension, repair, connection or disconnection of such part of a gas installation as conveys or controls the conveyance of gas from a gas network, from the boundary of the premises in which the gas installation is situated to the gas meter outlet, where the work is carried out by or on behalf of the relevant network operator.

29C Gasfitting work to be carried out by, or under the supervision of, suitably qualified gasfitters

- (1) A person must not carry out any kind of gasfitting work, or employ any other person to carry out any kind of gasfitting work, unless the person by whom the work is carried out does so:
 - (a) under the authority of an appropriate supervisor certificate, or
 - (b) under the authority of an appropriate registration certificate and under the general supervision of the holder of an appropriate supervisor certificate, or
 - (c) under the immediate supervision of the holder of an appropriate supervisor certificate.

Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).

Gas Supply (Network Safety Management) Amendment Regulation 2004

Amendments

Schedule 1

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- (2) In this clause:

registration certificate, in relation to a particular kind of gasfitting work, means a certificate of registration in force under the *Home Building Act 1989* authorising the holder to carry out that kind of work under general supervision.

supervisor certificate, in relation to a particular kind of gasfitting work, means a supervisor certificate in force under the *Home Building Act 1989* authorising the holder to carry out, and to supervise, that kind of work, and includes a licence endorsed under that Act to show that it is the equivalent of such a certificate.

29D Gasfitting work to comply with certain standards

- (1) A person must not carry out gasfitting work (not being gasfitting work referred to in clause 6 (1)) otherwise than in accordance with:
- (a) in the case of all gasfitting work, AS 5601, and
 - (b) in the case of gasfitting work involving installations or systems that convey liquefied petroleum gas, AS/NZS 1596.

Maximum penalty: 20 penalty units.

- (2) Without affecting the generality of subclause (1), a person must not connect a gas appliance to a gas installation or modify a gas appliance connected to a gas installation unless the appliance (or the appliance as modified):
- (a) is certified under a scheme conducted by The Australian Gas Association or the Australian Liquefied Petroleum Gas Association Limited for the certification of appliances, or
 - (b) if no such scheme exists or if the appliance (being of a rare or unusual type or design) is not covered by such a scheme, is approved by the relevant network operator or a person authorised by the Director-General to approve appliances of that type or design.

Maximum penalty: 20 penalty units.

Gas Supply (Network Safety Management) Amendment Regulation 2004

Schedule 1 Amendments

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- (3) A network operator must include in its safety and operating plan procedures for approving appliances for the purposes of subclause (2) (b), being procedures no less stringent than the procedures set out in:
- (a) AS 3814, or
 - (b) if that standard is not applicable to the appliances, such other code or standard as the Director-General determines to be appropriate in the circumstances.
- (4) A network operator or authorised person may charge a reasonable fee for giving an approval under subclause (2) (b).

29E Testing for defects

- (1) Immediately after completing gasfitting work on a gas installation, the person responsible for the carrying out of the gasfitting work:
- (a) must test the installation for defects, and
 - (b) must inspect all gas appliances connected to the installation.
- Maximum penalty: 20 penalty units.
- (2) This clause does not apply to gasfitting work involving:
- (a) the disconnection of a gas installation from a gas network, or
 - (b) the disconnection of a gas appliance from a gas installation.

29F Certificates of compliance

- (1) Immediately after testing a gas installation following the completion of gasfitting work, the person responsible for the carrying out of the gasfitting work must issue a certificate of compliance with respect to that work:
- (a) to the owner of the installation, or
 - (b) to a person having the control or management of the installation.
- Maximum penalty: 20 penalty units.

Gas Supply (Network Safety Management) Amendment Regulation 2004

Amendments

Schedule 1

-
- (2) The person responsible for the carrying out of the gasfitting work must, within 7 days after completing the gasfitting work, send a copy of the certificate of compliance to the relevant network operator.

Maximum penalty: 20 penalty units.

- (3) A certificate of compliance:
- (a) must be in a form approved by the Director-General, and
 - (b) must indicate the nature of the gasfitting work that has been carried out, and
 - (c) must state that the gasfitting work has been carried out in accordance with any relevant gasfitting rules, AS 5601 or AS/NZS 1596, whichever is appropriate, and
 - (d) must indicate whether or not the gas installation is in safe working order.

- (4) A person who issues a certificate of compliance must retain a copy of the certificate for 5 years from the date on which it was issued.

Maximum penalty: 20 penalty units.

- (5) This clause does not apply to gasfitting work involving:
- (a) the disconnection of a gas installation from a gas network, or
 - (b) the disconnection of a gas appliance from a gas installation.

[9] Clause 31 Amendment of Gas Supply (General) Regulation 1997

Omit the clause.

[10] Clause 32 Savings provisions

Insert after clause 32 (2):

- (3) Any act, matter or thing that before the repeal of the *Gas Supply (General) Regulation 1997* (effected by section 10 (2) of the *Subordinate Legislation Act 1989*) had effect under that Regulation continues to have effect under this Regulation.

Gas Supply (Network Safety Management) Amendment Regulation 2004

Schedule 1 Amendments

[11] Schedule 1 Safety and operating plans

Omit clause 12 (1). Insert instead:

- (1) A safety and operating plan must establish rules concerning the manner in which any work to which clause 6 of this Regulation applies is to be carried out.

[12] Schedule 1, clause 12

Omit clause 12 (3). Insert instead:

- (3) A safety and operating plan must identify procedures that provide for the authorising of persons to:
 - (a) connect or disconnect a gas installation to or from a gas network, and
 - (b) install or replace metering equipment or gas meters, and
 - (c) install, maintain or replace a consumer service.

[13] Schedule 2 Natural gas standards

Omit the Schedule.



Home Building Regulation 2004

under the

Home Building Act 1989

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Home Building Act 1989*.

REBA PAIGE MEAGHER, M.P.,
Minister for Fair Trading

Explanatory note

The object of this Regulation is to remake, with various modifications, the *Home Building Regulation 1997* which will be repealed on 1 September 2004 by section 10 (2) of the *Subordinate Legislation Act 1989*. The new Regulation contains provisions with respect to the following matters:

- (a) the prescription of additional particulars for the purposes of certain definitions in the *Home Building Act 1989* (*the Act*) (Part 2),
- (b) the prescription of certain conditions that must be included in certain contracts for residential building work or the supply of kit homes and certain exemptions from requirements of the Act (Part 3),
- (c) administrative details relating to the obtaining of licences, certificates and permits under the Act (Part 4),
- (d) the obtaining of insurance required by the Act (Part 5),
- (e) the resolution of certain building disputes and building claims (Part 6),
- (f) other matters of a minor, consequential or ancillary nature (Parts 1 and 7).

Certain modifications to the new Regulation are made as a consequence of the proposed commencement (at the same time as the commencement of this Regulation) of Schedule 4.6 to the *Licensing and Registration (Uniform Procedures) Act 2002* (which makes a number of amendments to the *Home Building Act 1989*).

This Regulation is made under the *Home Building Act 1989*, including section 140 (the general regulation-making power) and various sections referred to in the Regulation.

Home Building Regulation 2004

Explanatory note

This Regulation refers to:

- (a) the following Standards published by Standards Australia:
 - (i) for the purpose of defining specialist work in the Act (clause 11)—AS 1668.2—2002, *The use of ventilation and airconditioning in buildings*, Part 2: *Ventilation design for indoor air contaminant control*, AS/NZS 3666:2002, *Air-handling and water systems of buildings—Microbial control*, and AS/NZS 1677:1998, *Refrigerating Systems*, and
 - (ii) for the purposes of describing plumbing work in the definition of **hazardous specialist work** (clause 86) and of describing categories of work that licences and certificates authorise (Schedule 5)—AS/NZS 3500:2003, *Plumbing and drainage*, and
- (b) for the purpose of setting minimum cover to be provided under insurance contracts (clause 60)—*Producer Price Indexes, Australia* (published by the Australian Bureau of Statistics).

Home Building Regulation 2004

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Home Building Regulation 2004

Clause 1

Preliminary

Part 1

Home Building Regulation 2004

under the

Home Building Act 1989

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Home Building Regulation 2004*.

2 Commencement

This Regulation commences on 1 September 2004.

Note. This Regulation replaces the *Home Building Regulation 1997* which is repealed on 1 September 2004 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Interpretation

(1) In this Regulation:

apprentice has the same meaning as in the *Apprenticeship and Traineeship Act 2001*.

authority means a contractor licence (whether or not an endorsed contractor licence), an owner-builder permit, a building consultancy licence or a certificate.

certificate means a supervisor certificate or tradesperson certificate.

consent declaration means a declaration by an individual who is, or is proposed to be, the nominated supervisor for a contractor licence, being a declaration to the effect that the individual understands the responsibilities of a nominated supervisor and consents to being that nominated supervisor.

development consent has the same meaning as in the *Environmental Planning and Assessment Act 1979*.

exempt corporation means:

- (a) a council or county council within the meaning of the *Local Government Act 1993*, or
- (b) a corporation that is constituted by or under an Act, other than:
 - (i) a company within the meaning of the *Corporations Act 2001* of the Commonwealth, or

Clause 3 Home Building Regulation 2004

Part 1 Preliminary

- (ii) a corporation that is subject to control under the *Co-operatives Act 1992* or the *Associations Incorporation Act 1984*.

fixed apparatus means apparatus fixed to a dwelling or part of a dwelling with the intention that it should remain in that position permanently.

structural element, in relation to a building, means a component or part of an assembly which provides necessary supporting structure to the whole or any part of the building.

the Act means the *Home Building Act 1989*.

trainee has the same meaning as in the *Apprenticeship and Traineeship Act 2001*.

Note. Under clause 32 (4) (a) of the *Public Sector Employment and Management (General) Order 2003*, a reference to the Director-General of the Department of Fair Trading in, or in relation to, the *Home Building Act 1989* is to be construed as a reference to the Commissioner for Fair Trading, Department of Commerce.

- (2) In this Regulation, a reference to a Form is a reference to a form in Schedule 1.
- (3) The notes in the text of this Regulation do not form part of this Regulation.

Home Building Regulation 2004

Clause 4

Prescriptions for the purposes of definitions in the Act

Part 2

Part 2 Prescriptions for the purposes of definitions in the Act

4 Work excluded from the definition of “building consultancy work”

- (1) For the purposes of the definition of *building consultancy work* in section 3 (1) of the Act, all work other than pre-purchase visual inspections of a dwelling or any part of a dwelling is declared to be excluded from the definition.
- (2) To avoid doubt:
 - (a) pre-purchase inspections undertaken for the sole purpose of providing a report on pest infestations, and
 - (b) inspections solely of specialist work,are declared to be excluded from the definition of *building consultancy work*.

5 Definition of “dwelling”—certain structures and improvements included

For the purposes of the definition of *dwelling* in section 3 (1) of the Act, the following structures and improvements are declared to form part of a dwelling when constructed for use in conjunction with a dwelling:

- (a) parts of a building containing more than one dwelling (whether or not the building is also used for non-residential purposes), being stairways, passageways, rooms, and the like, that are used in common by the occupants of those dwellings, together with any pipes, wires, cables or ducts that are not for the exclusive enjoyment of any one dwelling,
- (b) parts of a building containing one dwelling only (where the building is also used for non-residential purposes), being stairways, passageways and the like which provide access to that dwelling,
- (c) if non-residential parts of a building containing one or more dwellings give support or access to the residential part—the structural elements of the non-residential parts giving such support or access,
- (d) cupboards, vanity units and the like fixed to a dwelling,
- (e) detached garages and carports,
- (f) detached decks, porches, verandahs, pergolas and the like,
- (g) cabanas and non-habitable shelters,
- (h) detached workshops, sheds and other outbuildings (but not jetties, slipways, pontoons or boat ramps and any structures ancillary to these exceptions),

Clause 6	Home Building Regulation 2004
Part 2	Prescriptions for the purposes of definitions in the Act

- (i) concrete tennis courts and the like,
- (j) driveways, paths and other paving,
- (k) retaining walls,
- (l) agricultural drainage designed or constructed to divert water away from the footings of a dwelling or a retaining wall,
- (m) fences and gates,
- (n) ornamental ponds and water features, and other structural ornamentation, the construction or installation of which requires development consent.

6 Definition of “dwelling”—certain residential buildings and other structures excluded

For the purposes of the definition of *dwelling* in section 3 (1) of the Act, the following are declared to be excluded from that definition:

- (a) a boarding house, guest house, hostel or lodging house,
- (b) all residential parts of a hotel or motel,
- (c) any residential part of an educational institution,
- (d) accommodation (other than self-contained units) specially designed for the aged, persons with a disability or children,
- (e) any residential part of a health care building that accommodates staff,
- (f) a house or unit designed, constructed or adapted for commercial use as tourist, holiday or overnight accommodation,
- (g) any part of a non-residential building that is constructed or adapted for use as a caretaker’s residence,
- (h) a moveable dwelling (with or without a flexible annexe) within the meaning of the *Local Government Act 1993* that is, or is capable of being, registered under the *Road Transport (Vehicle Registration) Act 1997* (such as a caravan or a motor home),
- (i) a residential building for the purposes of which development consent can be granted only because of *State Environmental Planning Policy No 15—Rural Landsharing Communities*.

7 Definition of “relevant law”

For the purposes of the definition of *relevant law* in section 3 (1) of the Act, the following Acts and statutory instruments are declared as regulating the following kinds of specialist work:

- (a) gasfitting work:
Gas Supply Act 1996 (reticulated gas)

Home Building Regulation 2004

Clause 8

Prescriptions for the purposes of definitions in the Act

Part 2

Gas Supply (Safety Management) Regulation 2004

Dangerous Goods Act 1975 (gas cylinders)

Dangerous Goods (Gas Installations) Regulation 1998

Dangerous Goods (General) Regulation 1999

(b) plumbing work:

Sydney Water Act 1994

Hunter Water Act 1991

Local Government Act 1993

Water Management Act 2000.

8 Definition of “residential building work”—installation of certain fixtures and apparatus included

For the purposes of the definition of *residential building work* in section 3 (1) of the Act, the following fixtures or apparatus are prescribed:

- (a) any fixture or fixed apparatus designed for the heating or cooling of water, food or the atmosphere or for air ventilation or the filtration of water in a swimming pool or spa,
- (b) any fixed apparatus such as a lift, an escalator, an inclinor or a garage door by means of which persons or things are raised or lowered or moved in some direction that is restricted by fixed guides.

9 Definition of “residential building work”—certain work excluded

(1) For the purposes of the definition of *residential building work* in section 3 (1) of the Act, the following is declared to be excluded from that definition:

- (a) any work (other than specialist work) the reasonable market cost of the labour and materials involved in which does not exceed \$1,000 (inclusive of GST),
- (b) any work (other than specialist work) involved in the manufacturing of moveable dwellings, within the meaning of the *Local Government Act 1993* (other than moveable dwellings that are manufactured homes, within the meaning of that Act),
- (c) any work (other than specialist work) involved in the site preparation for, or the assembling or erection on site of, moveable dwellings excluded by paragraph (b), unless the work requires development consent,

Clause 10	Home Building Regulation 2004
Part 2	Prescriptions for the purposes of definitions in the Act

- (d) any work referred to in paragraph (c) done in relation to land on which a council has authorised a moveable dwelling to be placed by issuing an approval under the *Local Government Act 1993*, whether or not a development consent is also required,
- (e) subject to subclause (2), any work that would otherwise be residential building work but that by or under an Act (other than the *Home Building Act 1989*) a person is prohibited from doing unless the person is the holder of a contractor licence or another authority under that other Act,
- (f) subject to subclause (3), any work (other than specialist work) done in relation to the removal and transport of a dwelling,
- (g) the supervision only of residential building work:
 - (i) by a person registered as an architect under the *Architects Act 1921* or the *Architects Act 2003*, or
 - (ii) by a person supervising owner-builder work for no reward or other consideration, or
 - (iii) by any other person, if all the residential building work is being done or supervised by the holder of a contractor licence authorising its holder to contract to do that work.
- (2) Work referred to in subclause (1) (e) is not excluded from the definition of **residential building work** if it is part only of the work to be done under a contract to do residential building work.
- (3) Work referred to in subclause (1) (f) is not excluded from the definition of **residential building work** if it is part only of the work to be done under a contract to do residential building work at the new site of the dwelling (whether or not that work is done under the same contract as the contract to remove and transport the dwelling).

10 “Roof plumbing work” defined

For the purposes of the Act, any work involved in the fixing, installation, renovation, alteration, repair and maintenance of guttering, downpipes, roof flashing and roof coverings on any building or structure is declared to be **roof plumbing work**, except work in relation to roof coverings consisting of:

- (a) non-metallic tiles and slates, or
- (b) glass (being work usually performed by glaziers), or
- (c) concrete, or
- (d) timber and timber products, or
- (e) thatching, or

Home Building Regulation 2004

Clause 11

Prescriptions for the purposes of definitions in the Act

Part 2

(f) malthoid, bituminous or similar membrane material.

Note. Work declared to be **roof plumbing work** is referred to in the definitions of **plumbing work**, **residential building work** and **specialist work** in section 3 (1), and in section 37 (b), of the Act.

11 “Air-conditioning work” and “refrigeration work” defined

- (1) The following work is declared to be air-conditioning work for the purposes of the definition of **specialist work** in section 3 (1) of the Act and for the purposes of section 15 of the Act:
- (a) any work required to install, maintain and service an air-conditioning system (other than a self-contained single-phase plug-in domestic air-conditioning system) in a structure, building, vessel, container or railway vehicle,
 - (b) work required to comply with the requirements of Australian Standard AS 1668.2—2002, *The use of ventilation and airconditioning in buildings*, Part 2: *Ventilation design for indoor air contaminant control*,
 - (c) work required to comply with the requirements of Australian/New Zealand Standard AS/NZS 3666:2002, *Air-handling and water systems of buildings—Microbial control*, relating to the maintenance of cooling towers,
 - (d) associated electrical wiring work of the kind described in subclause (4).
- (2) Despite subclause (1), the following work is not air-conditioning work for the purposes of this clause:
- (a) the installation of an air-conditioning system in a railway vehicle by the manufacturer of the vehicle,
 - (b) the installation, maintenance or repair of ducting or insulation in premises other than a dwelling.
- (3) The following work is declared to be refrigeration work for the purposes of the definition of **specialist work** in section 3 (1) of the Act and for the purposes of section 15 of the Act:
- (a) any work required to install, maintain and service a refrigeration system (other than a self-contained single-phase plug-in domestic refrigeration system) in a structure, building, vessel, container or vehicle,
 - (b) work required to comply with the requirements of Australian/New Zealand Standard AS/NZS 1677:1998, *Refrigerating Systems*,
 - (c) associated electrical wiring work of the kind described in subclause (4).

Clause 11 Home Building Regulation 2004

Part 2 Prescriptions for the purposes of definitions in the Act

- (4) The *associated electrical wiring work* referred to in subclauses (1) and (3) consists of electrical wiring work, relating to the general servicing and maintenance of an air-conditioning system or a refrigeration system, that involves any of the following:
- (a) the testing of, and diagnosis of problems in, control and power circuits and electrical equipment and electric motors,
 - (b) the disconnection and reconnection of electrical components designed to be permanently connected,
 - (c) the replacement of electrical components on the load side of the mains supply,
 - (d) the repair and adjustment (in accordance with normal trade practice) of electrical components,
 - (e) the repair, replacement or making good of cable terminations or defective electrical wiring,
 - (f) minor alterations to electrical wiring.

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Clause 12

Regulation of residential building work, specialist work, building consultancy work and the supply of kit homes

Part 3

Part 3 Regulation of residential building work, specialist work, building consultancy work and the supply of kit homes

Division 1 Contracting for work

12 Conditions to be included in certain contracts

- (1) Pursuant to section 7E of the Act, a contract to do residential building work must include each of the conditions set out in Part 1 of Schedule 2.
- (2) Pursuant to section 16DE of the Act, a contract to supply a kit home must include each of the conditions set out in Part 2 of Schedule 2.

13 Requirements for contracts for residential building work

- (1) A contract between a person and the holder of a contractor licence for residential building work to be done by the holder must include a checklist in the form set out in Schedule 3.
- (2) This clause does not apply to a contract of a class referred to in clause 16.

14 Exemptions relating to contracting and advertising

- (1) In this clause:
electrical installation and *electricity supply authority* have the same meanings as in the *Electricity Safety Act 1945*.
general contractor means a contractor who or which carries on a business the principal object of which is to supply goods or services otherwise than by the doing of specialist work but the supply of which goods or services may incidentally involve the doing of specialist work.
- (2) A person is exempt from the requirements of section 4 (Unlicensed contracting) of the Act if:
 - (a) the contract concerned is made by or on behalf of an exempt corporation and the exempt corporation does not contract to do specialist work only under the contract, or
 - (b) the contract concerned is made by or on behalf of a general contractor, the general contractor contracts to do specialist work (none of which is residential building work) under the contract and that specialist work is part only of the work to be done under the contract by the general contractor, or

Clause 15	Home Building Regulation 2004
Part 3	Regulation of residential building work, specialist work, building consultancy work and the supply of kit homes

- (c) the contract concerned is made by or on behalf of an electricity supply authority and the electricity supply authority contracts under the contract to do only installation, alteration or maintenance work on power lines forming part of an electrical installation.
- (3) A person is exempt from the requirements of section 5 (Seeking work by or for unlicensed person) of the Act if:
- (a) the representation concerned is made by or about an exempt corporation and the representation does not relate to specialist work only, or
 - (b) the representation concerned is made by or about a general contractor and the representation relates to specialist work none of which is residential building work and that specialist work is only part of the work to be done, or
 - (c) the representation concerned is made by or about an electricity supply authority and the representation relates only to installation, alteration or maintenance work on power lines forming part of an electrical installation.

15 Exemptions from requirements for contracts with holders of contractor licences

The holder of a contractor licence is exempt from the requirements of section 7 of the Act (Form of contracts) if the contract concerned:

- (a) is subordinate to a principal contract to do residential building work (for example, if the contract concerned is a contract between a licensed builder and a licensed subcontractor), or
- (b) is made between a licensed builder doing work on premises that the licensed builder owns and a licensed trade contractor, or
- (c) is for the doing of specialist work that is not also residential building work, or
- (d) is for a contract price not exceeding \$1,000 (inclusive of GST) or, if the contract price is not known, is for the provision of labour and materials by the contractor the reasonable market cost of which does not exceed \$1,000 (inclusive of GST).

16 Exemptions relating to provision of consumer information

Section 7AA (Consumer information) of the Act does not apply to the following classes of contract:

- (a) a contract referred to in clause 15,

Home Building Regulation 2004

Clause 17

Regulation of residential building work, specialist work, building consultancy work and the supply of kit homes

Part 3

- (b) a contract for residential building work entered into between the holder of a contractor licence and a developer who is taken under section 3A (1) of the Act to be a developer who does the work,
- (c) a contract for residential building work that is required to be completed urgently so as to rectify a hazard, or potential hazard, to the health or safety of persons or to prevent substantial damage to property.

17 Exemptions relating to cooling-off periods in contracts

Section 7BA (Cooling-off period: person may rescind a contract for residential building work within 5 days without penalty) of the Act does not apply to the following classes of contract:

- (a) a contract referred to in clause 15 (a) or (b) or clause 16 (b) or (c),
- (b) a contract for residential building work that is supplied and fully prepared by or on behalf of the person who contracts with the holder of the contractor licence and no part of which is supplied or prepared by or on behalf of the holder of the contractor licence,
- (c) a contract for residential building work for a contract price not exceeding \$12,000 (inclusive of GST) or, if the contract price is not known, for the provision of labour and materials by the contractor the reasonable market cost of which does not exceed \$12,000 (inclusive of GST).

Note. The exemption under paragraph (b) does not apply to a contract supplied and prepared by the person who contracts with the holder of a contractor licence if any terms or conditions are added to the contract by the holder of the contractor licence or his or her representative.

18 Exemptions from requirements for contracts with holders of building consultancy licences

For the purposes of section 18J (3) of the Act, the following are prescribed as circumstances in which sections 18K, 18M, 18N, 18O and 18R of the Act do not apply:

- (a) where the contract concerned is subordinate to a principal contract to carry out building consultancy work,
- (b) where the contract concerned is made between a licensed building consultant and the holder of a contractor licence,
- (c) where the building consultancy work that is the subject of the contract concerned must be performed within 2 working days after entering into the contract,
- (d) where the contract concerned is entered into with a licensed building consultant by a solicitor or licensed conveyancer on behalf of another party.

Clause 19	Home Building Regulation 2004
Part 3	Regulation of residential building work, specialist work, building consultancy work and the supply of kit homes

19 Exemptions relating to provision of information by holders of building consultancy licences

For the purposes of section 18L (2) of the Act, the following are prescribed as classes of contracts to which that section does not apply:

- (a) contracts that are subordinate to a principal contract to carry out building consultancy work,
- (b) contracts made between a licensed building consultant and the holder of a contractor licence,
- (c) contracts where the building consultancy work that is the subject of the contract must be performed within 2 working days after entering into the contract,
- (d) contracts entered into with a licensed building consultant by a solicitor or licensed conveyancer on behalf of another party.

Division 2 Restrictions on who may do certain work

20 Exemption relating to the doing of residential building work

An individual who does residential building work is exempt from the requirements of sections 12 (Unlicensed work) and 13 (Unqualified residential building work) of the Act if the individual owns the dwelling in connection with which the work is done, the work does not include specialist work and the work does not need to be authorised by an owner-builder permit because:

- (a) it does not require development consent, or
- (b) the reasonable market cost of the labour and materials involved in the work does not exceed the amount prescribed for the purposes of the definition of *owner-builder work* in section 29 of the Act.

21 Exemption relating to employees of certain corporations

An individual who does residential building work (not being specialist work) is exempt from the requirements of section 12 (Unlicensed work) of the Act if:

- (a) the individual is employed by an exempt corporation, and
- (b) the residential building work concerned is done in the ordinary course of the employee's duties.

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Clause 22

Regulation of residential building work, specialist work, building consultancy work and the supply of kit homes

Part 3

22 Exemptions relating to the doing of specialist work

- (1) An individual who does specialist work is exempt from the requirements of section 12 (Unlicensed work) of the Act if the individual is the holder of an appropriate supervisor certificate and the work is done in connection with:
 - (a) premises which the holder owns or a dwelling in which he or she resides, or
 - (b) premises owned or occupied by the holder's employer.
- (2) An individual who does electrical wiring work is exempt from the requirements of section 12 (Unlicensed work) and section 14 (Unqualified electrical wiring work) of the Act if:
 - (a) the individual is employed by an electricity supply authority principally for the performance of work other than electrical wiring work, and
 - (b) the electrical wiring work concerned is done in the ordinary course of the employee's duties.

23 Exemption relating to the doing of electrical wiring work by apprentices and trainees

An individual who does electrical wiring work without complying with section 14 (2) of the Act is exempt from the requirement of holding an authority referred to in section 14 (1) of the Act if:

- (a) the individual is an apprentice or trainee, and
- (b) the course of studies undertaken as part of the individual's apprenticeship or traineeship includes a study of the kind of electrical wiring work the individual is doing, and
- (c) a qualified supervisor (being the holder of an endorsed contractor licence, or a supervisor certificate, authorising its holder to do that work) supervises the electrical wiring work being done by that individual, and
- (d) the qualified supervisor is of the opinion that the individual's knowledge and experience in doing such electrical wiring work is such that the individual does not need the level of supervision required by section 14 (2) of the Act, and
- (e) the individual does that work under the supervision, and in accordance with the directions, if any, of the qualified supervisor.

Clause 24	Home Building Regulation 2004
Part 3	Regulation of residential building work, specialist work, building consultancy work and the supply of kit homes

Division 3 Supply of kit homes

24 Exemptions relating to the supply of kit homes

A person is exempt from all requirements of the Act which relate to the supply of kit homes if the kit home the person contracts to supply or supplies consists of:

- (a) a set of building components that the purchaser states in writing at the time of purchase is purchased for erection outside New South Wales, or
- (b) a set of building components the contract price for which is \$1,000 (inclusive of GST) or less, or
- (c) a set of building components for the construction of a structure or improvement declared in clause 5 (a)–(d), (f), (g) or (i)–(n) to form part of a dwelling, unless that set of building components is supplied (under a contract) together with the set of building components for the construction of the dwelling in conjunction with which the structure or improvement is to be used.

Home Building Regulation 2004

Clause 25

Contractor licences, building consultancy licences, certificates and owner-builder permits

Part 4

Part 4 Contractor licences, building consultancy licences, certificates and owner-builder permits

Division 1 Requirements to obtain contractor licences, building consultancy licences and certificates

25 General requirements for obtaining certain authorities under the Act

- (1) Before an authority (other than an owner-builder permit) is issued, the Director-General must be satisfied that:
 - (a) each relevant person in relation to the application for an authority:
 - (i) is not disqualified from holding the authority or an authority of the kind applied for, or from being a member of a partnership or a director of a corporation that is the holder of the authority or an authority of the kind applied for, and has not been so disqualified within 3 years before before the date of the application, and
 - (ii) is not a debtor under a judgment for money owed to the Director-General or the Administration Corporation that has not been satisfied, and
 - (iii) is of or above the age of 18 years, and
 - (iv) is a fit and proper person to hold the authority and is otherwise of good character, and
 - (v) is not a person who holds any authority that is currently suspended under the Act, the *Fair Trading Act 1987* or any other Act administered by the Minister, and
 - (vi) is not subject to any order of the Tribunal that has not been satisfied within the period required by the Tribunal, and
 - (vii) has not had what the Director-General considers to be an unreasonable number of complaints made against him, her or it, and
 - (viii) has not had what the Director-General considers to be an unreasonable number of formal cautions given to him, her or it, and
 - (ix) has not had what the Director-General considers to be an unreasonable number of penalty notices issued against him, her or it (being penalty notices for offences under the Act that were not dealt with by a court and dismissed), and

Clause 25	Home Building Regulation 2004
Part 4	Contractor licences, building consultancy licences, certificates and owner-builder permits

- (x) has not carried out work in respect of which the Director-General considers an unreasonable number of insurance claims have been paid, and
 - (xi) was not a director, partner or person concerned in the management of a company or partnership that was disqualified from holding an authority within 3 years before the date of the application, unless the Director-General is satisfied that the applicant took all reasonable steps to prevent the conduct that led to the disqualification, and
 - (xii) except in relation to an application for a tradesperson certificate—is not bankrupt or a director or person concerned in the management of a company that is the subject of a winding up order or for which a controller or administrator has been appointed, and
 - (xiii) except in relation to an application for a tradesperson certificate—was not, within the period of 3 years before the date of the application, bankrupt or a director or person concerned in the management of a company when the company was the subject of a winding up order or when a controller or administrator was appointed, and
- (b) the applicant, if an individual, is not an apprentice or a trainee.
- (2) For the purpose of subclause (1) (a), each of the following persons is a **relevant person** in relation to an application for an authority:
- (a) the applicant,
 - (b) if the applicant is a partnership:
 - (i) every partner of the applicant, and
 - (ii) if a member of the partnership is a corporation—every director of that corporation,
 - (c) if the applicant is a corporation—every director of the applicant.
- Note.** Section 24 (4) of the Act provides that an application for a tradesperson certificate or supervisor certificate may be made only by an individual, and not by a corporation, partnership or other association.
- (3) Subclause (1) (a) (vi) does not prevent the Director-General from issuing an authority if the Director-General is satisfied that the person:
- (a) has complied with the order of the Tribunal after the period required by the Tribunal, and
 - (b) has a reasonable excuse for the failure to comply with the order within that period.
- Note.** Additional requirements for obtaining specific authorities are set out in this Division.

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26 Additional requirements for obtaining contractor licences

- (1) Before a contractor licence is issued, the Director-General must be satisfied that:
 - (a) the applicant has, or proposes to have, such numbers of nominated supervisors for the contractor licence as the Director-General considers are needed to ensure that all work for which the contractor licence is required will be done or supervised by qualified individuals, and
 - (b) the applicant, if also applying for an endorsement of the contractor licence to show that it is the equivalent of a supervisor certificate:
 - (i) complies with the requirements prescribed by clause 28 (1), and
 - (ii) is not disqualified from holding a supervisor certificate or a supervisor certificate of a particular kind, and
 - (iii) is not the holder of a supervisor certificate that is suspended.
- (2) Despite clause 25 (1) (a) (xii), the Director-General may issue a contractor licence if:
 - (a) the licence authorises its holder to do residential building work or specialist work of the kind prescribed by clause 46 (clause 46 (1) (a) and (b) excepted) but not of any other kind, and
 - (b) the Director-General is of the opinion that there is no evident risk to the public that the applicant will be unable to complete building contracts entered into in the future for the doing of residential building work or specialist work of that kind, or both, and
 - (c) the licence is subject to a condition that the holder not do work:
 - (i) if the contract price exceeds \$12,000 (inclusive of GST), or
 - (ii) if the contract price is not known—where the reasonable cost of the labour and materials involved in the work exceeds \$12,000 (inclusive of GST).
- (3) Despite clause 25 (1) (a) (xiii), the Director-General may issue a contractor licence if the Director-General is satisfied that the relevant person took all reasonable steps to avoid the bankruptcy, liquidation or appointment of a controller or administrator.

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- (4) An individual may be a nominated supervisor for a contractor licence only if the individual:
- (a) holds an endorsed contractor licence or a supervisor certificate that authorises its holder to supervise some or all of the work done under contracts for which the contractor licence applied for or held is required, and
 - (b) is, or is proposed by the applicant or holder to be, an employee of, or a member of the partnership or director of the corporation that is, the applicant or holder, and
 - (c) made a consent declaration that is lodged with the Director-General and has not been revoked.
- (5) In subclause (4) (b), *employee* means an employee who is required, by the terms of employment, to work for his or her employer otherwise than on a casual or temporary basis.
- (6) Subject to subclause (7), an individual cannot be the nominated supervisor for more than one contractor licence unless the Director-General:
- (a) is satisfied that special circumstances exist that will ensure that the individual, either alone or in conjunction with one or more other nominated supervisors, will supervise all work done under contracts for which each contractor licence is required, and
 - (b) gives written permission.
- (7) The holder of an endorsed contractor licence does not require the Director-General's permission to become the nominated supervisor for only one other contractor licence.
- (8) The Director-General may, by order, exempt an applicant from a requirement in relation to nominated supervisors if the Director-General is satisfied that there are special circumstances that warrant it.

27 Additional requirements for obtaining building consultancy licences

- (1) Before a building consultancy licence is issued, the Director-General must be satisfied:
- (a) that the applicant, if an individual, has such qualifications or has passed such examinations or practical tests, or both, as the Director-General determines to be necessary to enable the applicant to do the work for which the licence is required, and
 - (b) that the applicant, if an individual, has had experience of such a kind, and for such a period, as the Director-General considers would enable that applicant to do the work for which the licence is required, and

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- (c) that, in the case of an applicant that is a corporation, at least one director or employee of the applicant holds a building consultancy licence, and
 - (d) that, in the case of an applicant that is a partnership, at least one partner or employee of the applicant holds a building consultancy licence, and
 - (e) that any individual who is an applicant, and each individual who is a member of a partnership and each director of a corporation that is a member of a partnership or of a corporation that is an applicant, is not disqualified from holding a contractor licence or a certificate, or from being a member of a partnership or a director of a corporation that is the holder of a contractor licence or of a certificate.
- (2) Despite clause 25 (1) (a) (xii) and (xiii), the Director-General may issue a building consultancy licence if the Director-General is satisfied that the relevant person took all reasonable steps to avoid the bankruptcy, winding up or appointment of a controller or administrator.

28 Additional requirements for obtaining certificates

- (1) Before a certificate is issued, the Director-General must be satisfied that the applicant:
- (a) has such qualifications or has passed such examinations or practical tests, or both, as the Director-General determines to be necessary to enable the applicant to do, or to supervise, the work for which the certificate is required, and
 - (b) has had experience of such a kind and for such a period, as the Director-General considers would enable the applicant to do, or to supervise, the work for which the certificate is required, and
 - (c) is capable of doing or supervising work for which the certificate is required.
- (2) Despite clause 25 (1) (a) (xii) and (xiii), the Director-General may issue a qualified supervisor certificate if the Director-General is satisfied that the relevant person took all reasonable steps to avoid the bankruptcy, winding up or appointment of a controller or administrator.

29 Provisional authorities

In deciding whether or not special circumstances exist that would warrant issuing a provisional supervisor certificate, the Director-General must at least be satisfied that:

- (a) the applicant for the supervisor certificate has a knowledge of English that enables the applicant to read and understand drawings and specifications and Australian Standards or Codes

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of Practice to the extent necessary for the supervision of the work which the certificate will authorise its holder to do or to supervise, and

- (b) the applicant has passed a minimum standard test set or approved by the Director-General to establish the applicant's credentials as an experienced tradesperson in relation to the work the certificate would authorise its holder to do or to supervise, and
- (c) the applicant will have the opportunity to satisfy the prescribed requirements for the certificate within 12 months of being issued the certificate provisionally.

Division 2 Conditions of contractor licences, building consultancy licences and certificates

30 Conditions of authorities generally

For the purposes of section 36 (1) (a) of the Act, authorities are subject to the conditions contained in this Division.

31 Contractor licences generally

The holder of a contractor licence must notify the Director-General in writing of the following particulars within 7 days of the specified events occurring and must provide any specified documents:

(a) Special permissions and exemptions

If the holder becomes aware of any material change in the circumstances that warranted the Director-General giving permission allowing an individual to be a nominated supervisor for more than one contractor licence or making an order exempting a licensee from having a nominated supervisor—the date on which the holder became aware of that change and the details of the change.

(b) Nominated supervisors

If a nominated supervisor for the contractor licence ceases to be an employee, member or director of the holder—the date of cessation, the supervisor's name, and the type of authority held by the qualified supervisor and its number.

- (c) If a person is selected to be a nominated supervisor for the contractor licence after it has been issued—the qualified supervisor's name, the type of authority held and its number. (The person's consent declaration must accompany any such notification.)

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Contractor licences, building consultancy licences, certificates and owner-builder permits

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32 Individual contractor licences

Note. Under section 24 (1) of the *Licensing and Registration (Uniform Procedures) Act 2002* (as modified by section 19 (3) (d) of the *Home Building Act 1989*), it is a condition of each contractor licence that the licensee must notify the Director-General, within 7 days after the change, of any change that occurs in the licensee's name, address or other registered particulars.

- (1) An individual who is the holder of a contractor licence must, within 7 days of becoming or ceasing to be a nominated supervisor, notify the Director-General in writing of the following particulars:
 - (a) If the holder becomes a nominated supervisor for another contractor licence—the date of the consent declaration, the name of the holder of the other contractor licence and its number.
 - (b) If the holder ceases to be a nominated supervisor for another contractor licence—the date of so ceasing, the name of the holder of the other contractor licence and its number.
- (2) An individual who is the holder of a contractor licence and the nominated supervisor for more than one contractor licence must, within 7 days after becoming aware of any material change in the circumstances that warranted the Director-General giving permission allowing the individual to be a nominated supervisor for more than one contractor licence, notify the Director-General in writing of the following particulars:
 - (a) the date on which the holder became aware of the change,
 - (b) details of the change.

33 Partnership contractor licences

Note. Under section 24 (1) of the *Licensing and Registration (Uniform Procedures) Act 2002* (as modified by section 19 (3) (d) of the *Home Building Act 1989*), it is a condition of each contractor licence that the licensee must notify the Director-General, within 7 days after the change, of any change that occurs in the licensee's name, address or other registered particulars.

A partnership that is the holder of a contractor licence must notify the Director-General in writing of the following particulars within 7 days of the specified events occurring:

(a) Corporate partner

If a corporation is a member of the partnership holding the contractor licence—particulars of the events and details required by clause 34 for each corporation which is such a member.

(b) Change in partnership

If there is a change in the membership or in the name of a member of the partnership or the partnership is dissolved—the date and details of the change or dissolution, including the name, date of

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birth and address of each former partner and new partner (if applicable).

34 Corporation contractor licences

Note. Under section 24 (1) of the *Licensing and Registration (Uniform Procedures) Act 2002* (as modified by section 19 (3) (d) of the *Home Building Act 1989*), it is a condition of each contractor licence that the licensee must notify the Director-General, within 7 days after the change, of any change that occurs in the licensee's name, address or other registered particulars.

- (1) A corporation that is the holder of a contractor licence must notify the Director-General in writing within 7 days of any change of directors of the corporation.
- (2) The notification referred to in subclause (1) must include the name, date of birth and address of each new and former director.

35 Building consultancy licences

Note. Under section 24 (1) of the *Licensing and Registration (Uniform Procedures) Act 2002* (as modified by section 32A (3) (d) of the *Home Building Act 1989*), it is a condition of each building consultancy licence that the licensee must notify the Director-General, within 7 days after the change, of any change that occurs in the licensee's name, address or other registered particulars.

- (1) A partnership that is the holder of a building consultancy licence must notify the Director-General in writing of the following particulars within 7 days of the specified events occurring:
 - (a) if a corporation is a member of the partnership holding the licence—particulars of the events and details required by subclause (2) for each corporation that is such a member,
 - (b) if there is a change in the membership or in the name of a member of the partnership or the partnership is dissolved—the date and details of the change or dissolution, including the name, date of birth and address of each former partner and new partner,
 - (c) if an employee of the partnership who is the holder of a building consultancy licence ceases to be an employee—the name of the employee and the date on which he or she ceased to be an employee.
- (2) A corporation that is the holder of a building consultancy licence must notify the Director-General in writing of the following particulars within 7 days of the specified events occurring:
 - (a) if there is a change of director—the date and details of the change, including the name, date of birth and address of each former director and new director,

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- (b) if an employee of the corporation who is the holder of a building consultancy licence ceases to be an employee—the name of the employee and the date on which he or she ceased to be an employee.
 - (3) A corporation that is the holder of a building consultancy licence must, while the licence is in force, have at least one director or employee (*the nominated person*) who is the holder of a building consultancy licence.
 - (4) A partnership that is the holder of a building consultancy licence must, while the licence is in force, have at least one partner or employee (*the nominated person*) who is the holder of a building consultancy licence.

36 Qualified supervisor certificates and tradesperson certificates

Note. Under section 24 (1) of the *Licensing and Registration (Uniform Procedures) Act 2002* (as modified by section 24 (3) (d) of the *Home Building Act 1989*), it is a condition of each tradesperson certificate and supervisor certificate that the holder of the certificate must notify the Director-General, within 7 days after the change, of any change that occurs in the holder's name, address or other registered particulars.

- (1) The holder of a qualified supervisor certificate must, within 7 days of becoming or ceasing to be a nominated supervisor, notify the Director-General in writing of the following particulars:
 - (a) if the holder becomes a nominated supervisor for a contractor licence—the date of the consent declaration, the name of the holder of the contractor licence and its number, and
 - (b) if the holder ceases to be a nominated supervisor for a contractor licence—the date of so ceasing, the name of the holder of the contractor licence and its number.
- (2) The holder of a qualified supervisor certificate who is the nominated supervisor for more than one contractor licence must, within 7 days after becoming aware of any material change in the circumstances that warranted the Director-General giving permission allowing the individual to be a nominated supervisor for more than one contractor licence, notify the Director-General in writing of the following particulars:
 - (a) the date on which the holder became aware of the change,
 - (b) details of the change.

37 Further details

The holder of an authority must provide further details of the changes referred to in this Division if requested to do so by the Director-General and, if the Director-General so requests, must provide those further details in a form approved by the Director-General.

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Part 4	Contractor licences, building consultancy licences, certificates and owner-builder permits

38 Lost, stolen, defaced or destroyed authorities

The holder of an authority that is lost, stolen, defaced or destroyed must notify the Director-General of the event or condition within 7 days of becoming aware of it.

Division 3 Cancellation

39 Cancellation of contractor licence not compulsory in certain cases

The Director-General is not required to cancel a contractor licence under section 22 (1) (c) of the Act if:

- (a) the licence authorises its holder to do residential building work or specialist work of the kind prescribed by clause 46 (clause 46 (1) (a) and (b) excepted) but not of any other kind, and
- (b) the Director-General is of the opinion that there is no evident risk to the public that the licensee will be unable to complete any building contract (whether an existing contract or a contract in the future) for the doing of residential building work or specialist work of that kind, or both, and
- (c) the licence is subject to a condition that the holder not contract to do work:
 - (i) if the contract price exceeds \$12,000 (inclusive of GST), or
 - (ii) if the contract price is not known, where the reasonable cost of the labour and materials involved in the work exceeds \$12,000 (inclusive of GST).

Division 4 Renewals, restorations and replacements

40 Renewal and restoration of certain contractor licences and supervisor certificates

- (1) A contractor licence (whether or not it is an endorsed contractor licence) granted, renewed or restored to the holder of a contractor licence issued by the Plumbing Industry Commission of Victoria, who takes advantage of the provisions of clause 42 (2), is in force for the period commencing on the grant or, in the case of renewal or restoration, on the day after the date of expiry, of the contractor licence and ending 1 year later or on the expiry of the contractor licence issued by that Commission, whichever occurs first.
- (2) A supervisor certificate granted, renewed or restored to the holder of a contractor licence issued by the Plumbing Industry Commission of Victoria, who takes advantage of the provisions of clause 42 (2), is in force for the period commencing on the grant or, in the case of renewal

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or restoration, on the day after the date of expiry, of the supervisor certificate and ending 3 years later or on the expiry of the contractor licence issued by that Commission, whichever occurs first.

- (3) This clause is subject to section 42 (Term of licence or certificate) of the Act.

41 Replacement authorities

Note. Under Part 2 of the *Licensing and Registration (Uniform Procedures) Act 2002* (as applied by sections 19 (2), 24 (2), 30 (2) and 32A (2) of the *Home Building Act 1989*), an application for the replacement of an authority may be made to the Director-General by the authority holder if the authority is lost, damaged or destroyed.

The holder of an authority that is replaced by the Director-General:

- (a) must surrender the original authority if it is recovered, or
- (b) in the case of a damaged authority that is replaced, must surrender the damaged authority.

Maximum penalty: 10 penalty units.

Division 5 Fees

42 Application fees

- (1) An application for an authority or for the renewal or restoration, or for the replacement, of an authority must be accompanied by the fee specified for the particular kind of application in Schedule 4.
- (2) There is no prescribed fee for an application:
 - (a) for the grant, renewal or restoration of a contractor licence authorising the holder to contract to do plumbing work or gasfitting work, or both, made by the holder of a contractor licence issued by the Plumbing Industry Commission of Victoria, but only if the holder's business is carried on principally in Victoria, or
 - (b) for the grant of a supervisor certificate authorising the holder to do or supervise plumbing work or gasfitting work, or both, made by the holder of a contractor licence issued by that Commission, but only if the holder's principal place of residence is in Victoria, or
 - (c) for the grant, renewal or restoration of a tradesperson certificate authorising the holder to do plumbing work or gasfitting work, or both, made by the holder of a certificate of registration issued by that Commission, but only if the holder's principal place of residence is in Victoria, or

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- (d) for the grant of a supervisor certificate to do electrical wiring work to a person who held an electrical mechanic's contractor licence under the *Electricity Act 1945*, authorising the person to do electrical wiring work without supervision, immediately before 21 March 1990 (the date of commencement of clause 10 of Schedule 4 to the *Home Building Act 1989*).
- (3) There is no prescribed fee for an application for the grant, renewal or restoration of a building consultancy licence if the applicant:
 - (a) is the holder of a contractor licence authorising the holder to do general building work, or
 - (b) is registered as an architect under the *Architects Act 1921* or the *Architects Act 2003*, or
 - (c) is an accredited certifier within the meaning of the *Environmental Planning and Assessment Act 1979*.

43 Examination fees

The Director-General may from time to time determine fees payable by candidates for examinations conducted by or on behalf of the Director-General and by applicants for the re-marking of the results of such examinations.

44 Refund of fees

- (1) If a person makes an application to sit for an examination conducted by or on behalf of the Director-General or for the re-marking of the result of such an examination, the Director-General:
 - (a) must refund the whole or any part of the relevant fee if the application is refused, and
 - (b) may refund the whole or any part of the relevant fee if the application is withdrawn or the applicant does not attend for such an examination.
- (2) Any such refund is to be paid to:
 - (a) the applicant for the examination or the re-mark, or
 - (b) any other person who appears to the Director-General to be entitled to the refund.

Division 6 Miscellaneous

45 Owner-builder permits

- (1) For the purposes of the definition of *owner-builder work* in section 29 (1) of the Act, the prescribed amount is \$5,000 (inclusive of GST).

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- (2) For the purposes of section 29 (3) of the Act, a person has a prescribed interest in land (so that the person is an owner of land for the purposes of Division 3 of Part 3 of the Act) if the person individually, jointly or in common, either at law or in equity:
- (a) has a freehold interest in the land (such as where the person is duly registered under the *Real Property Act 1900* as the proprietor of an estate in fee simple, whether unconditionally, for life or in remainder), or
 - (b) has a leasehold interest in the land in perpetuity, for life, or for a term exceeding 3 years.
- (3) The Director-General may require an applicant for an owner-builder permit who has a leasehold interest in the land concerned (other than a leasehold in perpetuity) to obtain the written permission of the person who has the freehold interest or leasehold interest in perpetuity in that land to carry out the work for which the permit is required.

46 Categories of residential building work or specialist work

- (1) For the purposes of sections 21 (1) (a) and 27 (1) (a) of the Act, the following categories of residential building work are prescribed:
- (a) general building work,
 - (b) swimming pool building,
 - (c) swimming pool repairs and servicing,
 - (d) structural landscaping,
 - (e) carpentry,
 - (f) joinery,
 - (g) flooring,
 - (h) bricklaying,
 - (i) stonemasonry,
 - (j) dry plastering,
 - (k) wet plastering,
 - (l) painting,
 - (m) decorating,
 - (n) wall and floor tiling,
 - (o) general concreting,
 - (p) demolishing,
 - (q) excavating,
 - (r) underpinning or piling,

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- (s) fencing,
 - (t) glazing,
 - (u) waterproofing,
 - (v) roof tiling,
 - (w) roof slating,
 - (x) roof plumbing,
 - (y) mechanical services,
 - (z) metal fabrication,
 - (aa) minor tradework,
 - (ab) minor maintenance and cleaning.
- (2) For the purposes of sections 21 (1) (b) and 27 (1) (b) of the Act, the following categories of specialist work are prescribed:
- (a) plumbing work,
 - (b) water plumbing work,
 - (c) draining work,
 - (d) gasfitting work,
 - (e) liquefied petroleum gasfitting work,
 - (f) advanced liquefied petroleum gasfitting work,
 - (g) airconditioning work,
 - (h) refrigeration work,
 - (i) electrical wiring work,
 - (j) disconnection and reconnection of fixed electrical equipment.

47 Category of building consultancy work

For the purposes of section 32C (1) of the Act, the pre-purchase inspection of dwellings is prescribed as a category of building consultancy work.

48 Exemption from requirement to show insurance has been obtained

- (1) The holder of, or an applicant for, a contractor licence is exempt from the provisions of sections 20 (3) (c), 22A and 40 (2A) of the Act unless the contractor licence is a contractor licence that authorises the holder to do residential building work or specialist work, or to supply kit homes, described in the contractor licence by means of or to the effect of any of the following descriptions:
- (a) above ground pool builder,
 - (b) bathroom renovations,

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- (c) builder,
 - (d) carport builder,
 - (e) concrete pre-engineered swimming pool,
 - (f) demountable swimming pool building,
 - (g) enclosed rooms,
 - (h) enclosure of sub-floor areas,
 - (i) fibreglass swimming pool building,
 - (j) garage building,
 - (k) glass enclosures,
 - (l) inclined elevators,
 - (m) kit home erection,
 - (n) kitchen renovations,
 - (o) laundry renovations,
 - (p) modular extensions,
 - (q) modular pools,
 - (r) restore heritage buildings,
 - (s) saunas,
 - (t) screened enclosures,
 - (u) semi construction of fibreglass pools,
 - (v) sheds,
 - (w) spa building,
 - (x) structural landscaping,
 - (y) sunrooms,
 - (z) supply only kit carports/sheds,
 - (aa) supply only kit garages,
 - (ab) supply only kit homes,
 - (ac) swimming pool building.
- (2) The holder of, or an applicant for, a contractor licence is exempt from the provisions of sections 20 (3) (c), 22A and 40 (2A) of the Act if the contractor licence only authorises the holder to contract to do work if the contract price does not exceed \$12,000 (inclusive of GST) or (if the contract price is not known) the reasonable cost of the labour and materials involved does not exceed \$12,000 (inclusive of GST).

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Part 4	Contractor licences, building consultancy licences, certificates and owner-builder permits

49 Exemption from requirement to return authority when conditions are imposed

A person is exempt from the requirements of section 44 (Return of cancelled or varied authority) of the Act if the Director-General states in the notice imposing a condition on the authority concerned that there is no need for the condition to be endorsed on the authority.

50 Work descriptions on contractor licences or certificates

- (1) Extended descriptions of the work that the holders of various categories of contractor licences or certificates are authorised to do or contract to do are provided in Schedule 5.
- (2) If the work that a contractor licence authorises its holder to contract to do is described in the contractor licence by the use of a work description specified in Column 1 of the Table in Schedule 5, the description is to be taken to refer to the work specified for the work category in Column 2 of that Table.

51 Modification of Part 2 of Licensing and Registration (Uniform Procedures) Act 2002

Part 2 of the *Licensing and Registration (Uniform Procedures) Act 2002* is modified in the following manner:

- (a) sections 9 and 10 do not apply in relation to an owner-builder permit,
- (b) section 14 (1) is taken to read as follows:
 - (1) The relevant licensing authority may serve notice on an applicant requiring the applicant:
 - (a) to provide:
 - (i) such information further to the original information contained in the application, and
 - (ii) such documentary or other evidence in support of the original or further information,
 as the authority may require to enable it to deal with the application, or
 - (b) to have his or her photograph taken by the licensing authority, or to provide a photograph in a form specified by the authority.

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Contractor licences, building consultancy licences, certificates and owner-builder permits

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- (c) section 21 is taken to include the following subsection after section 21 (2):
- (2A) Except for the purposes of any proceedings for an offence or relating to a complaint under Part 4 of the *Home Building Act 1989*, an authority that is the subject of an application for restoration (a **restoration application**) that has been duly made is to be taken to have continued in force from the time the authority expired until one of the following occurs:
- (a) the authority is renewed by the Director-General, or
 - (b) if the Director-General rejects the application and:
 - (i) an application for a review of the rejection is not lodged with the Administrative Decisions Tribunal within 30 days after that rejection—the expiry of that 30 day period, or
 - (ii) an application for the review of the rejection is lodged with the Administrative Decisions Tribunal within 30 days after that rejection—the application is decided or withdrawn, or
 - (c) the restoration application is withdrawn.
- (d) section 21 is taken to include the following subsection after section 21 (8):
- (9) Nothing in this section prevents the suspension of a contractor licence (within the meaning of the *Home Building Act 1989*).

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Part 5 Insurance requirements

Part 5 Insurance requirements

Division 1 Preliminary

52 Definitions

(1) In this Part:

beneficiary means a person entitled to claim a benefit provided under an insurance contract.

common property means:

- (a) common property within the meaning of the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986*, or
- (b) association property within the meaning of the *Community Land Development Act 1989*.

contractor means a person required by section 92 of the Act not to do residential building work under a contract unless an insurance contract is in force in relation to the work.

insolvent means:

- (a) in relation to an individual, that the individual is insolvent under administration (within the meaning of the *Corporations Act 2001* of the Commonwealth), or
- (b) in relation to a corporation, that the corporation is an externally-administered body corporate (within the meaning of the *Corporations Act 2001* of the Commonwealth).

insurance contract means a contract of insurance required to be entered into under Part 6 of the Act.

insurer means the issuer or provider of an insurance contract.

owner-builder work means owner-builder work within the meaning of Division 3 of Part 3 of the Act that involves:

- (a) the construction of a dwelling, or
- (b) the alteration of, or additions to, a dwelling, or
- (c) the construction of an inground swimming pool.

principal certifying authority has the same meaning as it has in the *Environmental Planning and Assessment Act 1979*.

supplier means a supplier of a kit home required by section 93 of the Act not to enter into a contract to supply a kit home unless an insurance contract is in force relating to the supply.

(2) In this Part, work is taken not to be completed even though it has not commenced.

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Insurance requirements

Part 5

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- (3) A reference in this Part to the disappearance of a contractor, supplier or owner-builder includes a reference to the fact that, after due search and inquiry, the contractor, supplier or owner-builder cannot be found.

53 Application

- (1) This Part is subject to the conditions of any approval given by the Minister under section 103A of the Act.
- (2) Nothing in this Part affects the requirements of the *Insurance Contracts Act 1984* of the Commonwealth.

Division 2 Insurance contracts generally**54 Persons who may arrange insurance contracts**

An insurance contract may be entered into for the purposes of Part 6 of the Act by a contractor or supplier, or by a beneficiary in respect of the work done or kit home supplied, and may be arranged by any such person.

55 Beneficiaries

- (1) An insurance contract must provide that the beneficiaries under the contract are:
- (a) a person:
 - (i) on whose behalf residential building work covered by the contract is done or is to be done, or
 - (ii) to whom a kit home covered by the contract is supplied or is proposed to be supplied, or
 - (iii) who is a purchaser of land on which owner-builder work, or work required by section 95 or 96 of the Act to be insured, and covered by the contract, is done, or
 - (b) a successor in title to any person referred to in paragraph (a) (i), (ii) or (iii).
- (2) The following persons are not required to be beneficiaries under an insurance contract:
- (a) a developer who does residential building work,
 - (b) a person who does residential building work other than under a contract,
 - (c) a holder of a contractor licence who or that carried out residential building work,
 - (d) related companies, within the meaning of section 50 of the *Corporations Act 2001* of the Commonwealth, to any corporate person referred to in paragraph (a), (b) or (c).

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- (3) Nothing in this clause prevents a person referred to in subclause (2) from being a beneficiary under an insurance contract.
- (4) For the purposes of this clause, the owner or owners of common property the subject of work referred to in section 95 or 96 of the Act are taken to be purchasers of the land on which the common property is situated.

56 Losses indemnified

- (1) An insurance contract must indemnify beneficiaries under the insurance contract for the following losses or damage in respect of residential building work covered by the insurance contract:
 - (a) loss or damage resulting from non-completion of the work because of the insolvency, death or disappearance of the contractor,
 - (b) loss or damage arising from a breach of a statutory warranty, being loss or damage in respect of which the beneficiaries cannot recover compensation from the contractor or owner-builder or have the contractor or owner-builder rectify because of the insolvency, death or disappearance of the contractor or owner-builder.
- (2) An insurance contract must indemnify beneficiaries under the contract for the following losses or damage in respect of the supply of a kit home the subject of the contract:
 - (a) loss or damage resulting from the non-supply of the kit home because of the insolvency, death or disappearance of the supplier,
 - (b) loss or damage resulting from any of the following events, but only if the beneficiaries cannot, because of the insolvency, death or disappearance of the supplier, recover compensation from the supplier for the loss or damage or have the supplier rectify the loss or damage:
 - (i) the materials and components used in the kit home not being good or suitable for the purpose for which they were used,
 - (ii) the design of the kit home being faulty.
- (3) Without limiting subclause (1) or (2), an insurance contract (other than an insurance contract in relation to owner-builder work) must indemnify a beneficiary for the following loss or damage, being loss or damage in respect of which a beneficiary cannot recover compensation from the contractor or supplier concerned, or have the contractor or supplier rectify, because of the insolvency, death or disappearance of the contractor or supplier:

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- (a) loss or damage resulting from faulty design, where the design was provided by the contractor or supplier, or
 - (b) loss or damage resulting from non-completion of the work because of early termination of the contract for the work because of the contractor's or supplier's wrongful failure or refusal to complete the work or supply, or
 - (c) the cost of alternative accommodation, removal and storage costs reasonably and necessarily incurred as a result of an event referred to in subclause (1) or (2), or
 - (d) loss of deposit or progress payment due to an event referred to in subclause (1) or (2), or
 - (e) any legal or other reasonable costs incurred by a beneficiary in seeking to recover compensation from the contractor or supplier for the loss or damage or in taking action to rectify the loss or damage.
- (4) Without limiting subclause (1) or (2), an insurance contract in relation to owner-builder work must indemnify a beneficiary for the following loss or damage, being loss or damage in respect of which a beneficiary cannot recover compensation from the owner-builder concerned, or have the owner-builder rectify, because of the insolvency, death or disappearance of the owner-builder:
- (a) loss or damage resulting from faulty design, where the design was provided by the owner-builder, or
 - (b) the cost of alternative accommodation, removal and storage costs reasonably and necessarily incurred as a result of an event referred to in subclause (1) or (2), or
 - (c) any legal or other reasonable costs incurred by a beneficiary in seeking to recover compensation from the owner-builder for the loss or damage or in taking action to rectify the loss or damage.
- (5) The insurance contract must state that the risks indemnified include the acts and omissions of all persons contracted by the contractor, supplier, owner-builder or other person to perform the work resulting in loss or damage of a kind referred to in this clause.

57 Exclusion of amounts of deposit or progress payment

Despite clause 56, an insurance contract may contain a provision that excludes the insurer from liability for the amount of any part of:

- (a) a deposit or payment that exceeds the amount specified for such a deposit or payment in section 8 of the Act, or
- (b) a progress payment that exceeds the amount specified for such a payment under any contract related to the work concerned.

Clause 58 Home Building Regulation 2004

Part 5 Insurance requirements

58 Limitations on liability and cover

- (1) An insurance contract may contain the following limitations on liability under the contract:
- (a) the contract may limit claims that may otherwise arise under the building contract in the nature of liquidated damages for delay or damages for delay provided that any such limitation must not extend to any increase in rectification costs caused by the effluxion of time,
 - (b) if the contract is required to be entered into under section 95 of the Act, the contract may provide that the insurer is not liable in respect of any defect that is referred to in any report on the owner-builder work required by the insurer to be obtained before the insurance contract was entered into,
 - (c) the contract may exclude a claim for such loss or damage as could be reasonably expected to result from fair wear and tear of the building work covered by the contract or failure by the beneficiary to maintain the building work,
 - (d) the contract may exclude a claim in relation to a defect in, or the repair of damage to, structural elements in the non-residential part of a building that supports or gives access to the residential part, unless it is a defect or damage that adversely affects the structure of the residential part or the access to it,
 - (e) the contract may exclude a claim in relation to damage caused by the normal drying out of the building work or kit home components concerned, if the damage has occurred despite the contractor or supplier taking all reasonable precautions in allowing for the normal drying out when carrying out the building work, or in preparing the assembly tolerances of the kit home,
 - (f) the contract may exclude a claim in relation to damage due to, or made worse by, the failure of any beneficiary to take reasonable and timely action to minimise the damage,
 - (g) the contract may exclude a claim in relation to an appliance or apparatus (such as a dishwasher or airconditioning unit) if the claim is made after the expiry of the manufacturer's warranty period for the appliance or apparatus or, if there is no warranty period, outside the reasonable lifetime of the appliance or apparatus,
 - (h) the contract may exclude a claim in relation to damage to work or materials that is made outside the reasonable lifetime of the work or materials or the manufacturer's warranty period for the materials,

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- (i) the contract may exclude a claim in relation to a defect due to a faulty design provided by a beneficiary or a previous owner,
 - (j) the contract may limit liability resulting from non-completion of building work to an amount that is 20% of the contract price (including any agreed variation to the contract price) for the work,
 - (k) the contract may exclude a claim for loss or damage resulting from any of the following if the exclusion is a standard policy provision of the insurer and the exclusion is not inconsistent with this Regulation and does not contravene this Regulation:
 - (i) war,
 - (ii) an act of terrorism,
 - (iii) civil unrest,
 - (iv) asbestos contamination or removal,
 - (v) a nuclear event,
 - (vi) risks normally insured under a policy for public liability or contract works,
 - (vii) an act of God or nature,
 - (viii) failure by the beneficiary to maintain appropriate protection against pest infestation or exposure of natural timbers,
 - (ix) consequential loss, including, without limitation, loss of rent or other income, loss of enjoyment, loss of business opportunity, inconvenience or distress,
 - (x) malfunction in any mechanical or electrical equipment or appliance, if the insurer proves that the malfunction is not attributable to the workmanship of, or installation by, the contractor or supplier of a kit home.
- (2) An insurance contract may contain any other limitation on liability, but only if it is not inconsistent with this Regulation and does not contravene any requirement of this Regulation.
- (3) For the purposes of this clause, an *act of terrorism* is an act that, having regard to the nature of the act, and the context in which the act was done, it is reasonable to characterise as an act of terrorism.
- (4) Any lawful activity or any industrial action cannot be characterised as an act of terrorism for the purposes of this clause. An act can only be so characterised if it:
- (a) causes or threatens to cause death, personal injury or damage to property, and

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Part 5 Insurance requirements

- (b) is designed to influence a government or to intimidate the public or a section of the public, and
- (c) is carried out for the purpose of advancing a political, religious, ideological, ethnic or similar cause.

59 Amount of cover where one or more dwellings

An insurance contract may provide that the minimum amount of cover otherwise payable under section 102 of the Act or this Regulation, in respect of a dwelling in a building or complex containing more than one dwelling, may be reduced by not more than an amount calculated by dividing the amount of any claim paid by the insurer in relation to common property of the building or complex by the number of dwellings contained in the building or complex.

60 Manner of determining minimum cover

- (1) For the purpose of section 102 (3) of the Act, the Minister may from time to time, by notice published in the Gazette, increase the amount of cover that must be provided by an insurance contract. An increase does not take effect until notice of the increase is published in the Gazette.
- (2) Any such increase must not increase the amount by a percentage greater than the percentage increase in the *Producer Price Indexes, Australia* (as published by the Australian Bureau of Statistics) since the amount was last increased.
- (3) An insurance contract must provide that the minimum amount of cover payable is to be the amount provided for from time to time by the Act and this Regulation.
- (4) Subclause (3) does not prevent an insurance contract from providing for a minimum amount of cover that exceeds the amount referred to in that subclause.

61 Period of cover

- (1) For the purposes of determining the period of cover to be provided by an insurance contract in relation to residential building work, work is taken to be complete:
 - (a) on the date that the work is completed within the meaning of the contract under which the work was done, or
 - (b) if the contract does not provide for when work is completed or there is no contract, on the date of the final inspection of the work by the applicable principal certifying authority, or

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- (c) in any other case, on the latest date that the contractor attends the site to complete the work or hand over possession to the owner or if the contractor does not do so, on the latest date the contractor attends the site to carry out work.
 - (2) For the purposes of determining the period of cover to be provided by an insurance contract in relation to the supply of a kit home, the supply is taken to be complete:
 - (a) on the date that the supply is completed within the meaning of the contract under which the kit home is supplied, or
 - (b) in any other case, on the latest date that the contractor attends the site to complete the supply or hand over possession to the owner or if the contractor does not do so, on the latest date the contractor attends the site in relation to the supply.
 - (3) For the purposes of determining the period of cover to be provided by an insurance contract in relation to owner-builder work under an owner-builder permit, the work is taken to be complete:
 - (a) on the date of the final inspection of the work by the applicable principal certifying authority, or
 - (b) if there is no final inspection by the principal certifying authority, on the date that is 6 months after the issue of the permit for the owner-builder work.

62 Misrepresentation or non-disclosure

An insurance contract must contain a provision to the effect that the insurer is not entitled either to refuse to pay a claim under the contract or to cancel the contract on the ground that the contract was obtained by misrepresentation or non-disclosure by the contractor, owner-builder or supplier or that the policy premium was not paid providing, in the latter case, that a certificate evidencing insurance has been given or the insurer has otherwise accepted cover.

Division 3 Miscellaneous

63 Time limits for notice of loss or damage

- (1) An insurance contract must contain a provision to the effect that the insurer may not reduce its liability under the contract or reduce any amount otherwise payable in respect of a claim merely because of a delay in a claim being notified to the insurer if the claim is notified within the period set out below:

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- (a) except as referred to in paragraph (b), not later than 6 months after the beneficiary first becomes aware, or ought reasonably to be aware, of the fact or circumstance under which the claim arises, or
 - (b) in the case of a fact or circumstance that may give rise to a claim for loss or damage resulting from incomplete work, not later than 12 months after:
 - (i) the contract date, or
 - (ii) the date provided in the contract for commencement of work, or
 - (iii) the date work ceased,whichever is the later.
- (2) Despite subclause (1), an insurance contract may contain a provision extending the time within which notice of a fact or circumstance may be given or enabling the insurer to waive or extend the time within which notice may be given.
- (3) If a beneficiary gives notice of a defect to the insurer, the beneficiary is taken for the purposes of the insurance contract to have given notice of every defect to which the defect is directly or indirectly related, whether or not the claim in respect of the defect that was actually notified has been settled.

64 Refusal of insurance claims

For the purposes of making an appeal against a decision of an insurer, an insurance claim is taken to have been refused if written notice of the insurer's decision is not given to the beneficiary within 45 days of the lodging of the claim with the insurer or within such further time as may be agreed between the beneficiary and the insurer.

65 Insurance appeals

- (1) An appeal against a decision of an insurer that is a building claim made under Part 3A of the Act or a consumer claim under the *Consumer Claims Act 1998* must be made not later than 45 days after written notice of the decision is given to the beneficiary.
- (2) Nothing in subclause (1) limits the time within which an appeal may be made if a claim is taken to have been refused because of the operation of clause 64 and written notice of a decision has not been given to the beneficiary.
- (3) However, an appeal may, with the leave of the Tribunal or court, be lodged with the registrar of the Tribunal or court after the end of the period referred to in subclause (1), if:

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- (a) an application is made to the Tribunal or court for leave to lodge the appeal out of time, and
 - (b) in the opinion of the Tribunal or court, there are special circumstances to grant leave, and
 - (c) the Tribunal or court grants leave.
- (4) Without limiting the type of circumstances that may be considered special circumstances, the time taken for a decision to be reviewed by the insurer is a factor in determining special circumstances.

66 Certificates evidencing insurance

- (1) For the purposes of section 92 of the Act, the prescribed form of the certificate of insurance is the form set out in Form 1.
- (2) For the purposes of section 93 of the Act, the prescribed form of the certificate of insurance is the form set out in Form 2.
- (3) For the purposes of section 95 of the Act, the prescribed form of the certificate of insurance is the form set out in Form 3.
- (4) For the purposes of section 96 of the Act, the prescribed form of the certificate of insurance is the form set out in Form 1.

67 Evidence of acceptance of risk

Pursuant to section 103I (2) (f) of the Act, the indemnity provided under section 103I of the Act applies in connection with any matter covered by an insolvent insurer's policy issued by HIH Casualty and General Insurance Limited or FAI General Insurance Company Limited despite the fact that no certificate of insurance evidencing the insolvent insurer's policy was issued if the person claiming to be a beneficiary demonstrates to the satisfaction of the Guarantee Corporation that the insolvent insurer accepted the risk on or before:

- (a) 15 March 2001 in the case where an owner-builder entered into a contract of insurance in order to comply with the requirements of section 95 of the Act, or
- (b) 20 June 2001 in the following cases:
 - (i) where section 92 (1) (a) or 96 (1) of the Act required a person to ensure a contract of insurance was in force to enable the person to do residential building work,
 - (ii) where section 93 (1) (a) of the Act required a person to ensure a contract of insurance was in force to enable the person to supply a kit home.

Clause 68 Home Building Regulation 2004

Part 5 Insurance requirements

68 Access for work

- (1) An insurance contract may require a beneficiary to give access to the relevant property to a contractor or supplier for the purpose of inspection, rectification or completion of work or a kit home.
- (2) Any such requirement is to be subject to the beneficiary's right to refuse access on reasonable grounds.

69 Requirements for insurance for residential flat buildings

- (1) This clause applies to the following work in relation to an existing single residential flat building where the contract price (inclusive of GST) exceeds \$12,000:
 - (a) work on the common property of the existing single residential flat building (where the building comprises strata, community scheme or company title home units),
 - (b) work on an existing single residential flat building if the whole building is owned by the same person.
- (2) For the purposes of section 102 (3) of the Act:
 - (a) if the amount obtained by dividing the contract price (inclusive of GST) by the number of dwellings in the building does not exceed \$12,000—the contract of insurance must provide for cover of no less than a total of \$200,000, or
 - (b) if the amount obtained by dividing the contract price (inclusive of GST) by the number of dwellings in the building exceeds \$12,000—the contract of insurance must provide cover of no less than \$200,000 in relation to each dwelling in the building.
- (3) In this clause:

dwelling, in relation to a strata, community scheme or company title home unit, includes any garage or storage area that is included in the same title as the unit.

residential flat building means a building containing 2 or more dwellings.

70 Insurance thresholds

- (1) For the purposes of section 92 (3) of the Act, \$12,000 is prescribed.
- (2) For the purposes of section 93 (3) of the Act, \$12,000 is prescribed.
- (3) For the purposes of section 95 (3) (b) of the Act, \$12,000 is prescribed.
- (4) For the purposes of section 96 (3) (e) of the Act, \$12,000 is prescribed.
- (5) Each amount prescribed under this clause is inclusive of GST.

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71 Meaning of “structural defect”

- (1) For the purposes of section 103B (2) of the Act, *structural defect* means any defect in a structural element of a building that is attributable to defective design, defective or faulty workmanship or defective materials (or any combination of these) and that:
- (a) results in, or is likely to result in, the building or any part of the building being required by or under any law to be closed or prohibited from being used, or
 - (b) prevents, or is likely to prevent, the continued practical use of the building or any part of the building, or
 - (c) results in, or is likely to result in:
 - (i) the destruction of the building or any part of the building, or
 - (ii) physical damage to the building or any part of the building, or
 - (d) results in, or is likely to result in, a threat of imminent collapse that may reasonably be considered to cause destruction of the building or physical damage to the building or any part of the building.
- (2) In subclause (1):
- structural element of a building* means:
- (a) any internal or external load-bearing component of the building that is essential to the stability of the building or any part of it, including things such as foundations, floors, walls, roofs, columns and beams, and
 - (b) any component (including weatherproofing) that forms part of the external walls or roof of the building.

72 Persons entitled to apply for exemptions from insurance requirements

For the purposes of section 97 (1A) of the Act:

- (a) a developer who is required to comply with section 96A of the Act is prescribed as a person entitled to apply for an exemption under that subsection, and
- (b) a contractor doing residential building work or supplying kit homes is prescribed as entitled to apply in relation to that work for the exemption referred to in that subsection.

Clause 73 Home Building Regulation 2004

Part 5 Insurance requirements

73 Temporary exemption from section 92B and 93B requirements

- (1) A contract of insurance is exempt from a requirement arising under section 92B of the Act that the operation of the contract be extended to residential building work done at the address stated in the certificate of insurance, but this exemption applies only in respect of:
 - (a) a contract of insurance entered into in the period commencing on 4 July 2003 (being the date of commencement of clause 57BB of the *Home Building Regulation 1997*) and ending on 31 December 2005, and
 - (b) residential building work done or to be done in the period commencing on 4 July 2003 and ending on 31 December 2005 (regardless of when the contract of insurance concerned was entered into).
- (2) A contract of insurance is exempt from a requirement arising under section 93B of the Act that the operation of the contract be extended to the supply of any kit home at the address stated in the certificate of insurance, but the exemption applies only in respect of:
 - (a) a contract of insurance entered into in the period commencing on 4 July 2003 and ending on 31 December 2005, and
 - (b) the supply of a kit home during the period commencing on 4 July 2003 and ending on 31 December 2005 (regardless of when the contract of insurance concerned was entered into).

74 Exemptions from insurance for multi-storey buildings

- (1) A person who does, or enters into a contract to do, residential building work relating to the construction of a multi-storey building is exempt from the requirements of Part 6 of the Act in respect of that residential building work.
- (2) A developer who enters into a contract for the sale of land on which residential building work relating to the construction of a multi-storey building has been done, or is to be done, is exempt from the requirements of section 96A of the Act in relation to that residential building work.
- (3) This clause does not apply in respect of residential building work commenced before 31 December 2003 (being the date of commencement of clause 57BC of the *Home Building Regulation 1997*, the corresponding earlier version of this clause).

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Insurance requirements

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- (4) If a developer entered into a contract for the sale of land on which residential building work in relation to a multi-storey building was proposed to be carried out but was not commenced before 31 December 2003 and the developer complied with clause 77 in relation to that contract:
- (a) the provisions of the contract complying with clause 77 (b) (ii) and (iii) cease to have effect, and
 - (b) the developer must notify the purchaser of the land in writing that they no longer have effect and of the exemption from the requirements of Part 6 of the Act in relation to the residential building work conferred by this clause.
- (5) In this clause:
- multi-storey building** means a building:
- (a) that has a rise in storeys of more than 3, and
 - (b) that contains 2 or more separate dwellings.
- rise in storeys** has the same meaning as it has in the *Building Code of Australia*.
- storey** does not include a space within a building if the space includes accommodation only intended for vehicles.

75 Exemption from insurance in relation to retirement villages

- (1) A holder of a contractor licence who does, or enters into a contract to do, residential building work on behalf of a developer, being residential building work relating to the construction of a self contained dwelling in a retirement village, is exempt from the requirements of Part 6 of the Act in respect of that residential building work.
- (2) For the purposes of this clause, **retirement village** has the same meaning as in the *Retirement Villages Act 1999*, except that it does not include a retirement village that is subject to a community land scheme, company title scheme or strata scheme.
- (3) In this clause:
- community land scheme** means a scheme (other than a strata scheme) within the meaning of the *Community Land Management Act 1989*.
- company title scheme** has the same meaning as it has in the *Retirement Villages Act 1999*.
- strata scheme** has the same meaning as it has in the *Strata Schemes Management Act 1996*.

Clause 76 Home Building Regulation 2004

Part 5 Insurance requirements

76 Exemption from insurance for certain work funded through Department of Ageing, Disability and Home Care

A holder of a contractor licence who does, or enters into a contract to do, residential building work that is funded by the Home and Community Care Program through the Home Modification and Maintenance sub-program administered by the Department of Ageing, Disability and Home Care is exempt from the requirements of Part 6 of the Act in respect of that work.

77 Exemption from certificate requirement where work not commenced

A developer is exempt from the requirements of section 96A of the Act if:

- (a) work under a contract for the carrying out of residential building work entered into by the developer has not commenced when a contract of sale is entered into for the sale of the land on which the residential building work is to be done, and
- (b) the contract of sale contains provisions:
 - (i) informing the purchaser of the land under the contract that the exemption applies, and
 - (ii) informing the purchaser that the Act requires residential building work (whether or not done under a contract) to be insured, and
 - (iii) requiring the developer or any assignee of the developer's rights under the contract to provide a certificate of insurance in respect of any residential building work (as required by section 96A (1) of the Act) to the purchaser within 14 days after the contract of insurance in respect of that work is made, and
 - (iv) enabling the purchaser to rescind if the developer or any assignee of the developer fails to provide the certificate of insurance within that period of 14 days.

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Clause 78

Resolution of building disputes and building claims

Part 6

Part 6 Resolution of building disputes and building claims

78 Transfer of proceedings from other courts

- (1) For the purposes of section 48L of the Act:
 - (a) proceedings are to be transferred by order of the court hearing the proceedings, and
 - (b) notice of the transfer is to be given to the Registrar of the Tribunal by the registrar of the court hearing the proceedings, and
 - (c) all documents relating to the proceedings in the custody of the court hearing the building claim are to be transferred by the registrar of the court to the Registrar of the Tribunal.
- (2) On receipt of such a notice of transfer and accompanying documents, the Registrar must serve on all of the parties a notice fixing a date and time for the holding of the hearing or a directions hearing in relation to the proceedings.

79 Warning notice for Tribunal orders

For the purposes of section 48R of the Act, the following warning must be included in an order made under Part 3A of the Act:

WARNING FOR HOME BUILDING LICENCE HOLDERS

You must notify the Office of Fair Trading's Home Building Service in writing when you have complied with this order (for example, when you have done the work or paid the money).

If you do not notify the Home Building Service, your public record will show that you have failed to comply with the order and you may be unable to renew your licence when it expires.

You can be fined up to \$22,000 if you falsely claim you have complied with this order.

Clause 80 Home Building Regulation 2004

Part 7 General

Part 7 General

80 Register

For the purposes of section 120 of the Act, the register must include the following registered particulars:

- (a) in respect of contractor licences:
 - (i) the name, date of birth and business address of contractor licence holder,
 - (ii) the contractor licence number and a description of work the contractor licence authorises the holder to contract to do or the kind of kit home the contractor licence authorises the holder to contract to supply (as may be appropriate),
 - (iii) the date of issue and current expiry date,
 - (iv) conditions endorsed on the contractor licence, if any, and date of any alteration to the conditions,
 - (v) variations of the description of the work the contractor licence authorises the holder to contract to do, or the kind of kit home the contractor licence authorises the holder to contract to supply (as may be appropriate), and the date of the variations,
 - (vi) whether the contractor licence, if held by an individual, is an endorsed contractor licence,
 - (vii) if the holder is the nominated supervisor of the holder of another contractor licence, the name and contractor licence number of that other contractor licence holder, the date of the consent declaration and the date of ceasing to be a nominated supervisor,
 - (viii) if the holder is a partnership, the names, dates of birth and addresses of the members of the partnership,
 - (ix) if the holder is a corporation, the names, dates of birth and addresses of the directors of the corporation,
 - (x) the name, type of authority and authority number held by any nominated supervisor for the contractor licence, the date of the consent declaration and the date of ceasing to be nominated supervisor,
 - (xi) if the holder has been exempted from a requirement in relation to nominated supervisors, the date of the order and revocation of the order, if any,
 - (xii) the results of any relevant determination under Part 4 of the Act,

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General

Part 7

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- (xiii) the results of any prosecutions against the holder under the Act,
 - (xiv) the number of insurance claims paid in respect of work done, or kit homes supplied, by the holder,
 - (xv) details of any penalty notices issued to the holder,
 - (xvi) any instance of non-compliance with a Tribunal order to do work or to pay money,
 - (xvii) details of any public warnings issued regarding the holder under section 23 of the Act,
 - (xviii) details of any formal cautions issued to the holder regarding his, her or its conduct,
 - (xix) any cancellation or suspension of the contractor licence, whether made under the Act or the *Fair Trading Act 1987*.
- (b) in respect of building consultancy licences:
- (i) the name, date of birth and business address of the building consultancy licence holder,
 - (ii) the building consultancy licence number and a description of work the building consultancy licence authorises the holder to contract to do,
 - (iii) the date of issue and current expiry date,
 - (iv) conditions endorsed on the building consultancy licence, if any, and date of any alteration to the conditions,
 - (v) variations of the description of the work the building consultancy licence authorises the holder to contract to do,
 - (vi) if the holder is a partnership, the names, dates of birth and addresses of the members of the partnership,
 - (vii) if the holder is a corporation, the names, dates of birth and addresses of the directors of the corporation,
 - (viii) if the holder is a partnership or corporation, the name and licence number of the nominated person (as referred to in clause 35 (3) or (4)) of the partnership or corporation,
 - (ix) the results of any relevant determination under Part 4 of the Act,
 - (x) the results of any prosecution against the holder under the Act,
 - (xi) details of any penalty notices issued to the holder,
 - (xii) any instance of non-compliance with a Tribunal order to do work or to pay money,
 - (xiii) details of any public warnings issued regarding the holder under section 32F of the Act,

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Part 7 General

- (xiv) details of any formal cautions issued to the holder regarding his, her or its conduct,
 - (xv) any cancellation or suspension of the building consultancy licence, whether made under the Act or the *Fair Trading Act 1987*.
- (c) in respect of supervisor certificates:
- (i) the name, date of birth and residential address of holder,
 - (ii) the certificate number and a description of work the certificate authorises the holder to do and to supervise,
 - (iii) the date of issue and current expiry date,
 - (iv) conditions endorsed on the contractor licence, if any, and the date of any alterations to the conditions,
 - (v) variations of the description of work the certificate authorises the holder to do or supervise,
 - (vi) if the holder is the nominated supervisor of a contract licence holder, the name and contractor licence number of that contractor licence holder, the date of the consent declaration and the date of ceasing to be a nominated supervisor,
 - (vii) the results of any relevant determination under Part 4 of the Act,
 - (viii) results of any prosecutions against the holder under the Act,
 - (ix) the number of insurance claims paid in respect of work done by the holder as the holder of a contractor licence,
 - (x) details of any penalty notices issued to the holder,
 - (xi) any instance of non-compliance with a Tribunal order to do work or to pay money,
 - (xii) details of any public warnings issued regarding the holder under section 23 of the Act,
 - (xiii) details of any formal cautions issued to the holder regarding his or her conduct,
 - (xiv) any cancellation or suspension of the supervisor certificate, whether made under the Act or the *Fair Trading Act 1987*.
- (d) in respect of tradesperson certificates:
- (i) the name, date of birth and residential address of holder,
 - (ii) the certificate number and a description of work the certificate authorises the holder to do,
 - (iii) the date of issue and current expiry date,

Home Building Regulation 2004

Clause 81

General

Part 7

-
- (iv) conditions endorsed on the certificate, if any, and the date of any alterations to the conditions,
 - (v) variations of the description of work the certificate authorises the holder to do,
 - (vi) results of any relevant determination under Part 4 of the Act,
 - (vii) results of any prosecutions against the holder under the Act,
 - (viii) details of any penalty notices issued to the holder,
 - (ix) any instance of non-compliance with a Tribunal order to do work or to pay money,
 - (x) details of any public warnings issued regarding the holder under section 23 of the Act,
 - (xi) details of any formal cautions issued to the holder regarding his or her conduct,
 - (xii) any cancellation or suspension of the certificate, whether made under the Act or the *Fair Trading Act 1987*.
 - (e) in respect of owner-builder permits:
 - (i) the name and residential address of holder,
 - (ii) the place where the owner-builder work is to be done,
 - (iii) the number of permit and date of issue,
 - (iv) a description of work the permit authorises the holder to do.

81 Review by Administrative Decisions Tribunal

- (1) For the purposes of section 83B (3) (b) of the Act, the following decisions of the Director-General under Part 4 of the Act are prescribed:
 - (a) a decision to vary an authority by imposing a condition on the authority,
 - (b) a decision to suspend an authority (other than a contractor licence),
 - (c) a decision to cancel an authority (other than a contractor licence),
 - (d) a decision to disqualify the holder of an authority from being:
 - (i) the holder of an authority, or
 - (ii) a member of a partnership, or an officer of a corporation that is a member of a partnership, that is the holder of an authority, or

Clause 82 Home Building Regulation 2004

Part 7 General

(iii) an officer of a corporation that is the holder of an authority.

Note. Section 83B (3) (a) of the Act provides for review by the Administrative Decisions Tribunal of a decision to impose a penalty or to cancel or suspend a contractor licence.

- (2) In this clause, *authority* has the same meaning as it has in section 55 of the Act.

82 Certificate evidence

- (1) For the purposes of section 131 of the Act, the Director-General or any officer of the Office of Fair Trading, Department of Commerce authorised in writing by the Director-General for the purposes of this clause are the prescribed officers.
- (2) A fee of \$16 is payable for the issue of a certificate under section 131 of the Act unless waived by the Director-General.

83 Proceedings for offences under other Acts

For the purposes of section 135 of the Act, the Director-General or any officer of the Office of Fair Trading, Department of Commerce authorised in writing by the Director-General for the purposes of this clause are the prescribed officers.

84 Display of signs

- (1) This clause applies when the holder of a contractor licence authorising its holder to contract to do residential building work does such work on a site if the work involves:
- (a) the construction of a dwelling, a detached garage or carport or an inground swimming pool, or
 - (b) the making of alterations or additions to any such structure, being work that requires development consent.
- (2) This clause does not apply to the holder of a contractor licence who or that has entered into a sub-contract with another holder of a contractor licence to do the work concerned or who or that contracts to do work which has been authorised by an owner-builder permit.
- (3) If this clause applies, a licensee must prominently display on some part of the land on which the licensee is doing residential building work a sign showing in clear and legible characters:
- (a) the name of the licensee shown on the contractor licence, and
 - (b) the words “licensed contractor” or words to that effect, and
 - (c) the number of the contractor licence held by the licensee.
- Maximum penalty: 10 penalty units.

Home Building Regulation 2004

Clause 85

General

Part 7

85 Advertising

In any advertisement of any kind relating to the doing or contracting to do residential building work or specialist work, or supplying or contracting to supply a kit home, by the holder of a contractor licence, or doing or contracting to do building consultancy work by the holder of a building consultancy licence, the following details must be included:

- (a) if the holder is an individual:
 - (i) the holder's name or, if the holder has a business name registered under the *Business Names Act 1962* or the *Business Names Act 2002* in respect of the work or kit homes to which the contractor licence applies, or in respect of the building consultancy work to which the building consultancy licence applies—that business name, and
 - (ii) the number of the contractor licence or the building consultancy licence held by the individual,
- (b) if the holder is a partnership:
 - (i) the names of all the members of the partnership or, if the partnership has a business name registered under the *Business Names Act 1962* or the *Business Names Act 2002* in respect of the work or kit homes to which the contractor licence applies, or in respect of the building consultancy work to which the building consultancy licence applies—that business name, and
 - (ii) the number of the contractor licence or the building consultancy licence held by the partnership,
- (c) if the holder is a corporation:
 - (i) the name of the corporation or, if the corporation has a business name registered under the *Business Names Act 1962* or the *Business Names Act 2002* in respect of the work or kit homes to which the contractor licence applies, or in respect of the building consultancy work to which the building consultancy licence applies—that business name, and
 - (ii) the number of the contractor licence or the building consultancy licence held by the corporation.

Maximum penalty: 10 penalty units.

Clause 86 Home Building Regulation 2004

Part 7 General

86 Hazardous specialist work: do-it-yourself publications and public addresses

(1) In this clause:

document includes a film, tape or disc or other article from which sounds or images are capable of being reproduced.

hazardous specialist work means:

- (a) electrical wiring work, and
- (b) gasfitting work, and
- (c) plumbing work to which AS/NZS 3500.4:2003, *Plumbing and drainage*, Part 4: *Heated water services*, published by Standards Australia, applies.

publish includes distribute, display or exhibit.

unauthorised person, in relation to the doing of hazardous specialist work, is a person who is not the holder of an endorsed contractor licence or supervisor certificate authorising its holder to do such work or who is not appropriately supervised in the doing of the work by the holder of such a licence or certificate.

(2) A person must not publish a document or deliver a public address (whether or not in the form of a lecture or talk in public or in a radio or television broadcast) in which the person:

- (a) describes or advises how hazardous specialist work may be done, or
- (b) states, suggests or implies that an unauthorised person may do such work,

unless the person complies with subclause (3).

Maximum penalty: 20 penalty units.

(3) The person must include in the document or address a statement that:

- (a) is expressed in the language used in the document or address, and
- (b) is legible or audible, as the case requires, and
- (c) is located prominently in the document or during the address, and
- (d) informs the reader, the viewer or the audience, as the case may be, that:
 - (i) it is illegal and potentially dangerous for unauthorised persons to do electrical wiring work, gasfitting or hot water plumbing, and
 - (ii) penalties on conviction for doing such work illegally are severe.

Home Building Regulation 2004

Clause 87

General

Part 7

-
- (4) Subclauses (2) and (3) do not apply to a document or public address used or intended to be used for training or addressing persons engaged or concerned in the relevant specialist work industry.

87 Penalty notice offences

For the purposes of section 138A of the Act:

- (a) each offence created by a provision specified in Column 1 of Schedule 6 is prescribed as a penalty notice offence, and
- (b) the prescribed penalty for such an offence is the amount specified in relation to the offence in Column 2 of Schedule 6.

88 Savings

Any act, matter or thing that, immediately before the repeal of the *Home Building Regulation 1997*, had effect under that Regulation continues to have effect under this Regulation.

Home Building Regulation 2004

Schedule 1 Forms

Schedule 1 Forms

(Clauses 3 (2) and 66)

Form 1

(Clause 66 (1) and (4))

HOME BUILDING ACT 1989

Section 92/96*

Certificate in respect of insurance

RESIDENTIAL BUILDING WORK BY CONTRACTORS

A contract of insurance complying with sections 92 and 96 of the *Home Building Act 1989* has been issued by:

(insert name of insurer)

in respect of:

*

(insert brief description of building work)

at:

(insert the address or description of the land)

carried out by:

(insert name of contractor)

or

*

(insert name and address of contractor insured and period of insurance)

Subject to the Act and the *Home Building Regulation 2004* and the conditions of the insurance contract, cover will be provided to:

- * a beneficiary described in the contract and successors in title to the beneficiary,
- OR
- * the immediate successor in title to the contractor or developer who did the work and subsequent successors in title.

Date:

(insert date)

Home Building Regulation 2004

Forms

Schedule 1

Signed for or on behalf of the insurer:

(insert signature)

* Delete whichever is not applicable.

Form 2

(Clause 66 (2))

HOME BUILDING ACT 1989
Section 93
Certificate in respect of insurance
SUPPLY OF KIT HOME

A contract of insurance complying with section 93 of the *Home Building Act 1989* has been issued by:

(insert name of insurer)

in respect of:

*

(insert brief description of kit home)

at:

(insert the address or description of the land where kit to be installed)

supplied by:

(insert name of supplier)

or

*

(insert name and address of supplier and period of insurance)

Subject to the Act and the *Home Building Regulation 2004* and the conditions of the insurance contract, cover will be provided to a beneficiary described in the contract and successors in title to the beneficiary.

Date:

(insert date)

Home Building Regulation 2004

Schedule 1 Forms

Signed for or on behalf of the insurer:

(insert signature)

* Delete whichever is not applicable.

Form 3

(Clause 66 (3))

HOME BUILDING ACT 1989
Section 95
Certificate in respect of insurance
OWNER-BUILDER WORK

A contract of insurance complying with section 95 of the *Home Building Act 1989* has been issued by:

(insert name of insurer)

in respect of:

(insert brief description of building work)

at:

(insert the address or description of the land)

carried out by:

(insert name of owner-builder)

Subject to the Act and the *Home Building Regulation 2004* and the conditions of the insurance contract, cover will be provided to the immediate successor in title to the owner-builder named above and subsequent successors in title.

Date:

(insert date)

Signed for or on behalf of the insurer:

(insert signature)

Home Building Regulation 2004

Conditions to be included in certain contracts

Schedule 2

Schedule 2 Conditions to be included in certain contracts

(Clause 12)

Part 1 Contracts to do residential building work

1 Plans and specifications

- (1) All plans and specifications for work to be done under this contract, including any variations to those plans and specifications, are taken to form part of this contract.
- (2) Any agreement to vary this contract, or to vary the plans and specifications for work to be done under this contract, must be in writing signed by or on behalf of each party to this contract.
- (3) This clause does not apply to a contract of the kind referred to in clause 16 of the *Home Building Regulation 2004*.

2 Quality of construction

- (1) All work done under this contract will comply with:
 - (a) the *Building Code of Australia* (to the extent required under the *Environmental Planning and Assessment Act 1979*, including any regulation or other instrument made under that Act), and
 - (b) all other relevant codes, standards and specifications that the work is required to comply with under any law, and
 - (c) the conditions of any relevant development consent or complying development certificate.
- (2) Despite subclause (1), this contract may limit the liability of the contractor for a failure to comply with subclause (1) if the failure relates solely to:
 - (a) a design or specification prepared by or on behalf of the owner (but not by or on behalf of the contractor), or
 - (b) a design or specification required by the owner, if the contractor has advised the owner in writing that the design or specification contravenes subclause (1).

Home Building Regulation 2004

Schedule 2 Conditions to be included in certain contracts

Part 2 Contracts to supply kit homes**3 Plans and specifications**

- (1) All plans and specifications for building components to be supplied under this contract, including any variations to those plans and specifications, are taken to form part of this contract.
- (2) Any agreement to vary this contract, or to vary the plans and specifications for building components to be supplied under this contract, must be in writing signed by or on behalf of each party to this contract.

4 Quality of construction

- (1) All building components supplied under this contract will comply with:
 - (a) the *Building Code of Australia* (to the extent required under the *Environmental Planning and Assessment Act 1979*, including any regulation or other instrument made under that Act), and
 - (b) all other relevant codes, standards and specifications that the work is required to comply with under any law, and
 - (c) the conditions of any relevant development consent or complying development certificate.
- (2) Despite subclause (1), this contract may limit the liability of the contractor for a failure to comply with subclause (1) if the failure relates solely to:
 - (a) a design or specification prepared by or on behalf of the owner (but not by or on behalf of the contractor), or
 - (b) a design or specification required by the owner, if the contractor has advised the owner in writing that the design or specification contravenes subclause (1).

Home Building Regulation 2004

Additional contract provisions

Schedule 3

Schedule 3 Additional contract provisions

(Clause 13 (1))

Checklist for owners entering building contracts

Checklist

- | | | | |
|----|--|------------------------------|-----------------------------|
| 1 | Does the contractor hold a current contractor licence? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 2 | Does the licence cover the type of work included in the contract? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 3 | Is the name and number on the contractor's licence the same as on the contract? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 4 | Is the work to be undertaken covered in the contract, drawings or specification? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 5 | Does the contract clearly state a contract price or contain a warning that the contract price is not known? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 6 | If the contract price may be varied, is there a warning and an explanation about how it may be varied? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 7 | Are you aware of the cooling off provisions relating to the contract? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 8 | Is the deposit within the legal limit? The limit is 10% for work costing \$20,000 or less or 5% for work costing more than \$20,000. | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 9 | Is the procedure for variations understood? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 10 | Are you aware of who is to obtain any council or other approval for the work? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 11 | Do you understand that the contractor must have a policy of home warranty insurance under the <i>Home Building Act 1989</i> and provide you with a certificate of insurance before receiving any money under the contract (including a deposit) or before doing any work for more than \$12,000? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 12 | Has the contractor given you a document that explains the operation of the <i>Home Building Act 1989</i> and the procedures for the resolution of contract and insurance disputes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |

Home Building Regulation 2004

Schedule 3 Additional contract provisions

Signatures

Do not sign this contract unless you have read and understand the clauses as well as the notes and explanations contained in this document.

If you have answered “no” to any question in the checklist, you may not be ready to sign the contract.

Both the contractor and the owner should retain an identical signed copy of this contract including the drawings, specifications and other attached documents. Make sure that you initial all attached documents and any amendments or deletions to the contract.

Signed copy of contract

Under the *Home Building Act 1989* a signed copy of the contract must be given to the owner within 5 working days after the contract is entered into.

Home warranty insurance

The contractor must provide the owner with a certificate of home warranty insurance (for work over \$12,000) before commencement of work and before demanding or receiving any payment.

Owners acknowledgement

I/we have been given a copy of the Consumer Building Guide and I/we have read and understand it.

I/we have completed the checklist and answered “Yes” to all items on it.

Note. Where the owner is a company or partnership or the contract is to be signed by an authorised agent of the owner, the capacity of the person signing the contract, eg director, must be inserted.

Signature
Name *[print]*
Capacity *[print]*
Signature
Name *[print]*
Capacity *[print]*

Home Building Regulation 2004

Application fees

Schedule 4

Schedule 4 Application fees

(Clause 42)

Type of application		Duration	Processing component	Fixed component	Total fee	
Contractor licence						
Building contractor or supplier of kit homes	(Individual)	New licence	1 year	\$210	\$272	\$482
		Renewal	1 year	\$50	\$272	\$322
		Restoration	1 year	\$248	\$272	\$520
	(Partnership)	New licence	1 year	\$489	\$315	\$804
		Renewal	1 year	\$50	\$315	\$365
		Restoration	1 year	\$250	\$315	\$565
	(Corporation)	New licence	1 year	\$533	\$432	\$965
		Renewal	1 year	\$50	\$432	\$482
		Restoration	1 year	\$262	\$432	\$694
Other construction or specialist contractor	(Individual)	New licence	1 year	\$87	\$111	\$198
		Renewal	1 year	\$50	\$111	\$161
		Restoration	1 year	\$148	\$111	\$259
	(Partnership)	New licence	1 year	\$94	\$191	\$285
		Renewal	1 year	\$50	\$191	\$241
		Restoration	1 year	\$159	\$191	\$350
	(Corporation)	New licence	1 year	\$87	\$235	\$322
		Renewal	1 year	\$50	\$235	\$285
		Restoration	1 year	\$157	\$235	\$392

Home Building Regulation 2004

Schedule 4 Application fees

Type of application		Duration	Processing component	Fixed component	Total fee	
Building consultancy licence						
(Individual)	New licence	1 year	\$210	\$272	\$482	
	Renewal	1 year	\$50	\$272	\$322	
	Restoration	1 year	\$248	\$272	\$520	
(Partnership)	New licence	1 year	\$489	\$315	\$804	
	Renewal	1 year	\$50	\$315	\$365	
	Restoration	1 year	\$250	\$315	\$565	
(Corporation)	New licence	1 year	\$533	\$432	\$965	
	Renewal	1 year	\$50	\$432	\$482	
	Restoration	1 year	\$262	\$432	\$694	
Supervisor certificate						
Building supervisor	(Individual)	New Certificate	1 year	\$60	\$113	\$173
		Renewal	1 year	—	—	Nil
		Restoration	1 year	—	—	Nil
Other construction or specialist work supervisor	(Individual)	New certificate	3 years	\$60	\$97	\$157
		Renewal	3 years	—	—	Nil
		Restoration	3 years	—	—	Nil

Home Building Regulation 2004

Application fees

Schedule 4

Type of application		Duration	Processing component	Fixed component	Total fee
Tradesperson certificate					
(Individual)	New certificate	3 years	\$63	\$40	\$103
	Renewal	3 years	—	—	Nil
	Restoration	3 years	—	—	Nil
Owner-builder permit					
		Not applicable	\$50	\$79	\$129
Duplicate contractor licence, building consultancy licence, certificate or owner-builder permit					
		Not applicable	\$36	—	\$36

Home Building Regulation 2004

Schedule 5 Extended descriptions of work authorised by contractor licences or certificates

Schedule 5 Extended descriptions of work authorised by contractor licences or certificates

(Clause 50)

Holders of contractor licences or certificates on which are endorsed one or more of the work categories listed in Column 1 of the Table are authorised to contract to do or to do, as the case may be, the specialist work or the residential building work more fully described in Column 2 of the Table opposite each such work category. Work categories endorsed on contractor licences or certificates but not listed in Column 1 are to be taken as referring to the work involved, as a matter of trade practice, in the trade or building activity described by the endorsed work category.

Table

Column 1	Column 2
Work Category	Description of Work Authorised
A. Specialist work	
Advanced LP gasfitting	Gasfitting work as defined in the <i>Dangerous Goods (Gas Installations) Regulation 1998</i> involving liquefied petroleum gas only, without any restriction as to pressure and whether or not the gas will be conveyed in liquid or vapour phase, and including work on pipes, fittings, or appliances attached to or forming part of a liquefied petroleum gas transport container.
Draining	Work of sanitary drainage as defined in AS/NZS 3500.0:2003, <i>Plumbing and drainage</i> , including work on a house drain connected to a septic tank, effluent system and sullage system.
Water plumbing—Fire protection systems	Water plumbing involved in a fire service as defined in AS/NZS 3500.0:2003, <i>Plumbing and drainage</i> , including a fire sprinkler system and connection of the system to a water main.
Water plumbing—Fire sprinkler systems	Water plumbing involved in the fire sprinkler system installed beyond the sprinkler valve assembly.
Gasfitting	Gasfitting work as defined in the <i>Gas Supply Act 1996</i> including work on a gas installation (other than an autogas installation) connected or intended to be connected to a compressed natural gas container.

Home Building Regulation 2004

Extended descriptions of work authorised by contractor licences or certificates

Schedule 5

Column 1	Column 2
Work Category	Description of Work Authorised
LP gasfitting	Gasfitting work as defined in the <i>Dangerous Goods (Gas Installations) Regulation 1998</i> restricted to work on a gas installation designed to carry liquefied petroleum gas in vapour phase only at pressures not exceeding 150 kilopascals.
Plumbing	Water plumbing, roof plumbing and work of sewerage as defined in AS/NZS 3500.0:2003, <i>Plumbing and drainage</i> , including such work on premises on which any part of the sewerage service is connected to a septic tank, effluent system or sullage system, but not including the work of draining.
Roof plumbing	Roof plumbing work.
Water plumbing—Urban irrigation	Work of irrigation as defined in the <i>NSW Code of Practice—Plumbing and Drainage—1999</i> , published by the Committee on Uniformity of Plumbing and Drainage Regulation in New South Wales, including the connection of the system to a water main.
Water plumbing	Work of water supply as defined in AS/NZS 3500.0:2003, <i>Plumbing and drainage</i> , including such work on pipes and fittings, whether or not connected or intended to be connected to a water main, that are in a building in which any part of the sewerage service is connected to a septic tank, effluent system or sullage system.
B. Residential building work	
Structural landscaping	Work involved in the construction of pergolas and the like, cabanas and other non-habitable shelters, driveways, paths and other paving and retaining walls not associated with dwelling construction, as well as the construction or installation of ornamental ponds, water features and other structural ornamentation, the construction or installation of which requires development consent. (The holder of such a category of contractor licence may also contract to do the specialist work of water plumbing—urban irrigation. However, such work must be done by the holder of an appropriate specialist work endorsed contractor licence or supervisor certificate.)

Home Building Regulation 2004

Schedule 5 Extended descriptions of work authorised by contractor licences or certificates

Column 1	Column 2
Work Category	Description of Work Authorised
Water proofing	Work involved in any protective treatment of a dwelling designed to prevent the penetration of water or moisture into the dwelling or in the protective treatment of wet areas in a dwelling designed to prevent the unwanted escape of water from those areas by using solid membranes or membranes applied by brush, roller or any other method.

Home Building Regulation 2004

Penalty notice offences

Schedule 6

Schedule 6 Penalty notice offences

(Clause 87)

Column 1	Column 2
Offence	Penalty
Offences under the Act	
Section 4	\$500
Section 5 (1)	\$250
Section 5 (2)	\$250
Section 7A	\$250
Section 7B	\$250
Section 8 (1) (a)	\$250
Section 8 (1) (b)	\$250
Section 12	\$500
Section 16DA	\$250
Section 16DB	\$250
Section 16E (1) (a)	\$250
Section 16E (1) (b)	\$250
Section 36 (2)	\$150
Section 44 (1)	\$150
Section 47 (c)	\$150
Section 47 (d)	\$150
Section 47 (e)	\$150
Offences under this Regulation	
Clause 84 (3)	\$150
Clause 85	\$150



Landlord and Tenant Regulation 2004

under the

Landlord and Tenant (Amendment) Act 1948

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Landlord and Tenant (Amendment) Act 1948*.

REBA PAIGE MEAGHER, M.P.,
Minister for Fair Trading

Explanatory note

The object of this Regulation is to remake, with various modifications, the *Landlord and Tenant Regulation 1994* which will be repealed on 1 September 2004 by section 10 (2) of the *Subordinate Legislation Act 1989*. The new Regulation contains provisions with respect to the following matters:

- (a) prescribing forms for the purposes of the Act (clauses 4 and 6),
- (b) prescribing a variable amount (by reference to the maximum fortnightly rate for single age pensions under the *Social Security Act 1991* of the Commonwealth) in lieu of the fixed amount of \$4,000 prescribed in relation to the provisions of the Act relating to the determination of fair rents (clause 5),
- (c) prescribing certain military and air operations as war service in connection with the provisions of the Act relating to protected tenants (clause 7),
- (d) prescribing fees for the purposes of the Act (clause 8),
- (e) making other provisions of a minor, consequential or ancillary nature (clauses 1, 2, 3 and 9).

This Regulation (except clause 5) comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*, namely matters that are of a machinery nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

Landlord and Tenant Regulation 2004

Explanatory note

This Regulation is made under the *Landlord and Tenant (Amendment) Act 1948*, including section 96 (the general regulation-making power) and the sections referred to in the Regulation.

Landlord and Tenant Regulation 2004

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Clause 1 Landlord and Tenant Regulation 2004

Landlord and Tenant Regulation 2004

under the

Landlord and Tenant (Amendment) Act 1948

1 Name of Regulation

This Regulation is the *Landlord and Tenant Regulation 2004*.

2 Commencement

This Regulation commences on 1 September 2004.

Note. This Regulation replaces the *Landlord and Tenant Regulation 1994* which is repealed on 1 September 2004 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

the Act means the *Landlord and Tenant (Amendment) Act 1948*.

(2) In this Regulation, a reference to a Form is a reference to a Form set out in Schedule 1.

(3) Notes included in this Regulation do not form part of this Regulation.

4 Prescribed form of statement: sec 5AB

For the purposes of section 5AB of the Act, the prescribed form of statement (being a statement by a lessee of premises to the effect that the lessee did not enter into possession of the premises until on or after 1 January 1986) is Form 1.

5 Prescribed amount: sec 31MAA

(1) For the purposes of the definition of *prescribed amount* in section 31MAA (1) of the Act, the amount prescribed in lieu of the amount specified in that definition is the amount calculated by multiplying the maximum fortnightly age pension by 65.

- (2) In this clause, a reference to the *maximum fortnightly age pension* is a reference to the maximum fortnightly rate at which an age pension is from time to time payable, under the *Social Security Act 1991* of the Commonwealth, to a person who is not a member of a couple.

6 Prescribed form of statutory declaration: sec 31MBA

For the purposes of section 31MBA (4) of the Act, the prescribed form of statutory declaration is Form 2, 3, 4 or 5, whichever is appropriate to the circumstances in which the declaration is made.

7 Prescribed military and air operations: sec 99

For the purposes of the definition of *present war* in section 99 (1) of the Act, the military and air operations that commenced after 28 June 1950 by Australian forces (whether acting alone or in association with other British Commonwealth forces) in Malaya (including the waters contiguous to the coast of Malaya for a distance of 10 nautical miles seaward from the coast) are prescribed operations.

8 Prescribed fees: secs 5A, 17A, 44, 52, 57, 58 and 94

The fees set out in the Table to this clause are prescribed in lieu of the fees prescribed by the provisions of the Act to which they relate.

Table

Column 1	Column 2	Column 3	Column 4
Item	Section of Act	Type of fee	Amount
1	5A (11) (c)	Application for a certificate that a section 5A lease has been registered	\$13
2	17A (7) (b)	Application for registration of a section 17A agreement to fix rent	\$13
3	17A (11) (c)	Application for a certificate that a section 17A agreement has been registered	\$13
4	44 (1A)	Request for issue of a summons	\$18

Clause 8 Landlord and Tenant Regulation 2004

Column 1	Column 2	Column 3	Column 4
Item	Section of Act	Type of fee	Amount
5	52 (1A)	For applications for information as to fair rent on shared accommodation:	
		(a) each application (unless paragraph (b) applies)	\$13
		(b) applications made simultaneously in respect of 2 or more prescribed premises contained within the same premises (each application relating to a separate prescribed premises)	\$13 for all of the applications
6	52 (2)	For applications for information as to fair rent on prescribed premises:	
		(a) each application (unless paragraph (b) applies)	\$13
		(b) applications made simultaneously in respect of 2 or more prescribed premises contained within the same premises (each application relating to a separate prescribed premises)	\$13 for all of the applications
7	57 (1B)	For enquiries as to the fair rent on prescribed premises:	
		(a) each enquiry (unless paragraph (b) applies)	\$13
		(b) enquiries made simultaneously in respect of 2 or more prescribed premises contained within the same premises (each enquiry relating to a separate prescribed premises)	\$13 for all of the enquiries

Landlord and Tenant Regulation 2004

Clause 9

Column 1	Column 2	Column 3	Column 4
Item	Section of Act	Type of fee	Amount
8	58 (3)	Application for a certificate as to a fixed fair rent	\$13
9	94 (4)	Application for a certificate as to exclusion of certain premises	\$13

9 Savings

Any act, matter or thing that, immediately before the repeal of the *Landlord and Tenant Regulation 1994*, had effect under that Regulation is taken to have effect under this Regulation.

Landlord and Tenant Regulation 2004

Schedule 1 Forms

Schedule 1 Forms

(Clause 3)

Form 1 Statement by lessee

(Clause 4)

(Section 5AB of Landlord and Tenant (Amendment) Act 1948)

Date of taking possession of premises

1. *I/We, *[Name(s) in block letters]*, *am/are the lessee(s) of the premises at *[Address]*.
2. *I/We did not enter into possession of the premises until on or after 1 January 1986.

Lessee's signature:

Witness' signature, name in block letters and address:

Lessee's signature:

Witness' signature, name in block letters and address:

Date

*[*Delete, where appropriate. If there are more than two lessees, each additional lessee should also sign the form and have the signature witnessed.]***Form 2 Information as to net income of lessee and names of all residents residing in prescribed premises**

(Clause 6)

(Section 31MBA (4) of Landlord and Tenant (Amendment) Act 1948)

Statutory declarationI/We, *[Name]* of *[Address]*, do solemnly and sincerely declare that:

1. I/We are the lessee/s of prescribed premises situated at *[Address]*.

Landlord and Tenant Regulation 2004

Forms

Schedule 1

-
2. My/Our net income for the last financial year ending 30 June [Year] was \$ [Amount].
 3. The following persons are residents of the prescribed premises:

[Do not include in the list of residents the names of the lessee, any sub-lessee, any relative of a sub-lessee ordinarily residing with the sub-lessee, any person under the age of 16 years or any boarder or lodger.]

4. There are [Number] boarders or lodgers ordinarily residing in the prescribed premises.

[This item is not required to be completed by a lessee whose prescribed premises are, with the lessor's consent, sub-let in whole or in part in the course of the lessee's business of sub-letting for residential purposes, or by a lessee who or which is a partnership or company.]

And I/We make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act 1900*.

<p>Taken and declared at [Place and date] before me [Print name and insert signature of person taking and receiving declaration]</p>	}	[Signature of declarant]
--	---	--------------------------

Form 3 Information as to net income of resident of prescribed premises

(Clause 6)

(Section 31MBA (4) of Landlord and Tenant (Amendment) Act 1948)

Statutory declaration

I, [Name] of [Address], do solemnly and sincerely declare that:

1. I am a resident of the prescribed premises situated at [Address].
2. My net income for the last financial year ending 30 June [Year] was \$ [Amount].

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Landlord and Tenant Regulation 2004

Schedule 1 Forms

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act 1900*.

Taken and declared at *[Place and date]*
 before me *[Print name and insert signature of person taking and receiving declaration]*

} *[Signature of declarant]*

Form 4 Information as to net income of lessees who hold the lease as members of a partnership

(Clause 6)

(Section 31MBA (4) of Landlord and Tenant (Amendment) Act 1948)

Statutory declaration

We, *[Names]* of *[Address(es)]*, do solemnly and sincerely declare that:

1. We are the members of a partnership holding the lease of prescribed premises situated at *[Address]*.
2. The partnership net income for the last financial year ending 30 June *[Year]* was \$ *[Amount]*.

And we make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act 1900*.

Taken and declared at *[Place and date]*
 before me *[Print name and insert signature of person taking and receiving declaration]*

} *[Signature of declarants]*

Landlord and Tenant Regulation 2004

Forms

Schedule 1

Form 5 Information as to net income of lessee, being a company or other corporation

(Clause 6)

(Section 31MBA (4) of Landlord and Tenant (Amendment) Act 1948)

Statutory declaration

I, *[Name]* of *[Address]*, do solemnly and sincerely declare that:

1. The company or corporation registered as *[Name]* is the lessee of prescribed premises situated at *[Address]*.
2. The net income of the company or corporation for the last financial year ending 30 June *[Year]* was \$ *[Amount]*.

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act 1900*.

Taken and declared at *[Place and date]*
before me *[Print name and insert
signature of person taking and
receiving declaration]*

} *[Signature and capacity of declarant]*



New South Wales

Law Enforcement and National Security (Assumed Identities) Regulation 2004

under the

Law Enforcement and National Security (Assumed Identities) Act 1998

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Law Enforcement and National Security (Assumed Identities) Act 1998*.

JOHN WATKINS, M.P.,
Minister for Police

Explanatory note

The object of this Regulation is to remake the *Law Enforcement and National Security (Assumed Identities) Regulation 1999* with only minor changes in substance (namely, in relation to certain of the offices prescribed for the purposes of section 16 of the *Law Enforcement and National Security (Assumed Identities) Act 1998 (the Act)*). That Regulation is repealed on 1 September 2004 by section 10 (2) of the *Subordinate Legislation Act 1989*.

The objects of this Regulation are as follows:

- (a) to prescribe as authorised agencies for the purposes of the Act the Australian Federal Police, the Australian Crime Commission, the Australian Security Intelligence Organization, the Australian Secret Intelligence Service, the Australian Customs Service and the Australian Taxation Office,
- (b) to prescribe the officer who is to be the chief executive officer of an agency that has been prescribed as an authorised agency for the purposes of the Act,
- (c) to prescribe the offices to which functions of the chief executive officer of an authorised agency under the Act can be delegated.

This Regulation is made under the *Law Enforcement and National Security (Assumed Identities) Act 1998*, including sections 3 (definitions of **authorised agency** and **chief executive officer**), 16 and 19 (the general regulation-making power).

This Regulation comprises or relates to matters of a machinery nature.

Law Enforcement and National Security (Assumed Identities) Regulation 2004

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Law Enforcement and National Security (Assumed Identities) Regulation
2004

Clause 1

Law Enforcement and National Security (Assumed Identities) Regulation 2004

under the

Law Enforcement and National Security (Assumed Identities) Act 1998

1 Name of Regulation

This Regulation is the *Law Enforcement and National Security (Assumed Identities) Regulation 2004*.

2 Commencement

This Regulation commences on 1 September 2004.

Note. This Regulation replaces the *Law Enforcement and National Security (Assumed Identities) Regulation 1999* which is repealed on 1 September 2004 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definition

In this Regulation:

the Act means the *Law Enforcement and National Security (Assumed Identities) Act 1998*.

4 Notes

Notes in the text of this Regulation do not form part of this Regulation.

5 Authorised agencies

The following agencies are prescribed as authorised agencies for the purposes of the Act:

- (a) the Australian Federal Police,
- (b) the Australian Crime Commission,
- (c) the Australian Security Intelligence Organization,
- (d) the Australian Secret Intelligence Service,
- (e) the Australian Customs Service,
- (f) the Australian Taxation Office.

Clause 6 Law Enforcement and National Security (Assumed Identities) Regulation
2004

6 Chief executive officers of certain authorised agencies

An officer referred to in one of the following paragraphs is prescribed as the chief executive officer of the authorised agency referred to in the same paragraph for the purposes of paragraph (e) of the definition of *chief executive officer* in section 3 of the Act:

- (a) in respect of the Australian Federal Police—the Commissioner of Police,
- (b) in respect of the Australian Crime Commission—the Chief Executive Officer of the Commission,
- (c) in respect of the Australian Security Intelligence Organization—the Director-General of Security,
- (d) in respect of the Australian Secret Intelligence Service—the Director-General of that Service,
- (e) in respect of the Australian Customs Service—the Chief Executive Officer of Customs,
- (f) in respect of the Australian Taxation Office—the Commissioner of Taxation.

7 Delegations

Each of the following offices is prescribed for the purposes of section 16 of the Act as an office to which functions under the Act may be delegated:

- (a) in respect of NSW Police, the following:
 - (i) one Deputy Commissioner position nominated by the Commissioner of Police,
 - (ii) 3 other NSW Police Senior Executive Service positions, of or above the rank of Superintendent, nominated by the Commissioner of Police,
- (b) in respect of the New South Wales Crime Commission—Director of Operations,
- (c) in respect of the Independent Commission Against Corruption—an Assistant Commissioner position nominated by the Commissioner for the Independent Commission Against Corruption,
- (d) in respect of the Police Integrity Commission—Director of Operations,

Law Enforcement and National Security (Assumed Identities) Regulation
2004

Clause 8

-
- (e) in respect of the Australian Federal Police—an officer of the Australian Federal Police nominated by the Commissioner of the Australian Federal Police,
 - (f) in respect of the Australian Security Intelligence Organization—Manager (North) (Position Identifier CLD 002),
 - (g) in respect of the Australian Secret Intelligence Service—Deputy Director-General—Operations,
 - (h) in respect of the Australian Customs Service—Regional Director (New South Wales),
 - (i) in respect of the Australian Crime Commission—an officer of the Australian Crime Commission nominated by the Chief Executive Officer of the Commission,
 - (j) in respect of the Australian Taxation Office—an Assistant Commissioner position nominated by the Commissioner of Taxation.

8 Savings provision

Any act, matter or thing that, immediately before the repeal of the *Law Enforcement and National Security (Assumed Identities) Regulation 1999*, had effect under that Regulation continues to have effect under this Regulation.



Lord Howe Island Regulation 2004

under the

Lord Howe Island Act 1953

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Lord Howe Island Act 1953*.

BOB DEBUS, M.P.,
Minister for the Environment

Explanatory note

The object of this Regulation is to remake, with modifications, the provisions of the *Lord Howe Island (Elections) Regulation 1999* and the *Lord Howe Island (General) Regulation 1994*. Those regulations are due to be repealed on 1 September 2004 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation deals with the following matters:

- (a) the election of Islanders to the Lord Howe Island Board (Part 2),
- (b) applications for, transfers, subleases and surrenders of, and rent for, leases of land under the *Lord Howe Island Act 1953* (Part 3),
- (c) the licensing of tourist accommodation and other commercial undertakings (Part 4),
- (d) the protection of the environment, including provisions dealing with:
 - (i) the removal or destruction of natural substances such as coral, stone, rocks, shells, earth, sand, clay and gravel (Division 1 of Part 5), and
 - (ii) the removal or destruction of flora, the protection of certain invertebrates, the importation of seeds and plants, the importation of animals and birds, the destruction of noxious plants and the keeping of goats and poultry (Division 2 of Part 5),
- (e) the importation, hire and use of motor vehicles (Part 6),
- (f) the construction and use of moorings and the anchoring of vessels (Part 7),
- (g) restrictions on use of public reserves and vacant Crown land (clause 100),
- (h) camping on public reserves or vacant Crown land (clause 101),

Lord Howe Island Regulation 2004

Explanatory note

-
- (i) discharging of firearms (clause 102),
 - (j) the sale and consumption of alcohol (clause 103),
 - (k) the operation of the Island airport and wharf (clauses 104 and 105),
 - (l) human waste storage or treatment facilities (clause 106),
 - (m) the application to the Lord Howe Island Board of provisions applying to councils under the *Local Government Act 1993* that deal with powers of entry, the conduct of meetings and codes of conduct (clauses 107–109),
 - (n) the imposition of a charge on tourists (clause 110),
 - (o) penalty notice offences (clause 111 and Schedule 4),
 - (p) other matters of a minor, consequential or ancillary nature (Part 1).

Parts 1, 2 and 3 (other than clause 68) and clauses 108, 111 and 112 of, and Schedules 1 and 4 to, this Regulation relate to matters of a machinery nature.

This Regulation is made under the *Lord Howe Island Act 1953*, including sections 9C, 13 (1) (b), 21 (4), 22 (4), 22A (1), 22B (1), 23 (1) (a), (2) and (4B) (a) (i), 24, 37B (1) and (6) and 38 (the general regulation-making power) and clause 11 of Schedule 1A.

Lord Howe Island Regulation 2004

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Clause 1 Lord Howe Island Regulation 2004

Part 1 Preliminary

Lord Howe Island Regulation 2004

under the

Lord Howe Island Act 1953

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Lord Howe Island Regulation 2004*.

2 Commencement

This Regulation commences on 1 September 2004.

Note. This Regulation replaces the *Lord Howe Island (Elections) Regulation 1999* and the *Lord Howe Island (General) Regulation 1994*, which are repealed on 1 September 2004 under section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions and notes

(1) In this Regulation:

exercise a function includes perform a duty.

function includes a power, authority or duty.

relevant fee, in relation to:

(a) a matter under Part 3, means the fee specified in Schedule 2 for that matter, or

(b) any other matter, means the fee for the time being fixed by the Board under section 15 of the Act for that matter.

the Act means the *Lord Howe Island Act 1953*.

(2) In this Regulation, a reference to a Form is a reference to a Form set out in Schedule 1.

(3) Notes in the text of this Regulation do not form part of this Regulation.

4 Approvals

(1) The Board may determine an application for an approval referred to in this Regulation.

Lord Howe Island Regulation 2004

Clause 5

Preliminary

Part 1

-
- (2) The provisions of the *Local Government Act 1993* applicable to approvals and the making and determination of applications for approvals apply to an approval, and to the making and determination of an application for an approval, referred to in this Regulation. Those provisions apply as if references in that Act to:
- (a) a council were references to the Board, and
 - (b) an approved fee were references to a relevant fee within the meaning of this Regulation, and
 - (c) a penalty were references to a penalty not exceeding 50 penalty units.

5 Applications

An application under Part 4 of the Act (Land tenure) or under Part 3 of this Regulation (Leases) or for the granting by the Board of licences referred to in Part 4 of this Regulation (Licensing of tourist accommodation and other commercial undertakings) must:

- (a) if no form is otherwise prescribed by this Regulation, be made in a form approved by the Board for the purpose, and
- (b) be lodged at the Island office of the Board, and
- (c) be signed by the applicant, and
- (d) be accompanied by the relevant fee.

Clause 6 Lord Howe Island Regulation 2004

Part 2 Elections

Part 2 Elections

Division 1 Interpretation

6 Definitions

In this Part:

close of nominations for an election means the final time and date fixed by the returning officer for the close of nominations in the election.

deputy returning officer means the person appointed as deputy returning officer under clause 10.

election means an election under Division 3 of Part 2 of the Act.

election notice for an election means the notice published in respect of the election under clause 8.

elector for an election means a person whose name appears on the roll for the election.

polling day for an election means the final time and date fixed by the returning officer for the taking of the poll in the election.

returning officer means the person appointed as returning officer under clause 10.

roll for an election means a roll of electors prepared and certified in accordance with Division 4 in respect of the election.

Division 2 Calling of election

7 Election to fill casual vacancy

The Minister must notify the Electoral Commissioner if an election is required to be conducted under section 9A (c) of the Act when a member referred to in section 4 (3) (a) of the Act vacates office.

8 Calling of election

- (1) When required to conduct an election under section 9A of the Act, the Electoral Commissioner:
 - (a) must cause a notice of the proposed election to be published in the Gazette, and
 - (b) must cause a copy of the notice to be displayed on at least 2 public notice boards on the Island.
- (2) The notice:
 - (a) must state that an election is to be held, and
 - (b) must specify the address of the office of the returning officer on the Island, and

Lord Howe Island Regulation 2004

Clause 9

Elections

Part 2

-
- (c) must invite nominations of candidates for the election, and
 - (d) must fix the close of nominations, and
 - (e) must fix the day for taking the poll.
- (3) The close of nominations must be not earlier than 7 days and not later than 14 days after the publication in the Gazette of the election notice.
- (4) The polling day:
- (a) must be not earlier than 30 days after the publication in the Gazette of the election notice, and
 - (b) must not be a Saturday, a Sunday or a day that is a public holiday on the Island.

9 Extension of time

- (1) If of the opinion that an election would fail, the Electoral Commissioner may (by a notice published and displayed in the same manner as the election notice) fix a later time and day for the close of nominations or for polling day than that fixed by a previous notice for the election.
- (2) The notice must not fix a day more than 14 days after the day fixed by the previous notice for the election.
- (3) The power conferred on the Electoral Commissioner by this clause may be exercised more than once in respect of an election.

Division 3 Appointment of returning officer

10 Appointment of returning officer and other electoral officials

The Electoral Commissioner must appoint:

- (a) a returning officer for the purposes of conducting elections, and
- (b) a deputy returning officer, and
- (c) such other electoral officials as may be necessary to assist the returning officer.

11 Delegation by returning officer

The returning officer may delegate to the deputy returning officer any or all of the returning officer's functions under this Regulation, other than this power of delegation.

Clause 12 Lord Howe Island Regulation 2004

Part 2 Elections

12 Scrutineers

Each candidate for election is entitled to appoint, by writing signed by the candidate:

- (a) one scrutineer to act on the candidate's behalf at the taking of the votes, and
- (b) one scrutineer (who may, but need not be, the scrutineer referred to in paragraph (a)) to act on the candidate's behalf at the scrutiny.

Division 4 The roll

13 Preparation, certification and transmission of roll

As soon as practicable after the publication in the Gazette of an election notice, the Electoral Commissioner must prepare, certify and transmit to the returning officer a roll of the persons entitled to be enrolled as electors for the election, as at the date of publication of the election notice.

14 Particulars in roll

The roll for an election must be in the same form and contain the same particulars of electors as the State electoral roll for the electorate in which the Island is situated.

15 Persons entitled to vote

The persons entitled to vote at an election are the persons included in the roll for the election.

Division 5 Nominations

16 Qualifications of candidates

A person is qualified to be nominated as a candidate at an election if the person is an Islander and is entitled to be enrolled as an elector for the election.

17 Manner of nominating candidates

- (1) A person may be nominated as a candidate at an election by the delivery to the returning officer, at any time after the publication of the election notice and before the close of nominations, of a nomination paper in Form 1.
- (2) A candidate at an election must be nominated by at least 2 persons (other than the candidate) each of whom is entitled to be enrolled as an elector for the election.

Lord Howe Island Regulation 2004

Clause 18

Elections

Part 2

-
- (3) A person may not nominate more candidates than the number of persons to be elected.
 - (4) On receiving a nomination paper, the returning officer must, if required to do so, give a receipt for it.
 - (5) A nomination paper is not available for public inspection.

18 Rejection of nomination

The returning officer must reject the nomination of a person as a candidate at an election:

- (a) if the person is not qualified to be nominated under clause 16, or
- (b) if the person has not been duly nominated under clause 17.

19 Withdrawal of nomination

A candidate may withdraw the candidate's nomination by notice in writing delivered to the returning officer at any time before the close of nominations.

20 Uncontested election

If, by the close of nominations, the number of candidates nominated for election does not exceed the number of persons to be elected, the returning officer:

- (a) must publicly declare those candidates elected, and
- (b) must notify the Electoral Commissioner that those candidates have been elected.

21 Contested election

- (1) If, by the close of nominations, the number of candidates nominated exceeds the number of persons to be elected, a poll must be taken on polling day.
- (2) If a poll is to be taken, the returning officer must publicly announce the following:
 - (a) that a poll will be taken,
 - (b) the date of the poll,
 - (c) the names of the candidates,
 - (d) the address of the polling place,
 - (e) the hours that the polling place will be open for voting on polling day.

Clause 22 Lord Howe Island Regulation 2004

Part 2 Elections

- (3) The returning officer must also notify the matters referred to in subclause (2) in a written notice displayed on at least one public notice board on the Island.

Division 6 Ballot-papers

22 Order of candidates' names on ballot-papers

As soon as practicable after the close of nominations, the returning officer:

- (a) must determine the order in which the candidates' names are to be listed on a ballot-paper by means of a ballot held in accordance with the procedure prescribed for the purposes of section 82A of the *Parliamentary Electorates and Elections Act 1912*, and
- (b) must notify the Electoral Commissioner of the order so determined.

23 Provision of ballot-papers

The ballot-papers are to be provided by the Electoral Commissioner.

24 Printing of ballot-papers

- (1) The following provisions must be observed in printing the ballot-papers:
- (a) the names of the candidates must be listed in the order determined under clause 22,
 - (b) the surname of each candidate must be in more conspicuous type than that used for the given name or names of the candidate,
 - (c) if, in the opinion of the Electoral Commissioner, the names of 2 or more candidates are so similar as to cause confusion, the Electoral Commissioner may include such other matter as will, in the Electoral Commissioner's opinion, distinguish between those candidates,
 - (d) a square must be printed opposite the name of each candidate,
 - (e) the directions as to the manner in which the vote is to be recorded must comprise such of the directions referred to in subclause (2) as are applicable to the election.
- (2) An elector must record the elector's vote on the ballot-paper in accordance with the following directions:
- (a) if there is more than 1 person to be elected, the elector must record the elector's vote for the number of persons to be elected by placing a number of ticks or crosses, each tick or cross being

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placed in a square opposite the name of a candidate for whom the elector desires to record a vote, where the number of ticks or crosses placed is equal to the number of persons to be elected,

- (b) if there is 1 person to be elected:
 - (i) the elector must record the elector's vote for at least 1 candidate by placing the number "1" in the square opposite the name of the candidate for whom the elector desires to give a first preference vote, and
 - (ii) the elector may vote for additional candidates by placing consecutive numbers (beginning with the number "2") in the squares opposite the names of those additional candidates in the order of the elector's preferences for them.

Division 7 Postal voting

25 Application to vote by post

- (1) The following electors may make an application to the returning officer to vote by post:
 - (a) an elector who will not, throughout the hours of polling on polling day, be on the Island,
 - (b) an elector who, because of illness or infirmity or (in the case of a woman) approaching maternity, will be precluded from attending at the polling place to vote,
 - (c) an elector who, because of the elector's membership of a religious order or the elector's religious beliefs:
 - (i) is precluded from attending at the polling place to vote, or
 - (ii) is precluded from voting throughout the hours of polling on polling day or throughout the greater part of those hours,
 - (d) an elector who is precluded from attending at the polling place to vote because of the elector's being:
 - (i) an inmate of a correctional centre (within the meaning of the *Crimes (Administration of Sentences) Act 1999*), or
 - (ii) a detainee of a detention centre (within the meaning of the *Children (Detention Centres) Act 1987*).
- (2) An application to vote by post:
 - (a) must be in writing, and
 - (b) must specify the ground on which it is made, and
 - (c) must be signed by the elector, and

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- (d) may be made at any time after the publication in the Gazette of the election notice in respect of the election but not later than 7 days before polling day.
- (3) The returning officer must number in consecutive order all applications to vote by post.

26 Distribution of postal ballot-papers

- (1) The returning officer must deliver or post to each elector who duly applies to vote by post:
 - (a) a ballot-paper:
 - (i) that has been initialled on the back by the returning officer, and
 - (ii) if the particulars of the candidates are not already printed on the ballot-paper—on which the returning officer has entered the names of the candidates in the order determined under clause 22, and
 - (b) an unsealed envelope addressed to the returning officer and bearing on the back the words “NAME AND ENROLLED ADDRESS OF VOTER” and “SIGNATURE OF VOTER”, together with appropriate spaces for the insertion of the elector’s name, address and signature.
- (2) The returning officer must note on a certified copy of the roll the names of the electors to whom a ballot-paper has been delivered or posted.
- (3) An elector to whom a ballot-paper has been delivered or posted is not entitled to vote in accordance with Division 8 or 9 unless the elector first delivers the elector’s ballot-paper to the returning officer for cancellation.

27 Duplicate postal ballot-papers

- (1) If an elector to whom a ballot-paper has been delivered or posted satisfies the returning officer that the elector has spoiled the ballot-paper by mistake or accident, the elector may, on giving it up, receive a new ballot-paper from the returning officer.
- (2) The returning officer must cancel and preserve the spoiled ballot-paper.

28 Recording of postal vote

On receipt of a ballot-paper, an elector who wishes to vote by post must:

- (a) record the elector’s vote on the ballot-paper in accordance with the directions shown on it, and
- (b) place the completed ballot-paper (folded so that the vote cannot be seen) in the envelope addressed to the returning officer, and

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- (c) seal the envelope, and
- (d) insert the elector's full name, address and signature on the back of the envelope, and
- (e) post or deliver the envelope to the returning officer so as to be received by the returning officer not later than 6 pm on polling day.

29 Preliminary scrutiny of postal ballot-papers

At the scrutiny, the returning officer must:

- (a) produce all applications under this Division and all envelopes purporting to contain ballot-papers received by the returning officer before 6 pm on polling day, and
- (b) compare the signature of the elector on each such envelope with the signature of the same elector on the relevant application and allow the scrutineers to inspect both signatures, and
- (c) if the returning officer is satisfied that the signature on the envelope is that of the elector who signed the relevant application—accept the ballot-paper for further scrutiny, and
- (d) if the returning officer is not satisfied that the signature on the envelope is that of the elector who signed the relevant application—disallow the ballot-paper without opening the envelope, and
- (e) take from the envelopes all ballot-papers accepted for further scrutiny and (without inspecting or unfolding them or allowing any other person to do so) must place them in a locked ballot-box for further scrutiny under Division 10.

Division 8 Pre-poll voting

30 Application to vote before polling day

- (1) An elector may make an application to the returning officer to vote before polling day if:
 - (a) the elector intends to leave the Island after the close of nominations and will not, throughout the hours of polling on polling day, be on the Island, or
 - (b) the elector, because of illness or infirmity or (in the case of a woman) approaching maternity, will be precluded from attending at the polling place to vote.
- (2) An application to vote before polling day:
 - (a) must be in writing, and

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- (b) must specify the ground on which it is made, and
- (c) must be signed by the elector, and
- (d) may be made:
 - (i) in the case of an application under subclause (1) (a)—at any time after the close of nominations, or
 - (ii) in the case of an application under subclause (1) (b)—at any time after the publication in the Gazette of the election notice,
 but not later than 5 pm on the day before polling day, and
- (e) in the case of an application under subclause (1) (a)—must be delivered by the elector in person to the office of the returning officer.

- (3) The returning officer must number in consecutive order all applications to vote before polling day.

31 If vote taken

The vote of an elector who makes an application to vote before polling day must be taken before polling day at the office of the returning officer or during a visit made to the elector by the returning officer.

32 Procedure for taking votes

- (1) The returning officer must deliver to each elector voting under this Division:
 - (a) a ballot-paper:
 - (i) that has been initialled on the back by the returning officer, and
 - (ii) if the particulars of the candidates are not already printed on the ballot-paper—on which the returning officer has entered the names of the candidates in the order determined under clause 22, and
 - (b) an unsealed envelope addressed to the returning officer and bearing on the back the words “NAME AND ENROLLED ADDRESS OF VOTER” and “SIGNATURE OF VOTER”, together with appropriate spaces for the insertion of the elector’s name, address and signature.
- (2) On receiving a ballot-paper, the elector must:
 - (a) record the elector’s vote on the ballot-paper in accordance with the directions shown on it, and

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- (b) place the completed ballot-paper, folded so that the vote cannot be seen, in the envelope addressed to the returning officer and delivered with the ballot-paper, and
 - (c) seal the envelope, and
 - (d) insert the elector's full name, address and signature on the back of the envelope, and
 - (e) place the envelope in a locked ballot-box provided by the returning officer.
- (3) The provisions of clauses 38–40, 42 and 43 apply to the taking of the votes under this Division in the same way as they apply to the taking of the votes under Division 9.

33 Preliminary scrutiny of pre-poll ballot-papers

At the scrutiny, the returning officer must:

- (a) produce all applications under this Division and all envelopes purporting to contain ballot-papers that were placed in a ballot-box, and
- (b) compare the signature of the elector on each such envelope with the signature of the same elector on the relevant application and allow the scrutineers to inspect both signatures, and
- (c) if the returning officer is satisfied that the signature on the envelope is that of the elector who signed the relevant application—accept the ballot-paper for further scrutiny, and
- (d) if the returning officer is not satisfied that the signature on the envelope is that of the elector who signed the relevant application—disallow the ballot-paper without opening the envelope, and
- (e) take from the envelopes all ballot-papers accepted for further scrutiny and (without inspecting or unfolding them or allowing any other person to do so) place them in a locked ballot-box for further scrutiny under Division 10.

Division 9 Voting at polling place

34 Appointment of polling place

The returning officer must appoint a polling place on the Island for the purposes of taking the poll at an election.

35 Arrangements at polling place

- (1) The returning officer must make, or cause to be made, all the necessary arrangements for taking the poll at the polling place.

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- (2) Immediately before taking the poll at the polling place, the returning officer must:
 - (a) exhibit the ballot-box, open and empty, for the inspection of any candidate, scrutineer or other person present, and
 - (b) immediately afterwards close it, lock it and place it on the table at which the returning officer is to preside in full view of all persons present at the polling place.
- (3) The ballot-box must be kept unopened on the table on which it is placed until the close of the poll.

36 Hours of polling

The polling place must be open for voting on polling day at all times between 8 am and 6 pm.

37 Electors to give name and address

Each person claiming to vote at the polling place must state:

- (a) the person's surname and given name or names, and
- (b) any other particulars necessary for the purpose of identifying the name on the roll under which the vote is claimed if required to do so by the returning officer.

38 Questions for challenged voters

- (1) The returning officer may, and at the request of any scrutineer must, put to any person claiming to vote all or any of the following questions:
 - (a) Are you the person whose name appears as [*here state name under which the person claims to vote*] on the roll for this election?
 - (b) Are you at least 18 years of age?
 - (c) Have you already voted at this election?
 - (d) Are you disqualified from voting?
 - (e) Are you a resident on the Island?
- (2) If any person refuses to answer fully any question put to the person by the returning officer, or by the person's answer shows that the person is not entitled to vote, the person's claim to vote must be rejected.
- (3) The person's answers to the questions are conclusive and the person's entitlement to vote is not to be further inquired into during the polling.

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39 Errors not to forfeit vote

- (1) An omission of any given name, or entry of a wrong given name, address or occupation, or a mistake in the spelling of any surname, does not warrant the rejection of any claim to vote if, in the opinion of the returning officer, the elector is sufficiently identified.
- (2) A female elector is not disqualified from voting under the name appearing on the roll because her surname has been changed as a result of marriage, but, in that case, a note of the fact must be made by the returning officer.

40 Initialling of ballot-papers

- (1) Before giving a ballot-paper to an elector, the returning officer must initial the ballot-paper on the back.
- (2) The returning officer must keep an exact account of all initialled ballot-papers.
- (3) The returning officer must mark off the roll the name of any elector to whom a ballot-paper is given.

41 Recording of vote

On receipt of a ballot-paper the elector:

- (a) must retire alone to some unoccupied booth at the polling place and there in private record the elector's vote on the ballot-paper in accordance with the directions shown on it, and
- (b) must fold the ballot-paper so as to conceal the names of the candidates and then immediately deposit it in the ballot-box, and
- (c) must then leave the polling place.

42 Spoilt ballot-papers

- (1) If an elector, before his or her ballot is deposited in the ballot-box, satisfies the returning officer that the elector has spoilt the elector's ballot-paper by mistake or accident, the elector may, on giving it up, receive a new ballot-paper from the returning officer.
- (2) The returning officer must cancel and preserve the spoilt ballot-paper.

43 Assistance to certain electors

- (1) If an elector satisfies the returning officer that the elector's sight is so impaired, or that the elector is so physically incapacitated, that the elector is unable to vote without assistance, the returning officer must permit a person appointed by the elector:
 - (a) to accompany the elector to an unoccupied booth, and

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- (b) to mark the ballot-paper according to the instructions of the elector, and
 - (c) to fold and deposit the ballot-paper in the ballot-box.
- (2) If the elector fails to appoint a person, or satisfies the returning officer that the elector is so illiterate that the elector is unable to vote without assistance, the returning officer must, in the presence of:
- (a) any scrutineers who choose to be present, or
 - (b) if there are no scrutineers present, in the presence of any person whom the elector may appoint,
- mark the ballot-paper according to the instructions of the elector and fold and deposit the ballot-paper in the ballot-box.
- (3) An elector's instructions may be given by handing to the person marking the ballot-paper a "how-to-vote" card, or a printed or written statement indicating:
- (a) the candidate for whom the elector desires to vote, or
 - (b) the candidates for whom the elector desires to vote and the order of the elector's preferences for them.

44 Voting procedure—disputed votes

- (1) A person claiming to vote at the polling place may vote in accordance with this Part even though:
- (a) a mark on the roll indicates that the person has already voted, if the person's answers to the questions put to the person by the returning officer under clause 38 show that the person is entitled to vote, or
 - (b) a mark on the roll indicates that a ballot-paper has been delivered or posted to the person under Division 7, if the person states that the person has not applied to vote by post and the person's answers to the questions put to the person by the returning officer show that the person is entitled to vote, or
 - (c) the person's name cannot be found on the roll, if the person claims to be entitled to be enrolled as an elector for the election.
- (2) After recording a vote in accordance with this clause, the elector must:
- (a) place the completed ballot-paper (folded so that the vote cannot be seen) in an envelope that is addressed to the returning officer and on which the person has made a written declaration specifying the ground on which the person claims to vote, and
 - (b) sign the declaration, and

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- (c) seal the envelope, and
 - (d) hand the envelope to the returning officer.
- (3) The returning officer:
- (a) must examine the declarations on all envelopes purporting to contain ballot-papers of persons voting in accordance with this clause, and
 - (b) if, after making such inquiries as the returning officer considers necessary, the returning officer is satisfied that the person who signed the declaration on any such envelope is entitled to vote, must accept the ballot-paper for further scrutiny, and
 - (c) if the returning officer is not so satisfied, must disallow the ballot-paper without opening the envelope, and
 - (d) must take from the envelopes all ballot-papers accepted for further scrutiny and (without inspecting or unfolding them or allowing any other person to do so) place them in a locked ballot-box for further scrutiny under Division 10.

Division 10 The scrutiny

45 Scrutiny of votes at close of poll

- (1) At the close of the poll, the returning officer must:
- (a) carry out the procedures specified in clauses 29, 33 and 44, and
 - (b) unlock the ballot-boxes, and
 - (c) remove the ballot-papers from the ballot-boxes, and
 - (d) examine each ballot-paper and reject those that are informal, and
 - (e) proceed to count the votes and ascertain the result of the election in accordance with clause 47 or 48, as the case requires.
- (2) The scrutiny of votes is to be carried out in the presence of the following persons only:
- (a) the returning officer's assistants,
 - (b) any scrutineers who choose to be present.

46 Informal ballot-papers

- (1) A ballot-paper must be rejected as informal if:
- (a) it is neither initialled by the returning officer nor bears a mark prescribed as an official mark for the purposes of section 122A (3) of the *Parliamentary Electorates and Elections Act 1912*, or

Clause 47 Lord Howe Island Regulation 2004

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- (b) the elector has failed to record the elector's vote in the manner directed on the ballot-paper, or
 - (c) it has on it any mark or writing that, in the opinion of the returning officer, will enable any person to identify the elector.
- (2) A ballot-paper must not be rejected as informal merely because of any mark or writing that is not authorised or required by this Regulation (not being a mark or writing referred to in subclause (1) (c)) if, in the opinion of the returning officer, the elector's intention is clearly indicated on the ballot-paper.
- (3) If there is only 1 person to be elected, a ballot-paper on which the elector has recorded votes for not less than the number of persons to be elected must not be rejected as informal:
- (a) merely because the same preference (other than the elector's first preference) has been recorded on the ballot-paper for more than 1 candidate, but the ballot-paper must be treated as if those preferences and any subsequent preferences had not been recorded on the ballot-paper, or
 - (b) merely because there is a break in the order of the elector's preferences recorded on the ballot-paper, but the ballot-paper must be treated as if any subsequent preferences had not been recorded on the ballot-paper.
- (4) If there is more than 1 person to be elected, despite anything to the contrary in this Part, a ballot-paper must not be rejected as informal merely because the number of candidates for which the elector has recorded a vote is less than the number of persons to be elected.
- (5) If there is more than 1 person to be elected, despite anything to the contrary in this Part, a ballot-paper must not be rejected as informal merely because the elector has placed a single number in a number of squares if the number of squares with a single number in them is no more than the number of persons to be elected. However, the ballot-paper is to be treated as if any such single number was a tick or a cross.
- (6) Nothing in subclause (5) authorises any person, if there is more than 1 person to be elected, to encourage an elector to place a number in a square on a ballot-paper.

47 Method of counting votes for more than 1 vacancy

- (1) If there is more than 1 person to be elected, the method of counting votes is to be the "first past the post" method, that is, the candidates with the most votes are taken to be elected.

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- (2) If the number of candidates to be elected cannot be determined because of an equality of votes, the candidate taken to be elected is the candidate whose name is drawn by lot from a receptacle containing the names of each of the candidates having equal votes.

48 Method of counting votes for 1 vacancy

- (1) If there is 1 person to be elected, the method of counting the votes to ascertain the result of the election is to be as provided by Part 2 of the Seventh Schedule to the *Constitution Act 1902*.
- (2) Part 2 of the Seventh Schedule to the *Constitution Act 1902* applies to such an election as if a reference to the returning officer in that Part were a reference to the returning officer under this Regulation.

49 Declaration of poll

Immediately after the result of a poll has been ascertained, the returning officer must:

- (a) publicly declare the candidates elected, and
- (b) notify the Electoral Commissioner that those candidates have been elected.

Division 11 Miscellaneous

50 Death of candidate

If a candidate dies after the close of nominations and before polling day for an election:

- (a) the election is taken to have failed, and
- (b) the Electoral Commissioner must proceed to conduct a new election.

51 Decisions of Electoral Commissioner and returning officer

If the Electoral Commissioner or the returning officer is permitted, or required, under this Part to make a decision on any matter relating to the conduct of an election, the decision of the Electoral Commissioner or returning officer on that matter is final.

52 Notification of result of election

As soon as practicable after the Electoral Commissioner has been notified by the returning officer that one or more candidates in an election have been elected, the Electoral Commissioner must cause:

- (a) the Minister to be notified in writing, and

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(b) a notice to be published in the Gazette, of the name or names of the candidate or candidates who have been elected.

53 Retention of electoral papers

- (1) After one or more candidates in an election have been elected, the returning officer must forward to the Electoral Commissioner all nomination papers, ballot-papers, applications to vote by post or before polling day, rolls and other papers connected with the election.
- (2) The Electoral Commissioner must retain those papers for at least 3 months after polling day.

54 Offences

A person is guilty of an offence if the person:

- (a) votes, or attempts to vote, in an election in which the person is not entitled to vote, or
- (b) makes a false or wilfully misleading statement:
 - (i) to the returning officer in connection with an election, or
 - (ii) in any document that the person furnishes for the purposes of an election, or
- (c) obstructs the proceedings at the polling place or at the office of the returning officer, or
- (d) enters any occupied booth at the polling place.

Maximum penalty: 50 penalty units.

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Leases

Part 3

Part 3 Leases

Division 1 Applications for leases and forms of leases

55 Applications for leases (cf Lord Howe Island (General) Regulation 1994, cl 6)

- (1) For the purposes of section 21 (4) of the Act, Form 2 is the prescribed form.
- (2) For the purposes of section 22 (4) of the Act, Form 3 is the prescribed form.

56 Form of lease in perpetuity (cf Lord Howe Island (General) Regulation 1994, cl 7)

A lease in perpetuity under section 21 of the Act (including a lease issued under section 23 (4B) (a) (i) of the Act) must be in Form 4.

Division 2 Transfers, subleases and surrenders

57 Application for consent to transfer or sublease (cf Lord Howe Island (General) Regulation 1994, cl 9)

- (1) For the purposes of section 23 (2) of the Act, Form 5 is the prescribed form of application for consent to the transfer of the whole or a part of the land comprised in a lease or to the grant of a sublease.
- (2) If a written agreement for sale has been entered into, a duly certified copy of the agreement must accompany the application. The application must be lodged within 3 months after the date of execution of the agreement.
- (3) If the application is for consent to transfer part only of the land comprised in a lease, a sketch of the proposed subdivision of the land must accompany the application.

58 Lodgment of transfer of lease (cf Lord Howe Island (General) Regulation 1994, cl 10)

- (1) For the purposes of section 23 (1) (a) of the Act, Form 6 is the prescribed form of transfer of a lease.
- (2) A transfer of the whole or a part of the land comprised in a lease:
 - (a) must be lodged at the Island office of the Board, and
 - (b) must be accompanied by the relevant fee.

59 Execution of transfer (cf Lord Howe Island (General) Regulation 1994, cl 11)

A transfer must be executed by both the transferor and the transferee.

Clause 60 Lord Howe Island Regulation 2004

Part 3 Leases

60 Transferred lease remains subject to unfulfilled conditions (cf Lord Howe Island (General) Regulation 1994, cl 15)

A lease that is transferred remains subject to all conditions not complied with at the time of transfer and to all forfeitures incurred.

61 Surrender of lease (cf Lord Howe Island (General) Regulation 1994, cl 16)

- (1) An instrument of surrender of a lease under section 22A of the Act:
 - (a) must be lodged at the Island office of the Board, and
 - (b) must be signed by the lessee.
- (2) For the purposes of section 22A of the Act, Form 7 is the prescribed form.

62 Register of leases (cf Lord Howe Island (General) Regulation 1994, cl 17)

- (1) The Board is to keep a register containing particulars of leases under the Act.
- (2) The register is to be kept available at the Island office of the Board for inspection by members of the public (on payment of a fee, if any, fixed by the Board under section 15 of the Act).

Division 3 Annual rent for leases

63 Application of this Division

This Division applies in relation to annual rent payable for the year commencing 1 January 2005 and for each year after that.

64 Annual rent for lease in perpetuity

The annual rent for a lease in perpetuity under section 21 of the Act is to be no more than \$150 plus \$0.215 per square metre of land comprised in the lease.

65 Annual rent for special lease

The annual rent for a lease granted under section 22 of the Act (Special leases) is to be no more than \$50 plus \$0.017 per square metre of land comprised in the lease.

66 Reduction of annual rent for eligible pensioners

- (1) The annual rent for a lease referred to in clause 64 that is held by an eligible pensioner is, on application to the Board and on production to the Board of evidence sufficient to enable it to calculate the amount of the reduction, to be reduced in accordance with this clause.

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- (2) The amount by which rent payable in respect of a lease is required to be reduced is:
- (a) if, at the relevant date, the applicant is the sole holder of the lease or holds the lease with one or more jointly eligible occupiers but with no other person—50% of that rent, or
 - (b) if, at the relevant date, the applicant holds the lease with one other person who is not a jointly eligible occupier, or with two or more other persons, any of whom is not a jointly eligible occupier—an amount that bears to 50% of that rent the same proportion as the interests (as between themselves) of the applicant and any jointly eligible occupiers in the lease bear, as at the relevant date, to the interests (as between themselves) of all the lessees in the lease.
- (3) If the full or partial amount of the rent payable under clause 64 for a lease is paid in relation to a year in which a person becomes an eligible pensioner, the Board may, on application under this clause, refund so much of the rent as it sees fit.
- (4) In this clause:
- eligible pensioner**, in relation to a lease, means a person who:
- (a) is the holder, or one of the holders, of the lease, and
 - (b) occupies a dwelling situated on the land comprised in the lease as his or her sole or principal place of residence, and
 - (c) is a member of a class of persons prescribed by the regulations under the *Local Government Act 1993* for the purposes of the definition of **eligible pensioner** in that Act.
- jointly eligible occupier**, in relation to a lease held by an eligible pensioner with one or more other persons, means a person who:
- (a) is the spouse of that eligible pensioner, or
 - (b) is another eligible pensioner, or
 - (c) if another eligible pensioner and his or her spouse have the same sole or principal place of dwelling—is the spouse of that other eligible pensioner,
- and whose sole or principal place of residence is the same as that of that first mentioned eligible pensioner.
- relevant date**, in relation to an application for the reduction of rent under this clause, means:
- (a) if the application is made on or after the day on which the rent is due and payable—that day, or
 - (b) if the application is made before the day on which the rent is due and payable—the date of the application.
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Part 3 Leases

spouse, in relation to an eligible pensioner, includes a person with whom the eligible pensioner is in a de facto relationship, within the meaning of the *Property (Relationships) Act 1984*.

Division 4 Miscellaneous

67 Appeals or references to Land and Environment Court (cf Lord Howe Island (General) Regulation 1994, cl 18)

An appeal or reference to the Land and Environment Court under section 24 of the Act (in regard to determinations or redeterminations by the Board of rent, fair market value of improvements or sums for goodwill) may be made within 28 days after the determination or redetermination.

68 Fees (cf Lord Howe Island (General) Regulation 1994, cl 19)

- (1) Section 184 (1) (c) of the *Crown Lands Act 1989* (regulation-making power with respect to the charging of fees, costs or deposits) applies to matters arising under the provisions of Part 4 of the Act (Land tenure).
- (2) Accordingly, the fees specified opposite the matters listed in Schedule 2 are payable to the Board in respect of those matters.

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Licensing of tourist accommodation and other commercial undertakings

Part 4

Part 4 Licensing of tourist accommodation and other commercial undertakings

69 Meaning of tourist accommodation (cf Lord Howe Island (General) Regulation 1994, cl 3 (1), definition of "tourist accommodation")

In this Part:

tourist accommodation means public accommodation that is provided predominantly for tourists to the Island as a commercial undertaking.

70 Licensing of tourist accommodation and other commercial undertakings (cf Lord Howe Island (General) Regulation 1994, cl 23)

- (1) A person must not:
 - (a) provide tourist accommodation or carry on any other commercial undertaking on the Island, or
 - (b) use premises for the provision of tourist accommodation or for the carrying on of any other commercial undertaking, except in accordance with a licence granted by the Board for that purpose.
- (2) A licensee must not refuse or fail to produce the licensee's licence for inspection on being requested to do so by the Board.
Maximum penalty: 50 penalty units.

71 Inspection of licensed premises (cf Lord Howe Island (General) Regulation 1994, cl 24)

- (1) The Board may carry out, at any reasonable time, an inspection of any premises to which a licence relates.
- (2) A person must not hinder or obstruct the Board while the Board is carrying out such an inspection.
Maximum penalty: 50 penalty units.

72 Duration of licences (cf Lord Howe Island (General) Regulation 1994, cl 25)

A licence remains in force, unless sooner suspended or cancelled, until 30 June next following the date of its issue.

73 Transfer of licences (cf Lord Howe Island (General) Regulation 1994, cl 26)

A licence is not transferable unless the proposed transferee and the Board have consented in writing to the transfer.

Clause 74 Lord Howe Island Regulation 2004

Part 4 Licensing of tourist accommodation and other commercial undertakings

74 Alteration of conditions of licences (cf Lord Howe Island (General) Regulation 1994, cl 27)

The conditions of a licence may be altered, modified, added to or revoked by the Board at any time during the currency of the licence, either on its own motion or at the request of the licensee.

75 Cancellation of licences (cf Lord Howe Island (General) Regulation 1994, cl 28)

A licence may be suspended or cancelled by the Board for a breach of any condition of the licence.

76 Applications for tourist accommodation licences (cf Lord Howe Island (General) Regulation 1994, cl 29)

- (1) An application for a licence for the provision of tourist accommodation must be accompanied by a plan showing particulars, including the room numbers, of the premises to be licensed.
- (2) The room numbers shown on the application must correspond to numbers permanently affixed on the rooms of the premises to be licensed.
- (3) A plan is not required if the application is for a licence to replace an expiring licence and the particulars of the premises have not changed.

Lord Howe Island Regulation 2004

Clause 77

Protection of the environment

Part 5

Part 5 Protection of the environment

Division 1 Natural substances

- 77 Removal or destruction of coral** (cf Lord Howe Island (General) Regulation 1994, cl 31)
- (1) A person must not, except in accordance with the approval of the Board, wilfully break off, remove, destroy or damage any coral on the Island.
Maximum penalty: 50 penalty units.
 - (2) An approval under this clause may be granted for scientific or aquarium purposes only.
- 78 Portion of coral reef closed to unauthorised persons** (cf Lord Howe Island (General) Regulation 1994, cl 32)
- A person must not, except in accordance with the approval of the Board, enter on that portion of the coral reef that is situated on the western side of Lord Howe Island between the northern side of South Passage and the southern side of North Passage.
Maximum penalty: 50 penalty units.
- 79 Removal or destruction of substances forming part of the Island** (cf Lord Howe Island (General) Regulation 1994, cl 33)
- (1) A person must not, except in accordance with the approval of the Board, remove any stone, rock, shell, earth, sand, clay or gravel on the Island.
Maximum penalty: 50 penalty units.
 - (2) If an act constitutes an offence under both section 32 of the Act and this clause and the offender has been punished under section 32 of the Act, the offender is not liable to be punished under this clause for the same act.

Division 2 Flora and fauna

- 80 Removal or destruction of flora** (cf Lord Howe Island (General) Regulation 1994, cl 34)
- (1) A person must not, except in accordance with the approval of the Board:
 - (a) cut, fell, remove, damage or destroy on the Island, or

Clause 81 Lord Howe Island Regulation 2004

Part 5 Protection of the environment

(b) have in his or her possession on the Island for removal or otherwise,

the whole or any part of any tree, shrub, fern, creeper, vine, palm, plant, flower, seed, herbage or other vegetative cover that is native to the Island.

Maximum penalty: 50 penalty units.

- (2) This clause does not prevent:
- (a) the harvesting of crops grown for human consumption or fodder, or
 - (b) the maintenance of an established garden, lawn or nature strip.
- (3) If an act constitutes an offence under both section 32 of the Act and this clause and the offender has been punished under section 32 of the Act, the offender is not liable to be punished under this clause for the same act.

81 Protection of stag beetles

(1) A person must not, except in accordance with the approval of the Board, damage any eggs, or capture, trap, injure or kill the larval or adult form, of any of the following invertebrates:

- (a) *Lamprima insularis* (stag beetle),
- (b) *Figulus howe* (stag beetle).

(2) A person must not, except in accordance with the approval of the Board, remove from the Island the whole or any part of:

- (a) the eggs, or
- (b) whether dead or alive, the larval or adult form, of an invertebrate listed in subclause (1).

Maximum penalty: 50 penalty units.

82 Importation of seeds and plants (cf Lord Howe Island (General) Regulation 1994, cl 35)

- (1) A person must not bring onto the Island a palm seed or palm plant or any part of a palm seed or palm plant.
Maximum penalty: 50 penalty units.
- (2) A person must not, except in accordance with the approval of the Board, bring onto the Island any other seed or plant or any part of any other seed or plant.
Maximum penalty: 50 penalty units.
- (3) An approval under this clause may be granted to persons generally, without the necessity for an application, or to a particular person.

Lord Howe Island Regulation 2004

Clause 83

Protection of the environment

Part 5

83 Importation of animals and birds (cf Lord Howe Island (General) Regulation 1994, cl 36)

- (1) A person must not bring a cat or goat onto the Island.
Maximum penalty: 50 penalty units.
- (2) A person must not, except in accordance with the approval of the Board, bring any other animal or bird onto the Island.
Maximum penalty: 50 penalty units.
- (3) The Board must not grant an approval under subclause (2) in respect of a dog unless:
 - (a) the dog is free of disease, and
 - (b) a veterinary surgeon registered under the *Veterinary Surgeons Act 1986* has certified that the dog is desexed or is permanently incapable of reproduction.
- (4) Despite subclause (3) (b), the Board may grant approval for the bringing of a dog (such as a trained sniffer dog, a dog trained in search and rescue or a specialist hunting dog) onto the Island for a short period for a specified project.
- (5) This clause does not prevent a person with a disability from bringing an assistance animal (within the meaning of the *Companion Animals Act 1998*) onto the Island.
- (6) In this clause:
animal means any animal, whether vertebrate or invertebrate, and at whatever stage of development.

84 Seizure of illegally imported seeds, plants, animals or birds (cf Lord Howe Island (General) Regulation 1994, cl 37)

Any seed, plant, part of a seed or plant, animal or bird that is brought on to the Island in contravention of this Division:

- (a) may be seized by the Board, and
- (b) may be destroyed or otherwise disposed of by the Board if, by a date specified by the Board, arrangements satisfactory to the Board have not been made for its removal from the Island.

85 Noxious plants (cf Lord Howe Island (General) Regulation 1994, cl 38)

- (1) The plants listed in Schedule 3 are, under section 38 (2) (g) (iv) of the Act, declared to be noxious.
- (2) The Board may take such measures as it considers necessary to control plants declared to be noxious.

Clause 86 Lord Howe Island Regulation 2004

Part 5 Protection of the environment

86 Keeping of goats (cf Lord Howe Island (General) Regulation 1994, cl 39)

- (1) A person must not, except in accordance with the approval of the Board, keep a goat on the Island.
Maximum penalty: 50 penalty units.
- (2) The Board must not grant approval for the keeping of a goat on the Island unless a veterinary surgeon registered under the *Veterinary Surgeons Act 1986* has certified that the goat, if male, has been desexed or is permanently incapable of reproduction.
- (3) A person must not:
 - (a) keep any goat that the person owns other than on land that the person lawfully occupies under the Act, or
 - (b) permit any such goat to stray from that land.Maximum penalty: 50 penalty units.

87 Poultry not to be permitted to stray

A person must not:

- (a) keep any poultry that the person owns other than on land that the person lawfully occupies under the Act, or
 - (b) permit any such poultry to stray from that land.
- Maximum penalty: 50 penalty units.

Division 3 Miscellaneous

88 Waste management services (cf Lord Howe Island (General) Regulation 1994, cl 40)

- (1) The Board may establish and maintain waste management depots and provide services for the collection of waste.
- (2) The Board may issue directions as to the manner in which waste is to be dealt with by persons on the Island and as to the collection of waste.
- (3) A person who contravenes a direction under subclause (2) is guilty of an offence.
Maximum penalty: 50 penalty units.

Lord Howe Island Regulation 2004

Clause 89

Motor vehicles

Part 6

Part 6 Motor vehicles

89 **Meaning of motor vehicle** (cf Lord Howe Island (General) Regulation 1994, cl 3 (1), definition of "motor vehicle")

In this Part:

motor vehicle means a vehicle (other than an aircraft or a vessel) propelled by volatile spirit, steam, gas, oil or electricity and includes:

- (a) an incomplete or partially constructed motor vehicle, or
- (b) the chassis, body, frame or remains of a motor vehicle, or
- (c) a trailer or caravan.

90 **Approval to import motor vehicles** (cf Lord Howe Island (General) Regulation 1994, cl 41 and 42)

- (1) A person must not, except in accordance with the approval of the Board, bring a motor vehicle onto the Island.
Maximum penalty: 50 penalty units.
- (2) An application for approval to bring a motor vehicle onto the Island must relate to one vehicle only.

91 **Seizure of unlawfully imported motor vehicles** (cf Lord Howe Island (General) Regulation 1994, cl 43)

- (1) The Board may direct the person in charge of a motor vehicle that has been brought onto the Island without the Board's approval to remove the vehicle from the Island.
- (2) A person to whom such a direction is given must not, without reasonable excuse, fail to comply with the direction.
Maximum penalty: 50 penalty units.
- (3) If the person, without reasonable excuse, fails to comply with the direction, the Board may seize the motor vehicle and cause it to be removed from the Island.
- (4) The Board may recover the cost of removal from the person as a debt.
- (5) In this clause:
person in charge, in relation to a motor vehicle, means:
 - (a) the person for the time being having control of the motor vehicle, or
 - (b) if no person has control of the motor vehicle for the time being—the person for the time being entitled to possession of the motor vehicle, whether as owner, lessee, licensee or otherwise.

Clause 92 Lord Howe Island Regulation 2004

Part 6 Motor vehicles

92 Hire of motor vehicles (cf Lord Howe Island (General) Regulation 1994, cl 44)

(1) A person must not, except in accordance with the approval of the Board, hire or offer for hire a motor vehicle to any other person for use on the Island.

Maximum penalty: 50 penalty units.

(2) This clause applies whether or not the person from whom the motor vehicle is or is to be hired, or any employee or agent of that person, is to drive or ride the motor vehicle.

93 Use of motor vehicles (cf Lord Howe Island (General) Regulation 1994, cl 45)

(1) A person must not drive or ride a motor vehicle on the Island unless the Board has given its approval to the use of that vehicle on the Island.

(2) A person who has obtained the approval of the Board under subclause (1) may drive or ride the motor vehicle concerned only in accordance with that approval.

Maximum penalty: 50 penalty units.

94 Production of driver licence (cf Lord Howe Island (General) Regulation 1994, cl 46)

(1) The Board may, at any time, direct the driver or rider of a motor vehicle on the Island to produce his or her driver licence.

(2) A person must not fail to comply with such a direction or, in purported compliance with such a direction, give a false name or address.

Maximum penalty: 50 penalty units.

Lord Howe Island Regulation 2004

Clause 95

Mooring

Part 7

Part 7 Mooring

95 Definitions (cf Lord Howe Island (General) Regulation 1994, cl 3 (1), definitions of "Lagoon" and "mooring apparatus")

In this Part:

Lagoon means the area consisting of:

- (a) the Lord Howe Island Lagoon situated on the western side of Lord Howe Island, and
- (b) the foreshores of that Lagoon, and
- (c) the shores of Blackburn Island, and
- (d) any passage through the reefs adjacent to that Lagoon.

mooring apparatus means any structure or device capable of being used to secure a vessel while afloat, but does not include the anchor of a vessel at anchor.

96 Unlawful construction or removal of moorings (cf Lord Howe Island (General) Regulation 1994, cl 47)

- (1) A person must not, except in accordance with the approval of the Board:
 - (a) construct any mooring apparatus in the Lagoon, or
 - (b) remove any mooring apparatus from the Lagoon.Maximum penalty: 50 penalty units.
- (2) An approval referred to in subclause (1) may not be transferred between persons and may be cancelled by the Board at any time.

97 Approval for use of mooring apparatus (cf Lord Howe Island (General) Regulation 1994, cl 48)

- (1) A person must not, except in accordance with the approval of the Board, attach a vessel to a mooring apparatus in the Lagoon.
Maximum penalty: 50 penalty units.
- (2) An approval referred to in subclause (1) may not be transferred between persons and may be cancelled by the Board at any time.

98 Anchoring of vessels (cf Lord Howe Island (General) Regulation 1994, cl 49)

- (1) A person must not, except in accordance with the approval of the Board, anchor a vessel in the Lagoon.
Maximum penalty: 50 penalty units.
- (2) This clause does not apply to:
 - (a) a vessel attached to a mooring apparatus, or

Clause 99 Lord Howe Island Regulation 2004

Part 7 Mooring

- (b) a vessel with an overall length of less than 5 metres, or
- (c) a vessel that is owned by a person who resides on the Island.

99 Removal of unlawfully moored or anchored vessels (cf Lord Howe Island (General) Regulation 1994, cl 50)

- (1) The Board may direct the person in charge of a vessel that is unlawfully moored or anchored in the Lagoon to remove the vessel.
- (2) A person to whom such a direction is given must not, without reasonable cause, fail to comply with the direction.
Maximum penalty: 50 penalty units.
- (3) If the person, without reasonable cause, fails to comply with the direction the Board may carry out the direction and recover the cost from the person as a debt.
- (4) In this clause:
person in charge, in relation to a vessel, means:
 - (a) the person for the time being having control of the vessel, or
 - (b) if no person has control of the vessel for the time being—the person for the time being entitled to possession of the vessel, whether as owner, lessee, licensee or otherwise.

Lord Howe Island Regulation 2004

Clause 100

Miscellaneous

Part 8

Part 8 Miscellaneous

100 Restrictions relating to use of public reserves and vacant Crown land

- (1) This clause applies to the following land:
 - (a) the Lord Howe Island Permanent Park Preserve,
 - (b) Crown land that is reserved or dedicated for a public purpose under section 19 of the Act,
 - (c) vacant Crown land.
- (2) The Board may direct a person to remove from any land to which this clause applies any item that is deposited on the land, whether or not the item was deposited by the person, if:
 - (a) in the opinion of the Board, the size, shape, nature or volume of the item makes the place where it is deposited disorderly or detrimentally affects the proper use of that place, and
 - (b) the person owns, or is otherwise responsible for, the item.
- (3) A person to whom such a direction is given must not, without reasonable cause, fail to comply with the direction.
Maximum penalty: 50 penalty units.
- (4) If the person, without reasonable cause, fails to comply with the direction the Board may remove the item and recover the cost of doing so from the person as a debt.
- (5) The Board may, by displaying a notice to that effect in a conspicuous position in or in the immediate vicinity of land to which this clause applies and which is specified in the notice, prohibit the use of the land for a purpose specified, or otherwise than for a purpose specified, in the notice.
- (6) A person must not, without reasonable cause, fail to comply with the terms of a notice erected under this clause.
Maximum penalty: 50 penalty units.
- (7) Section 632 of the *Local Government Act 1993* applies to a notice under this clause as if references in that section to:
 - (a) a council were references to the Board, and
 - (b) a public place within an area of a council were references to the land to which this clause applies.

Clause 101 Lord Howe Island Regulation 2004

Part 8 Miscellaneous

101 Camping on the Island (cf Lord Howe Island (General) Regulation 1994, cl 51)

A person must not, except in accordance with the approval of the Board, camp on a public reserve or on any vacant Crown land on the Island.

Maximum penalty: 50 penalty units.

102 Discharge of firearms (cf Lord Howe Island (General) Regulation 1994, cl 52)

(1) A person must not, except in accordance with the approval of the Board, discharge a firearm on the Island.

Maximum penalty: 50 penalty units.

(2) This clause does not apply to:

- (a) a person in the exercise of his or her functions as a police officer, or
- (b) a person in the exercise of his or her functions as a member of the armed forces of the Commonwealth, or of any government that is allied or associated with the Commonwealth in any war or joint military exercise in which the Commonwealth is engaged, or
- (c) a person carrying out lawful activities on land:
 - (i) that the person lawfully occupies under the Act, or
 - (ii) on to which the person has entered with the consent of a person who lawfully occupies the land under the Act.

103 Sale and consumption of alcohol (cf Lord Howe Island (General) Regulation 1994, cl 53)

(1) The Board may acquire alcohol and store, sell and distribute alcohol on the Island.

(2) A person must not, except in accordance with the approval of the Board, sell or distribute alcohol on the Island.

Maximum penalty: 50 penalty units.

(3) The Board may prohibit the drinking of alcohol in an area in a public place by erecting conspicuous signs on the outer limits of the area and at suitable intervals in the area that indicate that the drinking of alcohol is prohibited in that area.

(4) If the Board does so, the area is an alcohol-free zone for the purposes of this clause.

(5) A person must not drink alcohol in an alcohol-free zone.

Maximum penalty: 50 penalty units.

(6) In this clause:

alcohol means ethanol, any liquid containing ethanol and any liquor within the meaning of the *Liquor Act 1982*.

Lord Howe Island Regulation 2004

Clause 104

Miscellaneous

Part 8

104 Island airport

- (1) The Board may prohibit the following from entering the Island airport, or a part of the Island airport, specified in the notice:
 - (a) all persons, or all persons other than persons of a class specified in the notice,
 - (b) all vehicles, or all vehicles of a class specified in the notice,
 by displaying a notice to that effect in a conspicuous position in or in the immediate vicinity of the Island airport.
- (2) A person must not, without reasonable cause, fail to comply with the terms of a notice erected under this clause.
Maximum penalty: 50 penalty units.
- (3) Section 632 of the *Local Government Act 1993* applies to a notice under this clause as if references in that section to:
 - (a) a council were references to the Board, and
 - (b) a public place within an area of a council were references to the Island airport.
- (4) Despite subclause (3), section 632 (2A) (b) of the *Local Government Act 1993* does not apply to a notice under this clause.
- (5) A person at the Island airport, or in charge of a vehicle at the airport, must comply with any reasonable direction given to the person by the Board in relation to the operation of the airport.
Maximum penalty: 50 penalty units.
- (6) A reference in this clause to the Island Airport is a reference to the land identified as Portion 180 on the map marked "LHI 134-2909 NOTATION PLAN" held at the Island office of the Board.

105 Directions relating to operation of wharf (cf Lord Howe Island (General) Regulation 1994, cl 55)

A person who is on any wharf on the Island, or who is in charge of a vessel at any such wharf, must comply with any reasonable direction given to the person by the Board in relation to the operation of the wharf.

Maximum penalty: 50 penalty units.

106 Human waste storage and treatment facilities (cf Lord Howe Island (General) Regulation 1994, cl 58)

- (1) A person must not, except in accordance with the approval of the Board, install, construct or alter a septic tank or other human waste storage or treatment facility or a drain connected to any such tank or facility.
Maximum penalty: 50 penalty units.

Clause 107 Lord Howe Island Regulation 2004

Part 8 Miscellaneous

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- (2) The Board may order the owner or occupier of land or premises to repair, maintain or replace a septic tank or other human waste storage or treatment facility on the land or premises if the tank or facility is not in a safe or healthy condition.
 - (3) The provisions of the *Local Government Act 1993* applicable to the making and enforcement by a council of orders apply to an order under this clause as if references in that Act to a council were references to the Board.
 - (4) A person who fails to comply with an order given to the person under this clause is guilty of an offence.
Maximum penalty: 50 penalty units.

107 Power of entry (cf Lord Howe Island (General) Regulation 1994, cl 59)

- (1) For the purpose of enabling the Board to exercise its functions, a person authorised by the Board may enter any premises.
- (2) The provisions of Part 2 of Chapter 8 (section 201 excepted) of the *Local Government Act 1993* apply to and in respect of the entry onto premises under this clause as if references in that Part to:
 - (a) a council were references to the Board, and
 - (b) the general manager were references to the manager or the chairperson of the Board,
 - (c) the Act were references to the *Lord Howe Island Act 1953*.
- (3) A person must not obstruct, hinder or interfere with a person authorised under subclause (1) in the exercise of functions under this clause.
Maximum penalty: 50 penalty units.

108 Procedure for Board meetings

- (1) A regulation made under item 2 of Schedule 6 to the *Local Government Act 1993* in relation to the conduct of meetings of a council and its committees applies in relation to the conduct of meetings of the Board.
- (2) Such a regulation applies in relation to the conduct of meetings of the Board with such modifications as the Board determines are necessary.

109 Code of conduct

Section 440 of the *Local Government Act 1993* applies to the Board as if in that section references to:

- (a) a council were references to the Board, and
- (b) a councillor were references to a member of the Board, and

Lord Howe Island Regulation 2004

Clause 110

Miscellaneous

Part 8

-
- (c) an ordinary election were references to an election required to be conducted under section 9A (b) of the Act.

110 Charge on tourists (cf Lord Howe Island (General) Regulation 1994, cl 60)

- (1) A tourist to the Island must pay to the Board a charge not exceeding \$50.
- (2) A tourist who fails to pay the charge is guilty of an offence.
Maximum penalty: 50 penalty units.
- (3) No such charge is payable in respect of a person, or persons of a class, exempted by the Board.
- (4) The charge must be paid in the manner and at a place specified by the Board.

111 Penalty notice offences and penalties

- (1) For the purposes of section 37B of the Act:
 - (a) each offence created by a provision of this Regulation specified in Column 1 of Schedule 4 is an offence for which a penalty notice may be served, and
 - (b) the penalty prescribed for each such offence is the amount specified opposite the provision in Column 2 of that Schedule.
- (2) If the reference to a provision in Column 1 of Schedule 4 is qualified by words that restrict its operation to specified kinds of offences, an offence created by the provision is a prescribed offence only if it is an offence of a kind so specified or committed in the circumstances so specified.

112 Savings arising on repeal of former regulations

Any act, matter or thing that, immediately before the repeal of the *Lord Howe Island (Elections) Regulation 1999* or the *Lord Howe Island (General) Regulation 1994*, had effect under either of those regulations is taken to have effect under this Regulation.

Lord Howe Island Regulation 2004

Schedule 1 Forms

Schedule 1 Forms

(Clause 3 (2))

Form 1 Nomination of candidate

(Clause 17 (1))

We, being entitled to be included in the roll for the election of members of the Lord Howe Island Board, nominate *[full name in block letters]* of *[place of residence as enrolled]* as a candidate for that election.

Date:

Name (in full) of each nominator	Signature of each nominator	Place of residence (as enrolled) of each nominator	Occupation of each nominator

I, *[name of candidate]*, consent to the nomination.

Candidate's signature:

Note. This form must be completed by at least 2 nominators.

Form 2 Application for lease in perpetuity for the purpose of residence

(Clause 55 (1))

Lord Howe Island Act 1953, section 21

I, *[full name]*, being an Islander, apply for a lease in perpetuity of the land described below (and shown on the accompanying sketch—*required if the land is not a measured portion*) for the purpose of residence.

I have made the declaration on the back of this form.

Signed this day of , 20 .

Signature:

Address:

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Lord Howe Island Regulation 2004

Forms

Schedule 1

To the Chairperson,
Lord Howe Island Board.

Note. The following declaration is to be published on the back of this form.

Declaration by applicant

I, *[full name]*, of *[address]*, solemnly declare and affirm that I am the applicant for a lease in perpetuity for the purpose of residence of the land described on the front and that the answers to the questions in the Schedule are correct.

Schedule

- 1 On what grounds do you claim to be an Islander?
- 2 What is the date and place of your birth?
- 3 (a) What is your marital status?
(b) State the age and sex of any children living with you, or dependent on you.
- 4 Do you or does your spouse or any child mentioned in answer to question 3 hold any land? If so, give area, location, particulars of title and state by whom it is held.
- 5 Are you already residing on the land the subject of this application? If so, state how long you have been in residence.
- 6 Are there any improvements on the land the subject of this application? Give brief particulars and estimated values of the improvements.

I make this solemn declaration as to the above matters according to the law in this behalf made and subject to the punishment by law provided for any wilfully false statement in any such declaration.

Signature of Declarant:

Made before me at this day of , 20 .

Signature of a Justice of the Peace, Commissioner for Affidavits or Notary Public:

Form 3 Application for special leases

(Clause 55 (2))

Lord Howe Island Act 1953, section 22

I, *[full name]* apply for special lease for the purpose of *[state use intended to be made of land]* of the land described below (and shown on the accompanying sketch—*required if the land is not a measured portion*):

Lord Howe Island Regulation 2004

Schedule 1 Forms

I have made the declaration on the back of this form.

Signed this day of , 20 .

Signature:

Address:

To the Chairperson,
Lord Howe Island Board.

Note. The following declaration is to be published on the back of this form.

Declaration by applicant

I, *[full name]*, of *[address]*, solemnly declare and affirm that I am the applicant for a special lease of the land described on the front and that the answers to the questions in the Schedule are correct.

Schedule

- 1 (a) Are you the holder of a lease in perpetuity for residence under section 21 of the *Lord Howe Island Act 1953*?
- (b) If you are not the holder at present, have you applied for such a lease?
- 2 (a) Are you already using the land the subject of this application?
- (b) If so, for what purpose and for how long?
- 3 Are there any improvements on the land the subject of this application? Give brief particulars and estimated values of the improvements.

I make this solemn declaration as to the above matters according to the law in this behalf made and subject to the punishment by law provided for any wilfully false statement in any such declaration.

Signature of Declarant:

Made before me at this day of , 20 .

Signature of a Justice of the Peace, Commissioner for Affidavits or Notary Public:

Form 4 Lease in perpetuity for the purpose of residence

(Clause 56)

Lord Howe Island Act 1953, section 21

Pursuant to section 21 of the *Lord Howe Island Act 1953 (the Act)*, I, the Minister administering the Act, grant to *[name of lessee]*, his or her executors, administrators and assigns a lease in perpetuity for the purpose of residence of a parcel of land containing *[specify number of hectares]* hectares and being measured portion *[specify portion details]*

Lord Howe Island Regulation 2004

Forms

Schedule 1

situated on Lord Howe Island (not including any roads within the boundaries of that portion) being Lease in Perpetuity No. *[specify No.]* (shown in the attached plan), together with all rights, easements and appurtenances to hold the land in perpetuity subject to the Act and the regulations made under the Act and to the following conditions:

Signature:

Minister administering the *Lord Howe Island Act 1953*

Note. Persons dealing with this lease are warned that a search should be made in the Lord Howe Island office of the Lord Howe Island Board in order to ascertain whether the lease is still current or whether it has been forfeited or cancelled.

Form 5 Application for consent to transfer a lease or part of a lease or to sublet a lease

(Clause 57 (1))

Lord Howe Island Act 1953, section 23

Pursuant to section 23 of the *Lord Howe Island Act 1953*, I, *[full name]*, of *[address]*, the holder of the lease(s) specified in Schedule 1, apply for the consent of the Minister (*and the approval of the Governor*) to transfer such lease(s) or part(s) of such lease(s) by way of (*sale, mortgage*) or sublet such lease(s) *[give particulars of subletting]* to *[proposed transferee or sublessees]*, of *[address]*.

Declaration marked "A" has been made by me.

I enclose a certified copy of the original agreement or contract for the sale of such lease(s) or part(s) of such lease(s) and apply for approval of that agreement or contract. *[Strike out if there is no written agreement or contract]*

I also enclose a sketch showing the subdivision line or lines and indicating the part(s) of the lease(s) proposed to be transferred. *[Strike out if it is proposed to transfer whole of lease(s)]*

Schedule 1

Class of Lease (Perpetual or Special)	No of Lease	Area	Portion No
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Signature of person proposing to transfer or sublet:

Address to which notices are to be sent:

To the Chairperson,
Lord Howe Island Board.

Lord Howe Island Regulation 2004

Schedule 1 Forms

Declaration "A" by persons proposing to transfer or sublet

I, *[full name]*, of *[address]*, being the holder of the lease(s) specified in Schedule 1, solemnly declare and affirm that the answers to the questions in Schedule 2 are correct in every particular.

Schedule 2

- 1 What is the date of your birth?
- 2 What are your reasons for wishing to transfer your lease(s) or part(s) of such lease(s) or sublet your lease(s)? State fully.
- 3 Are there any improvements on the land proposed to be transferred? Give brief particulars and estimated values of the improvements.
- 4 What is the amount:
 - (a) of the consideration agreed on?
 - (b) of the sum for goodwill included in the consideration?
- 5 Have you made any agreement or contract for the sale of the lease(s) or part(s) of such lease(s)?
If so, a certified copy should be lodged with this application.
- 6 Is the person to whom you propose to transfer your lease(s) or part(s) of such lease(s) or sublet your lease(s) an Islander?
- 7 If the person to whom you propose to transfer your lease(s) or part(s) of such lease(s), or sublet your lease(s), as the case may be, is not an Islander, is there any Islander residing on the Island who desires and is in a position to take such transfer or sublease? Indicate the grounds for your answer to this question.

I make this solemn declaration as to the above matters according to the law in this behalf made and subject to the punishment by law provided for any wilfully false statement in any such declaration.

Signature of Declarant:

Made before me at this day of , 20 .

Signature of a Justice of the Peace, Commissioner for Affidavits or Notary Public:

Declaration "B" by proposed transferee or sublessee

I, *[full name]*, of *[address]*, solemnly declare and affirm that I am the person to whom *[the proposed transferor]* proposes to transfer the lease(s) or part(s) of such lease(s) (or to sublet the lease(s) particularised in Schedule 1, that the transaction is entered into in good faith, and that Schedule 3 contains a true statement of all lands now held by me, my spouse and my children living with me or dependent on me.

Lord Howe Island Regulation 2004

Forms

Schedule 1

Schedule 3

Class of holding	No of holding	Area	Portion No	By whom held (spouse or child)
------------------	---------------	------	------------	--------------------------------

If no land is held write "Nil".

I solemnly declare and affirm that my sole object in acquiring the land is in order that I may hold and use it for my own exclusive benefit, and that the answers to the questions in Schedule 4 are true and correct in every particular.

Schedule 4

- 1 Are you an Islander? If so, state the grounds on which you claim to be one.
- 2 What is the date and place of your birth?
- 3 (a) What is your marital status?
(b) State the age and sex of any children living with you or dependent on you.
- 4 What is the amount:
 - (a) of the consideration agreed on?
 - (b) of the sum for goodwill included in the consideration?
- 5 What are your reasons for wishing to acquire the subject lease(s) or part(s) of such lease(s)? Indicate the use you intend to make of the land.

I make this solemn declaration as to the above matters according to the law in this behalf made and subject to the punishment by law provided for any wilfully false statement in any such declaration.

Signature of Declarant:

Address to which notices are to be sent:

Made before me at _____ this _____ day of _____, 20____.

Signature of a Justice of the Peace, Commissioner for Affidavits or Notary Public:

Lord Howe Island Regulation 2004

Schedule 1 Forms

Form 6 Transfer of lease

(Clause 58 (1))

Lord Howe Island Act 1953, section 23

I, *[full name]* of *[address]* in consideration of the sum of *[specify sum]* (the receipt of which is acknowledged) transfer by way of *[sale, mortgage]* to *[full name]* of *[address]* all *[my, its]* estate and interest in the land described as follows:

Class of lease (perpetual or special)	No of lease (indicate if part only)	Area	Portion No
---	---	------	------------

Signed at _____ the _____ day of _____, 20____.

Signed in my presence:

Witness

Signature of transferor

I accept this transfer.

Signed in my presence:

Witness

Signature of transferee

Notes:

- (1) The witness must be a legal practitioner, Justice of the Peace, Notary Public, Commissioner for Affidavits or bank manager.
- (2) If executed under seal, the usual attestation clause is also to be inserted. If signed by virtue of a power of attorney, the memorandum of non-revocation on the back of this form is to be signed by the attorney before a witness.
- (3) The following memorandum is to be published on the back of this form.

Lord Howe Island Regulation 2004

Forms

Schedule 1

Memorandum of non-revocation of power of attorney

[I/We] have had no notice of revocation of the Power of Attorney registered No *[specify No.]* Miscellaneous Register under the authority of which *[I/we]* have just signed the transfer.

Signed at _____ the _____ day of _____, 20____.

Witness:

Notes:

- (1) All alterations and interlineations must be initialled in the left margin by the attesting witnesses.
- (2) Transfers, other than those by way of discharge of mortgage to the registered mortgagor or a legal representative or by way of mortgage or sub-mortgage, cannot be accepted for registration unless duly stamped or endorsed "exempt from duty" or bearing other evidence of having been submitted to the Chief Commissioner of State Revenue for assessment.
- (3) A transfer involving lands in the name of a deceased person (whether mortgagor or mortgagee) cannot be accepted unless the first transfer involving each such holding has been marked "Registration not opposed" by the Chief Commissioner of State Revenue.

Form 7 Instrument of surrender

(Clause 61 (2))

Lord Howe Island Act 1953, section 22A

I, *[full name]* of *[address]* being the holder of the land described below, surrender the land to the Crown, intending that the land will vest in the Crown as Crown land.

[Description of land to be surrendered that will enable it to be identified]

Signed at _____ this _____ day of _____, 20____.

Signature of surrenderor:

Signed in my presence by *[full name of surrenderor]* who is personally known to me.

Signature of Justice of the Peace:

I, *[full name of mortgagee if surrender is by mortgagor]*, the mortgagee under Mortgage No *[specify No.]*, join in this surrender.

Signed at _____ this _____ day of _____, 20____.

Signature of mortgagee:

Signed in my presence by *[full name of mortgagee]* who is personally known to me.

Signature of Justice of the Peace:

I, *[full name of mortgagor if surrender is by mortgagee]*, being the mortgagor of the land described above, join in this surrender.

Signed at _____ this _____ day of _____, 20____.

Signature of mortgagor:

Lord Howe Island Regulation 2004

Schedule 1 Forms

Signed in my presence by *[full name of mortgagor]* who is personally known to me.

Signature of Justice of the Peace:

Accepted for and on behalf of the Crown this day of , 20 .
Signature of Minister:

Signed in my presence by the Minister administering the *Lord Howe Island Act 1953*, who is personally known to me.

Signature of Witness:

Lord Howe Island Regulation 2004

Fees

Schedule 2

Schedule 2 Fees

(Clauses 3 (1) and 68 (2))

Item No		Fee (\$)
1	On an application being made under section 21 of the Act for a lease in perpetuity	60.00
2	On an application being made under section 22 of the Act for a special lease	60.00
3	On the issue of a lease in perpetuity under section 21 or 23 (4B) (a) (i) of the Act	50.00
4	On an application being made under section 22 (2) of the Act for extension of the term of a special lease	60.00
5	On an application being made under section 23 of the Act for consent to transfer or sublet a lease	50.00
6	On an application being made under section 23 of the Act for a certificate of the Minister that a person on whom a lease has devolved under a will or intestacy is entitled to hold the lease	50.00
7	On an application being made under section 23 of the Act for permission to enter into possession under a mortgage or for consent to foreclose a mortgage	50.00
8	On lodgment of a transfer of the whole or part of a lease under clause 58	40.00
	And for each lease or part of a lease after the first included in the transfer	17.00
9	If it is necessary to investigate evidence (submitted in support of a transfer) that a person is entitled to transfer a lease or to execute the transfer on behalf of a proposed transferee, an additional	40.00

Lord Howe Island Regulation 2004

Schedule 3 Noxious plants

Schedule 3 Noxious plants

(Clause 85 (1))

Botanical Name	Common Name
<i>Ageratina adenophora</i>	Crofton weed
<i>Anredera cordifolia</i>	Madeira vine
<i>Arundinaria spp.</i>	Arundinaria reed
<i>Arundo donax</i>	Giant reed or elephant grass
<i>Asparagus asparagoides</i>	Bridal creeper
<i>Bambusa spp.</i>	Bamboo
<i>Chrysanthemoides monilifera</i>	Bitou bush
<i>Cotoneaster glycophylla</i>	Cotoneaster
<i>Gloriosa superba</i>	Glory lily
<i>Lantana camara</i>	Lantana
<i>Lilium formosanum</i>	Tiger lily
<i>Lycium ferocissium</i>	African boxthorn
<i>Melia azedarach</i>	White cedar
<i>Ochna serrulata</i>	Ochna
<i>Pittosporum undulatum</i>	Sweet pittosporum
<i>Protoasparagus aethiopicus</i>	Asparagus fern
<i>Protoasparagus plumosus</i>	Climbing asparagus
<i>Psidium cattleianum</i>	Cherry guava
<i>Ricinus communis</i>	Castor oil plant
<i>Schefflera actinophylla</i>	Umbrella tree
<i>Setaria palmifolia</i>	Palm grass
<i>Toxicodendron succadmenum</i>	Rhus tree

Lord Howe Island Regulation 2004

Penalty notice offences

Schedule 4

Schedule 4 Penalty notice offences

(Clause 111)

Column 1	Column 2
Provision	Penalty
Clause 54	\$110
Clause 70 (1) or (2)	\$330
Clause 71 (2)	\$330
Clause 77 (1)	\$110
Clause 78	\$110
Clause 79 (1)	\$330
Clause 80 (1)	\$330
Clause 81 (1) or (2)	\$330
Clause 82 (1) or (2)	\$330
Clause 83 (1) or (2)	\$330
Clause 86 (1) or (3)	\$330
Clause 87	\$330
Clause 88 (3)	\$330
Clause 90 (1)	\$330
Clause 91 (2)	\$330
Clause 92 (1)	\$330
Clause 93 (1) or (2)	\$330
Clause 94 (2)	\$330
Clause 96 (1)	\$330
Clause 97 (1)	\$330
Clause 98 (1)	\$330
Clause 99 (2)	\$330
Clause 100 (3)	\$330
Clause 100 (6)	\$330
Clause 101	\$330

Lord Howe Island Regulation 2004

Schedule 4 Penalty notice offences

Column 1	Column 2
Provision	Penalty
Clause 102 (1)	\$330
Clause 103 (2)	\$1100
Clause 103 (5)	\$330
Clause 104 (2) or (5)	\$330
Clause 105	\$330
Clause 106 (1) or (4)	\$330
Clause 107 (3)	\$330
Clause 110 (2)	\$330



Motor Dealers Regulation 2004

under the

Motor Dealers Act 1974

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Motor Dealers Act 1974*.

REBA PAIGE MEAGHER, M.P.,
Minister for Fair Trading

Explanatory note

The object of this Regulation is to repeal and remake, with minor amendments, the provisions of the *Motor Dealers Regulation 1999*. The new Regulation deals with the following matters:

- (a) the licensing of motor dealers, including provisions requiring advertising signs to indicate that the dealer is licensed and the dealer's licence number (Part 2),
- (b) the registers that a licensed motor dealer is required to keep (Part 3), including:
 - (i) the means by which such registers are to be kept and the period for which they are to be retained (Division 1 of Part 3), and
 - (ii) the form in which such registers are to be kept (Division 2 of Part 3),
- (c) the notices that a licensed motor dealer is required to display with vehicles offered for sale (Part 4), including:
 - (i) the means by which such notices are to be produced and the period for which copies of them are to be retained (Division 1 of Part 4), and
 - (ii) the form in which such notices are to be produced (Division 2 of Part 4),
- (d) the sale on consignment of motor vehicles by licensed dealers (Part 5),
- (e) miscellaneous matters in relation to the way in which a licensed motor dealer must carry on business (Part 6),
- (f) the fees payable by licensed motor dealers (Part 7),
- (g) other matters of a minor, consequential or ancillary nature (Parts 1 and 8).

Motor Dealers Regulation 2004

Explanatory note

This Regulation is made under the *Motor Dealers Act 1974*, including sections 4 (1), 12 (8), 13 (3), 18 (4), 20 (1), (3) and (6), 20K (2), 21 (1), (3), (4), (5), (6) and (8), 21C (c), 23B (1) and (2) (a), 23C (1) (b), 24 (2), (4) (a), (5), (6) and (7), 25 (2), 26A (4) and (5), 28 (3) (f), (5), (6) and (7), 29 (1) and (3), 29B, 29CA (6) and (7) (a), 29F (1) (c), 39 (3), 40 (2) (d), 46 (1) (c), (2), (2A) and (3A) (b), 53E, 55 and 57 (the general regulation-making power).

This Regulation is made in connection with the staged repeal of subordinate legislation under the *Subordinate Legislation Act 1989*.

Motor Dealers Regulation 2004

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Clause 1	Motor Dealers Regulation 2004
Part 1	Preliminary

Motor Dealers Regulation 2004

under the

Motor Dealers Act 1974

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Motor Dealers Regulation 2004*.

2 Commencement

This Regulation commences on 1 September 2004.

Note. This Regulation replaces the *Motor Dealers Regulation 1999* which is repealed on 1 September 2004 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

authorised officer, in relation to a provision of this Regulation, means any officer who is authorised in relation to that provision as referred to in section 6 of the Act.

business day, in relation to a licensee, means a day on which the licensee carries on business under the licence.

disqualified person means a person whom a licensee is prohibited from employing or continuing to employ by virtue of clause 47 (1).

licensed premises, in relation to a licence, means a place of business in respect of which the licence is granted.

licensee means the holder of a licence, and includes any person who is deemed by section 20G of the Act to be the holder of a licence.

major body components means any of the following:

- (a) chassis and major body sections,
- (b) bonnets,
- (c) boot lids,

Motor Dealers Regulation 2004

Clause 3

Preliminary

Part 1

-
- (d) right and left front doors,
 - (e) right and left back doors,
 - (f) hatchback doors,
 - (g) right and left front mudguards,
 - (h) front and rear bumper bars,
 - (i) front apron panels.

major car accessories means any of the following:

- (a) alloy “mag” wheels,
- (b) electronic navigation equipment,
- (c) car radio, tape, television, digital video disc (DVD) or compact disc (CD) equipment.

major mechanical components means any of the following:

- (a) engines and engine blocks,
- (b) gearboxes and transmissions,
- (c) instrument clusters,
- (d) airbags.

register means a register referred to in section 21 (1) of the Act.

registered company auditor means a registered company auditor within the meaning of the *Corporations Act 2001* of the Commonwealth.

statutory warranty, in relation to a motor vehicle, means a statement that acknowledges the obligation imposed on a dealer in respect of the vehicle by section 27 of the Act.

the Act means the *Motor Dealers Act 1974*.

vehicle identification number or **VIN**, in relation to a motor vehicle, means the number allocated to the vehicle in accordance with the requirements of the Australian Design Rules under the *Motor Vehicle Standards Act 1989* of the Commonwealth.

- (2) In this Regulation, a reference to a Form is a reference to a Form set out in Schedule 3.
- (3) Notes in this Regulation do not form part of this Regulation.

Clause 4 Motor Dealers Regulation 2004

Part 1 Preliminary

4 Definition of “auto-dismantler”: section 4

Major body components, major car accessories and major mechanical components are prescribed for the purposes of paragraph (c) of the definition of *auto-dismantler* in section 4 (1) of the Act.

5 Definition of “commercial vehicle”: section 4

For the purposes of the definition of *commercial vehicle* in section 4 (1) of the Act:

- (a) a motor vehicle of the kind known as a “dual-cab” or a “crew-cab” is prescribed as a commercial vehicle, and
- (b) a four-wheel drive motor vehicle with at least 1 forward-facing rear passenger seat (not being a motor vehicle referred to in paragraph (a)) is prescribed not to be a commercial vehicle.

6 Definition of “financier”: section 4

The letting of motor vehicles for periods exceeding 3 months without an option of purchase is a prescribed purpose for the purposes of paragraph (d) of the definition of *financier* in section 4 (1) of the Act.

7 Definition of “motor vehicle parts reconstructor”: section 4

Major mechanical components are prescribed for the purposes of the definition of *motor vehicle parts reconstructor* in section 4 (1) of the Act.

Motor Dealers Regulation 2004

Clause 8

Licensing

Part 2

Part 2 Licensing

8 Duration of approval preceding grant of licence: section 13

For the purposes of section 13 (3) of the Act, the period for which an approval for a licence remains in force is such period (not exceeding 12 months) as is specified in the approval.

9 Licensees to display licence numbers

- (1) At all times while a licensee carries on, or advertises that the licensee carries on or is willing to carry on, business under the licence, the licensee must display signs, at each place of business for which the licence is granted, that comply with the requirements of this clause.

Maximum penalty: 20 penalty units.

- (2) The requirements of this clause are as follows:
- (a) each sign must contain the words “licensed motor dealer”, “licensed auto-dismantler”, “licensed wholesaler”, “licensed motor vehicle parts reconstructor”, “licensed car market operator” or “licensed motor vehicle consultant”, as the case requires,
 - (b) each sign must contain the words “licence number” followed by the number of the licence,
 - (c) the lettering on each sign must be at least 50 millimetres in height.

10 Register of Undertakings: section 20K

For the purposes of section 20K (2) of the Act, the following particulars are prescribed in relation to a deed executed by a dealer in accordance with section 20J (1) (a) of the Act:

- (a) the dealer’s name and licence number,
- (b) the address of the dealer’s licensed premises,
- (c) the date on which the deed was executed by the dealer,
- (d) brief particulars of the circumstances and unjust conduct that led to the execution of the deed,
- (e) a summary of the undertakings given by the dealer in the deed.

Clause 11 Motor Dealers Regulation 2004

Part 3 Motor vehicle registers

Part 3 Motor vehicle registers

Division 1 General

11 Form of register

A register may be kept in writing or by means of data processing equipment.

12 Registers kept in writing

- (1) A register that is kept in writing must be kept in a series of books that comply with the following requirements:
 - (a) each book must consist of pages permanently bound together,
 - (b) each book must bear on its front cover a number corresponding to its number in the series (such as, Book 1, Book 2 and so on),
 - (c) each book must be used for the purposes of one kind of register and for no other purpose.
- (2) Each page in a register must be in the form prescribed for the register and must consist of white paper of a size not less than standard A4 (297 millimetres by 210 millimetres).
- (3) A register is not in the prescribed form unless it is clearly legible, contains no erasures and is not torn, defaced or otherwise mutilated.
- (4) This clause does not prohibit matter in the register from being altered by deleting particulars in such a manner (for example, by means of a line through them) as to leave the deleted particulars decipherable.
- (5) In any register, each entry must be consecutively numbered and legibly printed or written in black ink.

13 Registers kept by means of data processing equipment

A register that is kept by means of data processing equipment must be kept by means of software that ensures that:

- (a) the information in the register:
 - (i) is capable of being displayed and printed, on demand, at each place of business to which the licence relates, and
 - (ii) when it is so displayed or printed, each page in the register is in the form prescribed for the register, and

Motor Dealers Regulation 2004

Clause 14

Motor vehicle registers

Part 3

-
- (iii) includes the date on which each record in the register was made, and
 - (b) in the event that any information in the register is amended or deleted, a record is kept:
 - (i) of the information in the form in which it was before it was amended or deleted, and
 - (ii) of the date of each occasion on which the information was amended or deleted.

14 Completion of registers

- (1) A licensee who keeps a register in writing must ensure:
 - (a) that all information that is required to be entered in the register in relation to any transaction or event is entered within one business day after the transaction or event occurs, and
 - (b) that no information is entered in the register otherwise than by a person authorised by the licensee.

Maximum penalty: 20 penalty units.

- (2) A licensee who keeps a register by means of data processing equipment must ensure:
 - (a) that all information that is required to be entered in the register in relation to any transaction or event is entered within one business day after the transaction or event occurs, and
 - (b) that no information is entered in the register otherwise than by a person authorised by the licensee, and
 - (c) that the information in the register is backed up at intervals of no more than one week.

Maximum penalty: 20 penalty units.

- (3) The particulars to be included in a register in response to the expression “how acquired” are the particulars of the way in which the possession of the motor vehicle, part or accessory concerned was acquired, that is, whether it was acquired by way of consignment, exchange, purchase, trade-in or otherwise (including, if otherwise, details of the method of acquisition).

Clause 15 Motor Dealers Regulation 2004

Part 3 Motor vehicle registers

15 Retention of registers

- (1) A licensee who keeps a register (whether in writing or by means of data processing equipment):
- (a) must retain the register (together with all copies of records that have been printed out and verified in relation to the register) for at least 6 years after the date on which the last entry was made in it, and
 - (b) if required to do so by an authorised officer before the expiration of the period referred to in paragraph (a), must produce the register for inspection by the officer.

Maximum penalty: 20 penalty units.

- (2) In the case of a register kept by means of data processing equipment, it is sufficient compliance with subclause (1) (b) if the licensee makes available to the authorised officer:
- (a) a computer terminal by means of which the officer can view the information contained in the register, and
 - (b) a computer print-out of the information contained in the register.

16 Car market operator's licence: section 21

For the purposes of section 21 (8) of the Act:

- (a) a car market operator's licence is a prescribed licence, and
- (b) the offering or displaying for sale of a motor vehicle at the car market operator's licensed premises is a prescribed transaction.

17 Parts and accessories subject to sections 21–21B: sections 21 and 21C

- (1) Major body components, major mechanical components and major car accessories are prescribed for the purposes of:
- (a) section 21 (4) (a) of the Act, and
 - (b) section 21C (c) of the Act (but in relation only to auto-dismantlers).
- (2) Major mechanical components are prescribed for the purposes of:
- (a) section 21 (6) (a) of the Act, and
 - (b) section 21C (c) of the Act (but in relation only to motor vehicle parts reconstructors).

Motor Dealers Regulation 2004

Clause 18

Motor vehicle registers

Part 3

Division 2 Prescribed forms

18 Prescribed form of register: section 21

- (1) The prescribed form for a register kept in writing is as follows:
 - (a) Form 1, in the case of a register referred to in section 21 (3) of the Act that is kept by the holder of a dealer's licence (being a register relating to motor vehicles sold on consignment),
 - (b) Form 2, in the case of a register referred to in section 21 (3) or (5) of the Act that is kept by the holder of a dealer's or wholesaler's licence (other than a register relating to motor vehicles sold on consignment),
 - (c) Form 2A, in the case of a register referred to in section 21 (4) of the Act that is kept by the holder of an auto-dismantler's licence in relation to motor vehicles acquired by the holder of that licence,
 - (d) Form 2B, in the case of a register referred to in section 21 (4) or (6) of the Act that is kept by the holder of an auto-dismantler's or motor vehicle parts reconstructor's licence in relation to parts and accessories acquired by the holder of that licence,
 - (e) Form 18, in the case of a register referred to in section 21 (8) of the Act that is kept by the holder of a car market operator's licence in relation to motor vehicles for which the holder of that licence guarantees the vendor's title,
 - (f) Form 19, in the case of a register referred to in section 21 (8) of the Act that is kept by the holder of a car market operator's licence in relation to motor vehicles for which the holder of that licence does not guarantee the vendor's title.
- (2) The prescribed form for a register kept by means of data processing equipment is any form that contains the prescribed particulars for the form prescribed for a similar register kept in writing.
- (3) For the purposes of section 21 (3)–(8) of the Act, the prescribed particulars are the particulars required to be inserted to complete the relevant form (if any).
- (4) If particulars for a motor vehicle are not available until the vehicle is sold, those particulars must be inserted at the time of sale.

Clause 18 Motor Dealers Regulation 2004

Part 3 Motor vehicle registers

- (5) The following abbreviations may be used in a register, namely, “AB” for airbag, “APR” for front apron panel, “BL” for boot lid, “BON” for bonnet, “BUF” for front bumper bar, “BUR” for rear bumper bar, “CH” for chassis, “DLF” for left front door, “DLR” for left rear door, “DRF” for right front door, “DRR” for right rear door, “E” for engine, “GL” for left front mudguard, “GR” for right front mudguard, “HD” for hatchback door, “IC” for instrument cluster, “MBS” for major body section, “MW” for alloy “mag” wheels, “N/A” for not available and “T/G” for transmission or gearbox.

Motor Dealers Regulation 2004

Clause 19

Motor vehicle notices

Part 4

Part 4 Motor vehicle notices

Division 1 General

19 Production of notices generally

All notices required by Part 4 of the Act are to be produced from a book of such notices or by means of data processing equipment.

20 Notices produced from books

A notice that is produced from a book of such notices must be taken from a series of books that comply with the following requirements:

- (a) each book must include an original and 2 copies of each notice contained in it, where the originals of each notice are permanently bound together,
- (b) each book must bear on its front cover a number corresponding to its number in the series (such as, Book 1, Book 2 and so on),
- (c) each book must be used for the purposes of one kind of notice and for no other purpose.

21 Notices produced by means of data processing equipment

A notice that is produced by means of data processing equipment must be produced by means of software that ensures that information concerning each notice that is produced:

- (a) is in a format:
 - (i) that is capable of being displayed and printed, on demand, at each place of business to which the licence relates, and
 - (ii) that is readily intelligible when it is so displayed or printed, and
- (b) is not capable of being amended or deleted, so that any change in the information in the notice has to be effected by creating a new notice, and
- (c) includes the date on which each notice was produced.

22 General form of notices

- (1) Each notice must be in the form prescribed for the notice and must consist of white paper of a size not less than standard A4 (297 millimetres by 210 millimetres).

Clause 23 Motor Dealers Regulation 2004

Part 4 Motor vehicle notices

- (2) A notice is not in the prescribed form unless it is clearly legible, contains no alterations or erasures and is not torn, defaced or otherwise mutilated.
- (3) In any notice under Part 4 of the Act:
 - (a) any matter (other than the prescribed particulars inserted in the notice) must be legibly printed in figures and letters of at least 2 mm in height, and
 - (b) the prescribed particulars inserted in the notice must be legibly printed or written in black ink.

23 Completion of notices

- (1) A licensee who produces notices from a book of such notices must ensure:
 - (a) that all information that is required to be entered in a notice in relation to any transaction or event is entered no later than when the transaction or event occurs, and
 - (b) that no information is entered in a notice otherwise than by a person authorised by the licensee, and
 - (c) in relation to any notice issued to the purchaser of a motor vehicle, that a true copy of the original notice is signed by the purchaser at the time the vehicle is sold to the purchaser.

Maximum penalty: 20 penalty units.

- (2) A licensee who produces notices by means of data processing equipment must ensure:
 - (a) that all information that is required to be entered in a notice in relation to any transaction or event is entered no later than when the transaction or event occurs, and
 - (b) that no information is entered in a notice otherwise than by a person authorised by the licensee, and
 - (c) in relation to any notice issued to the purchaser of a motor vehicle, that the original copy of the notice is signed by the purchaser at the time the vehicle is sold to the purchaser, and
 - (d) that the information as to all notices so produced is backed up at intervals of no more than one week.

Maximum penalty: 20 penalty units.

Motor Dealers Regulation 2004

Clause 24

Motor vehicle notices

Part 4

24 Retention of notices

A licensee who produces notices (whether from books of such notices or by means of data processing equipment):

- (a) must retain copies of each notice for the period of 3 years following the sale of the motor vehicle to which the notice relates, and
- (b) in the case of notices produced by means of data processing equipment, must retain the copies of those notices together in sequence in a loose-leaf folder, and
- (c) if required to do so by an authorised officer before the expiration of the period referred to in paragraph (a), must produce the copies of those notices for inspection by the officer.

Maximum penalty: 20 penalty units.

25 Prescribed manner for affixing reports or notices

For the purposes of sections 23B (1), 24 (2), 24 (4), 28 (5), 28 (7), 29 (1) and 29B of the Act, a report or notice is attached to a motor vehicle in the prescribed manner if:

- (a) it is firmly attached to:
 - (i) the inside surface of the windscreen, or
 - (ii) an internal sun visor, or
 - (iii) the inside surface of the window of the left hand front door,or, if that is not practicable, to some other part of the vehicle, and
- (b) it is clearly visible to any person standing outside the vehicle.

Division 2 Prescribed forms

26 Sale notice for motor vehicle sold at auction without roadworthy certificate: section 23B (2)

- (1) For the purposes of section 23B (2) (a) of the Act, Form 9 is the prescribed form where the sale of a motor vehicle does not attract the statutory warranty.

Clause 27 Motor Dealers Regulation 2004

Part 4 Motor vehicle notices

- (2) For the purposes of section 23B (2) (a) of the Act, the prescribed manner for displaying a notice at a place where a motor vehicle is offered or displayed for sale by auction is by prominently exhibiting the notice:
- (a) in front of or immediately adjacent to the point from which the auctioneer will conduct the auction, and
 - (b) at each entrance to that place, and
 - (c) at each entrance to the place at which the vehicle is parked,
- so that the wording of the notice is clearly visible to the persons who are attending the auction.

27 Sale notice for motor vehicle sold without number plates: section 23C

For the purposes of section 23C (1) (b) of the Act, the prescribed form of declaration for display with a motor vehicle to which no number-plate is attached is a declaration by the owner of the vehicle accounting for:

- (a) the absence of any number-plate, and
- (b) the unavailability of a certificate or receipt (as to the surrender of the number-plates) referred to in section 23C (1) (a) of the Act.

28 Sale notice for second-hand motor vehicle (other than motor cycle): section 24 (2)

- (1) For the purposes of section 24 (2) of the Act:
- (a) Form 4 is the prescribed form where a motor vehicle is sold with a statutory warranty but without a defect notice, and
 - (b) Form 6 is the prescribed form where a motor vehicle is sold with a statutory warranty and with a defect notice, and
 - (c) Form 8 is the prescribed form where the sale of a motor vehicle does not attract a statutory warranty.
- (2) For the purposes of section 24 (2) of the Act, the prescribed particulars are the particulars required to be inserted to complete the relevant form.
- (3) If particulars for a motor vehicle are not available until the vehicle is sold, those particulars must be inserted at the time of sale.

Motor Dealers Regulation 2004

Clause 29

Motor vehicle notices

Part 4

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- (4) For the purposes of the definition of *defect notice* in section 4 (1) of the Act, Form 6 (to the extent to which it deals with warranty exclusions for specified defects) is the prescribed form for a defect notice given in relation to a second-hand motor vehicle (other than a second-hand motor cycle) offered or displayed for sale by a dealer.

29 Notice that motor vehicle is not for sale: section 24 (4)

For the purposes of section 24 (4) (a) of the Act, Form 10 is the prescribed form for a motor vehicle that is not a motor cycle.

30 Sale notice for second-hand motor cycle: section 24 (5)

- (1) For the purposes of section 24 (5) of the Act:
- (a) Form 3 is the prescribed form where the motor cycle is not an exempted motor vehicle, and
 - (b) Form 5 is the prescribed form where the motor cycle is not more than 5 years old, has travelled no more than 30,000 kilometres and is offered or displayed for sale with a defect notice.
- (2) For the purposes of the definition of *defect notice* in section 4 (1) of the Act, Form 5 (to the extent to which it deals with warranty exclusions for specified defects) is the prescribed form for a defect notice given in relation to a second-hand motor cycle sold by a dealer.
- (3) For the purposes of section 24 (5) of the Act, the prescribed particulars are the particulars required to be inserted to complete the relevant form.
- (4) If particulars for a motor vehicle are not available until the vehicle is sold, those particulars must be inserted at the time of sale.

31 Sale notice for demonstrator motor vehicle: section 24 (6)

- (1) For the purposes of section 24 (6) of the Act:
- (a) Form 11 is the prescribed form where a motor vehicle is not a motor cycle or an exempted motor vehicle and is offered or displayed for sale without a defect notice, and
 - (b) Form 11A is the prescribed form where a motor vehicle is not a motor cycle or an exempted motor vehicle and is offered or displayed for sale with a defect notice.

Clause 32 Motor Dealers Regulation 2004

Part 4 Motor vehicle notices

- (2) For the purposes of the definition of *defect notice* in section 4 (1) of the Act, Form 11A (to the extent to which it deals with warranty exclusions for specified defects) is the prescribed form for a defect notice given in relation to a demonstrator motor vehicle sold by a dealer.
- (3) For the purposes of section 24 (6) of the Act, the prescribed particulars are the particulars required to be inserted to complete the relevant form.
- (4) If particulars for a motor vehicle are not available until the vehicle is sold, those particulars must be inserted at the time of sale.

32 Sale notice for damaged motor vehicle: section 24 (7)

- (1) For the purposes of section 24 (7) of the Act, the following damage is prescribed:
 - (a) damage (not being superficial damage) occasioned to a motor vehicle by reason of it being exposed to water,
 - (b) damage (not being superficial damage) occasioned to the body or frame of a motor vehicle and that required or requires:
 - (i) replacement or repair of the whole or part of any panel, structural member or component of the vehicle by cutting and welding, by application of heat or by any other means, or
 - (ii) replacement of not less than 4 major external panels (fittings excepted) fitted to the vehicle by means of bolts, screws or other mechanical fastening devices,
to restore the vehicle to a reasonable condition, having regard to its age.
- (2) For the purposes of section 24 (7) of the Act, Form 13 is the prescribed form.
- (3) For the purposes of section 24 (7) of the Act, the prescribed particulars are the particulars required to be inserted to complete the relevant form.
- (4) If particulars for a motor vehicle are not available until the vehicle is sold, those particulars must be inserted at the time of sale.

Motor Dealers Regulation 2004

Clause 33

Motor vehicle notices

Part 4

33 Disposal notice for second-hand motor vehicle sold to trade owner: section 25 (2)

- (1) For the purposes of section 25 (2) of the Act:
 - (a) Form 7 is the prescribed form where a single motor vehicle is being sold, and
 - (b) Form 7A is the prescribed form where two or more motor vehicles are being sold.
- (2) For the purposes of section 25 (2) of the Act, the prescribed particulars are the particulars required to be inserted to complete the relevant form.
- (3) If particulars for a motor vehicle are not available until the vehicle is sold, those particulars must be inserted at the time of sale.

34 Identification of parts by auto-dismantlers: section 26A

- (1) For the purposes of section 26A (4) and (5) of the Act, the prescribed manner in which an auto-dismantler is required to mark a prescribed part or accessory is by copying onto the part or accessory, by means of an indelible marking substance or (if that is impracticable) by means of a durable label or tag, the entry number in the auto-dismantler's register that relates to the part or accessory.
- (2) When an auto-dismantler disposes of a prescribed part or accessory to a person, the auto-dismantler must issue to the person a receipt which contains the following information:
 - (a) the date of disposal,
 - (b) a description of the part or accessory,
 - (c) the entry number marked on the part or accessory,
 - (d) in the case of an engine, or a chassis or major body section, the person's name and address, and:
 - (i) if the person is the holder of a licence under the Act, the licence number, or
 - (ii) if the person is not the holder of a licence under the Act, the person's driver licence number, or
 - (iii) if the person is not the holder of a licence under the Act or the holder of a driver licence, details (including the number) of some other document bearing a photograph of the person, that appears to be issued by the government or a statutory authority of New South

Clause 35 Motor Dealers Regulation 2004

Part 4 Motor vehicle notices

Wales or the Commonwealth or another State or Territory, and that appears to provide reasonable evidence of the person's identity.

Maximum penalty: 20 penalty units.

- (3) For the purposes of subclause (2), an auto-dismantler:
- (a) must keep a receipt book that contains receipt forms (in duplicate), with the forms consecutively numbered by mechanical or electronic means, and
 - (b) must retain the book at the place where the auto-dismantler carries on business for a period of not less than 6 years after the last receipt was issued from the book.
- (4) Major body components, major car accessories and major mechanical components are prescribed for the purposes of section 26A (4) and (5) of the Act.

35 Sale notice for exempted motor vehicle (other than motor cycle) sold without statutory warranty: section 28 (5)

For the purposes of section 28 (5) of the Act, Form 14 is the prescribed form.

36 Sale notice for exempted second-hand motor cycle sold without statutory warranty: section 28 (6)

For the purposes of section 28 (6) of the Act, Form 3 is the prescribed form where the motor cycle is not an exempted motor vehicle.

37 Sale notice for motor vehicle at auction without statutory warranty: section 28 (7)

For the purposes of section 28 (7) of the Act, Form 9 is the prescribed form where the sale of a motor vehicle does not attract a statutory warranty.

38 Sale notice for defective second-hand motor vehicle (other than motor cycle): section 29 (1)

- (1) For the purposes of section 29 (1) of the Act, Form 6 is the prescribed form where a motor vehicle is sold with a statutory warranty and with a defect notice.

Motor Dealers Regulation 2004

Clause 39

Motor vehicle notices

Part 4

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- (2) For the purposes of the definition of *defect notice* in section 4 (1) of the Act, Form 6 (to the extent to which it deals with warranty exclusions for specified defects) is the prescribed form for a defect notice given in relation to a second-hand motor vehicle sold by a dealer.

39 Sale notice for defective second-hand motor cycle or demonstrator motor vehicle: section 29 (3)

For the purposes of section 29 (3) of the Act:

- (a) Form 5 is the prescribed form where a motor cycle is not more than 5 years old, has travelled no more than 30,000 kilometres and is offered or displayed for sale with a defect notice, and
- (b) Form 11A is the prescribed form where a demonstrator motor vehicle is offered or displayed for sale with a defect notice.

40 Sale notice for motor vehicle sold at car market: section 29B

- (1) For the purposes of section 29B of the Act:
- (a) Form 18 is the prescribed form where a motor vehicle is offered or displayed for sale in circumstances in which the car market operator guarantees title to the vehicle, and
- (b) Form 19 is the prescribed form where a motor vehicle is offered or displayed for sale in circumstances in which the car market operator does not guarantee title to the vehicle.
- (2) A notice under section 29B of the Act for use in connection with the display of a motor vehicle at a car market may include a form of receipt to be issued by the car market operator in respect of any fee payable for the right to display the vehicle at the car market.

41 Cooling off periods

- (1) For the purposes of section 29CA (6) of the Act, Form 20 is the prescribed form.
- (2) The information contained in Form 20 must be displayed in a prominent position in the contract.
- (3) For the purposes of section 29CA (7) (a) of the Act, Form 21 is the prescribed form.
- (4) Form 21 may be included in a contract for the purchase of a motor vehicle.

Clause 42 Motor Dealers Regulation 2004

Part 5 Sales on consignment

Part 5 Sales on consignment

42 Recording of consignment

- (1) A dealer who agrees to sell a motor vehicle on consignment:
- (a) must include the particulars required by this clause in the agreement for the vehicle, and
 - (b) must keep one copy of the agreement and give a second copy to the consignor.

Maximum penalty: 20 penalty units.

- (2) The particulars required by this clause in relation to a motor vehicle are as follows:
- (a) the consignor's name and address and (if the consignor is a dealer) the consignor's licence number,
 - (b) the consignee's name and address and (if the consignee is a dealer) the consignee's licence number,
 - (c) a description of the vehicle, including its registration number, if any,
 - (d) particulars of any encumbrance to which the vehicle is subject or, if there is no such encumbrance, a statement to that effect,
 - (e) the price agreed to be paid to the consignor,
 - (f) directions for disbursement of the price agreed to be paid to the consignor, specifying:
 - (i) any amount required to be paid to discharge any encumbrance to which the vehicle is subject, and
 - (ii) if any balance is not to be paid to the consignor at the address specified under paragraph (a), directions for payment of that balance,
 - (g) the date of commencement of the consignment and:
 - (i) the date of termination of the consignment, or
 - (ii) the period of the consignment.
- (3) This clause does not apply if the consignor of a motor vehicle is the owner of the vehicle and is a trade owner.

43 Audit of trust accounts

- (1) A dealer who sells motor vehicles on consignment:
- (a) must keep the accounting records required by this clause, and

Motor Dealers Regulation 2004

Clause 44

Sales on consignment

Part 5

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- (b) must retain each such record for at least 6 years after the last entry was made in it, and
 - (c) when lodging an annual statement under section 20 (2) of the Act, must lodge with the statement a registered company auditor's report in relation to the operation of the dealer's trust accounts during the period to which the statement relates.

Maximum penalty: 20 penalty units.

- (2) The accounting records required by this clause are such books and records as will enable the dealer's trust accounts to be properly audited, including:
 - (a) a trust receipt book containing forms of receipt, machine numbered consecutively in duplicate, and
 - (b) a trust bank, building society or credit union deposit book containing forms in duplicate, and
 - (c) a trust account cash book or its electronic equivalent.
- (3) Compliance with subclause (1) (c) is not required in relation to a dealer's trust account if:
 - (a) no money was held in the account during the period for which (but for this subclause) a registered company auditor's report would be required, and
 - (b) the dealer lodges with the Director-General a statutory declaration verifying that no money was held in the account during that period.

44 Disbursements from trust account: section 29F

Amounts paid to a credit provider in accordance with the written directions of the consignor are authorised for the purposes of section 29F (1) (c) of the Act.

45 Consignment of motor vehicle from one dealer to another

A dealer must not accept delivery from another dealer of a motor vehicle for sale on consignment without making such reasonable inquiries as may be necessary to establish whether or not the consigning dealer is the owner of the vehicle.

Maximum penalty: 20 penalty units.

Clause 46 Motor Dealers Regulation 2004

Part 6 Conduct of business

Part 6 Conduct of business

46 Particulars of managers to be provided

If a person is employed by a licensee as a manager of a place of business to which the licence relates, the licensee must notify the Director-General in writing of the full name, date of birth and residential address of that person within 14 days of the commencement of that employment.

Maximum penalty: 20 penalty units.

47 Certain persons not to be employed as manager

- (1) A licensee must not employ or continue to employ any person as a manager of a place of business to which the licence relates if the licensee is notified by the Director-General, or if the licensee is aware or ought reasonably to be aware, that:
- (a) within the last 10 years:
 - (i) a licence held by the person has been cancelled, or
 - (ii) the person has been convicted of, or has served any part of a term of imprisonment for, an offence in New South Wales or elsewhere involving fraud or dishonesty, or
 - (iii) the person, or a corporation of which the person was a director or officer, has been refused a licence on a ground or grounds related to the honesty of the person or on the ground of his or her status as a fit and proper person to be a licensee, or
 - (b) the person is subject to a good behaviour bond in relation to an offence in New South Wales or elsewhere relating to fraud or dishonesty, or
 - (c) the person has a charge pending in New South Wales or elsewhere in relation to an offence involving fraud or dishonesty, or
 - (d) the person is the holder of a suspended licence, or
 - (e) the person is disqualified from being concerned in the direction, management or conduct of a business for the carrying on of which a licence is required.

Maximum penalty: 20 penalty units.

Motor Dealers Regulation 2004

Clause 48

Conduct of business

Part 6

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- (2) It is not an offence for a licensee to commence or continue to employ a person referred to in subclause (1) (a), (b), (c) or (d) if:
 - (a) the Director-General approves the commencement or continuation, and
 - (b) where such an approval is given conditionally, the conditions of the approval are complied with.
 - (3) It is not an offence for a licensee to continue to employ a person referred to in subclause (1) (a), (b), (c) or (d) in respect of whom an application for approval to continue to employ the person has been made but not determined.
 - (4) The Director-General may, by notice in writing served on the applicant for such an approval, direct that subclause (3) does not apply to the person to whom the application relates.

48 Applications for approval to employ disqualified persons

- (1) An application by a licensee for approval to continue to employ a disqualified person must be made not later than the first day (other than a Saturday, Sunday or public holiday) that next succeeds the day on which the licensee:
 - (a) is notified by the Director-General, or
 - (b) ought reasonably to have become aware,that the person is a disqualified person.
- (2) On receiving such an application, the Director-General may, after due inquiry:
 - (a) grant the application, either conditionally or unconditionally, or
 - (b) refuse the application.
- (3) If the Director-General refuses to grant the application, the Director-General must cause notice of the refusal to be served, personally or by post, on the applicant and on the disqualified person in respect of whom the application was made.

49 Price-related advertising

The holder of a dealer's licence must not publish an advertisement that specifies or implies:

- (a) that a minimum trade-in allowance will be made in relation to a motor vehicle offered for sale by the licensee, or

Clause 50 Motor Dealers Regulation 2004

Part 6 Conduct of business

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- (b) that the price of a second-hand or demonstrator motor vehicle offered for sale by the licensee has been reduced:
 - (i) by a specified amount or proportion, or
 - (ii) from a specified amount,
 unless the advertisement also specifies the cash price of the vehicle, or
 - (c) that the price of a motor vehicle (other than a second-hand or demonstrator motor vehicle) offered for sale by the licensee has been reduced:
 - (i) by a specified amount or proportion, or
 - (ii) from a specified amount,
 unless the advertisement also specifies that the reduction is related to the manufacturer's recommended retail price.

Maximum penalty: 20 penalty units.

50 Advertising of charges

- (1) A dealer must not publish an advertisement that specifies an amount as the purchase price of a motor vehicle (other than a second-hand or demonstrator motor vehicle) in circumstances in which any dealer's charges or statutory charges are payable in addition to the purchase price unless the advertisement also specifies:
 - (a) that an additional amount (that must be specified in the advertisement) will be payable by way of dealer's charges, and
 - (b) that a further additional amount (that need not be specified in the advertisement) will be payable by way of statutory charges (to be described by means of the expression "statutory charges" or "government charges" and not by means of the expression "on road costs" or any other similar expression).

Maximum penalty: 20 penalty units.

- (2) Subclause (1) (a) does not apply to the holder of a dealer's licence who does not sell motor vehicles by retail or to the type of advertisement known as a "group advertisement" which refers specifically or generally to more than one dealer.

Motor Dealers Regulation 2004

Clause 51

Conduct of business

Part 6

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- (3) This clause does not apply to:
- (a) a motor vehicle (not being a motor cycle) or a second-hand motor cycle that is of such design as to be incapable of being registered in New South Wales, or
 - (b) a motor vehicle that comprises an excavator, road grader, road roller, bulldozer, forklift truck or other machinery or apparatus and that is not constructed on a chassis of a type normally used in the construction of a motor lorry, or
 - (c) a motor vehicle that is constructed or adapted for road construction or maintenance (including cleansing, sweeping or watering roads), or
 - (d) a commercial vehicle.

- (4) In this clause:

dealer's charges in relation to a motor vehicle advertised for sale by a dealer, means any amounts, other than:

- (a) the amount of the purchase price of the vehicle, or
- (b) any statutory charges relating to the vehicle,

that are payable to the dealer by a purchaser of the vehicle before, or on, its delivery by the dealer.

statutory charges in relation to a motor vehicle, means:

- (a) any tax or fee payable on registration, or renewal of registration, of the vehicle, or
- (b) any duty charged on the certificate of registration of the vehicle, or
- (c) any premium and duty payable in respect of a policy of insurance issued, or deemed to have been issued, under the *Motor Accidents Compensation Act 1999* in relation to the vehicle.

**51 Advertising sale of motor vehicle that is damaged or defective:
section 24 (7)**

- (1) A dealer who advertises for sale a motor vehicle the subject of prescribed damage referred to in section 24 (7) of the Act (not being a second-hand motor vehicle) must include in the advertisement:
- (a) a statement to the effect that the vehicle has been damaged, and

Clause 52 Motor Dealers Regulation 2004

Part 6 Conduct of business

- (b) a further statement specifying whether or not the damage has been repaired.

Maximum penalty: 20 penalty units.

- (2) A dealer who advertises for sale a motor vehicle the subject of a defect notice must include in the advertisement the words and figures “DEFECTIVE VEHICLE—REPAIR COST \$...” where the repair cost must be completed to accord with the total estimated cost specified in the defect notice in relation to the repairing or making good of the defects so specified.

Maximum penalty: 20 penalty units.

- (3) A dealer must not publish an advertisement offering for sale a motor vehicle the subject of a statutory warranty if the vehicle has defects:
- (a) of a kind that the dealer is required to repair or make good under the warranty, and
 - (b) of which the dealer knew, or ought to have known, at the time the dealer published the advertisement,

unless the advertisement includes a statement drawing attention to the existence of defects in the vehicle.

Maximum penalty: 20 penalty units.

- (4) The matter required by this clause to appear in an advertisement in relation to a motor vehicle must appear in writing of a size and prominence not less than that used for the price of the vehicle or (if the price does not appear) for any other matter relating to the vehicle.

52 Representations as to availability of motor vehicle or finance

A dealer must not:

- (a) knowing that a motor vehicle is not for sale, represent that it is for sale, or
- (b) represent that the purchase of a motor vehicle may be financed in a manner that the dealer knows to be unlawful or unavailable.

Maximum penalty: 20 penalty units.

Motor Dealers Regulation 2004

Clause 53

Conduct of business

Part 6

53 Odometer readings

A dealer must not:

- (a) publish an advertisement that specifies the reading on the odometer of a motor vehicle, or
- (b) during negotiations for the sale of a motor vehicle, specify the reading on the odometer of the vehicle,

if the dealer knows, or has reasonable cause to know, that the reading on the odometer is a false representation of the distance travelled by the vehicle.

Maximum penalty: 20 penalty units.

54 Disclosures required in certain advertisements

A licensee must not publish an advertisement (other than a radio or television advertisement) suggesting that a motor vehicle or a part of a motor vehicle is being offered or displayed for sale unless there is included in the advertisement:

- (a) the licensee's name or, if the business to which the licence relates is carried on under a business name, that business name, and
- (b) the number of the licence, and
- (c) a telephone number (if any) of the place of that business.

Maximum penalty: 20 penalty units.

55 Certain advertisements to include registration numbers

A dealer must not publish an advertisement that refers to:

- (a) a specified motor vehicle, or
- (b) any specified price at which a second-hand motor vehicle may be purchased,

unless the advertisement specifies the registration number of the vehicle.

Maximum penalty: 20 penalty units.

Clause 56 Motor Dealers Regulation 2004

Part 6 Conduct of business

56 Examination of motor vehicle

A dealer who offers a motor vehicle for sale must facilitate any reasonable examination of the vehicle by, or on behalf of, a prospective purchaser of the vehicle.

Maximum penalty: 20 penalty units.

57 Protection of interest of third party

(1) If a dealer agrees to act as agent for the sale of a second-hand motor vehicle, or to accept a motor vehicle as a trade-in, the dealer must use reasonable diligence:

- (a) to ascertain whether the vehicle is subject to a lease, hire-purchase agreement or mortgage, and
- (b) if so, to bring the sale agreement to the notice of the relevant lessor, owner or mortgagee.

Maximum penalty: 20 penalty units.

(2) In this clause, *mortgage* has the same meaning as it has in the *Consumer Credit (New South Wales) Code*.

58 Parts to be identified by motor vehicle parts reconstructors

If:

- (a) a motor vehicle parts reconstructor, in or for the purpose of carrying on his or her business as such, buys or receives a major mechanical component, and
- (b) the part does not have an identification number stamped on it or otherwise affixed to it,

the reconstructor must stamp on, or otherwise affix to, the part or accessory such figures, or figures accompanied by letters or symbols, as will serve to identify it.

Maximum penalty: 20 penalty units.

59 Receipts for engines disposed of by motor vehicle parts reconstructors

(1) A motor vehicle parts reconstructor who disposes of a motor vehicle engine to a person must issue to the person a receipt (taken from a receipt book containing duplicate copies of consecutively numbered receipt forms) on which is written the following information:

Motor Dealers Regulation 2004

Clause 59

Conduct of business

Part 6

-
- (a) the date of disposal,
 - (b) a description of the engine,
 - (c) the number marked on the engine,
 - (d) the person's name and address.

Maximum penalty: 20 penalty units.

(2) A motor vehicle parts reconstructor:

- (a) must retain the receipt book (together with the reconstructor's register) for at least 6 years after the date on which the last entry was made in it, and
- (b) if required to do so by an authorised officer before the expiration of the period referred to in paragraph (a), must produce the receipt book for inspection by the officer.

Maximum penalty: 20 penalty units.

Clause 60 Motor Dealers Regulation 2004

Part 7 Fees

Part 7 Fees

60 Fees

- (1) The fees payable for the purposes of the Act are listed in Column 1 of Schedule 1.
- (2) The amount of each fee is to be calculated by adding together the various components set out in Columns 2, 3, 4 and 5 of Schedule 1 in relation to that fee.
- (3) An amount specified in relation to an application fee in Column 2 of Schedule 1 under the heading **Processing component** is taken to be a fee to cover the costs incurred by the Director-General in processing the application.
Note. This amount is consequently a **processing fee** for the purposes of Part 2 of the *Licensing and Registration (Uniform Procedures) Act 2002*.
- (4) If payment of an amount specified in relation to an annual fee in Column 2 of Schedule 1 under the heading **Processing component** is made by means of electronic communication (within the meaning of Part 2 of the *Licensing and Registration (Uniform Procedures) Act 2002*), the fee otherwise payable:
 - (a) is to be reduced by \$5, or
 - (b) is to be reduced by 10 per cent, and rounded to the nearest whole dollar,
 whichever results in the greater reduction.
- (5) For the purposes of section 39 (3) of the Act, the proportions in which fees for dealers' licences and car market operators' licences are to be distributed between the Motor Dealers Compensation Fund and the Consolidated Fund are as set out in Column 5 of Schedule 1 (in relation to the Compensation Fund) and Columns 2, 3 and 4 of Schedule 1 (in relation to the Consolidated Fund), respectively.

61 Modification of Part 2 of Licensing and Registration (Uniform Procedures) Act 2002

Part 2 of the *Licensing and Registration (Uniform Procedures) Act 2002* is modified in such a manner that sections 24 (2) and 25 of that Act do not apply in relation to a licence.

Motor Dealers Regulation 2004

Clause 62

Miscellaneous

Part 8

Part 8 Miscellaneous

62 General provisions concerning the recording of information

- (1) The particulars of a motor vehicle to be inserted in a form that requires the vehicle's date of manufacture are the month and year of the vehicle's built date or (if the vehicle does not have a built date) the month and year of the vehicle's compliance plate date.
- (2) The following abbreviations may be used for the purpose of recording information in any register or receipt for the purposes of this Regulation, namely, "MD" for Dealer's Licence, "Lic. No." for Licence Number, "C" for consigned, "D" for dismantled, "E" for exchanged, "P" for purchased, "S" for sold, "T" for trade-in and "W" for wholesale.
- (3) If the particulars of a motor vehicle to be inserted in a form include the vehicle's vehicle identification number (VIN), but the vehicle does not have such a number, the vehicle's chassis number is to be inserted instead.
- (4) Any information required to be recorded by this Regulation must be recorded in the English language.
- (5) In this clause:

built date in relation to a motor vehicle, means the date that, combined with the word "Built" or the words "Built Date", appears on a metal plate affixed to the vehicle or on a sheet metal component of the vehicle.

compliance plate date, in relation to a motor vehicle, means the date that appears on a compliance plate authorised to be placed on a vehicle, or taken to have been placed on a vehicle, under the *Motor Vehicle Standards Act 1989* of the Commonwealth.

63 Destruction of records

A record required by this Regulation to be made or kept may be destroyed:

- (a) if this Regulation requires the record to be retained for a specified period, after the expiration of that period, or
- (b) in any other case, after the expiration of the period of 6 years that next succeeds the date of the latest entry in the record.

Clause 64 Motor Dealers Regulation 2004

Part 8 Miscellaneous

64 Prescribed amount above which motor vehicle ceases to be subject to statutory warranty: section 28

For the purposes of section 28 (3) (f) of the Act, the amount prescribed is, during each year beginning on 1 January, the amount that was, at the end of the immediately preceding year, the motor vehicle depreciation limit under section 57AF of the *Income Tax Assessment Act 1936* of the Commonwealth.

65 Enforcement of order rescinding sale: section 38

- (1) An order made under section 38 (4) of the Act for the payment of money may be enforced in a Local Court specified in the order or, if no such court is so specified, in any Local Court that exercises civil jurisdiction.
- (2) An order referred to in subclause (1) is enforceable as so referred to only if there is filed with the registrar of the Local Court concerned an affidavit by the person seeking to enforce the order stating:
 - (a) that the deponent is the person in whose favour the order was made, and
 - (b) the name and address of the person against whom the order was made, and
 - (c) the amount remaining unpaid under the order, and
 - (d) that all conditions subject to which the order was made and which are applicable to the deponent have been complied with.
- (3) If an affidavit is filed in accordance with subclause (2), Part 5 of the *Local Courts (Civil Claims) Act 1970* applies to and in respect of the order to which the affidavit relates as if:
 - (a) the order were a judgment of the Local Court in which the affidavit is filed, and
 - (b) the amount ordered to be paid were a judgment debt referred to in that Part, and
 - (c) the person against whom the order was made were a judgment debtor referred to in that Part, and
 - (d) the person in whose favour the order was made were a judgment creditor referred to in that Part.

Motor Dealers Regulation 2004

Clause 66

Miscellaneous

Part 8

66 Claims against Motor Dealers Compensation Fund

For the purposes of section 40 (2) (d) of the Act, the following breaches are prescribed:

- (a) damage to goods consigned to a dealer while in the possession of the dealer,
- (b) failure by a dealer or car market operator to pay for a vehicle (including a trade-in vehicle),
- (c) failure by a dealer or car market operator to supply a vehicle to a purchaser after payment in full for the vehicle has been made.

67 Certificate of inspection: section 46

- (1) For the purposes of section 46 (1) (c) of the Act, registration of a motor vehicle is registration in accordance with the regulations under the *Road Transport (Vehicle Registration) Act 1997*.
- (2) For the purposes of section 46 (3A) (b) of the Act, the prescribed form of declaration for display with a motor vehicle to which no number-plate is attached is a declaration by the dealer accounting for:
 - (a) the absence of any number-plate, and
 - (b) the unavailability of a certificate or receipt (as to the surrender of the number-plates) referred to in section 46 (3A) (a) of the Act.
- (3) For the purposes of section 46 (2) and (2A) of the Act, the period of 90 days is prescribed as the period within which an inspection report must have been issued.

68 Prescribed offences and penalties: section 53E

For the purposes of section 53E of the Act:

- (a) an offence under a provision of the Act or this Regulation specified in Column 1 of Schedule 2 is a prescribed offence, and
- (b) the amount specified in Column 2 of Schedule 2 in respect of such an offence is the prescribed amount of penalty for the offence.

Clause 69 Motor Dealers Regulation 2004

Part 8 Miscellaneous

69 Prescribed officers for certain proceedings: section 55

For the purposes of section 55 of the Act, each of the following is a prescribed officer:

- (a) the Director-General,
- (b) any officer of the Department of Commerce appointed by the Director-General as a prescribed officer for the purposes of that section,
- (c) any police officer of or above the rank of sergeant.

70 Savings

Any act, matter or thing that, immediately before the repeal of the *Motor Dealers Regulation 1999*, had effect under that Regulation continues to have effect under this Regulation.

Motor Dealers Regulation 2004

Fees

Schedule 1

Schedule 1 Fees

(Clause 60)

Column 1	Column 2	Column 3	Column 4	Column 5
Nature of fee payable	Processing component	Fixed component	Variable component	Compensation Fund contribution
Application fee for granting of dealer's licence (general)	\$159	nil	\$239 per place of business	\$685 per place of business
Application fee for restoration of dealer's licence (general)	\$159	nil	\$239 per place of business	\$99 per place of business
Annual fee under section 20 (1) of the Act for dealer's licence (general)	\$53	nil	\$239 per place of business	\$99 per place of business
Application fee for granting of dealer's licence (motor cycles)	\$159	nil	\$239 per place of business	\$685 per place of business
Application fee for restoration of dealer's licence (motor cycles)	\$159	nil	\$239 per place of business	\$99 per place of business
Annual fee under section 20 (1) of the Act for dealer's licence (motor cycles)	\$53	nil	\$239 per place of business	\$99 per place of business

Motor Dealers Regulation 2004

Schedule 1 Fees

Column 1	Column 2	Column 3	Column 4	Column 5
Nature of fee payable	Processing component	Fixed component	Variable component	Compensation Fund contribution
Application fee for granting or restoration of dealer's licence (caravans)	\$159	nil	\$239 per place of business	nil
Annual fee under section 20 (1) of the Act for dealer's licence (caravans)	\$53	nil	\$239 per place of business	nil
Application fee for granting or restoration of dealer's licence (trailers)	\$159	nil	\$239 per place of business	nil
Annual fee under section 20 (1) of the Act for dealer's licence (trailers)	\$53	nil	\$239 per place of business	nil
Application fee for granting or restoration of dealer's licence (commercial vehicles)	\$159	nil	\$239 per place of business	nil
Annual fee under section 20 (1) of the Act for dealer's licence (commercial vehicles)	\$53	nil	\$239 per place of business	nil

Motor Dealers Regulation 2004

Fees

Schedule 1

Column 1	Column 2	Column 3	Column 4	Column 5
Nature of fee payable	Processing component	Fixed component	Variable component	Compensation Fund contribution
Application fee for granting of car market operator's licence	\$159	nil	\$239 per place of business	\$685 per place of business
Application fee for restoration of car market operator's licence	\$159	nil	\$239 per place of business	\$99 per place of business
Annual fee under section 20 (1) of the Act for car market operator's licence	\$53	nil	\$239 per place of business	\$99 per place of business
Application fee for granting or restoration of auto-dismantler's licence	\$159	nil	\$239 per place of business	nil
Annual fee under section 20 (1) of the Act for auto-dismantler's licence	\$53	nil	\$239 per place of business	nil
Application fee for granting or restoration of wholesaler's licence	\$159	nil	\$239 per place of business	nil

Motor Dealers Regulation 2004

Schedule 1 Fees

Column 1	Column 2	Column 3	Column 4	Column 5
Nature of fee payable	Processing component	Fixed component	Variable component	Compensation Fund contribution
Annual fee under section 20 (1) of the Act for wholesaler's licence	\$53	nil	\$239 per place of business	nil
Application fee for granting or restoration of motor vehicle parts reconstructor's licence	\$159	nil	\$239 per place of business	nil
Annual fee under section 20 (1) of the Act for motor vehicle parts reconstructor's licence	\$53	nil	\$239 per place of business	nil
Application fee for granting or restoration of motor vehicle consultant's licence	\$159	nil	\$239 per place of business	nil
Annual fee under section 20 (1) of the Act for motor vehicle consultant's licence	\$53	nil	\$239 per place of business	nil

Motor Dealers Regulation 2004

Fees

Schedule 1

Column 1	Column 2	Column 3	Column 4	Column 5
Nature of fee payable	Processing component	Fixed component	Variable component	Compensation Fund contribution
Late fee under section 20 (6) of the Act	nil	\$47	nil	nil
Application fee for replacement of licence	\$25	nil	nil	nil
Issue of certificate under section 18 of the Act	nil	\$19	nil	nil

Motor Dealers Regulation 2004

Schedule 2 Penalty notices

Schedule 2 Penalty notices

(Clause 68)

Column 1	Column 2
Provision	Penalty
Offences under Motor Dealers Act 1974	
Section 9	\$5,500
Section 17 (5)	\$330
Section 21	\$330
Section 23A (1)	\$550
Section 23B (1)	\$330
Section 23C (1)	\$330
Section 24 (2)	\$330
Section 24 (3)	\$330
Section 24 (5)	\$330
Section 24 (6)	\$330
Section 26A (4)	\$330
Section 26A (5)	\$330
Section 46 (2)	\$330
Section 47 (1)	\$330
Section 52 (1)	\$330
Section 53B (3)	\$330

Motor Dealers Regulation 2004

Penalty notices

Schedule 2

Column 1	Column 2
Provision	Penalty
Offences under Motor Dealers Regulation 2004	
Clause 9 (1)	\$330
Clause 34 (2)	\$330
Clause 50 (1)	\$330
Clause 54	\$330
Clause 55	\$330

Motor Dealers Regulation 2004

Schedule 3 Forms

Schedule 3 Forms

(Clause 3)

Form 1 Register for consigned vehicles

(Clause 18 (1) (a))

Motor Dealers Act 1974: section 21

NAME OF LICENSEE LICENCE No

DETAILS OF ACQUISITION							
Entry No	Date of acquisition	Make and body type	Model designation and date of manufacture	Registration No (if any)	Engine No	VIN or chassis No	Odometer reading

All columns to be completed

DETAILS OF ACQUISITION continued	DETAILS OF DISPOSAL					
	Name and address of consignor (if trade number also insert licence No)	Date of disposal	Trust account entry No	Type & serial No of disposal form	Cash price at which vehicle disposed	Name and address of person to whom vehicle disposed (if trade owner also insert motor dealer licence No) (if private purchaser at auction also insert driver licence No)

Motor Dealers Regulation 2004

Forms

Schedule 3

Form 2 Dealers' and wholesalers' register

(Clause 18 (1) (b))

Motor Dealers Act 1974: section 21

NAME OF LICENSEE**LICENCE No**

DETAILS OF ACQUISITION								
Entry No	Date of acquisition	How acquired	Make and body type	Model designation and date of manufacture	Registration No (if any)	Engine No	VIN or chassis No	Odometer reading

All columns to be completed

DETAILS OF ACQUISITION continued	DETAILS OF DISPOSAL				
Name and address of person from whom vehicle acquired (If trade owner, also insert licence No)	Date of disposal	How disposed	Type & serial No of disposal form	Cash price at which vehicle disposed	Name and address of person to whom vehicle disposed (If trade owner also insert motor dealer licence No) (If private purchaser at auction also insert driver licence No)

Motor Dealers Regulation 2004

Schedule 3 Forms

Form 2A Auto dismantlers' register for motor vehicles

(Clause 18 (1) (c))

Motor Dealers Act 1974: section 21

VEHICLE	NAME OF LICENSEE	LICENCE No
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Entry No	
Date of Acquisition	
Make & Body Type	
Model Designation	
Date of Manufacture	
Reg. No (if any)	
Odometer Reading	
Engine No	
VIN or Chassis No	

Details of Person From Whom Acquired	
Name	
Address	
If not Trade Owner then Driver's Licence No or other photo ID	
If Trade Owner then Trade Owner's Licence No (under Act)	

Motor Dealers Regulation 2004

Forms

Schedule 3

PRESCRIBED PARTS			
DESCRIPTION	SALVAGED (Y/N)	DATE OF DISPOSAL	* RECEIPT NO
Chassis/major body section			
Bonnet			
Right side door (front)			
Left side door (front)			
Right side door (back)			
Left side door (back)			
Hatchback door			
Boot lid			
Right front guard			
Left front guard			
Front bumper bar			
Rear bumper bar			
Front apron panel			
Engine/engine block			
Gearbox/transmission			
Instrument cluster			
Airbag			
Alloy "mag" wheels			
Electronic navigation equipment			
Car radio/tape/television/DVD/CD equipment			

* **NOTE:** The name and address of the purchaser, a description of the prescribed part, the relevant VIN and the dealer's licence number **MUST** be recorded on each sale receipt for prescribed parts.

Motor Dealers Regulation 2004

Schedule 3 Forms

Form 2B Prescribed parts register

(Clause 18 (1) (d))

Motor Dealers Act 1974: section 21

PRESCRIBED PARTS REGISTER (All columns to be completed)

NAME OF LICENSEE LICENCE No

DETAILS OF ACQUISITION							
Entry No	Date of acquisition	How acquired	Make and body type	Model designation and date of manufacture	Prescribed part description	Engine No (if applicable)	VIN or chassis No

DETAILS OF ACQUISITION continued		
Name and address of person from whom acquired	If not Trade Owner then Driver's Licence No or other photo ID	If Trade Owner then Trade Owner's Licence No (Under Act)

Motor Dealers Regulation 2004

Forms

Schedule 3

DETAILS OF ACQUISITION continued	DETAILS OF DISPOSAL			
	Invoice No *	Date of disposal	How disposed	Receipt No *

* **NOTE:** The name and address of the purchaser, a description of the prescribed part, the relevant VIN and the dealer's licence number **MUST** be recorded on each sale receipt for prescribed parts.

Motor Dealers Regulation 2004

Schedule 3 Forms

Form 3 Dealers notice (motor cycles)

(Clauses 30 (1) (a) and 36)

Motor Dealers Act 1974: sections 24 and 28

C _____
Register Details

Book No

Entry No

Part 1 (To be completed and delivered to purchaser at or before the time of sale)

Dealer		Licence No	
Full Business Address of Dealer where Motor Cycle Sold			
(No)		(Street)	(Suburb/ Town/City)
Make of cycle		VIN or Frame No	
Model designation		Distance travelled km	
Date of manufacture			
Engine No		Date of expiry of registration	
Cash Price \$		Registration No	

Motor Dealers Regulation 2004

Forms

Schedule 3

Part 2 (To be completed and delivered to purchaser at or before the time of sale)

Cash Price at Which Cycle Sold	\$	Odometer Reading at Time of Sale		km
Serial No of Inspection Report (RTA) (where applicable)		Date of Issue of Report		
Purchaser's Full Name				
Purchaser's Address				
Trade-in (if any)	(Description)	(Registration No)	Trade-in Allowance \$	
Purchaser's Signature			Date of sale	
Name (print) and Signature of Dealer, Agent or Employee Effecting Sale				
Receipt C _____				
Received the Sum of \$		by Cash Cheque		
Being for				

Part 3 (To be completed when motor cycle offered or displayed for sale)

The information below has been checked with the Register of Encumbered Vehicles (REVS).

Note. REVS records do not include written off vehicles that were repaired and re-registered prior to 1 July 2003. For more information about what is recorded on the register, contact REVS.

THE MOTOR CYCLE IS/IS NOT LISTED ON REVS AS BEING, OR HAVING BEEN, A WRITTEN OFF OR WRECKED MOTOR VEHICLE.

(delete inapplicable words)

Motor Dealers Regulation 2004

Schedule 3 Forms

Part 4 (To be completed and delivered to purchaser at or before the time of sale)

Trade Allowance	\$	Registration Expiry Date
Make		Registration No
Engine No		Frame No
Odometer Reading		Model Designation/ Date of Manufacture

Part 5

WARRANTY	
⇒	3 months or 3,000 km (whichever comes first).
⇒	This warranty applies to second-hand motor cycles not more than 5 years old and not having travelled more than 30,000 km.
⇒	There is no warranty on second-hand cycles more than 5 years old or having travelled more than 30,000 km, but the dealer must deliver to the purchaser an inspection report issued in accordance with the regulations under the <i>Road Transport (Vehicle Registration) Act 1997</i> , which has been issued not more than 90 days before the date of sale (unless renewal of registration of the cycle was effected within a month preceding the date of sale) stating that the cycle is roadworthy.
⇒	There is no warranty on a second-hand motor cycle of a design that is incapable of being registered in New South Wales.
⇒	The dealer is required to repair or make good any defect existing in the cycle at the time of sale or occurring within the warranty period so as to place the cycle in a reasonable condition having regard to its age.
⇒	This warranty does not cover defects in tyres, chains, sprockets and batteries, superficial damage to paintwork/upholstery, accidental damage occurring after the sale of the cycle and defects arising from rider misuse/negligence or use in competitive racing.
⇒	A person may not waive or vary this warranty without prior written consent of the Director-General of the Department of Commerce.
⇒	THE DEALER MUST BE GIVEN FIRST OPPORTUNITY TO ARRANGE WARRANTY REPAIRS

Motor Dealers Regulation 2004

Forms

Schedule 3

Form 4 WarrantyWarranty under *Motor Dealers Act 1974* applies to this vehicle

(Clause 28 (1) (a))

Motor Dealers Act 1974: section 24

D _____
 Register Details

Book No

Entry No

Part 1 (To be completed when vehicle offered or displayed for sale)

Dealer		Licence No	
Full Business Address of Dealer Where Vehicle Sold			
(No)		(Street)	(Suburb/Town/City)
Make of Vehicle		Engine No	
Model Designation		VIN or Chassis No	
Date of Manufacture		Distance Travelled	km
Body Type		Date Notice Affixed to Vehicle	
Cash Price \$		Registration No	

Motor Dealers Regulation 2004

Schedule 3 Forms

Part 2 (To be completed at or before time of sale)

Cash Price at Which Vehicle Sold	\$	Odometer Reading at Time of Sale	km
Purchaser's Full Name			
Purchaser's Address			
Trade-in (if any)	(Description)	(Registration No)	Trade-in Allowance \$
Purchaser's Signature			Date of Sale
Name (print) and Signature of Dealer, Agent or Employee Effecting Sale			

Part 3 (To be completed when vehicle offered or displayed for sale)

The information below has been checked with the Register of Encumbered Vehicles (REVS).

Note. REVS records do not include written off vehicles that were repaired and re-registered prior to 1 July 2003. For more information about what is recorded on the register, contact REVS.

THE VEHICLE IS/IS NOT LISTED ON REVS AS BEING, OR HAVING BEEN, A WRITTEN OFF OR WRECKED MOTOR VEHICLE.

(delete inapplicable words)

Motor Dealers Regulation 2004

Forms

Schedule 3

Part 4

WARRANTY	
⇒	3 months or 5,000 kilometres (whichever comes first).
⇒	This warranty applies to vehicles that at the time of sale are not more than 10 years old and have not travelled more than 160,000 kms.
⇒	The dealer is required to repair or make good any defect in the vehicle at the time of sale or occurring within the warranty period so as to place the vehicle in a reasonable condition having regard to its age.
⇒	This warranty does not cover tyres and batteries, superficial damage to paintwork/ upholstery, accidental damage occurring after the sale of the vehicle and defects arising from use for motor racing/rallying or driver misuse/negligence.
⇒	A person may not waive or vary this warranty without prior written consent of the Director-General of the Department of Commerce.
⇒	THE DEALER MUST BE GIVEN FIRST OPPORTUNITY TO ARRANGE WARRANTY REPAIRS

Motor Dealers Regulation 2004

Schedule 3 Forms

Form 5 Dealers notice (motor cycles)—(excluded defects)

(Clauses 30 (1) (b) and (2) and 39 (a))

Motor Dealers Act 1974: sections 24 and 29

E _____
Register Details

Book No

Entry No

Part 1 (To be completed and delivered to purchaser at or before the time of sale)

Dealer		Licence No	
Full Business Address of Dealer Where Motor Cycle Sold			
(No)		(Street)	(Suburb/Town/City)
Make of Cycle		Frame No	
Model designation		Distance travelled km	
Date of manufacture			
Engine No		Date of Expiry of Registration	
Cash Price \$		Registration No	

Motor Dealers Regulation 2004

Forms

Schedule 3

Part 2 (To be completed and delivered to purchaser at or before the time of sale)

Cash Price at Which Cycle Sold	\$	Odometer Reading at Time of Sale	km
Serial No of Inspection Report (RTA) (where applicable)		Date of Issue of Report	
Purchaser's Full Name			
Purchaser's Address			
Trade-in (if any)	(Description)	(Registration No)	Trade-in Allowance \$
Purchaser's Signature			Date of Sale
Name (print) and Signature of Dealer, Agent or Employee Effecting Sale			
The dealer must deliver to the purchaser an inspection report issued in accordance with the regulations under the <i>Road Transport (Vehicle Registration) Act 1997</i> , which has been issued not more than 90 days before the date of sale stating that the vehicle is roadworthy unless registration of the vehicle has been effected within one month before that date.			

Part 3 (To be completed when motor cycle offered or displayed for sale)

The information below has been checked with the Register of Encumbered Vehicles (REVS).

Note. REVS records do not include written off vehicles that were repaired and re-registered prior to 1 July 2003. For more information about what is recorded on the register, contact REVS.

THE MOTOR CYCLE IS/IS NOT LISTED ON REVS AS BEING, OR HAVING BEEN, A WRITTEN OFF OR WRECKED MOTOR VEHICLE.

(delete inapplicable words)

Motor Dealers Regulation 2004

Schedule 3 Forms

Part 4

WARRANTY	
⇒	3 months or 3,000 km (whichever comes first).
⇒	This warranty applies to second-hand cycles not more than 5 years old and not having travelled more than 30,000 km.
⇒	There is no warranty on a second-hand motor cycle of a design that is incapable of being registered in New South Wales.
⇒	The dealer is required to repair or make good any defect existing in the cycle at the time of sale or occurring within the warranty period so as to place the cycle in a reasonable condition having regard to its age.
⇒	This warranty does not cover defects in tyres, chains, sprockets and batteries, superficial damage to paintwork/upholstery, accidental damage occurring after the sale of the cycle and defects arising from rider misuse/negligence or use in competitive racing.
⇒	A person may not waive or vary this warranty without prior written consent of the Director-General of the Department of Commerce.
⇒	THE DEALER MUST BE GIVEN FIRST OPPORTUNITY TO ARRANGE WARRANTY REPAIRS
WARRANTY EXCLUSIONS	
I ACKNOWLEDGE THAT THE DEFECTS SHOWN BELOW ARE EXCLUDED FROM THE WARRANTY PROVISIONS OF THE MOTOR DEALERS ACT 1974. (ANY ANNEXURES MUST ALSO BE SIGNED).	
Signature of Purchaser	

Excluded defects	Estimated fair cost of repairing or making good defects

Motor Dealers Regulation 2004

Forms

Schedule 3

Excluded defects	Estimated fair cost of repairing or making good defects
NOTE: ROADWORTHINESS ITEMS MAY NOT BE EXCLUDED FROM WARRANTY	
Name (print) and Signature of Motor Mechanic	MVRIA Certificate No
<p>If there is insufficient space an annexure may be made to the notice provided that a reference is made to the annexure in this notice and the annexure is signed by the motor mechanic.</p> <p>The cost of repairs to the extent of the estimate shown for each defect is the responsibility of the purchaser. The dealer is only obliged to repair or make good unlisted defects, or pay the difference where the cost estimated by the dealer of repairing or making good a listed defect is less than the fair cost of repairing or making good that defect.</p>	

Motor Dealers Regulation 2004

Schedule 3 Forms

Form 6 Dealers notice—excluded defects

(Clauses 28 (1) (b) and (4) and 38 (1) and (2))

Motor Dealers Act 1974: sections 24 and 29

F _____
Register Details

Book No

Entry No

Part 1 (To be completed when vehicle offered or displayed for sale)

Dealer		Licence No	
Full Business Address of Dealer Where Vehicle Sold			
(No)		(Street)	(Suburb/Town/ City)
Make of Vehicle		Engine No	
Model Designation		VIN or Chassis No	
Date of Manufacture		Distance Travelled	km
Body Type		Date Notice Affixed to Vehicle	
Cash Price \$		Registration No	

Motor Dealers Regulation 2004

Forms

Schedule 3

Part 2 (To be completed at or before time of sale)

Cash Price at Which Vehicle Sold	\$	Odometer Reading at Time of Sale	km
Serial No of Inspection Report (RTA) (where applicable)		Date of Issue of Report	
Purchaser's Full Name			
Purchaser's Address			
Trade-in (if any)	(Description)	(Registration No)	Trade-in Allowance \$
Purchaser's Signature			Date of Sale
Name (print) and Signature of Dealer, Agent or Employee Effecting Sale			
The dealer must deliver to the purchaser an inspection report issued in accordance with the regulations under the <i>Road Transport (Vehicle Registration) Act 1997</i> , which has been issued not more than 90 days before the date of sale stating that the vehicle is roadworthy unless registration of the vehicle has been effected within one month before that date.			

Part 3 (To be completed when vehicle offered or displayed for sale)

The information below has been checked with the Register of Encumbered Vehicles (REVS).

Note. REVS records do not include written off vehicles that were repaired and re-registered prior to 1 July 2003. For more information about what is recorded on the register, contact REVS.

THE VEHICLE IS/IS NOT LISTED ON REVS AS BEING, OR HAVING BEEN, A WRITTEN OFF OR WRECKED MOTOR VEHICLE.

(delete inapplicable words)

Motor Dealers Regulation 2004

Schedule 3 Forms

Part 4

WARRANTY	
⇒	3 months or 5,000 km (whichever comes first).
⇒	This warranty applies to vehicles that at the time of sale are not more than 10 years old and have not travelled more than 160,000 kilometres
⇒	The dealer is required to repair or make good any defect existing in the vehicle at the time of sale or occurring within the warranty period so as to place the vehicle in a reasonable condition having regard to its age.
⇒	This warranty does not cover defects in tyres and batteries, superficial damage to paintwork/upholstery, accidental damage occurring after the sale of the vehicle and defects arising from driver misuse/negligence or use for motor racing/rallying.
⇒	A person may not waive or vary this warranty without prior written consent of the Director-General of the Department of Commerce.
⇒	THE DEALER MUST BE GIVEN FIRST OPPORTUNITY TO ARRANGE WARRANTY REPAIRS
WARRANTY EXCLUSIONS	
I ACKNOWLEDGE THAT THE DEFECTS SHOWN BELOW ARE EXCLUDED FROM THE WARRANTY PROVISIONS OF THE MOTOR DEALERS ACT 1974. (ANY ANNEXURES MUST ALSO BE SIGNED).	
Signature of Purchaser	

Motor Dealers Regulation 2004

Forms

Schedule 3

Excluded defects	Estimated fair cost of repairing or making good defects
NOTE: ROADWORTHINESS ITEMS MAY NOT BE EXCLUDED FROM WARRANTY	
Name (print) and Signature of Motor Mechanic	MVRIA Certificate No
<p>If there is insufficient space an annexure may be made to the notice provided that a reference is made to the annexure in this notice and the annexure is signed by the motor mechanic.</p> <p>The cost of repairs to the extent of the estimate shown for each defect is the responsibility of the purchaser. The dealer is only obliged to repair or make good unlisted defects, or pay the difference where the cost estimated by the dealer of repairing or making good a listed defect is less than the fair cost of repairing or making good that defect.</p>	

Motor Dealers Regulation 2004

Schedule 3 Forms

Form 7 Inter-trade owner disposal—single vehicle

(Clause 33 (1) (a))

Motor Dealers Act 1974: section 25

Register Details

Book No

Entry No

Name of Trade Owner		Licence No	
Full Business Address			
(No)		(Street)	(Suburb/Town/City)
Make of Vehicle		Body Type	
Model Designation			
Engine No		Date of Manufacture	
Chassis/Frame No		Registration No	
Odometer Reading When Vehicle Acquired (as entered in register)		Odometer reading When Vehicle Sold	
km		km	
Details of Trade Owner Acquiring Vehicle	Name		
	Address		
	Licence No (under the Act)		

Motor Dealers Regulation 2004

Forms

Schedule 3

Name (print) and Signature of Seller, Agent or Employee Completing Details
Date of Sale

Form 7A Inter-trade owner disposal—two or more vehicles

(Clause 33 (1) (b))

Motor Dealers Act 1974: section 25

Register Details

Book No

Entry No

Trade Owner						Licence No				
Full Business Address										
(No) (Street)						(Suburb/Town/City)				
Register Details		Make of Vehicle	Body Type	Model designation	Date of manufacture	Reg No	Engine No	Chassis or Frame No	Odometer Reading When Vehicle Acquired	Odometer Reading When Vehicle Sold
Book No	Entry No									
									km	km
									km	km
									km	km

Motor Dealers Regulation 2004

Schedule 3 Forms

Details of Trade Owner Acquiring Vehicle	
Name	Licence No (under the Act)
Address	
Name (print) and Signature of Seller, Agent or Employee Effecting Disposal	Date of Sale

Motor Dealers Regulation 2004

Forms

Schedule 3

Form 8 No Warranty

No warranty under *Motor Dealers Act 1974* applies to this vehicle

(Clause 28 (1) (c))

Motor Dealers Act 1974: section 24

H _____
Register Details

Book No

Entry No

Part 1 (To be completed when vehicle offered or displayed for sale)

Dealer		Licence No	
Full Business Address of Dealer Where Vehicle Sold			
(No)		(Street)	(Suburb/ Town/City)
Make of Vehicle		Engine No	
Model Designation		VIN or Chassis No	
Date of Manufacture		Distance Travelled	km
Body Type		Date of Expiry of Registration and Date of Notice	
Cash Price \$		Registration No	

Motor Dealers Regulation 2004

Schedule 3 Forms

Part 2 (To be completed at or before time of sale)

Cash Price at Which Vehicle Sold \$	Odometer Reading at Time of Sale km		
Serial No of Inspection Report (RTA) (where applicable)	Date of Issue of Report		
Purchaser's Full Name			
Purchaser's Address			
Trade-in (if any)	(Description)	(Registration No)	Trade-in Allowance \$
Purchaser's Signature		Date of Sale	
Name (print) and Signature of Dealer, Agent or Employee Effecting Sale			

The dealer must deliver to the purchaser an inspection report issued in accordance with the regulations under the *Road Transport (Vehicle Registration) Act 1997*, which has been issued not more than 90 days before the date of sale stating that the vehicle is roadworthy unless registration of the vehicle has been effected within one month before that date.

Part 3 (To be completed when vehicle offered or displayed for sale)

The information below has been checked with the Register of Encumbered Vehicles (REVS).

Note. REVS records do not include written off vehicles that were repaired and re-registered prior to 1 July 2003. For more information about what is recorded on the register, contact REVS.

THE VEHICLE IS/IS NOT LISTED ON REVS AS BEING, OR HAVING BEEN, A WRITTEN OFF OR WRECKED MOTOR VEHICLE.

(delete inapplicable words)

Part 4

THERE IS NO WARRANTY UNDER THE MOTOR DEALERS ACT 1974 IN RESPECT OF THE SALE OF THIS VEHICLE. ACCORDINGLY THE DEALER IS NOT REQUIRED BY THE ACT TO REPAIR OR MAKE GOOD ANY DEFECT WHICH MAY EXIST OR OCCUR IN THIS VEHICLE.

Motor Dealers Regulation 2004

Forms

Schedule 3

Form 9 Auction notice

(Clauses 26 (1) and 37)

Motor Dealers Act 1974: sections 23B and 28

AUCTION NOTICE
<p>If a motor vehicle with registration plates is sold to a private purchaser, whether on the fall of the hammer or by subsequent negotiation with the highest bidder, an inspection report not more than 1 month old which is issued in respect of the vehicle and states that the vehicle is roadworthy will be provided at the time of delivery of the vehicle to the purchaser.</p> <p>A private purchaser means a person other than a financier or the holder of a licence under the <i>Motor Dealers Act 1974</i> or under some other legislation in force in Australia that corresponds to that Act.</p> <p>There is no warranty under the <i>Motor Dealers Act 1974</i> in respect of vehicles sold by auction. Accordingly the dealer is not required by the Act to repair or make good any defect which may exist in any vehicle so sold.</p>

Motor Dealers Regulation 2004

Schedule 3 Forms

Form 10 Notice that motor vehicle is not for sale

(Clause 29)

Motor Dealers Act 1974: section 24



Form 11 Demonstrator vehicle notice

(Clause 31 (1) (a))

Motor Dealers Act 1974: section 24

K _____
Register Details

Book No

Entry No

Motor Dealers Regulation 2004

Forms

Schedule 3

Part 1 (To be completed when vehicle offered or displayed for sale)

Dealer		Licence No	
Full Business Address of Dealer Where Vehicle Sold			
(No)		(Street)	(Suburb/Town/City)
Make of Vehicle		Engine No	
Model Designation		VIN or Chassis No	
Body Type		Date of Manufacture	
Registration No		Date of Sale	
The Cash Price of This Vehicle Including Registration and Optional Extras Fitted is \$		Odometer Reading at Time of Sale km	

Part 2 (To be completed and delivered to the purchaser at or before the time of sale)

Purchaser's Full Name		
Purchaser's Address		
Trade-in (if any)		Trade-in Allowance
(Description)	(Registration No)	\$
Purchaser's Signature		
Name (print) and Signature of Dealer, Agent or Employee Effecting Sale		
The "New" Vehicle Price of This Vehicle (Including Registration, Delivery and/or Freight Charges and the Same Optional Extras) was \$_____ at the Date of First Registration.		

Motor Dealers Regulation 2004

Schedule 3 Forms

Part 3 (To be completed when vehicle offered or displayed for sale)

The information below has been checked with the Register of Encumbered Vehicles (REVS).

Note. REVS records do not include written off vehicles that were repaired and re-registered prior to 1 July 2003. For more information about what is recorded on the register, contact REVS.

THE VEHICLE IS/IS NOT LISTED ON REVS AS BEING, OR HAVING BEEN, A WRITTEN OFF OR WRECKED MOTOR VEHICLE.

(delete inapplicable words)

Part 4

WARRANTY	
⇒	20,000 kilometres after manufacture or 12 months less 1 month for each 2,000 kilometres that the vehicle has been driven before being sold by the dealer (whichever comes first).
⇒	If the vehicle has been driven for 15,000 kilometres or more at the time of sale a warranty of 3 months or 5,000 kilometres (whichever comes first) applies.
⇒	The dealer is required to repair or make good any defect in the vehicle at the time of sale or occurring within the warranty period so as to place the vehicle in a reasonable condition having regard to its age.
⇒	This warranty does not cover tyres and batteries, superficial damage to paintwork/upholstery, accidental damage occurring after the sale of the vehicle and defects arising from use for motor racing/rallying or driver misuse/negligence.
⇒	A person may not waive or vary this warranty without prior written consent of the Director-General of the Department of Commerce.
⇒	THE DEALER MUST BE GIVEN FIRST OPPORTUNITY TO ARRANGE WARRANTY REPAIRS

Motor Dealers Regulation 2004

Forms

Schedule 3

Form 11A Demonstrator vehicle notice—excluded defects

(Clauses 31 (1) (b) and (2) and 39 (b))

Motor Dealers Act 1974: sections 24 and 29

L _____
Register DetailsBook No
_____Entry No
_____**Part 1** (To be completed when vehicle offered or displayed for sale)

Dealer		Licence No	
Full Business Address of Dealer Where Vehicle Sold			
(No)		(Street)	(Suburb/Town/City)
Make of Vehicle		Engine No	
Model Designation		VIN or Chassis No	
Body Type		Date of Manufacture	
Registration No		Date of Sale	
The Cash Price of This Vehicle Including Registration and Optional Extras Fitted is \$		Odometer Reading at Time of Sale km	

Motor Dealers Regulation 2004

Schedule 3 Forms

Part 2 (To be completed and delivered to the purchaser at or before the time of sale)

Purchaser's Full Name			
Purchaser's address			
Serial No of Inspection Report (RTA)		Date of Issue of Report	
Trade-in (if any)	(Description)	(Registration No)	Trade-in Allowance \$
Purchaser's Signature			
Name (print) and Signature of Dealer, Agent or Employee Effecting Sale			
The "New" Vehicle Price of This Vehicle (Including Registration, Delivery and/or Freight Charges and the Same Optional Extras) was \$_____ at the Date of First Registration.			
The dealer must deliver to the purchaser an inspection report issued in accordance with the regulations under the <i>Road Transport (Vehicle Registration) Act 1997</i> , which has been issued not more than 90 days before the date of sale stating that the vehicle is roadworthy unless registration of the vehicle has been effected within one month before that date.			

Part 3 (To be completed when vehicle offered or displayed for sale)

The information below has been checked with the Register of Encumbered Vehicles (REVS).

Note. REVS records do not include written off vehicles that were repaired and re-registered prior to 1 July 2003. For more information about what is recorded on the register, contact REVS.

THE VEHICLE IS/IS NOT LISTED ON REVS AS BEING, OR HAVING BEEN, A WRITTEN OFF OR WRECKED MOTOR VEHICLE.

(delete inapplicable words)

Motor Dealers Regulation 2004

Forms

Schedule 3

Part 4

WARRANTY	
⇒	20,000 kilometres after manufacture or 12 months less 1 month for each 2,000 kilometres that the vehicle has been driven before being sold by the dealer (whichever comes first).
⇒	If the vehicle has been driven for 15,000 kilometres or more at the time of sale a warranty of 3 months or 5,000 kilometres (whichever comes first) applies.
⇒	The dealer is required to repair or make good any defect in the vehicle at the time of sale or occurring within the warranty period so as to place the vehicle in a reasonable condition having regard to its age.
⇒	This warranty does not cover tyres and batteries, superficial damage to paintwork/upholstery, accidental damage occurring after the sale of the vehicle and defects arising from use for motor racing/rallying or driver misuse/negligence.
⇒	A person may not waive or vary this warranty without prior written consent of the Director-General of the Department of Commerce.
⇒	THE DEALER MUST BE GIVEN FIRST OPPORTUNITY TO ARRANGE WARRANTY REPAIRS
WARRANTY EXCLUSIONS	
I ACKNOWLEDGE THAT THE DEFECTS SHOWN BELOW ARE EXCLUDED FROM THE WARRANTY PROVISIONS OF THE MOTOR DEALERS ACT 1974. (ANY ANNEXURES MUST ALSO BE SIGNED).	
Signature of Purchaser	

Motor Dealers Regulation 2004

Schedule 3 Forms

Excluded defects	Estimated fair cost of repairing or making good defects
NOTE: ROADWORTHINESS ITEMS MAY NOT BE EXCLUDED FROM WARRANTY	
Name (print) and Signature of Motor Mechanic	MVRIA Certificate No
<p>If there is insufficient space an annexure may be made to the notice provided that a reference is made to the annexure in this notice and the annexure is signed by the motor mechanic.</p> <p>The cost of repairs to the extent of the estimate shown for each defect is the responsibility of the purchaser. The dealer is only obliged to repair or make good unlisted defects, or pay the difference where the cost estimated by the dealer of repairing or making good a listed defect is less than the fair cost of repairing or making good that defect.</p>	

Motor Dealers Regulation 2004

Forms

Schedule 3

Form 13 Notice of damage—new and demonstrator motor vehicles

(Clause 32 (2))

Motor Dealers Act 1974: section 24 (7)

Register Details

Book No

Entry No

Part 1 (To be completed and delivered to the purchaser at or before the time of sale)

Dealer		Licence No	
Full Business Address of Dealer Where Vehicle Sold			
(No)		(Street)	(Suburb/Town/ City)
Make of Vehicle		Engine No	
Model Designation		VIN or Chassis No	
Body Type		Date of Manufacture	
Registration No		Date of Sale	

Motor Dealers Regulation 2004

Schedule 3 Forms

Part 2

THE FOLLOWING DAMAGE HAS BEEN CAUSED TO THE VEHICLE DESCRIBED IN THIS NOTICE
NATURE AND EXTENT OF DAMAGE
<p>NOTE The <i>Motor Dealers Act 1974</i> provides that the dealer must disclose:</p> <p>(a) damage caused by exposure to water (eg immersion in floodwater or exposure to salt water) that has caused damage by initiating corrosion or otherwise reducing the quality of the vehicle, or</p> <p>(b) accidental damage to the body or frame of the vehicle which has required:</p> <p style="padding-left: 20px;">(i) the replacement or repair of any of the panels, structural members or components of the vehicle by cutting and welding, by the application of heat or by any other means, or</p> <p style="padding-left: 20px;">(ii) repairs that are wholly effected by the replacement of not fewer than 4 major external panels fixed to the vehicle by means of bolts, screws or other fastening devices and the replacement or repair of fittings.</p>
Purchaser's Full Name
Purchaser's Address
Name (print) and Signature of Dealer, Agent or Employee Effecting Sale

Motor Dealers Regulation 2004

Forms

Schedule 3

Form 14 Sale notice for exempted motor vehicle sold without statutory warranty

(Clause 35)

Motor Dealers Act 1974: section 28

 Register Details

Book No

 Entry No

Part 1 (To be completed when vehicle offered or displayed for sale)

Dealer		Licence No	
Full Business Address of Dealer Where Vehicle Sold			
(No)		(Street)	(Suburb/ Town/City)
Make of Vehicle		Engine No	
Model Designation		VIN or Chassis No	
Date of Manufacture		Distance Travelled	km
Body Type		Date of Expiry of Registration and Date of Notice	
Cash Price \$		Registration No	

Motor Dealers Regulation 2004

Schedule 3 Forms

Part 2 (To be completed at or before time of sale)

Cash Price at Which Vehicle Sold \$	Odometer Reading at Time of Sale km		
Serial No of Inspection Report (RTA) (where applicable)	Date of Issue of Report		
Purchaser's Full Name			
Purchaser's Address			
Trade-in (if any)	(Description)	(Registration No)	Trade-in Allowance \$
Purchaser's Signature		Date of Sale	
Name (print) and Signature of Dealer, Agent or Employee Effecting Sale			

Unless this vehicle is unregistered or substantially demolished, the dealer must deliver to the purchaser an inspection report issued in accordance with the regulations under the *Road Transport (Vehicle Registration) Act 1997*, which has been issued not more than 90 days before the date of sale stating that the vehicle is roadworthy unless registration of the vehicle has been effected within one month before that date.

Part 3

<p>THERE IS NO WARRANTY UNDER THE MOTOR DEALERS ACT 1974 IN RESPECT OF THE SALE OF THIS VEHICLE. ACCORDINGLY THE DEALER IS NOT REQUIRED BY THE ACT TO REPAIR OR MAKE GOOD ANY DEFECT WHICH MAY EXIST OR OCCUR IN THIS VEHICLE.</p>

Motor Dealers Regulation 2004

Forms

Schedule 3

Form 18 Car market register and notice—title guaranteed

(Clauses 18 (1) (e) and 40 (1) (a))

Motor Dealers Act 1974: sections 21 and 29B

M _____

Date

TITLE GUARANTEED

<p>THIS VEHICLE IS SOLD WITHOUT STATUTORY WARRANTY UNDER THE MOTOR DEALERS ACT 1974. THE CAR MARKET OPERATOR GUARANTEES THE VENDOR HAS UNENCUMBERED TITLE TO THE VEHICLE.</p>
--

VEHICLE DETAILS	Registered No
Make	Engine No
Model	Odometer km
Body Type	Date of Manufacture
Certificate of Inspection No	Date of Issue

Motor Dealers Regulation 2004

Schedule 3 Forms

REGISTERED OWNER	
Name	
Address	
Expiry Date of Registration	
Source of Information	
Registration Papers	YES/NO*
Interim Receipt	YES/NO*
Other (specify)	

DETAILS OF DRIVER (when vehicle enters market)	
Name	
Address	
Licence No	
Expiry Date	
Driver's Signature	

* **NOTE:** Delete whichever is inapplicable

Motor Dealers Regulation 2004

Forms

Schedule 3

Form 19 Car market register and notice—title not guaranteed

(Clauses 18 (1) (f) and 40 (1) (b))

Motor Dealers Act 1974: sections 21 and 29B

M _____

Date
_____TITLE NOT
GUARANTEED

THIS VEHICLE IS SOLD WITHOUT STATUTORY WARRANTY UNDER THE MOTOR DEALERS ACT 1974. THE VENDOR'S TITLE TO THE VEHICLE IS NOT GUARANTEED BY THE CAR MARKET OPERATOR.

VEHICLE DETAILS	Registered No
Make	Engine No
Model	Odometer km
Body Type	Date of Manufacture
Certificate of Inspection No	Date of Issue

Motor Dealers Regulation 2004

Schedule 3 Forms

REGISTERED OWNER	
Name	
Address	
Expiry Date of Registration	
Source of Information	
Registration Papers	YES/NO*
Interim Receipt	YES/NO*
Other (specify)	

DETAILS OF DRIVER (when vehicle enters market)	
Name	
Address	
Licence No	
Expiry Date	
Driver's Signature	

* **NOTE:** Delete whichever is inapplicable

Motor Dealers Regulation 2004

Forms

Schedule 3

Form 20 Cooling off period rights

(Clause 41 (1))

Motor Dealers Act 1974: section 29CA (6)

Right to Cooling Off Period

[To be completed by the motor dealer]

Make and model of motor car:

Registration No:

If unregistered—engine number or chassis number or vehicle identification number or registration number (if any) last assigned to the vehicle, or, if none of those numbers are reasonably ascertainable, any other number by which the vehicle may be identified.

Dealer licence number:

Finance provider:

To the purchaser—your cooling off rights

Your right to a cooling off period

- 1 You are signing a contract to buy a vehicle. If finance for the purchase is being provided by the dealer or the dealer is arranging or facilitating the provision of credit through a linked credit provider, you may take advantage of a cooling off period. This is a period in which you may change your mind about buying the vehicle and terminate the contract. This does not apply to you if you are a trade owner or if this is an auction sale or if the vehicle is a commercial vehicle.

When you may terminate the contract

- 2 Under the *Motor Dealers Act 1974* you have the right to decide within one business day of signing the contract not to proceed with the purchase and to terminate the sale agreement. You may take this action up until the end of the cooling off period. The period ends at the end of the next business day after you sign the contract that the dealer is open for business until 5pm. If the dealer closes before 5pm on the next business day, the cooling off period ends at the close of business on the next day that the dealer is open for business.

How to terminate contract

- 3 You may terminate the contract by giving a written notice to the dealer. The notice may be signed by you or by your solicitor or barrister.

Your rights to possession of vehicle during cooling off period

- 4 You will not be able to take possession of the vehicle during the cooling off period unless the dealer agrees. If the dealer has agreed to let you take possession of the vehicle during the cooling off period, you may still terminate the contract.

Motor Dealers Regulation 2004

Schedule 3 Forms

Your obligations on termination of the contract

- 5 If you terminate the contract on or before the end of the cooling off period, you will have to pay the dealer \$250 or 2% of the purchase price, whichever is the lesser amount. You will also have to repay to the dealer any amount paid for a trade-in. You will also be required to return the vehicle if you have taken delivery of it.

The dealer’s obligations on termination of the contract

- 6 It will be an offence for the dealer to dispose of a vehicle traded-in as part of the sale during the cooling off period. When the contract is terminated the dealer must repay to you all other amounts paid by you (less the amounts you have to pay as referred to above). The dealer must also return any trade-in vehicle and must pay for any damage to that vehicle caused while in the dealer’s possession, other than fair wear and tear. If the trade-in vehicle is incapable of being driven or is unroadworthy because of a defect not caused by you or the dealer, the dealer must permit it to be collected by you.

Giving up your cooling off rights

- 7 You may give up your right to a cooling off period for this purchase by signing a waiver of the right, in the form required under the *Motor Dealers Act 1974*. If you sign the waiver, you will lose the right to terminate the contract during the cooling off period.

I acknowledge that I have read this document.

Purchaser:.....

Date:.....

[signature]

Motor Dealers Regulation 2004

Forms

Schedule 3

Form 21 Waiver of right to cooling off period

(Clause 41 (3))

Motor Dealers Act 1974: section 29CA

Loss of Right to Cooling Off Period

[To be completed by the motor dealer]

Make and model of motor car:

Registration No:

If unregistered—engine number or chassis number or vehicle identification number or registration number (if any) last assigned to the vehicle, or, if none of those numbers are reasonably ascertainable, any other number by which the vehicle may be identified.

Dealer licence number:

[To be completed by the purchaser]

- 1** I have agreed to buy this vehicle.
- 2** I know that the *Motor Dealers Act 1974* gives me the right to decide within one business day not to proceed with the purchase and to terminate the sale agreement. The reference to one business day means the next day that the dealer is open for business until 5pm. If the dealer closes before 5pm on the next business day, the cooling off period extends until the close of business on the next day that the dealer is open for business.
- 3** I waive the right to terminate the sale agreement under section 29CA of the *Motor Dealers Act 1974*.
- 4** I acknowledge that I know that if I sign this form, I WILL LOSE MY RIGHT TO TERMINATE THE SALE AGREEMENT.

Purchaser's signature.....

Date.....

[Copy to be given to customer and trader to retain copy]



New South Wales

Passenger Transport (General) Amendment (Licence Inspection) Regulation 2004

under the

Passenger Transport Act 1990

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Passenger Transport Act 1990*.

MICHAEL COSTA, M.L.C.,
Minister for Transport Services

Explanatory note

The object of this Regulation is to make it an offence, with a maximum penalty of 5 penalty units (currently \$550), for the driver of a public passenger vehicle (other than a ferry) to fail to produce his or her driver licence for inspection on demand by an authorised officer. This Regulation also removes redundant provisions as a consequence of the repeal of the *Justices Act 1902*.

This Regulation is made under the *Passenger Transport Act 1990*, including section 63 (the general regulation-making power).

Clause 1 Passenger Transport (General) Amendment (Licence Inspection)
 Regulation 2004

Passenger Transport (General) Amendment (Licence Inspection) Regulation 2004

under the

Passenger Transport Act 1990

1 Name of Regulation

This Regulation is the *Passenger Transport (General) Amendment (Licence Inspection) Regulation 2004*.

2 Commencement

This Regulation commences on 1 September 2004.

3 Amendment of Passenger Transport (General) Regulation 2000

The *Passenger Transport (General) Regulation 2000* is amended as set out in Schedule 1.

Passenger Transport (General) Amendment (Licence Inspection)
Regulation 2004

Amendments

Schedule 1

Schedule 1 Amendments

(Clause 3)

[1] Clause 11 Penalty notice offences

Omit “Column 4” from clause 11 (1) (b). Insert instead “Column 2”.

[2] Clause 12 Short descriptions

Omit the clause.

[3] Clause 14A

Insert after clause 14:

14A Driver to produce driver licence

- (1) The driver of a public passenger vehicle (other than a ferry) must not fail to produce his or her driver licence for inspection on demand made by an authorised officer.

Maximum penalty: 5 penalty units.

- (2) In this clause:

driver includes a person who:

- (a) is occupying the driver seat of a vehicle that is on a road or road related area, or
- (b) is otherwise apparently in charge of such a vehicle.

driver licence has the same meaning as it has in the *Road Transport (Driver Licensing) Act 1998*.

[4] Schedule 1

Omit the Schedule. Insert instead:

Schedule 1 Penalty notice offences

(Clause 11)

Column 1	Column 2
Provision	Penalty
Clause 8	\$150

Passenger Transport (General) Amendment (Licence Inspection)
Regulation 2004

Schedule 1 Amendments

Column 1	Column 2
Provision	Penalty
Clause 9	\$200
Clause 14A	\$200
Clause 16	\$200



Protection of the Environment Operations (Penalty Notices) Regulation 2004

under the

Protection of the Environment Operations Act 1997

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Protection of the Environment Operations Act 1997*.

BOB DEBUS, M.P.,
Minister for the Environment

Explanatory note

The object of this Regulation is to remake, with some modifications, the provisions of the *Protection of the Environment Operations (Penalty Notices) Regulation 1999*, which is due to be repealed on 1 September 2004 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation:

- (a) prescribes the offences for which penalty notices may be issued under Division 3 of Part 8.2 of the *Protection of the Environment Operations Act 1997*, and
- (b) specifies the persons who are authorised to issue penalty notices for those offences, and
- (c) specifies the penalties payable for those offences when dealt with by means of penalty notices, and
- (d) authorises the service of a penalty notice that relates to an offence by an owner of a vehicle or vessel on the owner by leaving the penalty notice on the vehicle or vessel concerned.

This Regulation relates to matters of a machinery nature.

This Regulation is made under the *Protection of the Environment Operations Act 1997*, including section 323 (the general regulation-making power) and sections 222, 224 (3), 226 (1), 227 and Schedule 2.

Protection of the Environment Operations (Penalty Notices) Regulation 2004

Contents

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Protection of the Environment Operations (Penalty Notices) Regulation
2004

Clause 1

Protection of the Environment Operations (Penalty Notices) Regulation 2004

under the

Protection of the Environment Operations Act 1997

1 Name of Regulation

This Regulation is the *Protection of the Environment Operations (Penalty Notices) Regulation 2004*.

2 Commencement

- (1) Except as provided by subclause (2), this Regulation commences on 1 September 2004.

Note. This Regulation replaces the *Protection of the Environment Operations (Penalty Notices) Regulation 1999*, which is repealed on 1 September 2004 by section 10 (2) of the *Subordinate Legislation Act 1989*.

- (2) The provisions of Schedule 1 to this Regulation that relate to clauses 19F, 19G and 19H of the *Protection of the Environment Operations (Clean Air) Regulation 2002* commence on 15 November 2004.

3 Definitions

- (1) In this Regulation:
penalty notice offence means an offence prescribed by clause 4.
the Act means the *Protection of the Environment Operations Act 1997*.
- (2) Notes in the text of this Regulation do not form part of this Regulation.

4 Penalty notice offences: section 222

- (1) Each offence created by a provision specified in Column 1 of Schedule 1 is prescribed as a penalty notice offence for the purposes of Division 3 of Part 8.2 of the Act.
- (2) If the reference to a provision in Column 1 of Schedule 1 is qualified by words that restrict its operation to specified kinds of offences or to offences committed in specified circumstances, an offence created by the provision is a prescribed offence only if it is an offence of a kind so specified or is committed in the circumstances so specified.

Clause 5 Protection of the Environment Operations (Penalty Notices) Regulation
2004

5 Enforcement officers: section 226

- (1) Officers or employees of a class specified in Column 2 of Schedule 1 are, subject to this clause and section 226 of the Act, prescribed as enforcement officers in relation to the penalty notice offences concerned.
- (2) Any such officer or employee of an organisation (being a local authority, Department, statutory authority or university that is referred to in subclause (6)) is an enforcement officer only if the organisation has duly authorised that officer or employee to exercise the functions of an enforcement officer under Division 3 of Part 8.2 of the Act.
- (3) An officer or employee of a local council is an enforcement officer in respect of another local council only if that other local council has also duly authorised that officer or employee to exercise the functions of an enforcement officer under Division 3 of Part 8.2 of the Act.
- (4) An officer or employee is not an enforcement officer in relation to a penalty notice offence alleged to have been committed by:
 - (a) the organisation that has authorised the officer or employee as an enforcement officer, or
 - (b) an officer or employee of that organisation.
- (5) A number included in Column 2 of Schedule 1 is a reference to an officer or employee of a class identified by that number.
- (6) The classes of officers or employees in Schedule 1 are as follows:
 - (a) class 1—an officer or employee of:
 - (i) a local authority, or
 - (ii) the Department of Environment and Conservation in relation to a penalty notice offence alleged to have been committed in Kosciuszko National Park,
 - (b) class 2—an officer or employee of the Department of Environment and Conservation,
 - (c) class 2A—an officer or employee of the Department of Environment and Conservation who is employed within a group of staff that is designated by the Director-General of the Department as comprising EPA regulatory staff,
 - (d) class 3—an officer or employee of a Port Corporation within the meaning of the *Ports Corporatisation and Waterways Management Act 1995*,
 - (e) class 4—a police officer,

-
- (f) class 5—an officer or employee of the Sydney Water Corporation, the Hunter Water Corporation or a water supply authority within the meaning of the *Water Management Act 2000* (other than a water supply authority that is also a local council),
 - (g) class 6—an officer or employee of the Department of Primary Industries,
 - (h) class 7—an officer or employee of the Sydney Harbour Foreshore Authority,
 - (i) class 8—an officer or employee of:
 - (i) the Department of Tourism, Sport and Recreation in relation to a penalty notice offence alleged to have been committed on land vested in the Centennial Park and Moore Park Trust or in the Parramatta Park Trust, or
 - (ii) the Parramatta Stadium Trust,
 - (j) class 9—an officer or employee of an Australian university within the meaning of the *Higher Education Act 2001*,
 - (k) class 10—an officer or employee of the Sydney Olympic Park Authority,
 - (l) class 11—an officer or employee who is a marine park ranger within the meaning of the *Marine Parks Act 1997*,
 - (m) class 12—an officer or employee of the Sydney Catchment Authority,
 - (n) class 13—an officer or employee of the Waterways Authority.
- (7) A reference in this clause to an officer or employee of an organisation includes a reference to a person who:
- (a) is an officer or employee of a body corporate (whether or not the body corporate is a public authority), and
 - (b) acts under the direction and control of the organisation in the provision of services that are the subject of an arrangement between the body corporate and the organisation.

6 Amounts of penalty payable: section 227

The prescribed penalty payable under a penalty notice in respect of a penalty notice offence is:

- (a) the amount specified in Column 3 of Schedule 1, or
- (b) if the person alleged to have committed the offence is a corporation, and if a greater amount is specified in Column 4 of Schedule 1, the amount specified in Column 4 of Schedule 1.

Clause 7 Protection of the Environment Operations (Penalty Notices) Regulation
2004

7 Service of penalty notices on owners of vehicles or vessels: section 224 (3)

- (1) This clause applies to offences under the Act or the regulations that apply specifically to the owner of a vehicle or vessel.
- (2) A penalty notice may, if it relates to an offence to which this clause applies, be served by leaving it on, or attaching it to, the vehicle or vessel.
- (3) A penalty notice may, if it relates to an offence to which this clause applies, be addressed to the owner of a vehicle or vessel without naming the owner or stating his or her address.

8 Saving arising on repeal of former regulation

Any act, matter or thing that, immediately before the repeal of the *Protection of the Environment Operations (Penalty Notices) Regulation 1999*, had effect under that Regulation continues to have effect under this Regulation.

Protection of the Environment Operations (Penalty Notices) Regulation
2004

Penalty notice offences

Schedule 1

Schedule 1 Penalty notice offences

(Clauses 4–7)

Clean Air (Plant and Equipment) Regulation 1997

Column 1	Column 2	Column 3
Provision of Regulation	Officer	Penalty
Clause 8 (1)	2A	\$600
Clause 8 (2)	2A	\$600
Clause 20A (1)	2A	\$600
Clause 20A (2)	2A	\$600
Clause 24 (2)	2A	\$600
Clause 25 (2)	2A	\$600
Clause 25 (3)	2A	\$600
Clause 25 (4)	2A	\$600

Ozone Protection Act 1989

Column 1	Column 2	Column 3
Provision of Act	Officer	Penalty
Section 14 (3)	2A	\$300

Ozone Protection Regulation 1997

Column 1	Column 2	Column 3
Provision of Regulation	Officer	Penalty
Clause 9 (1)	2A	\$300
Clause 9 (5)	2A	\$300
Clause 10 (1)	2A	\$300
Clause 10 (2)	2A	\$300
Clause 12 (1)	2A	\$300
Clause 12 (5)	2A	\$300
Clause 22	2A	\$300
Clause 24 (1)	2A	\$300

Protection of the Environment Operations (Penalty Notices) Regulation
2004

Schedule 1 Penalty notice offences

Column 1	Column 2	Column 3
Provision of Regulation	Officer	Penalty
Clause 25 (1)	2A	\$300
Clause 31 (1)	2A	\$300
Clause 39 (1) (a)	2A	\$300
Clause 39 (1) (b)	2A	\$300
Clause 40 (1)	2A	\$300

Protection of the Environment Operations Act 1997

Column 1	Column 2	Column 3	Column 4
Provision of the Act	Officer	Penalty (individuals)	Penalty (corporations)
Section 47	2A	\$750	\$1500
Section 48	2A	\$750	\$1500
Section 49	2A	\$750	\$1500
Section 64	2A	\$750	\$1500
Section 66 (2)	2A	\$750	\$1500
Section 66 (4)	2A	\$750	\$1500
Section 86	2A	\$750	\$1500
Section 88	2A	\$750	\$1500
Section 91	1, 2, 11, 12, 13	\$750	\$1500
Section 94	1, 2, 11, 12, 13	\$500	\$1000
Section 97	1, 2, 11, 12, 13	\$750	\$1500
Section 100	1, 2, 11, 12, 13	\$500	\$1000
Section 120	1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13	\$750	\$1500
Section 124	1, 2, 13	\$750	\$1500
Section 125	1, 2, 13	\$750	\$1500
Section 126	1, 2, 13	\$750	\$1500
Section 128	1, 2, 13	\$750	\$1500
Section 129	2A	\$750	\$1500
Section 135	1, 2	\$200	\$400

Protection of the Environment Operations (Penalty Notices) Regulation
2004

Penalty notice offences

Schedule 1

Column 1	Column 2	Column 3	Column 4
Provision of the Act	Officer	Penalty (individuals)	Penalty (corporations)
Section 136: Sell article of prescribed class (other than a motor vehicle horn or motor vehicle intruder alarm) if, when in use or operation, the article emits noise that, when measured at any point specified in or determined in accordance with the regulations, is in excess of the level prescribed in respect of the class to which it belongs by less than 5dB(A).	2A	\$200	\$400
Section 136: Sell article of prescribed class (other than a motor vehicle horn or motor vehicle intruder alarm) if, when in use or operation, the article emits noise that, when measured at any point specified in or determined in accordance with the regulations, is in excess of the level prescribed in respect of the class to which it belongs by 5dB(A) or more.	2A	\$400	\$800
Section 136: Sell article of prescribed class (being a motor vehicle horn or a motor vehicle intruder alarm) if, when in use or operation, the article emits noise that, when measured at any point specified in or determined in accordance with the regulations, is in excess of the level prescribed in respect of the class to which it belongs.	2A	\$300	\$600
Section 137	1, 2	\$200	\$400
Section 139	1, 2, 13	\$200	\$400
Section 140	1, 2, 13	\$200	\$400

Protection of the Environment Operations (Penalty Notices) Regulation
2004

Schedule 1 Penalty notice offences

Column 1	Column 2	Column 3	Column 4
Provision of the Act	Officer	Penalty (individuals)	Penalty (corporations)
Section 143: Transport waste, being waste comprising asbestos waste or hazardous waste (within the meaning of Schedule 1 to the Act), or any other waste greater than 1 cubic metre in volume or 2 tonnes in weight, to a place that cannot lawfully be used as a waste facility for that waste.	1, 2, 4, 12	\$1500	\$5000
Section 143: Transport waste to a place that cannot lawfully be used as a waste facility for that waste.	1, 2, 4, 12	\$750	\$1500
Section 144	1, 2, 4, 12	\$1500	\$5000
Section 145: Deposit litter, being a small item including confectionary wrapper, cigarette packet, ATM statement, or bus or train ticket (excluding cigarette, and excluding litter deposited from vehicle).	1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13	\$60	—
Section 145: Deposit litter (excluding cigarette, and excluding litter deposited from vehicle).	1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13	\$200	\$400
Section 145: Deposit litter, being unlit or extinguished cigarette (excluding litter deposited from vehicle).	1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13	\$60	—
Section 145: Deposit litter, being lit cigarette (excluding litter deposited from vehicle).	1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13	\$200	—
Section 145: Deposit litter from vehicle.	1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13	\$200	\$400

Protection of the Environment Operations (Penalty Notices) Regulation
2004

Penalty notice offences

Schedule 1

Column 1	Column 2	Column 3	Column 4
Provision of the Act	Officer	Penalty (individuals)	Penalty (corporations)
Section 145A: Deposit litter (for example, lit cigarette) in dangerous circumstances, including deposit of syringe.	1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13	\$375	\$750
Section 146A	1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13	\$200	\$400
Section 146B	1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13	\$200	\$400
Section 146C	1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13	\$200	\$400
Section 146E (1)	1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13	\$200	\$400
Section 146E (2)	1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13	\$200	\$400
Section 146E (3)	1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13	\$375	\$750
Section 152	1, 2	\$750	\$1500
Section 155	2A	\$750	\$1500
Section 156	2A	\$750	\$1500
Section 157 (1)	2A	\$750	\$1500
Section 157 (2)	2A	\$750	\$1500
Section 161 (4)	2A	\$300	\$600
Section 161 (7)	2A	\$300	\$600
Section 167	1, 2	\$750	\$1500
Section 211 (1)	1, 2, 3, 4, 12, 13	\$500	\$1000
Section 211 (2)	1, 2, 3, 4, 12, 13	\$500	\$1000
Section 265	1, 2, 3, 13	\$200	\$400
Section 277 (1) (a)	1, 2, 3, 4, 7, 13	\$200	\$400
Section 277 (1) (b)	1, 2, 3, 4, 7, 13	\$200	\$400
Section 277 (2) (a)	1, 2, 3, 4, 7, 13	\$200	\$400
Section 277 (2) (b)	1, 2, 3, 4, 7, 13	\$200	\$400

Protection of the Environment Operations (Penalty Notices) Regulation
2004

Schedule 1 Penalty notice offences

Protection of the Environment Operations (Clean Air) Regulation 2002

Column 1	Column 2	Column 3	Column 4
Provision of Regulation	Officer	Penalty for individuals (and corporations where no penalty in Column 4)	Penalty for corporations
Clause 9 (1)	2A	\$200	\$400
Clause 15 (1): in relation to a failure to have a vertical exhaust pipe fitted so that the exhaust vent is directed away from the nearside of the vehicle.	2A	\$200	
Clause 15 (1): in any other case.	2A	\$300	
Clause 16 (1)	2A	\$300	
Clause 17 (1)	2A	\$300	
Clause 19 (2)	2A	\$300	
Clause 19 (3)	2A	\$300	
Clause 19B (2)	2A	\$300	\$600
Clause 19C (1)	2A	\$300	\$600
Clause 19F (1)	2A	\$750	\$1500
Clause 19F (2)	2A	\$750	\$1500
Clause 19G (1)	2A	\$300	\$600
Clause 19H (1)	2A	\$300	\$600

Protection of the Environment Operations (Control of Burning) Regulation 2000

Column 1	Column 2	Column 3	Column 4
Provision of Regulation	Officer	Penalty (individuals)	Penalty (corporations)
Clause 5 (1)	1, 2	\$500	\$1000

Protection of the Environment Operations (Penalty Notices) Regulation
2004

Penalty notice offences

Schedule 1

Column 1	Column 2	Column 3	Column 4
Provision of Regulation	Officer	Penalty (individuals)	Penalty (corporations)
Clause 6 (1)	1, 2	\$500	\$1000
Clause 7 (1)	1, 2	\$500	\$1000
Clause 7 (2)	1, 2	\$500	\$1000
Clause 7 (3)	1, 2	\$500	\$1000

Protection of the Environment Operations (General) Regulation 1998

Column 1	Column 2	Column 3	Column 4
Provision of Regulation	Officer	Penalty for individuals (and corporations where no penalty in Column 4)	Penalty for corporations
Clause 47 (1)	2A	\$1500	
Clause 51 (1)	2A	\$500	
Clause 57D (2) (a)	2A	\$500	\$1000
Clause 57D (2) (b)	2A	\$500	\$1000
Clause 57E (1)	2A	\$500	\$1000
Clause 57E (2)	2A	\$500	\$1000
Clause 57M	2A	\$750	\$1500
Clause 57N (4)	2A	\$750	\$1500
Clause 57P (1)	2A	\$750	\$1500

Protection of the Environment Operations (Hunter River Salinity Trading Scheme) Regulation 2002

Column 1	Column 2	Column 3	Column 4
Provision of Regulation	Officer	Penalty (individuals)	Penalty (corporations)
Clause 61	2A	\$750	\$1500

Protection of the Environment Operations (Penalty Notices) Regulation
2004

Schedule 1 Penalty notice offences

Protection of the Environment Operations (Noise Control) Regulation 2000

Column 1	Column 2	Column 3	Column 4
Provision of Regulation	Officer	Penalty (individuals)	Penalty (corporations)
Clause 6 (1)	2A	\$300	\$600
Clause 11	2A	\$300	\$600
Clause 12 (1)	2A	\$300	\$600
Clause 13 (1): Cause or permit use of vehicle capable of emitting noise exceeding maximum level by up to 5 dB(A).	2A	\$150	\$300
Clause 13 (1): Cause or permit use of vehicle capable of emitting noise exceeding maximum level by between 5 and 15 dB(A).	2A	\$250	\$500
Clause 13 (1): Cause or permit use of vehicle capable of emitting noise exceeding maximum level by more than 15 dB(A).	2A	\$500	\$1000
Clause 14	1, 2, 4	\$200	\$400
Clause 15 (1)	1, 2, 4	\$200	\$400
Clause 16 (1)	1, 2, 4	\$200	\$400
Clause 17	1, 2, 4	\$150	\$300
Clause 17A (1)	2, 4	\$150	
Clause 18 (1)	2, 4	\$200	\$400
Clause 18 (2) (a)	2, 4	\$200	\$400
Clause 18 (2) (b)	2, 4	\$200	\$400
Clause 19 (1)	2, 4	\$200	\$400
Clause 20	2A	\$200	\$400
Clause 21 (1) (a)	2A	\$200	\$400
Clause 21 (1) (b)	2A	\$200	\$400
Clause 21 (2) (a)	2A	\$200	\$400
Clause 21 (2) (b)	2A	\$200	\$400
Clause 23	1, 2, 4	\$200	\$400

Protection of the Environment Operations (Penalty Notices) Regulation
2004

Penalty notice offences

Schedule 1

Column 1	Column 2	Column 3	Column 4
Provision of Regulation	Officer	Penalty (individuals)	Penalty (corporations)
Clause 24 (1): Cause or permit use of noisy alarm (for up to 24 hours).	1, 2, 4, 7	\$200	\$400
Clause 24 (1): Cause or permit use of noisy alarm (for more than 24 hours and up to 48 hours).	1, 2, 4, 7	\$400	\$800
Clause 24 (1): Cause or permit use of noisy alarm (for more than 48 hours).	1, 2, 4, 7	\$600	\$1200
Clause 25 (1)	2A	\$200	\$400
Clause 26 (5)	2, 4	\$300	\$600
Clause 27 (4)	2, 4	\$300	\$600
Clause 27 (5)	2, 4	\$300	\$600
Clause 29	1, 3, 4, 13	\$200	\$400
Clause 30	1, 3, 4, 13	\$300	\$600
Clause 31 (1)	3, 4, 13	\$200	\$400
Clause 31 (2) (a)	3, 4, 13	\$200	\$400
Clause 31 (2) (b)	3, 4, 13	\$200	\$400
Clause 32 (1)	1, 3, 4, 13	\$300	\$600
Clause 33 (5)	3, 4, 13	\$300	\$600
Clause 34 (4)	3, 4, 13	\$300	\$600
Clause 34 (5)	3, 4, 13	\$300	\$600
Clause 50 (1)	1, 4	\$200	\$400
Clause 51 (1)	1, 4	\$200	\$400
Clause 52 (1)	1, 4	\$200	\$400
Clause 53 (1): Cause or permit use of noisy intruder alarm (for up to 24 hours).	1, 2, 4	\$200	\$400
Clause 53 (1): Cause or permit use of noisy intruder alarm (for more than 24 hours and up to 48 hours).	1, 2, 4	\$400	\$800
Clause 53 (1): Cause or permit use of noisy intruder alarm (for more than 48 hours).	1, 2, 4	\$600	\$1200

Protection of the Environment Operations (Penalty Notices) Regulation
2004

Schedule 1 Penalty notice offences

Protection of the Environment Operations (Waste) Regulation 1996

Column 1	Column 2	Column 3
Provision of Regulation	Officer	Penalty
Clause 15 (3)	2A	\$500
Clause 15 (4)	2A	\$500
Clause 15 (5)	2A	\$500
Clause 16 (2) (a)	1, 2	\$500
Clause 16 (2) (b)	1, 2	\$500
Clause 16 (2) (c)	1, 2	\$500
Clause 16 (2) (d) (i)	1, 2	\$500
Clause 16 (2) (d) (ii)	1, 2	\$500
Clause 16 (2) (e) (i)	1, 2	\$500
Clause 16 (2) (e) (ii)	1, 2	\$500
Clause 16 (2) (e) (iii)	1, 2	\$500
Clause 16 (2) (f)	1, 2	\$500
Clause 16 (2) (h)	1, 2	\$500
Clause 16 (2) (i)	1, 2	\$500
Clause 16 (2) (j)	1, 2	\$500
Clause 16 (4) (a) (i)	1, 2	\$500
Clause 16 (4) (a) (ii)	1, 2	\$500
Clause 16 (4) (a) (iii)	1, 2	\$500
Clause 16 (4) (b) (i)	1, 2	\$500
Clause 16 (4) (b) (ii)	1, 2	\$500
Clause 16 (4) (b) (iii)	1, 2	\$500
Clause 16 (4) (b) (iv)	1, 2	\$500
Clause 17 (2) (a) (i)	1, 2	\$500
Clause 17 (2) (a) (ii)	1, 2	\$500
Clause 17 (2) (b)	1, 2	\$500
Clause 17 (2) (c)	1, 2	\$500
Clause 17 (2) (d)	1, 2	\$500
Clause 17 (2) (e)	1, 2	\$500

Protection of the Environment Operations (Penalty Notices) Regulation
2004

Penalty notice offences

Schedule 1

Column 1	Column 2	Column 3
Provision of Regulation	Officer	Penalty
Clause 17 (2) (f)	1, 2	\$500
Clause 17 (2) (g) (i)	1, 2	\$500
Clause 17 (2) (g) (ii)	1, 2	\$500
Clause 17 (2) (g) (iii)	1, 2	\$500
Clause 17 (2) (g) (iv)	1, 2	\$500
Clause 17 (2) (g) (v)	1, 2	\$500
Clause 17 (2) (h)	1, 2	\$500
Clause 17 (2) (i)	1, 2	\$500
Clause 17 (2) (j)	1, 2	\$500
Clause 17 (2) (k)	1, 2	\$500
Clause 21 (2)	2A	\$500
Clause 21 (3) (a) (i)	2A	\$500
Clause 21 (3) (a) (ii)	2A	\$500
Clause 21 (3) (b)	2A	\$500
Clause 22 (4) (a)	2A	\$500
Clause 22 (4) (b)	2A	\$500
Clause 22 (4) (c)	2A	\$500
Clause 22 (4) (d) (i)	2A	\$500
Clause 22 (4) (d) (ii)	2A	\$500
Clause 22 (4) (e)	2A	\$500
Clause 23 (1)	2A	\$500
Clause 23 (2)	2A	\$500
Clause 23 (3) (a)	2A	\$500
Clause 23 (3) (b)	2A	\$500
Clause 23A	2A	\$500
Clause 24 (1) (a)	2A	\$500
Clause 24 (1) (b)	2A	\$500
Clause 24 (1A) (a)	2A	\$500
Clause 24 (1A) (b)	2A	\$500

Protection of the Environment Operations (Penalty Notices) Regulation
2004

Schedule 1 Penalty notice offences

Column 1	Column 2	Column 3
Provision of Regulation	Officer	Penalty
Clause 25 (1)	2A	\$500
Clause 25 (2) (a)	2A	\$500
Clause 25 (2) (a1)	2A	\$500
Clause 25 (2) (b)	2A	\$500
Clause 25 (2) (c)	2A	\$500
Clause 25 (2) (d)	2A	\$500
Clause 25 (2) (d1)	2A	\$500
Clause 25 (2) (e)	2A	\$500
Clause 25 (2) (f)	2A	\$500
Clause 25 (2) (g)	2A	\$500
Clause 26 (2) (a)	2A	\$500
Clause 26 (2) (b)	2A	\$500
Clause 26 (2) (c)	2A	\$500
Clause 27	2A	\$500
Clause 28 (11)	2A	\$500
Clause 29 (2)	1, 2	\$500
Clause 29 (6)	1, 2	\$500
Clause 30 (a)	1, 2	\$500
Clause 30 (b)	1, 2	\$500
Clause 30 (c)	1, 2	\$500
Clause 30 (d)	1, 2	\$500
Clause 30 (e)	1, 2	\$500
Clause 30 (f)	1, 2	\$500
Clause 30 (g)	1, 2	\$500



Registration of Interests in Goods Regulation 2004

under the

Registration of Interests in Goods Act 1986

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Registration of Interests in Goods Act 1986*.

REBA PAIGE MEAGHER, M.P.,
Minister for Fair Trading

Explanatory note

The object of this Regulation is to remake the *Registration of Interests in Goods Regulation 1999*, which is to be repealed on 1 September 2004 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation:

- (a) provides for the registration of boats under the *Registration of Interests in Goods Act 1986 (the Act)* (the Act provides for the registration of interests in motor vehicles and other prescribed goods), and
- (b) prescribes certain matters for the purposes of the registration scheme, such as the particulars to be provided in an application for registration of a registrable interest in a motor vehicle or boat, the particulars to be recorded in the Register, and information to be provided in search certificates, and
- (c) prescribes the fees to be paid in connection with applications and other things done in connection with the Act, and
- (d) makes provision for the participation of the Australian Capital Territory, Queensland, the Northern Territory, South Australia and Victoria in that part of the registration scheme that deals with the registration of interests in motor vehicles.

Registration of Interests in Goods Regulation 2004

Explanatory note

This Regulation is made under the *Registration of Interests in Goods Act 1986*, including sections 3 (1), 5 (1A) (b) and (c), 5 (2), 5 (3), 6 (2) and (3), 6 (6) (b), 7 (2) (b), 8 (1) (c), 8 (6), 8 (9), 12 (1) (a), 12 (2) (b), 13 (1) (c), 14 (1) and (2), 15 (2) (b), 19A and 21 (the general regulation-making power).

Registration of Interests in Goods Regulation 2004

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Registration of Interests in Goods Regulation 2004

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Registration of Interests in Goods Regulation 2004

Clause 1

Preliminary

Part 1

Registration of Interests in Goods Regulation 2004

under the

Registration of Interests in Goods Act 1986

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Registration of Interests in Goods Regulation 2004*.

2 Commencement

This Regulation commences on 1 September 2004.

Note. This Regulation replaces the *Registration of Interests in Goods Regulation 1999* which is repealed on 1 September 2004 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

account customer means a person who has an arrangement, approved by the Director-General, to pay fees incurred by the person under the Act or this Regulation on a monthly basis or on such other basis as the Director-General may approve.

account number means the number allocated by the Director-General to the account of an account customer.

boat means a **registrable vessel** within the meaning of the *Water Traffic Regulations—N.S.W.* that is registered under those Regulations.

creditor's reference number means a number (comprising letters or numbers or both), in such format as the Director-General may approve for the purpose, assigned by a creditor to identify a registrable interest in prescribed goods.

Director-General has the same meaning as in the Act.

Note. Clause 32 (4) of the *Public Sector Employment and Management (General) Order 2003* provides that a reference to the Director-General of the

Clause 3	Registration of Interests in Goods Regulation 2004
Part 1	Preliminary

Department of Fair Trading, being a reference in or in relation to legislation administered by the Minister for Fair Trading, is to be construed as a reference to the Commissioner for Fair Trading, Department of Commerce.

NEVDIS database means the National Exchange of Vehicle and Driver Information database operated by Austroads.

on-line connection means a connection to the Register provided by or through the facilities of a computer communication system and accessed through a telecommunications network that allows for:

- (a) the input, output or examination of computer data or computer programs, or
- (b) the transmission of computer data from one computer to another,

but does not include email.

the Act or the Principal Act means the *Registration of Interests in Goods Act 1986*.

- (2) Notes included in this Regulation do not form part of this Regulation.

Registration of Interests in Goods Regulation 2004

Clause 4

Registration and disclosure of interests

Part 2

Part 2 Registration and disclosure of interests

Division 1 Registration and disclosure of interests in motor vehicles

4 Definitions

In this Division:

registration number includes a temporary identification number assigned to a motor vehicle by an unregistered vehicle permit issued in respect of the motor vehicle under the *Road Transport (Vehicle Registration) Act 1997* or similar legislation of a participating State.

vehicle identification number, in relation to a motor vehicle, means the number allocated to the vehicle in accordance with the requirements of the Australian Design Rules under the *Motor Vehicle Standards Act 1989* of the Commonwealth.

5 Prime identifier for motor vehicles

For the purposes of the Act, the **prime identifier** for a motor vehicle is:

- (a) the chassis number (if the vehicle was manufactured before 1 January 1989), or
- (b) the vehicle identification number (if the vehicle was manufactured on or after 1 January 1989).

6 Prescribed information relating to motor vehicles

- (1) For the purposes of section 5 (1A) (b) of the Act, the following information is prescribed information in relation to a registrable interest in a motor vehicle:

Note. Section 5 (1A) (b) of the Act requires an application to specify the prime identifier of the goods in addition to the prescribed information.

- (a) as to the motor vehicle:
 - (i) the motor vehicle type,
 - (ii) the motor vehicle make,
 - (iii) the body type of the motor vehicle,
 - (iv) the registration number of the motor vehicle (if applicable),
 - (v) the State or Territory of registration of the motor vehicle (if applicable),

Clause 6 Registration of Interests in Goods Regulation 2004

Part 2 Registration and disclosure of interests

- (vi) the engine number of the motor vehicle (if applicable),
- (vii) the year of manufacture of the motor vehicle,
- (b) as to the registrable interest:
 - (i) the name and address of the person applying to be registered as the creditor who has the interest,
 - (ii) the creditor's reference number for the interest,
 - (iii) the type of interest,
 - (iv) the date on which the interest will cease to be a registrable interest,
 - (v) in the case of an application by an account customer—the account customer's account number.
- (2) For the purposes of section 5 (2) of the Act, the information set out in subclause (1), together with the time and date of recording the registrable interest in the Register, is prescribed information in relation to a registrable interest in a motor vehicle.
- (3) For the purposes of section 5 (3) of the Act, the following information is prescribed information in relation to motor vehicles:
 - (a) information received from the Roads and Traffic Authority in relation to a motor vehicle whose registration has been cancelled under section 67 of the *Fines Act 1996*,
 - (b) information received from the Roads and Traffic Authority in relation to a motor vehicle whose registration is subject to an exemption under the *Road Transport (Vehicle Registration) Act 1997*,
 - (c) information received from the Roads and Traffic Authority in relation to the odometer reading of a motor vehicle,
 - (d) information received by the Director-General that the odometer of a motor vehicle has been interfered with so that the reading of the odometer is incorrect,
 - (e) information received from a participating State in relation to a cancellation similar to that referred to in paragraph (a), or an exemption or concession similar to that referred to in paragraph (b), effected or given under a law of the participating State,
 - (f) information recorded in the NEVDIS database in relation to a motor vehicle,

Registration of Interests in Goods Regulation 2004

Clause 7

Registration and disclosure of interests

Part 2

- (g) information received by the Director-General that a motor vehicle belongs to a class of motor vehicles whose physical or mechanical state has a common fault, being information that, in the opinion of the Director-General, should be drawn to a prospective purchaser's attention,
- (h) information received by the Director-General in relation to an interest in a motor vehicle, if that information is recorded in a register kept in accordance with a law of a State (whether or not a participating State) that provides for the registration of interests in goods that arise under the law of that State,
- (i) information received from the Roads and Traffic Authority in relation to motor vehicles that are wrecked or written off (as defined in Division 3 of Part 4 of the *Road Transport (General) Act 1999*),
- (j) information received from the Roads and Traffic Authority in relation to motor vehicles that are or will be required to be presented for inspection or examination (either by the Authority or police) owing to known or suspected irregularity or other doubt concerning their prime identifiers,
- (k) information received from the Commissioner of Police in relation to motor vehicles reported to the Commissioner as having been stolen or otherwise unlawfully obtained.

7 Particulars in search certificates relating to motor vehicles

- (1) For the purposes of section 8 (1) (c) of the Act, the prescribed particulars to be included in a certificate under that section in relation to a motor vehicle (other than a certificate contained in an account customer's statement of account) are as follows:
 - (a) as to the motor vehicle:
 - (i) the motor vehicle type,
 - (ii) the motor vehicle make,
 - (iii) the body type of the motor vehicle,
 - (iv) the registration number of the motor vehicle (if applicable),
 - (v) the engine number of the motor vehicle (if applicable),
 - (vi) the prime identifier for the motor vehicle,
 - (vii) the year of manufacture of the motor vehicle,
 - (b) as to each interest registered in relation to the motor vehicle:
 - (i) the creditor's reference number for the interest,

Clause 8 Registration of Interests in Goods Regulation 2004

Part 2 Registration and disclosure of interests

-
- (ii) the date on which the interest was registered,
 - (iii) the name and address of the creditor who has the interest,
 - (iv) the type of interest.
- (2) For the purposes of section 8 (1) (c) of the Act, the prescribed particulars to be included in a certificate under that section in relation to a motor vehicle (being a certificate contained in an account customer's statement of account) are as follows:
- (a) the motor vehicle type,
 - (b) the registration number of the motor vehicle (if applicable),
 - (c) the engine number of the motor vehicle (if applicable),
 - (d) the prime identifier for the motor vehicle.

Division 2 Registration and disclosure of interests in boats

8 Definitions

In this Division:

dealer in relation to a boat, means a person prescribed by clause 9.

hull identification number has the same meaning as in the *Water Traffic Regulations—N.S.W.*

official number of a boat registered under the *Shipping Registration Act 1981* of the Commonwealth means the number by which the boat is identified in the Australian Register of Ships kept under that Act.

registration number means the number endorsed on the certificate of registration of a boat issued under the *Water Traffic Regulations—N.S.W.*

9 Dealer in boats

- (1) For the purposes of paragraph (b) of the definition of **dealer** in section 3 (1) of the Act, a person who, in the course of carrying on business, sells, exchanges or acts as an agent for the selling or exchanging of boats (but who is not a financier) is prescribed as a dealer in boats.

Registration of Interests in Goods Regulation 2004

Clause 10

Registration and disclosure of interests

Part 2

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- (2) In this clause, *financier* has the same meaning as in the definition of that term in section 4 (1) of the *Motor Dealers Act 1974* except that references in that definition to motor vehicles are to be read as if they were references to boats.

10 Prescribed goods—boats

For the purposes of paragraph (b) of the definition of *prescribed goods* in section 3 (1) of the Act, a boat is prescribed goods.

11 Prime identifier for boats

For the purposes of the Act, the *prime identifier* for a boat is the hull identification number.

12 Prescribed information relating to boats

- (1) For the purposes of section 5 (1A) (b) of the Act, the following information is prescribed information in relation to a registrable interest in a boat:

Note. Section 5 (1A) (b) of the Act requires an application to specify the prime identifier of the goods in addition to the prescribed information.

- (a) as to the boat:
- (i) the hull manufacturer,
 - (ii) the year of manufacture of the hull,
 - (iii) the registration number of the boat,
 - (iv) the official number (if applicable),
 - (v) the length of the boat (expressed in metres),
 - (vi) the make of the engine or engines (if applicable),
 - (vii) the engine number or numbers (if applicable),
- (b) as to the registrable interest:
- (i) the name and address of the person applying to be registered as the creditor who has the interest,
 - (ii) the creditor's reference number for the interest,
 - (iii) the type of interest,
 - (iv) the date on which the interest will cease to be a registrable interest,
 - (v) in the case of an application by an account customer—the account customer's account number.

Clause 13 Registration of Interests in Goods Regulation 2004

Part 2 Registration and disclosure of interests

- (2) For the purposes of section 5 (2) of the Act, the information set out in subclause (1), together with the time and date of recording the registrable interest in the Register, is prescribed information in relation to a registrable interest in a boat.
- (3) For the purposes of section 5 (3) of the Act, the following information is prescribed information in relation to boats:
 - (a) information of a kind referred to in subclause (1) received from a creditor or the agent of a creditor in relation to a boat,
 - (b) information received from the Commissioner of Police in relation to a boat reported to the Commissioner as having been stolen or otherwise unlawfully obtained,
 - (c) information relating to mortgages over boats recorded in the Australian Register of Ships kept under the *Shipping Registration Act 1981* of the Commonwealth,
 - (d) information received by the Director-General in relation to an interest in a boat, if that information is recorded in a register kept in accordance with a law of a State or Territory that provides for the registration of interests in goods that arise under the law of that State or Territory.

13 Particulars in search certificates relating to boats

- (1) For the purposes of section 8 (1) (c) of the Act, the prescribed particulars to be included in a certificate under that section in relation to a boat (other than a certificate contained in an account customer's statement of account) are as follows:
 - (a) as to the boat:
 - (i) the hull manufacturer,
 - (ii) the year of manufacture of the hull,
 - (iii) the registration number of the boat,
 - (iv) the official number of the boat (if applicable),
 - (v) the engine number or numbers of the boat (if applicable),
 - (vi) the prime identifier for the boat,
 - (b) as to each interest registered in relation to the boat:
 - (i) the creditor's reference number for the interest,
 - (ii) the date on which the interest was registered,
 - (iii) the name and address of the creditor who has the interest,

Registration of Interests in Goods Regulation 2004

Clause 13

Registration and disclosure of interests

Part 2

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- (iv) the type of interest.
- (2) For the purposes of section 8 (1) (c) of the Act, the prescribed particulars to be included in a certificate under that section in relation to a boat (being a certificate contained in an account customer's statement of account) are as follows:
- (a) the registration number of the boat,
 - (b) the engine number or numbers of the boat (if applicable),
 - (c) the prime identifier for the boat.

Clause 14 Registration of Interests in Goods Regulation 2004

Part 3 Registration and search fees

Part 3 Registration and search fees

14 Prescribed registration fees

For the purposes of section 5 (1A) (c) of the Act, the prescribed fee for an application for registration of a registrable interest in prescribed goods is:

- (a) if the application is made by on-line connection—\$7 for each interest specified in the application, or
- (b) if the application is made by email—\$8.50 for each interest specified in the application, or
- (c) if the application is made in any other way—\$17 for each interest specified in the application.

15 Fees for recording other prescribed information relating to boats

- (1) The fee payable by a creditor who applies to the Director-General to record in the Register a reference to other prescribed information in relation to a boat that does not have a prime identifier, as referred to in section 5 (3) of the Act, is:
 - (a) if the application is made by on-line connection—\$7 for each boat specified in the application, or
 - (b) if the application is made by email—\$8.50 for each boat in the application, or
 - (c) if the application is made in any other way—\$17 for each boat specified in the application.
- (2) If a prime identifier is affixed to a boat after the date on which any such information has been recorded in the Register in relation to the boat, no additional fee is payable for the recording of that prime identifier.

16 Certificate fees

- (1) For the purposes of section 8 (6) of the Act, the prescribed fee for a certificate under section 8 (1) of the Act is:
 - (a) in the case of an application made by an account customer who requests that the certificate take the form of a statement of account:
 - (i) if the application is made by on-line connection—\$4.30 for each item, or

Registration of Interests in Goods Regulation 2004

Clause 16

Registration and search fees

Part 3

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- (ii) if the application is made in any other way—\$6.30 for each item, or
 - (b) in the case of an application made by an account customer who requests an individual certificate for each item:
 - (i) if the application is made by on-line connection—\$9 for each item (or \$8 for each item if the certificate is delivered electronically), or
 - (ii) if the application is made in any other way—\$10 for each item (or \$9 for each item if the certificate is delivered electronically), or
 - (c) in the case of an application made by a person other than an account customer—\$10 for each certificate (plus \$2 for a facsimile copy of the certificate, if requested by the customer).
- (2) For the purposes of section 8 (6) of the Act, the prescribed fee for a certificate under section 8 (5) of the Act is \$120.

Clause 17 Registration of Interests in Goods Regulation 2004

Part 4 Variation and cancellation of interests

Part 4 Variation and cancellation of interests

17 Variation of recorded information

- (1) For the purposes of section 6 (2) of the Act, the prescribed fee for an application for a variation of the information recorded in the Register is:
 - (a) if the application is made by on-line connection—\$4.30 for each interest in respect of which the application is made, or
 - (b) if the application is made by email—\$4.80 for each interest in respect of which the application is made, or
 - (c) if the application is made in any other way—\$8 for each interest in respect of which the application is made.
- (2) For the purposes of section 6 (3) of the Act, each of the following circumstances are prescribed circumstances relating to a motor vehicle:
 - (a) the receipt by the Director-General of information provided by the Roads and Traffic Authority,
 - (b) the receipt by the Director-General of information provided by a department or authority of a participating State that has functions similar to those of the Roads and Traffic Authority in relation to the registration of motor vehicles.
- (3) For the purposes of section 6 (3) of the Act, the receipt by the Director-General of information provided by the Waterways Authority is a prescribed circumstance relating to a boat.
- (4) For the purposes of section 6 (6) (b) of the Act, the prescribed fee payable by a person to whom notice is given of a variation under section 6 (3) of the Act is \$6 for each interest about which the person is notified.

18 Cancellation of registration of interests

For the purposes of section 7 (2) (b) of the Act, the prescribed document is a document signed by the creditor who has the registered interest in a motor vehicle or boat, or by an agent of the creditor, setting out the following particulars:

- (a) the date on which the interest ceased to be a registrable interest,

Registration of Interests in Goods Regulation 2004

Clause 18

Variation and cancellation of interests

Part 4

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- (b) the creditor's reference number for that interest,
 - (c) if the creditor is an account customer, the creditor's account number.

Clause 19 Registration of Interests in Goods Regulation 2004

Part 5 Administrative service fees

Part 5 Administrative service fees

19 Account customer applications

The fee payable for an application for approval to become an account customer is \$25.

20 Computer software installation

The fee payable for the installation of an on-line computer software package is:

- (a) for each site visit—\$50, and
- (b) for each hour of the installation—\$75 (up to a maximum of \$150).

21 Registrable interests inquiries

- (1) The fee payable by an account customer for a listing of interests registered in that customer's name is:
 - (a) if the inquiry is made by on-line connection—\$10 (plus 30 cents for each page of the list supplied), or
 - (b) if the inquiry is made in any other way—\$20, and an additional fee, for each list supplied, of:
 - (i) if the list is supplied in the form of a written document—40 cents for each page of the list, or
 - (ii) if the list is supplied in the form of a computer disk or by email—1 cent for each interest included in the list.
- (2) The fee payable by an account customer for a search of the Register, using creditors' reference numbers only, is:
 - (a) if the search is made by on-line connection—\$4.30 for each interest, or
 - (b) if the search is made in any other way—\$6.30 for each interest.

22 Transfer of registrable interests

The fee payable for the transfer of interests registered in the name of one account customer into the name of another is:

- (a) for each order—\$20, and
- (b) for each interest transferred—\$4.30.

Registration of Interests in Goods Regulation 2004

Clause 23

Administrative service fees

Part 5

23 Training programs

The fee payable for providing an account customer training program in relation to the operation of the Register is:

- (a) for each full day—\$100, and
- (b) for each half day—\$50.

Clause 24 Registration of Interests in Goods Regulation 2004

Part 6 Participating States

Part 6 Participating States

24 Application of Part

This Part applies only to prescribed goods that are motor vehicles.

25 Australian Capital Territory to be a participating State

- (1) The Australian Capital Territory is a Territory prescribed for the purposes of the definition of *participating State* in section 3 (1) of the Principal Act.
- (2) Section 32E of the Australian Capital Territory Act is a prescribed provision for the purposes of sections 12 (1) (a) and (2) (b), 13 (1) (c) and 14 (1) of the Principal Act.
- (3) Section 32F of the Australian Capital Territory Act is a prescribed provision for the purposes of section 14 (2) of the Principal Act.
- (4) In this clause, *Australian Capital Territory Act* means the *Sale of Motor Vehicles Act 1977* of the Australian Capital Territory.

26 Northern Territory to be a participating State

- (1) The Northern Territory is a Territory prescribed for the purposes of the definition of *participating State* in section 3 (1) of the Principal Act.
- (2) Section 13 of the Northern Territory Act is a prescribed provision for the purposes of sections 12 (1) (a) and (2) (b), 13 (1) (c) and 14 (1) of the Principal Act.
- (3) Section 14 of the Northern Territory Act is a prescribed provision for the purposes of section 14 (2) of the Principal Act.
- (4) Sections 16 and 17 of the Northern Territory Act are prescribed provisions for the purposes of section 15 (2) (b) of the Principal Act.
- (5) In this clause, *Northern Territory Act* means the *Registration of Interests in Motor Vehicles and Other Goods Act* of the Northern Territory.

27 Queensland to be a participating State

- (1) Queensland is a State prescribed for the purposes of the definition of *participating State* in section 3 (1) of the Principal Act.

Registration of Interests in Goods Regulation 2004

Clause 28

Participating States

Part 6

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- (2) Section 26 of the Queensland Act is a prescribed provision for the purposes of sections 12 (1) (a) and (2) (b), 13 (1) (c) and 14 (1) and (2) of the Principal Act.
 - (3) In this clause, *Queensland Act* means the *Motor Vehicles and Boats Securities Act 1986* of Queensland.

28 South Australia to be a participating State

- (1) South Australia is a State prescribed for the purposes of the definition of *participating State* in section 3 (1) of the Principal Act.
- (2) Section 11 of the South Australian Act is a prescribed provision for the purposes of sections 12 (1) (a) and (2) (b), 13 (1) (c) and 14 (1) of the Principal Act.
- (3) In this clause, *South Australian Act* means the *Goods Securities Act 1986* of South Australia.

29 Victoria to be a participating State

- (1) Victoria is a State prescribed for the purposes of the definition of *participating State* in section 3 (1) of the Principal Act.
- (2) Section 7 (7) and (8) of the Victorian Act are prescribed provisions for the purposes of section 14 (2) of the Principal Act.
- (3) Section 25 of the Victorian Act is a prescribed provision for the purposes of section 15 (2) (b) of the Principal Act.
- (4) In this clause, *Victorian Act* means the *Chattel Securities Act 1987* of Victoria.

Clause 30 Registration of Interests in Goods Regulation 2004

Part 7 Miscellaneous

Part 7 Miscellaneous

30 Liability of authorities supplying registrable information

For the purposes of section 8 (9) of the Act, the Roads and Traffic Authority is a prescribed authority.

31 Fees payable to Director-General

- (1) Fees specified in this Regulation are payable to the Director-General.
- (2) The Director-General may, in any case, waive or remit the whole or part of a fee.

32 Prescribed penalty notice offences and penalties

For the purposes of section 19A of the Act:

- (a) an offence under a provision of the Act specified in Column 1 of Schedule 1 is a prescribed offence, and
- (b) the amount specified in Column 2 of that Schedule in respect of such an offence is the prescribed amount of penalty for the offence.

33 Savings

Any act, matter or thing that, immediately before the repeal of the *Registration of Interests in Goods Regulation 1999*, had effect under that Regulation is taken to have effect under this Regulation.

Registration of Interests in Goods Regulation 2004

Schedule 1 Penalty notices

Schedule 1 Penalty notices

(Clause 32)

Column 1	Column 2
Provision	Penalty
Offences under Registration of Interests in Goods Act 1986	
Section 17 (2)	\$220



Road Transport (Mass, Loading and Access) Amendment (Load Restraint Guide) Regulation 2004

under the

Roads Act 1993

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Roads Act 1993*.

CARL SCULLY, M.P.,
Minister for Roads

Explanatory note

The object of this Regulation is to amend the *Road Transport (Mass, Loading and Access) Regulation 1996* to update references to the *Load Restraint Guide*.

This Regulation is made under the *Roads Act 1993*, including sections 264 (general regulation-making power) and 264A.

Clause 1 Road Transport (Mass, Loading and Access) Amendment (Load Restraint Guide) Regulation 2004

Road Transport (Mass, Loading and Access) Amendment (Load Restraint Guide) Regulation 2004

under the

Roads Act 1993

1 Name of Regulation

This Regulation is the *Road Transport (Mass, Loading and Access) Amendment (Load Restraint Guide) Regulation 2004*.

2 Amendment of Road Transport (Mass, Loading and Access) Regulation 1996

The *Road Transport (Mass, Loading and Access) Regulation 1996* is amended as set out in Schedule 1.

Road Transport (Mass, Loading and Access) Amendment (Load Restraint Guide) Regulation 2004

Amendments

Schedule 1

Schedule 1 Amendments

(Clause 2)

[1] Clause 35 Loading offences

Omit “*Load Restraint Guide—Guidelines for the safe carriage of loads on road vehicles* published by the Australian Government Publishing Service on 12 December 1994” from clause 35 (8).

Insert instead “*Load Restraint Guide: Guidelines and performance standards for the safe carriage of loads on road vehicles, Second Edition*, as published by the National Transport Commission in April 2004”.

[2] Clause 35 (8)

Omit the note. Insert instead:

Note. Copies of the *Load Restraint Guide: Guidelines and performance standards for the safe carriage of loads on road vehicles, Second Edition*, are available from the Roads and Traffic Authority.

[3] Clause 56 Requirements as to certain loadings

Omit “*Load Restraint Guide—Guidelines for the safe carriage of loads on road vehicles* published by the Australian Government Publishing Service on 12 December 1994” from clause 56 (7).

Insert instead “*Load Restraint Guide: Guidelines and performance standards for the safe carriage of loads on road vehicles, Second Edition*, as published by the National Transport Commission in April 2004”.

[4] Clause 56 (7)

Omit the note. Insert instead:

Note. Copies of the *Load Restraint Guide: Guidelines and performance standards for the safe carriage of loads on road vehicles, Second Edition*, are available from the Roads and Traffic Authority.



Sporting Injuries Insurance Regulation 2004

under the

Sporting Injuries Insurance Act 1978

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Sporting Injuries Insurance Act 1978*.

FRANK ERNEST SARTOR, M.P.,
Acting Minister for Industrial Relations

Explanatory note

The object of this Regulation is to remake, without any changes in substance, the provisions of the *Sporting Injuries Insurance Regulation 1999*, which will be repealed on 1 September 2004 by section 10 (2) of the *Subordinate Legislation Act 1989*.

The new Regulation contains provisions with respect to the following matters:

- (a) interest rates chargeable under section 11A (6) (b) of the Act (clause 4),
- (b) the funeral expenses payable under section 27 (1) of the Act (clause 5),
- (c) compensation payable under Table A in Schedule 1 to the Act (clause 6).

This Regulation is made under the *Sporting Injuries Insurance Act 1978*, including the sections referred to above and section 30 (the general regulation-making power).

Sporting Injuries Insurance Regulation 2004

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Sporting Injuries Insurance Regulation 2004

Clause 1

Sporting Injuries Insurance Regulation 2004

under the

Sporting Injuries Insurance Act 1978

1 Name of Regulation

This Regulation is the *Sporting Injuries Insurance Regulation 2004*.

2 Commencement

This Regulation commences on 1 September 2004.

Note. This Regulation replaces the *Sporting Injuries Insurance Regulation 1999* which is repealed on 1 September 2004 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions and notes

- (1) In this Regulation:
the Act means the *Sporting Injuries Insurance Act 1978*.
- (2) Notes included in this Regulation do not form part of this Regulation.

4 Prescribed interest rate: section 11A

- (1) The object of this clause is to fix the rate at which interest is payable to the Sporting Injuries Fund on money transferred from that Fund to the Supplementary Sporting Injuries Fund under section 11A of the Act.
- (2) The rate of interest prescribed for the purposes of section 11A (6) (b) of the Act is the rate for the time being prescribed under section 95 (1) of the *Supreme Court Act 1970* for payment of interest on a judgment debt.

5 Funeral expenses: section 27

- (1) The object of this clause is to fix the maximum amount payable under section 27 of the Act in relation to the funeral expenses of a person who dies as a consequence of a sporting injury.
- (2) The prescribed amount for the purposes of section 27 (3) of the Act is \$4,560.
- (3) When subclause (2) is amended by altering the amount prescribed by that subclause, the amount applicable as the prescribed amount before the commencement of the amendment continues to apply to an

Clause 6 Sporting Injuries Insurance Regulation 2004

application for payment of the funeral expenses of a person who died as a consequence of an injury suffered while participating in an authorised activity before the commencement of the amendment.

6 Prescribed percentage of loss: Table A

- (1) The object of this clause is to fix the minimum percentage permanent loss that must be suffered by a person before the injury giving rise to that loss becomes compensable under the Act.
- (2) For the purposes of Table A in Schedule 1 to the Act:
 - (a) 33 per cent is the prescribed percentage for paragraph (a) of Part 1 and paragraph (a) of Part 2, in the case of the permanent loss of the use of the whole, or of the greater part, of either arm or either leg, and
 - (b) 11 per cent is the prescribed percentage for item 1 of Part 4, in the case of permanent loss of hearing in both ears, and
 - (c) 50 per cent is the prescribed percentage in all other cases.

7 Saving

Any act, matter or thing that, immediately before the repeal of the *Sporting Injuries Insurance Regulation 1999*, had effect under that Regulation continues to have effect under this Regulation.



Wild Dog Destruction Regulation 2004

under the

Wild Dog Destruction Act 1921

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Wild Dog Destruction Act 1921*.

ANTHONY BERNARD KELLY, M.L.C.,
Minister for Lands

Explanatory note

The object of this Regulation is to remake the provisions of the *Wild Dog Destruction Regulation 1999*. That Regulation is to be repealed on 1 September 2004 by section 10 (2) of the *Subordinate Legislation Act 1989*. The new Regulation deals with the following matters:

- (a) the rates that may be imposed and collected under the Act on land within the Western Division (clause 4),
- (b) the amount by which rates may be increased after they have become overdue (clause 5),
- (c) the form in which rate notices are to be issued (clause 6).

This Regulation is made under the *Wild Dog Destruction Act 1921*, including sections 12, 12A, 14 and 31 (the general regulation-making power).

Wild Dog Destruction Regulation 2004

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Wild Dog Destruction Regulation 2004

Clause 1

Wild Dog Destruction Regulation 2004

under the

Wild Dog Destruction Act 1921

1 Name of Regulation

This Regulation is the *Wild Dog Destruction Regulation 2004*.

2 Commencement

This Regulation commences on 1 September 2004.

Note. This Regulation replaces the *Wild Dog Destruction Regulation 1999* which is repealed on 1 September 2004 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definition

(1) In this Regulation:

the Act means the *Wild Dog Destruction Act 1921*.

(2) Notes in the text of this Regulation do not form part of this Regulation.

4 Annual rates

For the purposes of section 12 (1A) of the Act, the annual rate that may be imposed and collected on land within the Western Division is, in respect of the year 2004 and each subsequent year, 4.5 cents per hectare.

5 Interest on overdue rates

(1) The object of this clause is to prescribe the rate per cent per year to be used in calculating the sum by which overdue rates are to be increased in accordance with section 12A of the Act.

(2) The rate per cent per year prescribed for the purposes of section 12A (2) of the Act is the rate of interest for the time being prescribed for the purposes of section 95 of the *Supreme Court Act 1970*.

Clause 6 Wild Dog Destruction Regulation 2004

6 Rate notice

For the purposes of section 14 (1) of the Act, the prescribed form of rate notice is a form in writing that includes the following particulars:

- (a) the heading “Wild Dog Destruction Act 1921—Rate Notice”,
- (b) the notice number,
- (c) the date of issue of the notice,
- (d) the name of the person liable to pay the rate,
- (e) a description of the land in respect of which the rate is imposed,
- (f) the area (in hectares) of the land,
- (g) the prescribed amount per hectare per year of the rate (being the rate prescribed by clause 4),
- (h) the amount of the rate imposed under the notice in respect of the land,
- (i) the date (being at least 28 days after the notice is to be given) on which the rate is due and payable to and recoverable by the board,
- (j) the person, bank, building society or credit union that the amount specified in the notice is payable to,
- (k) the interest rate per cent per year by which is calculated the increase of the amount due where any part of the rate imposed under the notice is unpaid at the expiration of 12 months from the date on which the rate is due and payable to and recoverable by the board (being the rate prescribed in clause 5 (2)).

7 Savings

Any act, matter or thing that, immediately before the repeal of the *Wild Dog Destruction Regulation 1999*, had effect under that Regulation continues to have effect under this Regulation.



Workers Compensation Amendment (Latest Index Number) Regulation 2004

under the

Workers Compensation Act 1987

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Workers Compensation Act 1987*.

JOHN DELLA BOSCA, M.L.C.,
Minister for Commerce

Explanatory note

The object of this Regulation is to update an index number that is used for the purposes of the indexation of benefits under the *Workers Compensation Act 1987*.

This Regulation is made under the *Workers Compensation Act 1987*, including section 79 (the definition of *latest index number*) and section 280 (the general regulation-making power).

Clause 1 Workers Compensation Amendment (Latest Index Number) Regulation
2004

Workers Compensation Amendment (Latest Index Number) Regulation 2004

under the

Workers Compensation Act 1987

1 Name of Regulation

This Regulation is the *Workers Compensation Amendment (Latest Index Number) Regulation 2004*.

2 Amendment of Workers Compensation Regulation 2003

The *Workers Compensation Regulation 2003* is amended as set out in Schedule 1.

Workers Compensation Amendment (Latest Index Number) Regulation
2004

Amendment

Schedule 1

Schedule 1 Amendment

(Clause 2)

Clause 13 Sec 79: definition of “latest index number”

Insert at the end of the Table to the clause:

1 October 2004

182.9



Young Offenders Regulation 2004

under the

Young Offenders Act 1997

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Young Offenders Act 1997*.

BOB DEBUS, M.P.,
Attorney General

Explanatory note

The object of this Regulation is to remake the provisions of the *Young Offenders Regulation 1997*. The *Young Offenders Regulation 1997* is due to be repealed on 1 September 2004 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation:

- (a) provides for the appointment, terms and remuneration of members of the Youth Justice Advisory Committee and for the procedures of that Committee, and
- (b) specifies the particulars to be included in records of warnings and cautions given under the *Young Offenders Act 1997 (the Act)*, and
- (c) provides that a caution may not be given under the Act for the offence under the *Drug Misuse and Trafficking Act 1985* of possessing more than half of the small quantity of cannabis leaf within the meaning of that Act, unless certain exceptional circumstances apply, and
- (d) provides for the following matters in connection with youth justice conferences:
 - (i) the notification of local police commanders about referrals of matters for conferences,
 - (ii) the maximum time for implementation of any outcome plan resulting from a conference,
 - (iii) the maximum period of community service work that may be required under an outcome plan,
 - (iv) outcome plans for juvenile bush fire or arson offenders,

Young Offenders Regulation 2004

Explanatory note

-
- (v) the matters to be included in records of youth justice conferences, and
 - (e) prescribes certain offences for the purposes of requiring an investigating official, before issuing a penalty notice for any such offence, to consider whether:
 - (i) the offence is covered by the Act, and
 - (ii) the child alleged to have committed the offence should be given a warning or a caution or referred to a specialist youth officer to determine whether a youth justice conference should be held.

Parts 1, 2 and 5 of this Regulation relate to matters of a machinery nature.

This Regulation is made under the *Young Offenders Act 1997*, including section 73 (the general regulation-making power) and sections 9 (2A), 17 (2), 18, 33 (2), 52 (6) (b), (c) and (e), 59 (2), 70 (1) (j) and (3) and 75 and clause 1 (1) of Schedule 3.

Young Offenders Regulation 2004

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Clause 1	Young Offenders Regulation 2004
Part 1	Preliminary

Young Offenders Regulation 2004

under the

Young Offenders Act 1997

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Young Offenders Regulation 2004*.

2 Commencement

This Regulation commences on 1 September 2004.

Note. This Regulation replaces the *Young Offenders Regulation 1997*, which is repealed on 1 September 2004 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions and notes

(1) In this Regulation:

appointed member means a member appointed by the Minister.

Committee means the Youth Justice Advisory Committee constituted under section 70 of the Act.

member means a member of the Committee.

nominated member means a member referred to in section 70 (1) (b) or (c) of the Act or in clause 4 (b) of this Regulation.

the Act means the *Young Offenders Act 1997*.

(2) Notes included in this Regulation do not form part of this Regulation.

Young Offenders Regulation 2004

Clause 4

Youth Justice Advisory Committee

Part 2

Part 2 Youth Justice Advisory Committee

4 Additional members

For the purposes of section 70 (1) (j) of the Act, the additional members of the Committee are as follows:

- (a) the Director-General of the Department of Aboriginal Affairs or a nominee of the Director-General,
- (b) a representative nominated by the Aboriginal Justice Advisory Council,
- (c) a person who has qualifications or experience in the field of youth conferencing, appointed by the Minister,
- (d) the Chief Executive Officer of the Legal Aid Commission or a nominee of the Chief Executive Officer,
- (e) a Magistrate nominated by the Chief Magistrate of the Local Courts,
- (f) the Chairperson of the Community Relations Commission or a nominee of the Chairperson.

5 Terms of office

Subject to this Part:

- (a) an appointed member holds office for such period (not exceeding 3 years) as is specified in the member's instrument of appointment, and
- (b) a nominated member holds office for such period (not exceeding 3 years) as is specified in the instrument nominating the member,

but the member is eligible (if otherwise qualified) for re-appointment or to be re-nominated.

6 Remuneration

An appointed member or a nominated member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

7 Deputies

- (1) The Minister may, from time to time, appoint a person to be the deputy of an appointed member.

Clause 8	Young Offenders Regulation 2004
Part 2	Youth Justice Advisory Committee

-
- (2) The body that nominated a nominated member may, from time to time, nominate a person to be the deputy of the nominated member.
 - (3) In the absence of a member, the member's deputy may, if available, act in the place of the member.
 - (4) While acting in the place of a member, a person:
 - (a) has all the functions of the member and is taken to be a member, and
 - (b) is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.
 - (5) For the purposes of this clause, the absence of a member includes a vacancy in the office of a member.
 - (6) Clauses 5 and 8 (other than clause 8 (1) (f)) apply to the deputy of a member in the same way as they apply to the member.
 - (7) This clause does not operate to confer on a deputy of the member who is the chairperson of the Committee or deputy chairperson of the Committee the member's functions as chairperson or deputy chairperson.

8 Vacancy in office of members

- (1) The office of an appointed member or a nominated member becomes vacant if the member:
 - (a) dies, or
 - (b) completes a term of office and is not re-appointed or re-nominated, or
 - (c) resigns the office by instrument in writing addressed to the Minister, or
 - (d) in the case of an appointed member, is removed from office by the Minister under this clause, or
 - (e) in the case of a nominated member, is removed from office under this clause by the body that nominated the member, or
 - (f) is absent from 4 consecutive meetings of the Committee of which reasonable notice has been given to the member personally or by post, except on leave granted by the Committee or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Committee for having been absent from those meetings, or

Young Offenders Regulation 2004

Clause 9

Youth Justice Advisory Committee

Part 2

-
- (g) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - (h) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.
- (2) The Minister may remove an appointed member from office for any reason.
 - (3) The body that nominated a nominated member may remove the member from office for any reason.

9 Nomination of person as member

A nomination of a person to be a nominated member or a deputy of a nominated member must be in writing addressed to the Minister and delivered to the Minister's official address.

10 General procedure

The procedure for the calling of meetings of the Committee and for the conduct of business at those meetings is, subject to the Act and this Regulation, to be as determined by the Committee.

11 Quorum

The quorum for a meeting of the Committee is a majority of its members for the time being.

12 Presiding member

- (1) A meeting of the Committee is to be presided over by:
 - (a) the chairperson of the Committee, or
 - (b) in the absence of the chairperson, the deputy chairperson of the Committee, or
 - (c) in the absence of both the chairperson and the deputy chairperson of the Committee, another member elected to chair the meeting by the members present.
- (2) The person presiding at any meeting of the Committee has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

Clause 13	Young Offenders Regulation 2004
Part 2	Youth Justice Advisory Committee

13 Voting

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

Young Offenders Regulation 2004

Clause 14

Warnings and cautions

Part 3

Part 3 Warnings and cautions

14 Records of warnings

- (1) A record of a warning given to a child that is made for the purposes of section 17 of the Act must contain the following matters:
 - (a) the time the offence occurred,
 - (b) the place where the offence occurred,
 - (c) the nature of the offence,
 - (d) the name of the child,
 - (e) the gender of the child.
- (2) The record is to be kept on the COPS (Computerised Operational Policing) computer system maintained by NSW Police.

15 Records of cautions

- (1) A record of a caution given to a child that is made for the purposes of section 33 of the Act must contain the following matters:
 - (a) the name and address of the child,
 - (b) the date of birth of the child,
 - (c) the gender of the child,
 - (d) the cultural or ethnic background of the child,
 - (e) the name and rank (if any) of the person who gave the caution,
 - (f) the nature of the offence,
 - (g) the place, date and time of the caution,
 - (h) the persons present when the caution was given.
- (2) The record is to be kept on the COPS (Computerised Operational Policing) computer system maintained by NSW Police.

16 Offence for which caution may not be given

- (1) For the purposes of section 18 of the Act, a caution may not be given for an offence under section 10 of the *Drug Misuse and Trafficking Act 1985* that, in the opinion of the investigating official or prosecuting authority, involves more than half of the small quantity of cannabis leaf within the meaning of that Act.

Clause 16 Young Offenders Regulation 2004

Part 3 Warnings and cautions

- (2) This clause does not apply if, in the opinion of the investigating official or prosecuting authority, there are exceptional circumstances in that it would be in the interests of rehabilitation, and appropriate in all the circumstances, to deal with the matter by giving a caution.

Note. The *Young Offenders Act 1997 (the Act)* applies to an offence under section 10 of the *Drug Misuse and Trafficking Act 1985* that involves no more than the small quantity of cannabis leaf.

The effect of this clause is to provide that, despite the general application of the Act to the offence, a caution may not (other than in exceptional circumstances) be given under the Act for the offence if it involves more than half of the small quantity of cannabis leaf.

Young Offenders Regulation 2004

Clause 17

Youth justice conferences

Part 4

Part 4 Youth justice conferences

17 Notification of referrals

- (1) The Director of Public Prosecutions or a court must notify, in writing, the Area Commander of the local police area in which an offence occurred of any referral, by the Director or court, of the offence to a conference administrator for a conference.
- (2) A notification is to include the reasons why the referral is being made and state how those reasons relate to the matters set out in section 40 (5) of the Act.

18 Times for outcome plans

For the purposes of section 52 (6) (b) of the Act, the maximum time for the implementation of any outcome plan is 6 months or such further time as the Director-General may approve in any particular case.

19 Maximum period of community service work

For the purposes of section 52 (6) (c) of the Act, the period of community service work imposed by an outcome plan must not exceed the maximum amount of hours that may be imposed in respect of the same offence under the *Children (Community Service Orders) Act 1987*.

20 Outcome plans for bush fire/arson juvenile offenders

- (1) This clause applies to a child who admits to an offence covered by the Act that consists of:
 - (a) the lighting of a bush fire, or
 - (b) the destruction or damage of property by means of fire.
- (2) For the purposes of section 52 (6) (e) of the Act, an outcome plan for a child to whom this clause applies must provide for the following:
 - (a) attendance by the child:
 - (i) at a burns unit or ward of a hospital that agrees to participate in the youth justice conference scheme, or
 - (ii) at a screening of a film or video designed to provide education as to the harmful effects of fire,

Clause 21 Young Offenders Regulation 2004

Part 4 Youth justice conferences

- (b) the making of reparation for the offence, such as:
 - (i) assistance in clean-up operations and in treatment of injured animals, and
 - (ii) the payment of compensation (not exceeding the amount that a court may impose on conviction for the offence).
- (3) This clause does not limit any other matter for which an outcome plan may provide.
- (4) This clause does not affect the requirements of the Act relating to the agreement of the child and victims of the offence to the outcome plan.

21 Records of conferences

For the purposes of section 59 of the Act, a record is to contain the following matters:

- (a) the name and address of the child,
- (b) the date of birth of the child,
- (c) the gender of the child,
- (d) the cultural or ethnic background of the child,
- (e) the nature of the offence,
- (f) the date the referral for a conference was received,
- (g) the name of the conference convenor,
- (h) the name of the conference administrator concerned,
- (i) the date when, and place where, the conference was held,
- (j) the persons who attended the conference and the capacity in which they attended,
- (k) particulars of the outcome plan of the conference,
- (l) the person responsible for the outcome plan,
- (m) whether the outcome plan was completed,
- (n) any other matters the conference administrator thinks relevant.

Young Offenders Regulation 2004

Clause 22

Miscellaneous

Part 5

Part 5 Miscellaneous

22 Penalty notice offences subject to young offenders scheme

For the purposes of section 9 (2A) of the Act, the following offences are prescribed as offences in respect of which an investigating official must consider the matters referred to in section 199 (2) (a) and (b) of the Act before issuing a penalty notice:

- (a) offences under section 11C of the *Summary Offences Act 1988*,
- (b) offences under section 28F of the *Summary Offences Act 1988* or, after the repeal of that section, under section 199 of the *Law Enforcement (Powers and Responsibilities) Act 2002*.

23 Limit on number of cautions

A caution given before 15 November 2002 (being the date of commencement of the *Young Offenders Amendment Act 2002*) is to be disregarded for the purposes of sections 20 (7), 23 (5), 31 (5), 37 (6), 38 (5), 41 (9) and 44 (5) of the Act.

24 Saving relating to repeal of Young Offenders Regulation 1997

Any act, matter or thing that, immediately before the repeal of the *Young Offenders Regulation 1997*, had effect under that Regulation continues to have effect under this Regulation.

Rules



Supreme Court Rules (Amendment No 394) 2004

under the

Supreme Court Act 1970

The Supreme Court Rule Committee made the following rules of court under the *Supreme Court Act 1970* on 16 August 2004.

Steven Jupp
Secretary of the Rule Committee

Explanatory note

The object of these Rules is to amend the *Supreme Court Rules 1970*:

- (a) to make further provision with respect to the orders and decisions of Masters that may be appealed to the Court of Appeal, and
- (b) to revise and restate the powers of the Court under certain Acts and Regulations that Masters may exercise.

Clause 1 Supreme Court Rules (Amendment No 394) 2004

Supreme Court Rules (Amendment No 394) 2004

under the

Supreme Court Act 1970

1 Name of Rules

These Rules are the *Supreme Court Rules (Amendment No 394) 2004*.

2 Amendment of Supreme Court Rules 1970

The *Supreme Court Rules 1970* are amended as set out in Schedule 1.

Supreme Court Rules (Amendment No 394) 2004

Amendments

Schedule 1

Schedule 1 Amendments

(Rule 2)

[1] Part 60, rule 17

Omit “or” from rule 17 (g) where thirdly occurring.

[2] Part 60, rule 17 (h)

Omit “or”.

[3] Part 60, rule 17 (j)

Omit “brought.” Insert instead “brought, or”.

[4] Part 60, rule 17 (k)

Insert after rule 17 (j):

- (k) where the decision of the master is a final decision other than:
 - (i) a decision on an application for a summary judgment, or
 - (ii) a decision on an application for a summary dismissal of proceedings.

Supreme Court Rules (Amendment No 394) 2004

Schedule 1 Amendments

[5] Schedule D Powers of Masters

Omit Part 1. Insert instead:

Part 1 Powers under NSW and Commonwealth Acts and regulations

Column 1	Column 2	Column 3
Act or regulation and provision	Description	Restriction
<i>Administration of Justice Act 1924:</i>		
• section 5	Enforcement of judgment of British dominion	
<i>Arbitration (Civil Actions) Act 1983:</i>		
• section 12 (1)	Order to witness to attend	
<i>Bills of Sale Act 1898:</i>		
• section 4B	Extension of time for registering, filing etc	
<i>Business Names Act 1962:</i>		
• section 14	Persons in default; orders for compliance or stay of proceedings	
<i>Business Names Act 2002:</i>		
• section 23 (2)	Contraventions of Act; orders for compliance or adjournment of proceedings	
<i>Charitable Fundraising Act 1991:</i>		
• section 32	Disposition of assets	
<i>Commercial Arbitration Act 1984:</i>		
• section 18 (1)	Examination before the Court	

Supreme Court Rules (Amendment No 394) 2004

Amendments

Schedule 1

Column 1	Column 2	Column 3
Act or regulation and provision	Description	Restriction
• section 30	Correcting award	
• section 35 (1) (a)	Delivery of award	
• section 36	Costs of abortive arbitration	
• section 46 (2) (a)	Terminating proceedings for delay	
• section 48	Extension of time	For making award only
• section 53	Stay of proceedings	
• section 54	Interpleader	
• section 60 (d)	Service of notices	
<i>Companies Act 1961:</i>		
• section 363	Security for costs	
<i>Companies Code:</i>		
• section 123	Reduction of capital	
• section 212	Rectification of Register of Company Charges	
• Part 12, Division 2	Winding up by the Court	Except sections 377 (5) and 388
• section 396 (4)	Members' voluntary winding up: meeting	
• section 401	Creditors' voluntary winding up	
• section 402	Creditors' voluntary winding up: recognized company	
• section 406	Voluntary winding up: remuneration of liquidator	

Supreme Court Rules (Amendment No 394) 2004

Schedule 1 Amendments

Column 1	Column 2	Column 3
Act or regulation and provision	Description	Restriction
• Part 12, Division 4	Winding up: companies	In a winding up by the Court and except sections 417 (2), 420, 423 (1), 427 (2), 454 and 462 (6) of the Code
• Part 12, Division 6	Winding up: bodies other than companies	Except in respect of sections 417 (2), 420, 423 (1), 427 (2), 454 and 462 (6) of the Code
• section 533	Security for costs, etc	
• section 536	Directions: meetings ordered by the Court	
• section 539	Irregularities, extension of time, etc	Restricted orders or declarations in or for the purposes of proceedings for other relief under the Code which the master may grant
• section 541	Examination of persons concerned with corporations	
<i>Companies (New South Wales) Regulations—</i>		
• regulation 78	Liquidator's account	
• regulation 81	Deposit with liquidator	
• regulation 87	Costs of meeting	
• regulation 90	Adjournment of meeting	
• regulation 96	Votes of secured creditors	
• regulation 118	Bills of exchange	
• regulation 123	Costs of proof	

Supreme Court Rules (Amendment No 394) 2004

Amendments

Schedule 1

Column 1	Column 2	Column 3
Act or regulation and provision	Description	Restriction
• regulation 125	Dealing with proof	
• regulation 126	Time for appeal	
• regulation 134	Time for appeal	
• regulation 143	Distribution of surplus	
<i>Confiscation of Proceeds of Crime Act 1989:</i>		
• section 77	Registration of interstate forfeiture order etc	
• section 82 (1)	Order for cancellation of registration of interstate forfeiture order etc	
<i>Contractors Debts Act 1997:</i>		
• section 14	Attachment order	
<i>Conveyancers Licensing Act 1995:</i>		
• section 77	Directions relating to a receiver	
• section 85	Bill of costs	
<i>Conveyancing Act 1919:</i>		
• section 36A	Division of chattels	
• section 66G	Trustees for sale	
• section 89	Modification of easements, etc	
• section 98 (1)	Amount due by absent, etc mortgagee	
<i>Corporations Act 2001 of the Commonwealth:</i>		
• section 274	Rectification of register of company charges	

Supreme Court Rules (Amendment No 394) 2004

Schedule 1 Amendments

Column 1	Column 2	Column 3
Act or regulation and provision	Description	Restriction
• Part 5.3A	Administration of company's affairs with view to executing deed of company arrangement	
• Part 5.4	Winding up	
• section 461	Winding up	Where the application is not opposed
• Part 5.4B	Winding up	Except ss 472 (2), (3) and (6), 486A, 486B and 487
• section 495 (4)	Members' voluntary winding up: meeting	
• section 500	Creditor's voluntary winding up	
• section 504	Voluntary winding up: remuneration of liquidator	
• Part 5.6	Winding up: companies	In a winding up by the court and except ss 532 (2), 536, 540 (1), 544 (2) and 568
• Part 5.7	Winding up: bodies other than companies	Except in respect of ss 532 (2), 536, 540 (1), 544 (2) and 568
• section 597	Examination of persons concerned with corporations	
• section 1274	Directions to make good default in lodgement of documents	
• section 1319	Directions, meetings ordered by the Court	
• section 1321	Appeals from decisions of receivers, liquidators etc	Restricted to appeals in respect of decisions under section 430 (3) or 475 (8) of the <i>Corporations Act 2001</i>

Supreme Court Rules (Amendment No 394) 2004

Amendments

Schedule 1

Column 1	Column 2	Column 3
Act or regulation and provision	Description	Restriction
<ul style="list-style-type: none"> • section 1322 	Irregularities, extension of time etc	Restricted to orders or declarations in or for the purposes of proceedings for other relief under the <i>Corporations Act 2001</i> which the Master may grant
<ul style="list-style-type: none"> • section 1324 	Injunctions	Restricted to orders where it is alleged that there has been an inappropriate reduction of capital or share buy back
<ul style="list-style-type: none"> • section 1335 	Security for costs etc	
<i>Corporations Regulations 2001</i> of the Commonwealth:		
<ul style="list-style-type: none"> • Part 5.6 	Winding up	
<i>Damages (Infants and Persons of Unsound Mind) Act 1929:</i>		
<ul style="list-style-type: none"> • section 4 	Sanctioning settlements, etc	
<ul style="list-style-type: none"> • section 5 	Directions, etc, as to money paid to Public Trustee	
<ul style="list-style-type: none"> • section 7 	Assessments, directions, certificates and references as to costs	
<i>District Court Act 1973:</i>		
<ul style="list-style-type: none"> • section 143 	Transfers to District Court	
<ul style="list-style-type: none"> • section 145 	Removal of proceedings	
<i>Exotic Diseases of Animals Act 1991:</i>		
<ul style="list-style-type: none"> • section 62 	Disputed claims for compensation	
<i>Family Provision Act 1982</i>		
	Family provision	

Supreme Court Rules (Amendment No 394) 2004

Schedule 1 Amendments

Column 1	Column 2	Column 3
Act or regulation and provision	Description	Restriction
<i>Foreign Judgments Act 1973:</i>		
• sections 6, 8, 9	Enforcement of judgment of a country	
<i>Foreign Judgments Act 1991 of the Commonwealth:</i>		
• sections 6, 7, 8, 9	Enforcement of judgment of a country	
<i>Insurance Act 1902:</i>		
• section 17A (1)	Joinder of insurer etc	
<i>International War Crimes Tribunals Act 1995 of the Commonwealth:</i>		
• section 45 (1)	Registration of a forfeiture order	
<i>Judgment Creditors' Remedies Act 1901:</i>		
• Part 5	Charging orders	
<i>Jury Act 1977:</i>		
• section 38 (1) (b)	Excusing juror	
<i>Land and Environment Court Act 1979:</i>		
• section 72	Transfer to Land and Environment Court	
<i>Landlord and Tenant Act 1899:</i>		
• section 2A (3)	Time for writ of possession	
• section 9 (1)	Payment into Court	
• section 9 (2)	Direction for entry of judgment	
• section 10	Stay	

Supreme Court Rules (Amendment No 394) 2004

Amendments

Schedule 1

Column 1	Column 2	Column 3
Act or regulation and provision	Description	Restriction
• section 27 (2)	Relief relating to bond	
• section 27 (3)	Cancellation of bond	
<i>Legal Profession Act 1987:</i>		
• section 80 (7) (d)	Claim against Fidelity Fund; time	
• section 87 (4) (b)	Final date for claim against Fund	
• section 90C	Enforcement against Fund	
• section 102	Directions relating to a receiver	
• section 208L	Appeal against decision of costs assessor	
• section 208M	Leave to appeal, appeal: determination of costs assessor	
• section 208N	Suspension of costs determination and ending suspension	
• section 209C	Order for barrister or solicitor to give to a client a bill of costs or certain documents	
<i>Limitation Act 1969:</i>		
• section 58 (2)	Extension of limitation period—personal injury action not surviving	
• section 59 (2)	Extension of limitation period—personal injury action which survives	
• section 60 (2)	Extension of limitation period—compensation to relatives claim	
• sections 60C–60H	Personal injury cases	

Supreme Court Rules (Amendment No 394) 2004

Schedule 1 Amendments

Column 1	Column 2	Column 3
Act or regulation and provision	Description	Restriction
<ul style="list-style-type: none"> • section 73 (1) 	Extension of limitation period—arbitration	
<ul style="list-style-type: none"> • Schedule 5 clause 5 (5) 	Transitional provisions	
<i>Married Persons (Equality of Status) Act 1996:</i>		
<ul style="list-style-type: none"> • section 13 	Fraudulent investment of spouse's money	
<i>Minors (Property and Contracts) Act 1970:</i>		
<ul style="list-style-type: none"> • section 41 (3) 	Removal of proceedings	
<i>Motor Accidents Act 1988:</i>		
<ul style="list-style-type: none"> • section 42 (4) 	Explanation for non compliance	
<ul style="list-style-type: none"> • section 42 (5) 	Allow proceedings to continue	
<ul style="list-style-type: none"> • section 43A (7), 44B 	Dismiss proceedings	
<ul style="list-style-type: none"> • section 47A 	Joinder of insurer	
<ul style="list-style-type: none"> • section 48 	Co-operation with person against whom claim made and the person's insurer	
<ul style="list-style-type: none"> • section 52 (4) 	Commencing proceedings	
<ul style="list-style-type: none"> • section 66A (1) 	Joinder of insurer	
<i>Motor Accidents Compensation Act 1999:</i>		
<ul style="list-style-type: none"> • section 36 (5) 	Extension of time for giving notice	
<ul style="list-style-type: none"> • section 36 (7), (8) 	Joinder of Nominal Defendant	
<ul style="list-style-type: none"> • section 70 (2) 	Explanation for non-compliance	

Supreme Court Rules (Amendment No 394) 2004

Amendments

Schedule 1

Column 1	Column 2	Column 3
Act or regulation and provision	Description	Restriction
• section 70 (3)	Allow proceedings to continue	
• section 73 (4), 76	Dismiss proceedings	
• section 79	Joinder of insurer	
• section 85	Co-operation with person against whom claim made and the person's insurer	
• section 109 (1)	Commencing proceedings	
• section 119 (1)	Joinder of insurer	
<i>Motor Vehicles (Third Party Insurance) Act 1942:</i>		
• section 14E (1) and (2)	Joint hearing and transfer	
<i>Mutual Assistance in Criminal Matters Act 1987 of the Commonwealth:</i>		
• section 34A	Registration of a foreign forfeiture order, a foreign pecuniary penalty order or a foreign restraining order	
• section 34A (5)	Registration of amendment to a foreign forfeiture order, a foreign pecuniary penalty order or a foreign restraining order	
• section 34G	Order cancelling registration	
<i>Offshore Minerals Act 1994 of the Commonwealth:</i>		
• section 351 (1) (a)	Removal of caveat	
• section 351 (1) (c)	Extending caveat	
• section 351 (2)	Non-registration of further caveat	

Supreme Court Rules (Amendment No 394) 2004

Schedule 1 Amendments

Column 1	Column 2	Column 3
Act or regulation and provision	Description	Restriction
<i>Offshore Minerals Act 1999:</i>		
• section 351 (1) (a)	Removal of caveat	
• section 351 (1) (c)	Extending caveat	
• section 351 (2)	Non registration of further caveat	
<i>Proceeds of Crime Act 1987 of the Commonwealth:</i>		
• section 23A (2)	Direction to DPP to give or publish notice of registration	
<i>Proceeds of Crime Act 2002 of the Commonwealth:</i>		
• Division 1 of Part 2-2	Forfeiture order	
<i>Property (Relationships) Act 1984</i>		
	De facto relationships	
	Domestic relationships	
<i>Property, Stock and Business Agents Act 1941:</i>		
• section 83J	Directions relating to a receiver	
• section 83V	Directions relating to a receiver	
<i>Property, Stock and Business Agents Act 2002:</i>		
• section 160	Directions relating to a receiver	
• section 161	Directions relating to a receiver	
<i>Real Property Act 1900:</i>		
• section 74D (2)	Extending caveat	
• section 74K (2)	Extending caveat	
• section 74MA (2)	Withdrawal of caveat	

Supreme Court Rules (Amendment No 394) 2004

Amendments

Schedule 1

Column 1	Column 2	Column 3
Act or regulation and provision	Description	Restriction
<ul style="list-style-type: none"> section 74O 	Further caveat	
<i>Service and Execution of Process Act 1992 of the Commonwealth:</i>		
<ul style="list-style-type: none"> section 17 (1) 	Shortening of time for appearance	
<ul style="list-style-type: none"> section 57 (1) 	Leave to serve a subpoena outside the State etc	
<ul style="list-style-type: none"> section 67 (1) 	Order to produce	
<ul style="list-style-type: none"> section 76 (1) 	Leave to serve a subpoena outside the State etc	
<ul style="list-style-type: none"> section 79 (1) 	Order to produce	
<i>Testator's Family Maintenance and Guardianship of Infants Act 1916</i>		
	Maintenance	Except sections 13 to 21 inclusive (guardianship)
<i>Trustee Act 1925:</i>		
<ul style="list-style-type: none"> section 63 	Judicial advice	
<ul style="list-style-type: none"> section 70 	New trustees	
<ul style="list-style-type: none"> section 71 	Vesting orders	
<ul style="list-style-type: none"> section 75 (1) 	Deceased mortgagee	
<ul style="list-style-type: none"> section 81 	Advantageous dealings	
<ul style="list-style-type: none"> Part 4 	Payment into Court	Except section 97 (2)
<i>Trustee Companies Act 1964:</i>		
<ul style="list-style-type: none"> section 15B (4) 	Directions	
<ul style="list-style-type: none"> section 21 (2) 	Ordering account	
<ul style="list-style-type: none"> section 22 	Ordering audit	
<ul style="list-style-type: none"> section 27 (1) 	Payment out	

Supreme Court Rules (Amendment No 394) 2004

Schedule 1 Amendments

Column 1	Column 2	Column 3
Act or regulation and provision	Description	Restriction
<i>Wills, Probate and Administration Act 1898:</i>		
• section 13	Gift to interested witness	
• section 15A	Effect of termination of marriage	
• section 84	Application for legacy, etc	
• section 146	Caveat: application for grant to proceed	
<i>Workers Compensation Act 1987:</i>		
• section 151A (5) (as continued in effect by Part 18C of Schedule 6)	Leave to revoke election	
• section 151C	Commencing proceedings	
• section 151D	Commencing proceedings	

Orders



Subordinate Legislation (Postponement of Repeal) Order 2004

under the

Subordinate Legislation Act 1989

MARIE BASHIR, Governor

I, Professor Marie Bashir AC, Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 11 of the *Subordinate Legislation Act 1989*, make the following Order.

Dated, this 25th day of August 2004.

By Her Excellency's Command,

BOB CARR, M.P.,
Premier

Clause 1 Subordinate Legislation (Postponement of Repeal) Order 2004

Subordinate Legislation (Postponement of Repeal) Order 2004

under the

Subordinate Legislation Act 1989

1 Name of Order

This Order is the *Subordinate Legislation (Postponement of Repeal) Order 2004*.

2 Commencement

This Order commences on 31 August 2004.

3 Postponement of repeal of certain statutory rules

The repeal, by section 10 of the *Subordinate Legislation Act 1989*, of the statutory rules listed in Schedule 1 is postponed from 1 September 2004 to 1 September 2005.

Subordinate Legislation (Postponement of Repeal) Order 2004

Statutory rules

Schedule 1

Schedule 1 Statutory rules

(Clause 3)

Agricultural Industry Services (Murray Valley (NSW) Wine Grape Industry Development Committee) Regulation 1999

Animal Research Regulation 1995

Apiaries Regulation 1995

Arbitration (Civil Actions) Regulation 1999

Associations Incorporation Regulation 1999

Bail Regulation 1999

Bills of Sale Regulation 1998

Centre Based and Mobile Child Care Services Regulation (No 2) 1996

Clean Air (Plant and Equipment) Regulation 1997

Clean Waters Regulations 1972

Coal Mines (General) Regulation 1999

Coal Mines (Investigation) Regulation 1999

Coal Mines (Open Cut) Regulation 1999

Coal Mines (Underground) Regulation 1999

Companion Animals Regulation 1999

Confiscation of Proceeds of Crime Regulation 1996

Consumer Claims Regulation 1999

Contaminated Land Management Regulation 1998

Co-operatives Regulation 1997

Crimes (Detention after Arrest) Regulation 1998

Dairy Industry Conference Regulation 1999

Dangerous Goods (Gas Installations) Regulation 1998

Dangerous Goods (General) Regulation 1999

Day Procedure Centres Regulation 1996

Drug Court Regulation 1999

Electricity Safety (Electrical Installations) Regulation 1998

Electricity Safety (Equipment Safety) Regulation 1999

Environmentally Hazardous Chemicals Regulation 1999

Exhibited Animals Protection Regulation 1995

Family Day Care and Home Based Child Care Services Regulation 1996

Subordinate Legislation (Postponement of Repeal) Order 2004

Schedule 1 Statutory rules

Fines Regulation 1997
Firearms (General) Regulation 1997
Greyhound Racing (Appeals) Regulation 1999
Harness Racing (Appeals) Regulation 1999
Heritage Regulation 1999
Law Enforcement (Controlled Operations) Regulation 1998
Liens on Crops and Wool and Stock Mortgages Regulation 1998
Liquor Regulation 1996
Local Government (Approvals) Regulation 1999
Local Government (Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 1995
Local Government (Elections) Regulation 1998
Local Government (Financial Management) Regulation 1999
Local Government (General) Regulation 1999
Local Government (Manufactured Home Estates and Manufactured Homes) Regulation 1995
Local Government (Meetings) Regulation 1999
Local Government (Orders) Regulation 1999
Local Government (Rates and Charges) Regulation 1999
Local Government (Tendering) Regulation 1999
Local Government (Water Services) Regulation 1999
Marine Parks Regulation 1999
Meat Industry (Meat Industry Levy) Regulation 1999
Mines Inspection Regulation 1999
Motor Vehicle Repairs Regulation 1999
Motor Vehicle Sports (Public Safety) Regulation 1999
Non-Indigenous Animals Regulation 1997
Nursing Homes Regulation 1996
Ombudsman Regulation 1999
Ozone Protection Regulation 1997
Parking Space Levy Regulation 1997
Pay-roll Tax Regulation 1998
Pharmacy (Elections) Regulation 1998
Pharmacy (General) Regulation 1998

Subordinate Legislation (Postponement of Repeal) Order 2004

Statutory rules

Schedule 1

Podiatrists Regulation 1995
Prevention of Cruelty to Animals (Animal Trades) Regulation 1996
Prevention of Cruelty to Animals (General) Regulation 1996
Private Hospitals Regulation 1996
Protection of the Environment Operations (General) Regulation 1998
Protection of the Environment Operations (Waste) Regulation 1996
Public Health (Tobacco) Regulation 1999
Racing Administration Regulation 1999
Registered Clubs Regulation 1996
Residential Parks Regulation 1999
Residential Tenancies (Residential Premises) Regulation 1995
Road and Rail Transport (Dangerous Goods) (Rail) Regulation 1999
Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998
Road Transport (Driver Licensing) Regulation 1999
Road Transport (Mass, Loading and Access) Regulation 1996
Road Transport (Vehicle Registration) Regulation 1998
Search Warrants Regulation 1999
Security Industry Regulation 1998
State Records Regulation 1999
Stock (Artificial Breeding) Regulation 1995
Stock (Chemical Residues) Regulation 1995
Stock Foods Regulation 1997
Stock Medicines Regulation 1995
Strata Schemes Management Regulation 1997
Swimming Pools Regulation 1998
Sydney Opera House Trust By-law 1998
Totalizator Regulation 1998
Transferred Officers Extended Leave Regulation 1998
Veterinary Surgeons Regulation 1995
Weapons Prohibition Regulation 1999
Workplace Video Surveillance Regulation 1999

By-laws



Sydney Cricket Ground and Sydney Football Stadium By-law 2004

under the

Sydney Cricket and Sports Ground Act 1978

Her Excellency the Governor, with the advice of the Executive Council, has made the following By-law under the *Sydney Cricket and Sports Ground Act 1978*.

SANDRA NORI, M.P.,
Minister for Tourism and Sport and Recreation

Explanatory note

The object of this By-law is to remake, with some alterations, the provisions of the *Sydney Cricket Ground and Sydney Football Stadium By-law 1999* and the *Sydney Cricket and Sports Ground Trust (Elections) By-law 1999* (both of which are repealed on 1 September 2004 by section 10 (2) of the *Subordinate Legislation Act 1989*) as a single consolidated By-law.

The consolidated By-law deals with the following matters:

- (a) the general conditions of entry to the Sydney Cricket Ground and the Sydney Football Stadium, including behaviour that is prohibited and behaviour that justifies a person's being removed from that Ground or that Stadium,
- (b) the types of membership that can be granted by the Sydney Cricket and Sports Ground Trust (*the Trust*), the conditions and entitlements relating to membership and the transfer of membership,
- (c) the determination of membership fees by the Trust and the payment of those fees,
- (d) certain offences against the By-law for which penalty notices may be issued,
- (e) in relation to an election of two members of the Trust from among the members of the Sydney Cricket Ground:
 - (i) the appointment of a Returning Officer, and
 - (ii) the notification of polling days and invitations for nominations, and
 - (iii) the making of nominations, candidate information sheets and the taking of the poll, and
 - (iv) the procedure for the ballot and the counting of votes,

Sydney Cricket Ground and Sydney Football Stadium By-law 2004

Explanatory note

(f) matters of a formal nature (such as the date of commencement of the By-law).

This By-law is made under the *Sydney Cricket and Sports Ground Act 1978*, including section 29 (the general power to make by-laws).

Parts 1 (Preliminary), 5 (Elections of members to be appointed to the Trust) and 6 (Miscellaneous) of this By-law relate to matters of a machinery nature.

 Sydney Cricket Ground and Sydney Football Stadium By-law 2004

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Sydney Cricket Ground and Sydney Football Stadium By-law 2004

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Sydney Cricket Ground and Sydney Football Stadium By-law 2004

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Clause 1	Sydney Cricket Ground and Sydney Football Stadium By-law 2004
Part 1	Preliminary

Sydney Cricket Ground and Sydney Football Stadium By-law 2004

under the

Sydney Cricket and Sports Ground Act 1978

Part 1 Preliminary

1 Name of By-law

This By-law is the *Sydney Cricket Ground and Sydney Football Stadium By-law 2004*.

2 Commencement

This By-law commences on 1 September 2004.

Note. This By-law consolidates the provisions of the *Sydney Cricket Ground and Sydney Football Stadium By-law 1999* and the *Sydney Cricket and Sports Ground Trust (Elections) By-law 1999*, both of which are repealed on 1 September 2004 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions and notes

(1) In this By-law:

authorised person means a person authorised by the Trust to exercise the function in relation to which the expression is used.

club card means a regular member's club card or a double gold member's club card.

Ground means such parts of the scheduled lands as are vested or dedicated from time to time under Part 3 of the Act, and includes the land commonly known as the Sydney Cricket Ground and the Sydney Football Stadium.

guest card means a regular member's guest card, a double gold member's guest card or a life member's guest card.

liquor means liquor within the meaning of the *Liquor Act 1982*.

member means a member of the Sydney Cricket Ground, and includes a member of both the Sydney Cricket Ground and the Sydney Football Stadium.

Members' Pavilion means that part of the Members' Reserve of the Sydney Cricket Ground known as the Members' Pavilion.

membership card means a membership card duly issued by the Trust.

Sydney Cricket Ground and Sydney Football Stadium By-law 2004

Clause 3

Preliminary

Part 1

membership year means a period of 12 months commencing on 1 October.

scheduled lands means the land described in Schedule 2 to the Act.

the Act means the *Sydney Cricket and Sports Ground Act 1978*.

ticket of admission means a ticket of admission or a guest or club card duly issued by the Trust.

Trust means the Sydney Cricket and Sports Ground Trust.

- (2) Notes included in this By-law do not form part of this By-law.

Clause 4	Sydney Cricket Ground and Sydney Football Stadium By-law 2004
Part 2	General

Part 2 General

4 Entry to Ground

- (1) A person must not, except with the approval of the Trust, enter any part of the Ground (including any grandstands or buildings on the Ground) unless the person:
 - (a) pays the admission fee (determined by the Trust) for entrance to that part of the Ground, or
 - (b) is in lawful possession of a current membership card authorising entry to that part of the Ground and produces it for inspection on demand made by a member of the Trust or an authorised person, or
 - (c) is in lawful possession of a ticket of admission authorising entry to that part of the Ground and produces it for inspection on demand made by a member of the Trust or an authorised person.
- (2) The Trust may set aside any part of any grandstand for reserved seats and charge an extra admission fee for those seats.
- (3) A person who enters any part of the Ground (whether or not on payment of an admission fee), enters that part of the Ground subject to any conditions of entry determined by the Trust that are exhibited on signs at or near the entrance to that part of the Ground.
- (4) A person may be refused entry to any part of the Ground by the Trust, an authorised person or a police officer.
- (5) Despite subclause (1), a person who is banned under this Part from entering the Ground must not enter or be admitted to any part of the Ground during the period of the ban.

5 Entry to Members' Reserve

- (1) A person must not, except with the approval of the Trust, enter the Members' Reserve of the Sydney Cricket Ground or of the Sydney Football Stadium unless the person is in lawful possession of a current membership card or ticket of admission authorising entry to the Reserve and produces it for inspection on demand made by a member of the Trust or an authorised person.
- (2) In particular, a person whose membership has been cancelled or suspended by the Trust must not enter the Members' Reserve of the Sydney Cricket Ground or of the Sydney Football Stadium unless the period of suspension has expired or the person has been reinstated as a member (as the case may be).
Maximum penalty (subclause (2)): 10 penalty units.

Sydney Cricket Ground and Sydney Football Stadium By-law 2004

Clause 6

General

Part 2

6 Unauthorised possession of membership card or ticket of admission

A person who is in possession of any membership card or ticket of admission to which the person is not entitled must, on demand made by the Trust or an authorised person, surrender the card or ticket to the Trust or authorised person.

Maximum penalty: 10 penalty units.

7 Use of membership card by non-member

- (1) If proof is given to the satisfaction of the Trust that any member has allowed his or her membership card to be used by another person for the purpose of obtaining admission to the Ground, then:
 - (a) the person to whom the membership card was issued forfeits all claims and rights to the card and ceases to be a member, and
 - (b) the person's name is to be removed from the roll of members, and
 - (c) if the membership card is in the possession of the Trust—the Trust may retain it.
- (2) The Trust may re-issue the membership card and reinstate the former member on such terms and conditions as the Trust determines.
- (3) This clause does not apply to corporate members.

8 Membership cards and tickets to be produced for inspection

- (1) A person who is within any part of the Ground must, on demand made by a member of the Trust or an authorised person, produce for inspection a current membership card or ticket of admission entitling the person to be within that part of the Ground.
- (2) If the person does not produce the membership card or ticket of admission, or satisfy the member of the Trust or authorised person that it has been lost, the person may be ordered to leave the Ground or the part of the Ground concerned.
- (3) A person who fails to comply with an order under subclause (2) may be removed from the Ground or part of the Ground concerned by a member of the Trust or an authorised person.
- (4) Every member must comply with any reasonable requirement made by the Trust or an authorised person for the purpose of establishing the identity of the holder of a membership card.

9 Admission of vehicles

The Trust may authorise the admission to the Ground of any vehicle and the driver or controller of the vehicle, on any terms and conditions (including payment of a fee) determined by the Trust.

Clause 10 Sydney Cricket Ground and Sydney Football Stadium By-law 2004

Part 2 General

10 Directions relating to booths, bars, stalls and stands

A person who rents or has a booth, bar, stall or stand on the Ground must comply with any reasonable direction of the Trust, or an authorised person, with respect to that booth, bar, stall or stand.

11 Liquor must not be brought onto Ground

- (1) A person must not bring or attempt to bring liquor onto any part of the Ground without the approval of the Trust.
Maximum penalty: 10 penalty units.
- (2) As an alternative to being refused entry to the Ground, or being removed from the Ground, for a contravention of this clause, a person may be required to dispose of the liquor concerned in a manner approved by the Trust or to surrender the liquor to the Trust for disposal.
- (3) This clause does not apply to a person who holds an entitlement to sell liquor on a part of the Ground set aside for that purpose.

12 Prohibited behaviour within Ground

- (1) A person must not do any of the following within the Ground, except with the approval of the Trust or an authorised person:
 - (a) enter any area or building not open to the public,
 - (b) make an address or conduct or hold a meeting, match or musical performance or an amusement,
 - (c) sell, offer for sale or distribute any service, article or thing,
 - (d) have or operate television, cinematographic or photographic equipment for commercial purposes,
 - (e) camp or permanently reside,
 - (f) deliberately damage any lawn, playing field or green (except in the course of, and as a normal incident of, a sporting event or training for such an event),
 - (g) damage, pick or remove any tree, shrub, plant, vine, flower or other vegetation,
 - (h) remove or disturb any rock, soil, sand, stone or similar substance,
 - (i) light any fire (except for the purpose of smoking),
 - (j) affix any bill or poster on any tree or on any building, fence, seat, table, enclosure or other structure,
 - (k) distribute any bill or poster,
 - (l) climb in any tree or on any building, or climb or jump over any fence, seat, table, enclosure or other structure,

Sydney Cricket Ground and Sydney Football Stadium By-law 2004

Clause 12

General

Part 2

-
- (m) have any animal in the person's custody or under the person's control unless the animal is to be or is being exhibited in a show or display,
 - (n) erect any house, booth, bar, shed, stall or other structure,
 - (o) contravene any condition to which the person's entry was subject.

Maximum penalty: 10 penalty units.

- (2) A person must not do any of the following within the Ground:
 - (a) smoke in any part of the Ground other than a part that is designated, by means of signs erected by the Trust, as a part in which smoking is permitted,
 - (b) consume alcohol in any part of the Ground contrary to any sign erected by the Trust,
 - (c) be in possession of any glass bottle or other glass container in any part of the Ground contrary to any sign erected by the Trust,
 - (d) leave any rubbish or litter, except in receptacles provided for that purpose,
 - (e) break, damage, deface, obliterate or cover any structure, machinery, equipment, sign, descriptive plate or label,
 - (f) obstruct any employee of or contractor to the Trust in the performance of the employee's or contractor's work,
 - (g) throw or project any stone or other missile (except at a side show or ring display authorised by the Trust or in the course of, and as a normal incident of, a sporting event or training for such a sporting event),
 - (h) do or say anything intending to hinder or interfere with the proper progress or conduct of any cricket or other match, game, sport or event,
 - (i) remain on any part of the Ground after having been requested to leave it by a member of the Trust, a police officer or an authorised person,
 - (j) enter the Ground while banned under clause 17,
 - (k) drive, ride or act contrary to any sign erected by the Trust that regulates the parking, traffic flow and movement of vehicles or animals.

Maximum penalty: 10 penalty units.

Clause 13 Sydney Cricket Ground and Sydney Football Stadium By-law 2004

Part 2 General

13 Personal conduct within Ground

A person must not do any of the following within the Ground:

- (a) use indecent, obscene, insulting or threatening language,
- (b) behave in an offensive or indecent manner,
- (c) by disorderly conduct cause serious alarm or affront to a person,
- (d) obstruct a person in the performance of that person's work or duties,
- (e) fail to comply with a reasonable request or direction made or given by a member of the Trust, a police officer or an authorised person for the purpose of securing good order and management and enjoyment of the Ground.

Maximum penalty: 10 penalty units.

14 Requirement to give name and address

- (1) A person who commits an offence under this Part must, if requested to do so by a member of the Trust, a police officer or an authorised person, provide the member, officer or person with his or her name and address.
- (2) A person must not, in complying with subclause (1), give a name or address that is false.
- (3) A person is not guilty of an offence under this clause unless it is established that the person was warned that the contravention concerned is an offence.

Maximum penalty (subclauses (1) and (2)): 10 penalty units.

15 Removal from scheduled lands

- (1) A person who contravenes any provision of this Part or section 24A (Prohibited entry to playing fields) of the Act, or who trespasses or causes annoyance or inconvenience on any part of the scheduled lands, may be removed from the scheduled lands or any relevant part of the scheduled lands by a member of the Trust, a police officer or an authorised person.
- (2) A member of the Trust or an authorised person acting in accordance with this clause may use such force as is reasonable in the circumstances for the purpose of discharging his or her duty under this clause.

16 Banning from Ground

- (1) A person who is removed from a playing field within the Ground, or from any other part of the Ground, as a result of contravening section 24A of the Act is banned from entering the Ground for a period of 12 months commencing on the day the person is so removed.

Sydney Cricket Ground and Sydney Football Stadium By-law 2004

Clause 17

General

Part 2

-
- (2) A person who is so banned from entering the Ground under subclause (1) and who is found on any part of the Ground during the period of the ban is banned from entering the Ground for life.
 - (3) A person who has been banned from entering the Ground under subclause (1) and who is at any subsequent time removed from the Ground as a result of contravening section 24A of the Act is banned from entering the Ground for life.

17 Trust may ban persons for specified period

- (1) The Trust may ban a person from entering the Ground for such period (not exceeding 6 months) as the Trust determines if the person contravenes any provision of this By-law.
- (2) This clause does not apply to a person who is banned from entering the Ground under clause 16.

Clause 18 Sydney Cricket Ground and Sydney Football Stadium By-law 2004

Part 3 Membership

Part 3 Membership

18 Admission to membership

- (1) The Trust may admit any person or organisation (including any body corporate or partnership) as a member.
- (2) The Trust may require that a person or organisation be nominated as a member by 2 members (other than honorary members) before being admitted to a particular class of membership.
- (3) A person or organisation admitted as a member is, on payment of the fees required under this By-law, entitled to be issued with a membership card.

19 Classes of membership

- (1) There are to be the following classes of membership:
 - (a) regular membership,
 - (b) gold membership,
 - (c) double gold membership,
 - (d) corporate membership,
 - (e) junior regular membership,
 - (f) junior gold membership,
 - (g) honorary membership,
 - (h) life membership.
- (2) A person cannot be a member of more than one class of membership at any time.

Note. Members may apply to transfer from one class of membership to another—see clause 34.
- (3) The Trust may determine the maximum number of members who may belong to any class of membership.

20 Regular membership

- (1) A regular member is entitled to the privileges for the time being attached to regular membership under this By-law or as determined by the Trust.
- (2) A regular member is entitled to be admitted to the Members' Reserve of the Sydney Cricket Ground and to such other parts of the scheduled lands as the Trust determines.

Sydney Cricket Ground and Sydney Football Stadium By-law 2004

Clause 21

Membership

Part 3

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- (3) A regular member (other than a junior regular member) is entitled, on payment of the fee determined by the Trust, to be issued with 1 regular member's guest card and 2 regular member's club cards.
 - (4) A regular member who was admitted to membership of the Sydney Cricket Ground before 1 October 1932 is entitled, on payment of the fee determined by the Trust, to 2 regular member's guest cards and 2 regular member's club cards.

21 Gold membership

- (1) A gold member is entitled to the privileges for the time being attached to gold membership under this By-law or as determined by the Trust.
- (2) A gold member is entitled to be admitted to the Members' Reserve of the Sydney Cricket Ground, the Members' Reserve of the Sydney Football Stadium and to such other parts of the scheduled lands as the Trust determines.
- (3) A gold member who has transferred to gold membership from regular membership does not retain any of the privileges of regular membership. However, such a member is entitled, on payment of the fee determined by the Trust, to be issued with 1 regular member's guest card and 2 regular member's club cards.

22 Double gold membership

A double gold member has the same entitlements as a gold member and, in addition, is entitled to be issued with 1 gold member's guest card and 2 gold member's club cards.

23 Corporate membership

- (1) A corporate member is entitled to the privileges for the time being attached to corporate membership under this By-law or as determined by the Trust.
- (2) A person who, with the authority of the corporate member, holds the corporate member's membership card, is entitled to be admitted to the Members' Reserve of the Sydney Cricket Ground, the Members' Reserve of the Sydney Football Stadium and to such other parts of the scheduled lands as the Trust determines.
- (3) An organisation may, with the written approval of the Trust, assign its corporate membership to another organisation.

24 Junior regular membership

- (1) Any person over the age of 10 years but under the age of 18 years may be admitted as a junior regular member by the Trust.

Clause 25 Sydney Cricket Ground and Sydney Football Stadium By-law 2004

Part 3 Membership

- (2) A junior regular member is entitled to the privileges for the time being attached to junior regular membership under this By-law or as determined by the Trust.
- (3) A junior regular member is entitled to be admitted to the Members' Reserve of the Sydney Cricket Ground.
- (4) A junior regular member is not entitled to be issued with guest or club cards.
- (5) An application for junior regular membership must be accompanied by proof to the satisfaction of the Trust that the applicant is over the age of 10 years and under the age of 18 years.
- (6) A junior regular member may, on attaining the age of 18 years, apply to be admitted to regular, gold or double gold membership. The Trust may grant the application, on payment of:
 - (a) a fee representing the difference between the entrance fee payable by a junior regular member and that payable by a regular, gold or double gold member, and
 - (b) the appropriate annual subscription fee payable by a regular, gold or double gold member.

25 Junior gold membership

- (1) Any person under the age of 18 years may be admitted as a junior gold member by the Trust.
- (2) A junior gold member is entitled to the privileges for the time being attached to junior gold membership under this By-law or as determined by the Trust.
- (3) A junior gold member is entitled to be admitted to the Members' Reserve of the Sydney Cricket Ground, the Members' Reserve of the Sydney Football Stadium and to such other parts of the scheduled lands as the Trust determines.
- (4) A junior gold member is not entitled to be issued with guest or club cards, except with the approval of the Trust and on payment of any fee determined by the Trust.
- (5) An application for junior gold membership must be accompanied by proof to the satisfaction of the Trust that the applicant is under the age of 18 years.
- (6) A junior gold member may, on attaining the age of 18 years, apply for gold or double gold membership and is entitled (on payment of any fee determined by the Trust) to be admitted to gold or double gold membership.

Sydney Cricket Ground and Sydney Football Stadium By-law 2004

Clause 26

Membership

Part 3

26 Honorary membership

- (1) The Trust may admit any person holding an official position, any distinguished person or any other person approved by the Trust, as an honorary member for a period not exceeding 12 months.
- (2) An honorary member is not required to pay an entrance fee or annual subscription fee.
- (3) The Trust may renew any honorary membership for a further period not exceeding 12 months.
- (4) An honorary member is entitled to the privileges for the time being attached to honorary membership under this By-law or as determined by the Trust.

27 Life membership

- (1) The Trust may (but is not obliged to, either generally or in any particular year) admit as a life member any person nominated in accordance with this clause.
- (2) Any person or State sporting body may, on or before 1 July in any year, nominate for life membership any person who meets the criteria set out in subclause (3), including a person who has previously been nominated but has not been admitted to life membership.
- (3) Nominees must be persons who:
 - (a) are Australian citizens, and
 - (b) are of good standing in the community, and
 - (c) have contributed substantially to the development or operation of the Sydney Cricket Ground or the Sydney Football Stadium or have, whether individually or as part of a team, either:
 - (i) represented the State during their sporting career in a sport that is staged regularly on the scheduled lands and achieved success, at the highest level of available competition, in that sport, or
 - (ii) attained an outstanding achievement in any sport, having regard to the level of international competition involved and the person's overall standing in the sport concerned, and
 - (d) in the case of a person referred to in paragraph (c) (i) or (ii), retired from elite competition or attained the outstanding achievement (as the case may be) at least two years before the date of nomination.

Clause 28 Sydney Cricket Ground and Sydney Football Stadium By-law 2004

Part 3 Membership

- (4) The Trust may request any relevant State sporting body to do either or both of the following:
 - (a) to indicate whether or not it endorses the nomination of any particular nominee,
 - (b) to indicate its order of preference of nominees in the case of two or more nominees from the same area of sport.
- (5) A person who is admitted to life membership:
 - (a) becomes a life member at the commencement of the membership year immediately following their nomination, and
 - (b) is entitled to the privileges for the time being attached to life membership under this By-law or as determined by the Trust.
- (6) A life member is entitled to be admitted to the Members' Reserve of the Sydney Cricket Ground, the Members' Reserve of the Sydney Football Stadium and to such other parts of the scheduled lands as the Trust determines.
- (7) A life member is entitled to 1 life member's guest card.

28 Guest cards

- (1) The Trust may issue guest cards to regular members, gold members who have transferred from regular membership, double gold members and life members.
- (2) A regular member's guest card entitles the holder, on production of the card, to admission to the Members' Reserve of the Sydney Cricket Ground and to such other parts of the scheduled lands as the Trust determines.
- (3) A double gold member's guest card entitles the holder, on production of the card, to admission to the Members' Reserve of the Sydney Cricket Ground and of the Sydney Football Stadium and to such other parts of the scheduled lands as the Trust determines.
- (4) A life member's guest card entitles the holder, on production of the card, to admission to the Members' Reserve of the Sydney Cricket Ground and of the Sydney Football Stadium and to such other parts of the scheduled lands as the Trust determines.
- (5) The holder of a guest card is entitled to admission under this clause if the holder has been nominated to the Trust as the signatory for the card by the member to whom the card was issued or transferred in accordance with this Part.

Sydney Cricket Ground and Sydney Football Stadium By-law 2004

Clause 29

Membership

Part 3

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- (6) The holder of a guest card who has not been so nominated for the card is entitled to admission under this clause but must, unless the Trust otherwise approves, be accompanied on days designated by the Trust as major match days by the member to whom the card was issued or transferred in accordance with this Part.

29 Club cards

- (1) The Trust may issue club cards to regular members, gold members who have transferred from regular membership and double gold members.
- (2) A regular member's club card entitles the holder, on production of the card, to admission to such parts of the Members' Reserve of the Sydney Cricket Ground, and to such other parts of the scheduled lands, as the Trust determines.
- (3) A double gold member's club card entitles the holder, on production of the card, to admission to such parts of the Members' Reserve of the Sydney Cricket Ground and of the Sydney Football Stadium, and to such other parts of the scheduled lands, as the Trust determines.
- (4) The holder of a club card is entitled to admission under this clause only on days designated by the Trust as minor match days and must, unless the Trust otherwise approves, be accompanied by the member to whom the card was issued or transferred in accordance with this Part.

30 Limitation on entitlements

Despite the other provisions of this Part, a person is not, by virtue of being a member or the holder of a guest or club card, entitled to be admitted to any part of the scheduled lands during the staging of:

- (a) any non-sporting event (for example, a concert), or
- (b) any sporting event other than football or cricket, or
- (c) any football or cricket event of major international significance that is not staged regularly on the scheduled lands (for example, a football or cricket match staged for the purposes of a World Cup tournament).

31 Transfer of regular membership to spouse on death of member

- (1) The spouse of a deceased regular member may apply to the Trust to be admitted as a regular member.
- (2) The application is to be in writing and must be made within 12 months after the death of the regular member.
- (3) The Trust may grant the application and may waive the payment of the entrance fee.

Clause 32	Sydney Cricket Ground and Sydney Football Stadium By-law 2004
Part 3	Membership

32 Entitlement to gold membership, double gold membership or junior gold membership on death of certain members

- (1) This clause applies if a gold member, double gold member or junior gold member dies and that member was not admitted to that membership:
 - (a) under an entitlement under this clause, or
 - (b) by way of a transfer under clause 35.
- (2) If the deceased member did not hold guest and club cards and left a will, the person entitled to be admitted to gold membership or junior gold membership (in accordance with the class of membership held by the deceased member) is:
 - (a) the person specifically nominated in the will as being entitled to the membership, or
 - (b) if there is a single beneficiary under the will and paragraph (a) does not apply—that beneficiary, or
 - (c) if there are 2 or more beneficiaries under the will and paragraph (a) does not apply—the beneficiary nominated by the deceased member’s legal personal representative.
- (3) If the deceased member held guest and club cards (whether as a gold member who transferred from regular membership, as a double gold member or as a junior gold member) and left a will, the following applies:
 - (a) if the will specifically nominates a person as being entitled to the membership—that person is entitled to be admitted to gold membership as if the person were a former regular member, to double gold membership or to junior gold membership (in accordance with the class of membership held by the deceased member) and to a transfer of the cards,
 - (b) if the will specifically nominates one person as being entitled to the membership and another person as being entitled to the guest and club cards—both persons are entitled to be admitted to gold membership,
 - (c) if there is a single beneficiary under the will and paragraphs (a) and (b) do not apply—that beneficiary is entitled to be admitted to gold membership as if the beneficiary were a former regular member, to double gold membership or to junior gold membership (in accordance with the class of membership held by the deceased member) and to a transfer of the cards,

Sydney Cricket Ground and Sydney Football Stadium By-law 2004

Clause 33

Membership

Part 3

- (d) if there are 2 or more beneficiaries under the will and paragraphs (a) and (b) do not apply—the legal personal representative of the deceased member may nominate:
 - (i) 1 beneficiary, who is entitled to be admitted to gold membership as if the beneficiary were a former regular member, to double gold membership or to junior gold membership (in accordance with the class of membership held by the deceased member) and to a transfer of the cards, or
 - (ii) 2 beneficiaries, both of whom are entitled to be admitted to gold membership as if the beneficiaries were former regular members.
- (4) If the deceased member did not leave a will, the spouse of the deceased member (if any) is entitled to be admitted to gold membership, gold membership as if the spouse were a former regular member, double gold membership or junior gold membership (in accordance with the class of membership held by the deceased member) and to a transfer of any cards.
- (5) However, a person above the age of 18 years who would otherwise be entitled under this clause to be admitted to junior gold membership is entitled, instead, to be admitted to gold membership.

33 Application for admission to membership or transfer of cards on death of member

- (1) A person claiming, under clause 32, an entitlement to membership consequent on the death of a member must lodge a claim in writing to the Trust within 12 months after the death of the member concerned.
- (2) The Trust must, on receipt of the claim and on production of such evidence of entitlement as the Trust may require, admit the claimant to the relevant class of membership (but, in the case of a claim of entitlement to junior gold membership, only if the claimant is under 18 years of age) and transfer to the claimant any cards to which the claimant is entitled under clause 32.
- (3) However, if the claimant is under 18 years of age, the Trust may decline to transfer to the claimant any guest or club cards to which the claimant is so entitled.
- (4) A person who, in consequence of the death of a member, is admitted to membership (whether with or without a transfer of guest or club cards) under this clause is not required to pay any entrance fee in respect of that membership or those cards or any annual subscription fee for a membership year if the annual subscription fee for that membership year was paid by the deceased member.

Clause 34	Sydney Cricket Ground and Sydney Football Stadium By-law 2004
Part 3	Membership

34 Transfer between classes of membership

- (1) A member may apply in writing to the Trust before 1 October in any year for a transfer from one class of membership to another.
- (2) The application must be accompanied by the annual subscription fee payable in respect of the membership to which the member seeks to be transferred together with any entrance fee payable in respect of that class of membership.
- (3) The Trust may credit, against the entrance fee paid in respect of the class of membership to which the member seeks to be transferred, the amount of the entrance fee paid in respect of the class of membership from which the member is seeking a transfer.
- (4) The Trust may grant or refuse the application.

35 Transfer of gold, double gold or junior gold membership to family

- (1) A gold member, double gold member or junior gold member may apply in writing to the Trust to transfer the member's membership to a close relative of the member.
- (2) The Trust may grant the application or may decline to do so.
- (3) If the application is granted, the transfer does not take effect until the administration fee determined by the Trust in respect of the relevant category of transfer is paid.
- (4) On such a transfer, any application under clause 36 for the acceptance by the Trust of surrender of the membership (and, if applicable, of the guest and club cards held by the member) is taken to have been withdrawn.
- (5) In this clause, *close relative* means any person whom the Trust accepts as having a close relationship with the member concerned and may be a person other than a blood relative or a relative by marriage (for example, a de facto spouse or a godchild).

36 Surrender of gold membership, double gold membership or junior gold membership

- (1) A gold member, double gold member or junior gold member may apply in writing to the Trust for the acceptance by the Trust of a surrender:
 - (a) of the membership and guest and club cards held by the member, or
 - (b) of the guest and club cards held by the member, or
 - (c) if the member does not hold any guest or club cards—of the membership.

Sydney Cricket Ground and Sydney Football Stadium By-law 2004

Clause 37

Membership

Part 3

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- (2) The Trust may accept the surrender or may decline to do so.
 - (3) If the Trust accepts the surrender of a membership or guest and club cards (or both) under this clause, the Trust may credit to the member the sum that the Trust determines, and the Minister approves, for the time being as the sum payable generally in respect of such a surrender.
 - (4) The sum credited may be substantially different from the entrance fee paid in respect of the membership or the cards or the entrance fee payable at the time of the surrender in respect of similar memberships or cards.
 - (5) The Trust must pay to the member the sum credited less any amount owing to the Trust by the member (such as any annual fee due but not paid).
 - (6) A person whose membership has lapsed under Part 4 and has not been restored cannot surrender that membership and is not entitled to any credit in respect of it.

37 Reciprocal arrangements

The Trust may enter into reciprocal arrangements with clubs, associations, grounds or other bodies, whether within Australia or elsewhere, under which:

- (a) members may be provided with membership or entry privileges in relation to the relevant club, association, ground or other body, and
- (b) members of the relevant club, association, ground or other body may be provided with membership or entry privileges in relation to the Ground.

38 Lost membership cards

- (1) A member who loses a membership card, guest card or club card may apply in writing to the Trust for a replacement card.
- (2) The application must be accompanied by a statutory declaration explaining how the card was lost.
- (3) The Trust may, on receipt of the application and on payment of the fee (if any) determined by the Trust to be payable for the replacement of a card, issue a duplicate card to the member.

39 Parts of Ground available to members

- (1) A person is not, by virtue of being a member or the holder of a guest or club card, entitled to enter any part of the Ground set aside for the public.

Clause 40 Sydney Cricket Ground and Sydney Football Stadium By-law 2004

Part 3 Membership

- (2) The Trust may from time to time vary the boundaries of the Members' Reserve of the Sydney Cricket Ground and of the Sydney Football Stadium.

40 Entry to Members' Pavilion

A person under the age of 18 years (including a junior gold member or junior regular member) must not, except with the approval of the Trust, enter the Members' Pavilion.

41 Trust may vary or waive membership requirements

The Trust may vary or waive any membership requirement or fee payable in respect of membership generally or in respect of a particular class of membership for such reasons as appear to the Trust to be appropriate in the circumstances.

42 Suspension or cancellation of membership for misbehaviour

- (1) An allegation may be made by any person to the Trust that a member or a member's guest:
- (a) has contravened any provision of this By-law, or
 - (b) has persistently contravened the provisions of this By-law, or
 - (c) has engaged in serious misconduct (which may include a contravention of section 24A of the Act) on the scheduled lands.
- (2) An allegation of the type referred to in subclause (1) (a) is to be dealt with as follows:
- (a) the Trust may dismiss any such allegation or it may decide to suspend the person's membership for a period not exceeding 6 months,
 - (b) if the Trust decides to suspend the person's membership:
 - (i) the Trust is to notify the person in writing of its decision as soon as is practicable after making its decision, and
 - (ii) on receiving such notification, the person has 7 days within which to notify the Trust in writing that the person wishes to appeal against the decision,
 - (c) the Trust is to conduct an appeal within 7 days of receiving a written notification of appeal, and in such manner as the Trust determines.

Sydney Cricket Ground and Sydney Football Stadium By-law 2004

Clause 42

Membership

Part 3

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- (3) An allegation of the type referred to in subclause (1) (b) or (c) is to be dealt with as follows:
- (a) the Trust may dismiss any such allegation, or it may decide that the allegation is to be heard and determined by a Disciplinary Committee of the Trust consisting of at least 3, but not more than 5, Trust members,
 - (b) if the Trust decides that the allegation is to be heard and determined by a Disciplinary Committee:
 - (i) the Trust is to give the member against whom the allegation is made written notice of the allegation at least 14 days before the date set for the meeting to hear and determine the matter, and
 - (ii) the member is to be given the opportunity to make submissions at the meeting,
 - (c) the Disciplinary Committee may, if it finds the allegation against the member to be proven:
 - (i) suspend the person's membership for a period not exceeding 6 months, or
 - (ii) cancel the person's membership.
- (4) A decision of the Trust or Disciplinary Committee to suspend or cancel a person's membership under this clause takes effect immediately or at such later date as may be specified.
- (5) If a person's membership is suspended under this clause, the person ceases to be a member for the duration of the suspension. However the requirement to pay the annual subscription fee or other fee that is otherwise payable as a member continues to apply in respect of the suspension period.
- (6) If a person's membership is cancelled under this clause:
- (a) the person's name is to be removed from the roll of members, and
 - (b) the person is not to be reinstated as a member except by resolution of the Trust and except on such terms and conditions as the Trust determines.
- (7) If a person's gold, double gold or junior gold membership is cancelled under this clause, the Trust is to refund to the person such proportion of the entrance fee paid in respect of the relevant membership as the Trust determines.
- (8) This clause applies in respect of a corporate membership if the allegation concerned is made against a person who holds the corporate member's membership card with the authority of the corporate member.
- (9) This clause has effect despite any other provision of this By-law.

Clause 43	Sydney Cricket Ground and Sydney Football Stadium By-law 2004
Part 4	Membership fees

Part 4 Membership fees

43 Fees determined by the Trust

- (1) The Trust may determine the amount of any entrance fee, annual subscription fee or other fee payable in respect of any class of membership.
- (2) The Trust is to ensure a list of those fees is published from time to time and made available to members.

44 New members to pay fees within certain period

- (1) A new member must pay the entrance fee and annual subscription fee within 14 days after admission to membership, or the admission is void.
- (2) Subclause (1) does not apply if the delay in payment of the fee is justified to the satisfaction of the Trust.

45 Payment of annual subscription fee

- (1) The annual subscription fee for each membership year in respect of each class of membership is payable in advance on or before 1 October.
- (2) A member is not entitled to exercise any of the privileges of membership during a membership year unless the member has paid the annual subscription fee for the relevant year.
- (3) Gold membership, double gold membership and junior gold membership lapses if the relevant membership fee has not been paid before 30 November in the year that falls 3 years after the payment became due.
- (4) Any other membership lapses if the relevant membership fee has not been paid before 30 November in the year in which the payment became due (unless an application for deferral of membership is pending or has been granted under this Part).
- (5) If membership has lapsed through non-payment of the annual subscription fee, the Trust may, if satisfied the delay in payment was justified, restore the person concerned to membership on such conditions as the Trust determines.
- (6) In subclause (5), *annual subscription fee* includes a fee required by clause 48 (1).

Sydney Cricket Ground and Sydney Football Stadium By-law 2004

Clause 46

Membership fees

Part 4

46 Absentee list

- (1) Any member who is or will be absent from New South Wales for the whole of the year for which an annual subscription fee is payable may, on application in writing to the Trust, be placed on a list called the "Absentee List" for a period not exceeding 3 years.
- (2) While the member is absent and remains on the Absentee List he or she is exempt from payment of an annual subscription fee.
- (3) The member must, within one month after returning to New South Wales, pay the annual subscription fee for the current year, otherwise membership lapses.
- (4) This clause does not apply to corporate members.

47 Application for deferral of membership

- (1) A regular member, gold member or double gold member may apply to the Trust, on the grounds of the member's financial hardship or medical condition, for deferral of the member's membership for a period of one membership year.
- (2) Any such application:
 - (a) must be made in writing no later than 30 November in the membership year to which it relates, and
 - (b) must specify the grounds on which it is made.
- (3) The Trust is to grant an application made under this clause if satisfied that the circumstances of the case warrant the deferral.
- (4) More than one application may be made under this clause.
- (5) Despite subclause (3), the Trust must not grant an application for deferral for a fourth consecutive membership year.
- (6) A member whose membership is deferred is not entitled to any of the privileges of membership during the period of the deferral.

48 Deferral of membership: fees

- (1) If a member's application for deferral of membership is granted, the member is to pay a fee equivalent to 40% (or such other percentage as the Trust may determine in respect of any particular membership year) of the annual subscription fee that would have been payable by the member had the application been refused.
- (2) If a member's application for deferral of membership is refused, the member is to pay the member's annual subscription fee.

Clause 48 Sydney Cricket Ground and Sydney Football Stadium By-law 2004
Part 4 Membership fees

- (3) A fee payable under this clause is to be paid within 30 days after the date on which the Trust notifies the member in writing of the granting or refusal (as the case may be) of the application for deferral of membership. If the fee is not paid by that date, the member's membership lapses.

Sydney Cricket Ground and Sydney Football Stadium By-law 2004

Clause 49

Elections of members to be appointed to the Trust

Part 5

Part 5 Elections of members to be appointed to the Trust

49 Definitions

In this Part:

election means an election, under section 6 (2) of the Act, of persons to be appointed as members of the Trust.

member of the Sydney Cricket Ground means a member of the Sydney Cricket Ground other than a junior member, a junior gold member or an honorary member.

50 Conduct of election

An election is to be carried out in accordance with this Part.

51 Returning Officer

- (1) The Trust is, by instrument in writing, to appoint a person as Returning Officer for the purposes of this Part.
- (2) The person occupying the office of Electoral Commissioner for New South Wales or his or her delegate may, if he or she consents, be appointed as Returning Officer.

52 Notification of polling day and invitation of nominations

- (1) The Returning Officer, on advice from the Trust, is to notify an election by causing to be published in the Gazette and in at least 1 newspaper published and circulating generally throughout New South Wales a notification that:
 - (a) fixes the polling day for the election, and
 - (b) invites nominations from members of the Sydney Cricket Ground to fill the vacancies for elected members of the Trust, and
 - (c) fixes a time and date for the close of nominations for that election, being a date:
 - (i) at least 21 days after the date of publication of the notification, and
 - (ii) at least 30 days before the polling day for the election.
- (2) The notification of an election must be published at least 60 days before the polling day for the election to which it relates.
- (3) The Returning Officer may, by means of another notification of the same kind, fix a later time and date for the close of nominations than those fixed by a previous notification in relation to the election.

Clause 53 Sydney Cricket Ground and Sydney Football Stadium By-law 2004

Part 5 Elections of members to be appointed to the Trust

53 Nominations

- (1) A nomination must be in writing and set out the following particulars:
 - (a) the full name of the candidate nominated,
 - (b) the residential address of the candidate,
 - (c) the date of birth of the candidate,
 - (d) the membership card number of the candidate,
 - (e) an endorsement of that candidate's consent to his or her nomination,
 - (f) the full names, residential addresses, membership card numbers and signatures of at least 6 nominators, being members of the Sydney Cricket Ground, not including the candidate.
- (2) A candidate may withdraw his or her nomination for an election by notification in writing delivered to the Returning Officer at any time before the close of nominations for the election.
- (3) A member of the Sydney Cricket Ground may nominate not more than 2 candidates.

54 Candidate information sheet

- (1) A candidate may, at any time before the close of nominations, submit to the Returning Officer a statutory declaration in the form of the Eighth Schedule to the *Oaths Act 1900* that includes the matter specified in Schedule 1 and contains information intended for inclusion in a candidate information sheet.
- (2) If, by the close of nominations, there is a greater number of persons nominated as candidates than is required for election, the Returning Officer is to draw up a candidate information sheet consisting of the information in the statutory declarations submitted by candidates under subclause (1).
- (3) If the Returning Officer considers that the information contained in a candidate's statutory declaration:
 - (a) is not appropriate for inclusion in a candidate information sheet, or
 - (b) is misleading in any material particular, or
 - (c) is of a length greater than that specified in Schedule 1,the Returning Officer may, in drawing up the candidate information sheet under subclause (2), omit the information, omit or rectify the particular or reduce the length of the information, as appropriate.

Sydney Cricket Ground and Sydney Football Stadium By-law 2004

Clause 55

Elections of members to be appointed to the Trust

Part 5

55 No canvassing display

A person must not post up, exhibit or distribute on any scheduled lands any material in support of the candidature of any person at an election.

Maximum penalty: 1 penalty unit.

56 Close of nominations and taking of poll

- (1) If, after the close of nominations, there is not a greater number of persons nominated than is required for election the Returning Officer is to declare those persons duly elected.
- (2) If, after the close of nominations, the number of persons nominated is greater than the number required for election, a poll is to be taken.
- (3) If a poll is necessary, the Secretary or his or her delegate is to certify a copy of the roll of all members of the Sydney Cricket Ground and provide that copy to the Returning Officer.
- (4) The copy of the roll is to be available for inspection by members of the Sydney Cricket Ground on request.
- (5) If any candidate dies after the date for the close of nominations and before polling day the election is taken to have wholly failed and the Returning Officer is to proceed to notify a fresh election in accordance with clause 52.
- (6) If a candidate dies on polling day and the candidate:
 - (a) is not elected—the candidate's preferences are to be distributed in the usual way, or
 - (b) is elected—the candidate who obtained the next highest number of votes is to be declared elected in place of the deceased candidate (and, if the election was for the purpose of electing 2 candidates and the deceased candidate scored the highest number of votes, the candidate who scored the third highest number of votes is to be declared elected in place of the candidate who scored the second highest number of votes).

57 Ballot and issuing of ballot-papers

- (1) If a poll is to be taken, the Returning Officer must:
 - (a) hold a ballot, in the manner prescribed for the purposes of section 82A of the *Parliamentary Electorates and Elections Act 1912*, to determine the order in which the candidates' names are to be entered on the ballot-paper, and
 - (b) cause ballot-papers to be printed in the manner required by section 83 of the *Parliamentary Electorates and Elections Act 1912*.

Clause 58 Sydney Cricket Ground and Sydney Football Stadium By-law 2004

Part 5 Elections of members to be appointed to the Trust

- (2) The ballot-papers are to include directions as to the completing and returning of the ballot-papers. In entering the names of candidates on the ballot-papers, it is sufficient, in respect of given names after the first given name, to show initials only.
- (3) The Returning Officer must, at least 20 days before the date fixed for a poll, post to the last address known to the Returning Officer of each member of the Sydney Cricket Ground a ballot-paper printed in accordance with this clause and initialled by the Returning Officer, together with an envelope addressed to the Returning Officer.
- (4) An envelope provided under subclause (3) must contain on the rear flap spaces for the insertion of a voter's name, address, signature and membership card number.
- (5) The Returning Officer may, on written application made to the Returning Officer, and if satisfied that a ballot-paper has been lost or destroyed, supply a duplicate ballot-paper to the person to whom the lost or destroyed ballot-paper was issued.

58 Voting and return of ballot-papers

- (1) A member of the Sydney Cricket Ground who has been forwarded a ballot-paper and an envelope under clause 57 and who wishes to vote may complete the ballot-paper in accordance with the directions printed on the ballot-paper and send or deliver to the Returning Officer the ballot-paper enclosed and sealed in the envelope addressed to the Returning Officer.
- (2) The voting rights of a corporate member of the Sydney Cricket Ground may be exercised by a person authorised by the corporate member to vote on its behalf. If a corporate member holds more than one corporate membership, the corporate member is entitled to one vote for each such membership held, and the voting rights attached to each vote, if they are to be exercised, are to be exercised by a different person so authorised by the corporate member.
- (3) A duly completed ballot-paper deposited in a sealed ballot-box provided for the purpose at the office of the Trust is taken to have been sent or delivered to the Returning Officer.

59 Inspection of envelopes

- (1) The Returning Officer must, as soon as practicable after receiving an envelope purporting to contain a ballot-paper, examine the envelope for the purpose of deciding whether to accept or reject the envelope.

Sydney Cricket Ground and Sydney Football Stadium By-law 2004

Clause 60

Elections of members to be appointed to the Trust

Part 5

-
- (2) The Returning Officer must reject an envelope purporting to contain a ballot-paper issued in respect of an election if:
- (a) the envelope does not have legibly marked on its rear flap the name, address, signature and membership card number that appear to the Returning Officer to be those of a member of the Sydney Cricket Ground, or
 - (b) the envelope is not sealed, or
 - (c) the envelope is not received by the Returning Officer at or before the time stated on ballot-papers issued in respect of the election as the time at or before which the envelope must be so received, or
 - (d) the envelope was forwarded by mail without the correct postage having been paid.

60 Counting of ballot-papers and appointment of scrutineer

- (1) On the day fixed for the poll, the Returning Officer must:
- (a) open all the envelopes received (except any envelope rejected under clause 59) and extract the ballot-papers and, without unfolding them, place the ballot-papers in a ballot-box, and
 - (b) mix the ballot-papers and draw the ballot-papers at random, and
 - (c) unfold those ballot-papers and count, in accordance with clause 61, the votes recorded on the ballot-papers.
- (2) The Returning Officer is to determine the formality or informality of a ballot-paper in accordance with the provisions of sections 122 and 122A of the *Parliamentary Electorates and Elections Act 1912*.
- (3) A ballot-paper is also informal:
- (a) in an election for the purpose of electing 2 candidates—if it does not have votes for 2 or more candidates indicated on it, or
 - (b) in an election for the purpose of electing 1 candidate—if it does not have a vote for 1 or more candidates indicated on it.
- (4) The determination by the Returning Officer of the formality or informality of a ballot-paper or vote is final.
- (5) Each candidate may appoint, in writing, a scrutineer to represent that candidate. The scrutineer may be present during the examination, opening and counting of votes by the Returning Officer.

Clause 61	Sydney Cricket Ground and Sydney Football Stadium By-law 2004
Part 5	Elections of members to be appointed to the Trust

61 Multi-preferential system

- (1) Ballot-papers are to be counted by the Returning Officer:
 - (a) in an election for the purpose of electing 2 candidates—according to a multi-preferential system in which preferences 1 and 2 are regarded as primary votes and the remaining recorded preferences are regarded as secondary votes, or
 - (b) in an election for the purpose of electing 1 candidate—according to an optional preferential system.
- (2) All preferences recorded on the ballot-papers are fully transferable.
- (3) A determination by the Returning Officer relating to the manner in which an election is to be conducted is final.

62 Election not invalid despite certain omissions

An election is not invalid merely because:

- (a) a person whose name is on the roll referred to in clause 56 did not receive a ballot-paper, or
- (b) the Returning Officer did not receive a ballot-paper sent to the Returning Officer.

63 Advice of election result

The Returning Officer is to advise the Secretary and the Minister of the result of the election within 7 days after the polling day.

Sydney Cricket Ground and Sydney Football Stadium By-law 2004

Clause 64

Miscellaneous

Part 6

Part 6 Miscellaneous

64 Penalty notices: section 30A

For the purposes of section 30A of the Act:

- (a) each offence created by a provision specified in Column 1 of Schedule 2 is prescribed as a penalty notice offence, and
- (b) the prescribed penalty for such an offence is the amount specified in Column 2 of that Schedule.

65 Savings

Any act, matter or thing that, immediately before the repeal of the *Sydney Cricket Ground and Sydney Football Stadium By-law 1999* or the *Sydney Cricket and Sports Ground Trust (Elections) By-law 1999*, had effect under either of those By-laws is taken to have effect under this By-law.

Sydney Cricket Ground and Sydney Football Stadium By-law 2004

Schedule 1 Matter to be included in statutory declaration in support of candidature for election to Sydney Cricket and Sports Ground Trust

Schedule 1 Matter to be included in statutory declaration in support of candidature for election to Sydney Cricket and Sports Ground Trust

(Clause 54 (1))

- 1 Candidate's date of birth.
- 2 Name of candidate's employer (or, if self-employed, present position).
- 3 Trade, academic or professional qualifications held by the candidate.
- 4 Organisations of which the candidate is a member.
- 5 Offices (other than employment) held by the candidate.
- 6 Information relevant to the candidate's candidature [*not more than 4 type-written lines*].

Sydney Cricket Ground and Sydney Football Stadium By-law 2004

Penalty notice offences

Schedule 2

Schedule 2 Penalty notice offences

(Clause 64)

Column 1	Column 2
Clause 5 (2)	\$110
Clause 6	\$110
Clause 11 (1)	\$220
Clause 12 (1) (a)	\$110
Clause 12 (1) (b)	\$160
Clause 12 (1) (c)	\$220
Clause 12 (1) (d)	\$160
Clause 12 (1) (e)	\$110
Clause 12 (1) (f)	\$110
Clause 12 (1) (g)	\$110
Clause 12 (1) (h)	\$110
Clause 12 (1) (i)	\$110
Clause 12 (1) (j)	\$110
Clause 12 (1) (k)	\$160
Clause 12 (1) (l)	\$110
Clause 12 (1) (m)	\$110
Clause 12 (1) (n)	\$110
Clause 12 (1) (o)	\$110
Clause 12 (2) (a)	\$110
Clause 12 (2) (b)	\$110
Clause 12 (2) (c)	\$110
Clause 12 (2) (d)	\$110
Clause 12 (2) (e)	\$110
Clause 12 (2) (f)	\$160
Clause 12 (2) (g)	\$220
Clause 12 (2) (h)	\$220

Sydney Cricket Ground and Sydney Football Stadium By-law 2004

Schedule 2 Penalty notice offences

Column 1	Column 2
Clause 12 (2) (i)	\$220
Clause 12 (2) (j)	\$220
Clause 12 (2) (k)	\$110
Clause 13 (a)	\$220
Clause 13 (b)	\$220
Clause 13 (c)	\$220
Clause 13 (d)	\$220
Clause 13 (e)	\$220
Clause 14 (1)	\$220
Clause 14 (2)	\$220

Other Legislation



Notice of Final Determination

under the

Threatened Species Conservation Act 1995

The Scientific Committee established under the *Threatened Species Conservation Act 1995* has made a final determination to insert the following species as an endangered species under that Act and, accordingly, Schedule 1 to that Act is amended by inserting in Part 1 in alphabetical order under the heading “Scrophulariaceae” (under the heading “Plants”):

Lindernia alsinoides R. Br.

Dated, this 16th day of August 2004.

Associate Professor Paul Adam
Chairperson of the Scientific Committee

Copies of final determination and reasons

Copies of the final determination and the reasons for it are available to members of the public (free of charge) as follows:

- (a) on the Internet at www.nationalparks.nsw.gov.au,
- (b) by contacting the Scientific Committee Support Unit, by post C/- Department of Environment and Conservation, PO Box 1967, Hurstville, 2220, by telephone (02) 9585 6940 or by facsimile (02) 9585 6606,
- (c) in person at the National Parks Centre, 102 George St, The Rocks, Sydney.



Notice of Final Determination

under the

Threatened Species Conservation Act 1995

The Scientific Committee established under the *Threatened Species Conservation Act 1995* has made a final determination to insert the following species as an endangered species under that Act and, accordingly, Schedule 1 to that Act is amended by inserting in Part 1 in alphabetical order under the heading “Elapidae” (under the heading “Reptiles”):

Pseudonaja modesta (Günther 1872) Ringed Brown Snake

Dated, this 16th day of August 2004.

Associate Professor Paul Adam
Chairperson of the Scientific Committee

Copies of final determination and reasons

Copies of the final determination and the reasons for it are available to members of the public (free of charge) as follows:

- (a) on the Internet at www.nationalparks.nsw.gov.au,
- (b) by contacting the Scientific Committee Support Unit, by post C/- Department of Environment and Conservation, PO Box 1967, Hurstville, 2220, by telephone (02) 9585 6940 or by facsimile (02) 9585 6606,
- (c) in person at the National Parks Centre, 102 George St, The Rocks, Sydney.



Notice of Final Determination

under the

Threatened Species Conservation Act 1995

The Scientific Committee established under the *Threatened Species Conservation Act 1995* has made a final determination to insert the following matter as a key threatening process under that Act and, accordingly, Schedule 3 to that Act is amended by inserting in alphabetical order:

Predation, habitat degradation, competition and disease transmission by Feral Pigs, *Sus scrofa* Linnaeus 1758

Dated, this 16th day of August 2004.

Associate Professor Paul Adam
Chairperson of the Scientific Committee

Copies of final determination and reasons

Copies of the final determination and the reasons for it are available to members of the public (free of charge) as follows:

- (a) on the Internet at www.nationalparks.nsw.gov.au,
- (b) by contacting the Scientific Committee Support Unit, by post C/- Department of Environment and Conservation, PO Box 1967, Hurstville, 2220, by telephone (02) 9585 6940 or by facsimile (02) 9585 6606,
- (c) in person at the National Parks Centre, 102 George St, The Rocks, Sydney.

OFFICIAL NOTICES

Appointments

COAL ACQUISITION (COMPENSATION) ARRANGEMENTS 1985

Instrument of Appointment of Members of the New South Wales Coal Compensation Review Tribunal

I, Professor MARIE BASHIR, A.C., Governor of New South Wales, with the advice of the Executive Council and in pursuance to the provisions of the Coal Acquisition (Compensation) Arrangements 1985, do make the following appointment for a term of two years expiring on 30 June 2006:

Gordon Ross LEADER as Chairperson.

Dated at Sydney this 18th day of August 2004.

MARIE BASHIR, A.C.,
Governor

By Her Excellency's Command

COAL ACQUISITION (COMPENSATION) ARRANGEMENTS 1985

Instrument of Appointment of Members of the New South Wales Coal Compensation Review Tribunal

I, Professor MARIE BASHIR, A.C., Governor of New South Wales, with the advice of the Executive Council and in pursuance to the provisions of the Coal Acquisition (Compensation) Arrangements 1985, do make the following appointment for a term expiring on 30 June 2006:

Carmel FORBES as Deputy Chairperson.

Dated at Sydney this 18th day of August 2004.

MARIE BASHIR, A.C.,
Governor

By Her Excellency's Command

GEOGRAPHICAL NAMES ACT 1966

Appointment of a Member

Geographical Names Board of New South Wales

HER Excellency the Governor, with advice of Executive Council, pursuant to the provisions of the Geographical Names Act 1966, has appointed Stepan KERKYASHARIAN A.M., nominee of the Community Relations Commission of New South Wales as a member of the Geographical Names Board of New South Wales for a term commencing 18 August 2004 until 12 December 2006.

TONY KELLY, M.L.C.,
Minister for Lands

Department of Infrastructure, Planning and Natural Resources

Infrastructure and Planning



New South Wales

Albury Local Environmental Plan 2000 (Amendment No 10—Hamilton Valley)

under the

Environmental Planning and Assessment Act 1979

I, the Minister Assisting the Minister for Infrastructure and Planning (Planning Administration), make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*. (Q02/00074/PC)

DIANE BEAMER, M.P.,
Minister Assisting the Minister for Infrastructure
and Planning (Planning Administration)

Clause 1 Albury Local Environmental Plan 2000 (Amendment No 10—Hamilton Valley)

Albury Local Environmental Plan 2000 (Amendment No 10—Hamilton Valley)

under the

Environmental Planning and Assessment Act 1979

1 Name of plan

This plan is *Albury Local Environmental Plan 2000 (Amendment No 10—Hamilton Valley)*.

2 Aims of plan

This plan aims:

- (a) to rezone part of the land to which this plan applies from partly the Urban Fringe Zone and partly the Living Area Zone to the Environment Protection Zone under *Albury Local Environmental Plan 2000 (the 2000 plan)*, and
- (b) to rezone part of the land from partly the Urban Fringe Zone and partly the Environment Protection Zone to the Living Area Zone under the 2000 plan, and
- (c) to set development controls that relate to residential development of part of the land.

3 Land to which plan applies

This plan applies to certain land at Hamilton Valley, as shown edged heavy black on the map marked “Albury Local Environmental Plan 2000 (Amendment No 10—Hamilton Valley)” deposited in the office of Albury City Council.

4 Amendment of Albury Local Environmental Plan 2000

Albury Local Environmental Plan 2000 is amended as set out in Schedule 1.

Albury Local Environmental Plan 2000 (Amendment No 10—Hamilton Valley)

Amendments

Schedule 1

Schedule 1 Amendments

(Clause 4)

[1] Clause 5 Definitions

Insert in appropriate order in the definition of *the map* in clause 5 (1):

Albury Local Environmental Plan 2000 (Amendment No 10—Hamilton Valley)

[2] Clause 18 Dwelling-houses in the Living Area Zone

Insert after clause 18 (3):

- (4) Despite subclauses (1) and (2), a dwelling-house must not be erected on any allotment of land that has an area of less than 1 hectare within the Centaur Road area (shown on the map by stippling).
- (5) A person must not carry out development for the purpose of medium density housing or integrated housing within the Centaur Road area (shown on the map by stippling).



Kempsey Local Environmental Plan 1987 (Amendment No 87)

under the

Environmental Planning and Assessment Act 1979

I, the Minister Assisting the Minister for Infrastructure and Planning (Planning Administration), make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*. (G03/00130/S69)

DIANE BEAMER, M.P.,
Minister Assisting the Minister for Infrastructure
and Planning (Planning Administration)

Clause 1 Kempsey Local Environmental Plan 1987 (Amendment No 87)

Kempsey Local Environmental Plan 1987 (Amendment No 87)

under the

Environmental Planning and Assessment Act 1979

1 Name of plan

This plan is *Kempsey Local Environmental Plan 1987 (Amendment No 87)*.

2 Aims of plan

This plan aims to permit, with the consent of Kempsey Shire Council, the carrying out of development on the land to which this plan applies for the purpose of self-storage units.

3 Land to which plan applies

This plan applies to Lot 104, DP 807723, Cochrane Street, West Kempsey, as shown edged heavy black on the map marked "Kempsey Local Environmental Plan 1987 (Amendment No 87)" deposited in the office of Kempsey Shire Council.

4 Amendment of Kempsey Local Environmental Plan 1987

Kempsey Local Environmental Plan 1987 is amended by inserting at the end of clause 37 in Columns 1 and 2, respectively, the following words:

Lot 104, DP 807723, Cochrane Street, West Kempsey, as shown edged heavy black on the map marked "Kempsey Local Environmental Plan 1987 (Amendment No 87)".	Self-storage units.
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Natural Resources

WATER ACT 1912

Notice Under Section 22B

Water Extraction Suspension

Wallamore Anabranche of the Peel River

THE Water Administration Ministerial Corporation pursuant to section 22B of the Water Act 1912, is satisfied that the quantity of water available or likely to be available in the Wallamore Anabranche of the Peel River and the tributaries and effluents of the aforementioned stream, is insufficient to meet all requirements with respect to the taking of water therefrom.

Accordingly, except as provided for hereunder, all holders of permits, authorities and licences issued under Part 2 of the Water Act 1912, are advised that as from 27 August 2004, all allocations within the Wallamore Anabranche will be reduced to 50%. This reduction will apply until further notice.

Entitlement holders must also comply with their licence flow conditions.

This reduction does not apply to the allocations to entitlements:

- for stock and domestic purposes,
- that benefit from discharges from the Tamworth Regional Council Sewage Treatment Works.

Dated this 27th day of August 2004.

GA2:472156.

Signed for the Water Administration Ministerial Corporation:

RANDALL HART,
Regional Director,
Barwon Region,
Department of Infrastructure, Planning
and Natural Resources
(by delegation)

WATER MANAGEMENT ACT 2000

Order Under Section 59

Available Water Determination

Macquarie Cudgegong Regulated River
Water Source

PURSUANT to section 59 (1) (a) of the Water Management Act 2000, the Minister for Natural Resources, by this Order, makes an available water determination having the terms set out in the attached Schedule(s) for the Macquarie Cudgegong regulated river water source as defined in the Water Sharing Plan for the Macquarie Cudgegong Regulated River Water Source 2003 and currently in force. Each term in Column 2 applies to the adjacent category or subcategory of access licence in Column 1.

This Order takes effect on 20 August 2004.

Dated at Orange this 20th day of August 2004.

DON MARTIN,
Regional Director, Central West Region,
Department of Infrastructure,
Planning & Natural Resources
(by delegation)

SCHEDULE

COLUMN 1 Category or subcategory of access licence	COLUMN 2 Volume per each unit of access licence share component
Regulated river (general security)	0.02 Megalitre

WATER ACT 1912

APPLICATIONS for licences under Part 2 of the Water Act 1912, being within a proclaimed (declared) local area under section 5(4) of the Act.

Applications for licences under section 10 of Part 2 of the Water Act 1912, have been received as follows:

Lachlan River Valley

Marvick ATTARD for a pump on an unnamed watercourse, on Lot 332, DP 754126, Parish of Lampton, County of King, for stock purposes and irrigation 1.0 hectares (new licence – entitlement obtained by way of permanent transfer) (Reference: 70SL091008) (GA2:466338).

Murray ALDRIDGE and Deborah May ALDRIDGE for a pump and pipeline on the Belubula River, on Lot 223/750175, Parish of Nanami, County of Ashburnham, for domestic purposes (new licence) (Reference: 70SL091010) (GA2:466339)

Written objections specifying grounds thereof, may be made by any statutory authority or local occupier within the proclaimed local area whose interests may be effected and must be lodged with the Department within twenty-eight (28) days of the date of this publication as prescribed by the Act.

VIV RUSSELL,
Resource Access Manager,
Central West Region

Department of Infrastructure, Planning and
Natural Resources,
PO Box 136, Forbes, NSW 2871,
Telephone: (02) 6852 1222.

WATER ACT 1912

Notice Under Section 22B

Pumping Suspensions

South Creek and its Tributaries

THE Department of Infrastructure, Planning and Natural Resources pursuant to section 22B of the Water Act 1912, is satisfied that the quantity of water available in South Creek and its tributaries is insufficient to meet all requirements and hereby gives notice to all holders of permits, authorities and licences under Part 2 of the Act, that from Thursday, 26 August 2004 and until further notice, the right to pump water is SUSPENDED.

This suspension excludes water supply for town water supply, stock, domestic and farming (fruit washing and dairy washdown) purposes.

Any person who contravenes the restrictions imposed by this notice is guilty of an offence and is liable on conviction to a penalty not exceeding:

- a) where the offence was committed by a Corporation – 200 penalty units.
- b) where the offence was committed by any other person – 100 penalty units.

One penalty unit = \$110.00.

Dated this 26th day of August 2004.

GA2:476093.

G. LOLLBACK,
Resource Access Manager,
North Coast Region,
Grafton

WATER ACT 1912

Notice Under Section 22B

Pumping Restrictions

Buckra Bendinni Creek and its Tributaries

THE Department of Infrastructure, Planning and Natural Resources pursuant to section 22B of the Water Act 1912, is satisfied that the quantity of water available in Buckra Bendinni Creek and its tributaries is insufficient to meet all requirements and hereby gives notice to all holders of permits, authorities and licences under Part 2 of the Act, that from Thursday, 26 August 2004 and until further notice, the right to pump water is RESTRICTED to a maximum of six hours in any twenty hour period.

This restriction excludes water supply for town water supply, stock, domestic and farming (fruit washing and dairy washdown) purposes.

Any person who contravenes the restrictions imposed by this notice is guilty of an offence and is liable on conviction to a penalty not exceeding:

- a) where the offence was committed by a Corporation – 200 penalty units.
- b) where the offence was committed by any other person – 100 penalty units.

One penalty unit = \$110.00.

Dated this 26th day of August 2004.

GA2:476093.

G. LOLLBACK,
Resource Access Manager,
North Coast Region,
Grafton

WATER ACT 1912

Notice Under Section 22B

Pumping Restrictions

Orara River, Kangaroo Creek, Blaxlands Creek,
Fridays Creek, Bucca Bucca Creek,
Urumbilum River, Dundoo Creek, Halfway Creek,
Sherwood Creek and their Tributaries

THE Department of Infrastructure, Planning and Natural Resources pursuant to section 22B of the Water Act 1912, is satisfied that the quantity of water available in

the abovementioned watercourses and their tributaries is insufficient to meet all requirements and hereby gives notice to all holders of permits, authorities and licences under Part 2 of the Act, that from Wednesday, 25 August 2004 and until further notice, the right to pump water is RESTRICTED to a maximum of eight hours in any twenty hour period between the hours of 4:00 p.m. and 10:00 a.m.

This restriction excludes water supply for town water supply, stock, domestic and farming (fruit washing and dairy washdown) purposes.

Any person who contravenes the restrictions imposed by this notice is guilty of an offence and is liable on conviction to a penalty not exceeding:

- a) where the offence was committed by a Corporation – 200 penalty units.
- b) where the offence was committed by any other person – 100 penalty units.

One penalty unit = \$110.00.

Dated this 25th day of August 2004.

GA2:476094.

G. Lollback,
Resource Access Manager,
North Coast Region,
Grafton

WATER ACT 1912

Notice Under Section 22B

Pumping Suspensions

Richmond River above Findon Creek Junction and
its Tributaries

THE Department of Infrastructure, Planning and Natural Resources pursuant to section 22B of the Water Act 1912, is satisfied that the quantity of water available in Richmond River above Findon Creek Junction and its tributaries is insufficient to meet all requirements and hereby gives notice to all holders of permits, authorities and licences under Part 2 of the Act, that from Wednesday, 25 August 2004 and until further notice, the right to pump water is SUSPENDED.

This suspension excludes water supply for town water supply, stock, domestic and farming (fruit washing and dairy washdown) purposes.

Any person who contravenes the restrictions imposed by this notice is guilty of an offence and is liable on conviction to a penalty not exceeding:

- a) where the offence was committed by a Corporation – 200 penalty units.
- b) where the offence was committed by any other person – 100 penalty units.

One penalty unit = \$110.00.

Dated this 25th day of August 2004.

GA2:476096.

G. LOLLBACK,
Resource Access Manager,
North Coast Region,
Grafton

WATER ACT 1912

AN application for a licence under the section 10 of Part 2 of the Water Act 1912, as amended, has been received as follows:

Barbara Anne WHITMORE, Ian James MERRINGTON and Cherrie MERRINGTON for a pump on Pambula River being Lot Part 41, DP 811253, Parish of Cobra, County of Auckland, for water supply for domestic purposes (high flow access only – new licence) (Reference: 10SL56591) (GA2:509165).

Any inquiries regarding the above should be directed to the undersigned (telephone: 4428 6919).

Written objections specifying grounds thereof must be lodged with the Department within twenty-eight (28) days of the date of this publication as prescribed by the Act.

WAYNE RYAN,
Natural Resource Project Officer,
Sydney/South Coast Region

Department of Infrastructure, Planning and
Natural Resources,
PO Box 309, Nowra, NSW 2541.

WATER ACT 1912

AN application under Part 2, being within a proclaimed (declared) local area under section 10 of the Water Act 1912, as amended.

An application for a licence within a proclaimed local area as generally described hereunder has been received as follows:

Namoi River Valley

NERANGHI LANDS PTY LIMITED for a pump on Ironbark Creek on Lots 42 and 47, DP 752188, Parish of Ironbark, County of Darling, for irrigation of 8.5 hectares (permanent transfer of 52 megalitres – new licence – existing entitlement) (Reference: 90SL100812) (GA2:472153).

Written objections to the application specifying the grounds thereof may be made by any statutory authority or local occupier within the proclaimed (declared) area, whose interest may be affected and must be lodged with the Department's Manager, Resource Access, Tamworth, within twenty-eight (28) days as specified in the Act.

GEOFF CAMERON,
Manager,
Resource Access

Department of Infrastructure, Planning and
Natural Resources,
PO Box 550, Tamworth, NSW 2340.

WATER ACT 1912

AN application under Part 2, being within a proclaimed (declared) local area under section 13A of the Water Act 1912, as amended.

An application for a licence within a proclaimed local area as generally described hereunder has been received as follows:

Namoi River Valley

Peter William REDFERN for a pump on the Namoi River on Lot 1, DP 222049 (formerly Portion 15), a supply channel on Lot 141, DP 753955, Lot 166, DP 41907, Lots 80, 124, 125 and 114, all DP 753955, all Parish of Queerbri and Lot 29, DP 753936, Parish of Gundemain and a pipe from Lot 29, DP 753936, crossing shire road to Lot 1, DP 560640, Parish of Gundemain, all County of Jamison, for irrigation purposes (permanent transfer of 126 megalitres of existing entitlements) (Reference: 90EL000501) (GA2:472155).

Written objections to the application specifying the grounds thereof may be made by any statutory authority or local occupier within the proclaimed (declared) area, whose interest may be affected and must be lodged with the Department's Manager, Resource Access, Tamworth, within twenty-eight (28) days as specified in the Act.

GEOFF CAMERON,
Manager,
Resource Access

Department of Infrastructure, Planning and
Natural Resources,
PO Box 550, Tamworth, NSW 2340.

WATER ACT 1912

AN application under Part 2, being within a proclaimed (declared) local area under section 20E(2) of the Water Act 1912, as amended.

An application for an amended authority within a proclaimed local area as generally described hereunder has been received as follows:

Gwydir River Valley

Robert Jonathon MULLIGAN and OTHERS for four (4) pumps on Moomin Creek on Lot 3, DP 627577, Parish of Krui, County of Benarba, for water supply for stock and domestic purposes and irrigation of 1,125.50 hectares (application seeks to amend 90SA11631 to include 324 hectares [1,944 megalitres] of existing Moomin Creek entitlement by way of permanent transfer) (Reference: 90SA11728) (GA2:472154).

Written objections to the application specifying the grounds thereof may be made by any statutory authority or local occupier within the proclaimed (declared) area, whose interest may be affected and must be lodged with the Department's Manager, Resource Access, Tamworth, within twenty-eight (28) days as specified in the Act.

GEOFF CAMERON,
Manager,
Resource Access

Department of Infrastructure, Planning and
Natural Resources,
PO Box 550, Tamworth, NSW 2340.

Department of Lands

DUBBO OFFICE

142 Brisbane Street (PO Box 865), Dubbo NSW 2830

Phone: (02) 6841 5200 Fax: (02) 6841 5231

APPOINTMENT OF TRUST BOARD MEMBERS

PURSUANT to section 93 of the Crown Lands Act 1989, the persons whose names are specified in Column 1 of the Schedules hereunder are appointed, for the terms of office specified thereunder, as members of the trust board for the reserve trust specified opposite thereto in Column 2, which has been established and appointed as trustee of the reserve referred to opposite thereto in Column 3 of the Schedules.

TONY KELLY, M.L.C.,
Minister for Lands

SCHEDULE 1

COLUMN 1	COLUMN 2	COLUMN 3
Arnold Keith WHEELER (re-appointment)	Cobboco Recreation Reserve and Public Hall Trust	Reserve No. 69082 Public Purpose: Public Hall Public Recreation Notified: 8 March 1940 File Reference: DB81 R 226
Patricia FISHER (re-appointment)		
Eric Brian CAMPION (re-appointment)		

Term of Office

For a term commencing 29 October 2004 and expiring 28 October 2009.

SCHEDULE 2

COLUMN 1	COLUMN 2	COLUMN 3
Lloyd James DUNCAN (re-appointment)	Curban Showground Reserve Trust	Reserve No. 59975 Public Purpose: Showground Notified: 16 September 1927 File Reference: DB81 R 215
Trevor Grant NALDER (re-appointment)		
Barry Phillip ROBINSON (re-appointment)		
Camelia Joan ROBINSON (re-appointment)		
Gregory Edwin LUMMIS (re-appointment)		

Term of Office

For a term commencing this day and expiring 31 July 2009.

SCHEDULE 3

COLUMN 1	COLUMN 2	COLUMN 3
Gwendolyn Lynette LYONS (new member)	Euchareena Public Hall Trust	Reserve No. 59331 Public Purpose: Public Hall Notified: 12 November 1926 File Reference: DB81 R 65
Roland David LYONS (new member)		
Joseph CLAYTON (new member)		
Peter James WYKES (new member)		
Alan Edward HUBBARD (re-appointment)		
Richard Lyons CLAYTON (re-appointment)		

Term of Office

For a term commencing 29 October 2004 and expiring 28 October 2009.

SCHEDULE 4

COLUMN 1	COLUMN 2	COLUMN 3
Duncan Henry McCALMAN (re-appointment)	Marthaguy Public Hall and Recreation	Reserve Trust Public Purpose: Racecourse, Public Recreation, Hall Notified: 4 November 1983 File Reference: DB83 R 166

Term of Office

For a term commencing this day and expiring 30 April 2009.

SCHEDULE 5

COLUMN 1	COLUMN 2	COLUMN 3
Richard Finlay REID (re-appointment)	Marra Creek Recreation Reserve Trust	Reserve No. 45467 Public Purpose: Public Recreation Notified: 13 July 1910 File Reference: DB80 R 3
Frank John McKILLOP (re-appointment)		
Neil BUTLER (re-appointment)		
Geraldine Therese BUTLER (re-appointment)		
David William George GREEN (re-appointment)		

Term of Office

For a term commencing 29 October 2004 and expiring 28 October 2009.

SCHEDULE 6

COLUMN 1	COLUMN 2	COLUMN 3
Una Valerie BAKER (re-appointment)	Baradine Recreation Reserve Trust	Dedication No. 520062 Public Purpose: Community Forest Purposes Notified: 14 April 1960
John Lancelot DAVIES (re-appointment)		
Glenda JOHNSTON (re-appointment)		

Reserve No. 68005
Public Purpose: Public
Recreation
Notified: 18 November 1938
File Reference: DB81 R 203

Term of Office

For a term commencing 29 October 2004 and expiring 28 October 2009.

FAR WEST REGIONAL OFFICE
45 Wingewarra Street (PO Box 1840), Dubbo NSW 2830
Phone: (02) 6883 3000 Fax: (02) 6883 3099

**ALTERATION OF CONDITIONS OF A
 WESTERN LANDS LEASE**

IT is hereby notified that in pursuance of the provisions of section 18J, Western Lands Act 1901, the conditions of the undermentioned Western Lands Lease have been altered as shown.

CRAIG KNOWLES, M.P.,
 Minister for Infrastructure, Planning
 and Natural Resources

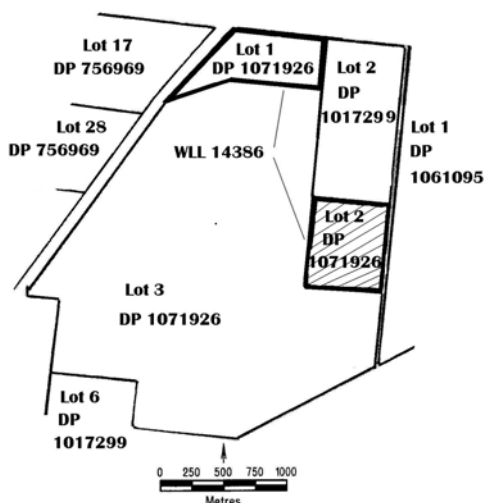
Description

*Administrative District and Shire – Wentworth;
 Parish – Palinyewah; County – Wentworth.*

The conditions of Western Lands Lease 14386, being lands contained within Lots 1 and 2 in DP 1071926, have been altered by the inclusion of the special conditions following effective from 20 August 2004.

**SPECIAL CONDITIONS ATTACHED TO
 WESTERN LANDS LEASE 14386**

1. The lessees shall erect and maintain a domestic stockproof standard fence surrounding the area shown hatched on the diagram hereunder (being Lot 2 in DP 1071926) and ensure the area remains ungrazed by both domestic stock and feral animals.
2. The lessees shall not clear any vegetation or remove any timber within the area shown hatched on the diagram hereunder unless written approval has been granted by either the Commissioner or the Minister.
3. The lessee shall manage the area shown hatched on the diagram hereunder in accordance with best management practices specified in the document known "Southern Mallee Regional Guidelines for the Department of Land Use Agreement".
4. Special condition 1 above shall be revoked, upon application by the lessees, in the event of the revocation of Clearing Consent for any reason other than a breach of Consent condition(s).



**ALTERATION OF CONDITIONS OF A
 WESTERN LANDS LEASE**

IT is hereby notified that in pursuance of the provisions of section 18J, Western Lands Act 1901, the conditions of the undermentioned Western Lands Lease has been altered as shown.

CRAIG KNOWLES, M.P.,
 Minister for Infrastructure, Planning
 and Natural Resources

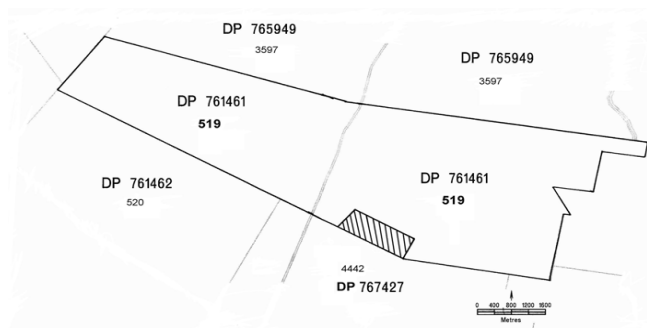
Description

*Administrative District – Walgett North;
 Shire – Walgett; Parish – Mundoo;
 County – Finch.*

The conditions of Western Lands Lease 2485 being the land contained within Folio Identifier 519/761461, have been altered by the inclusion of the following special condition.

**SPECIAL CONDITION ATTACHING TO
 WESTERN LANDS LEASE 2485**

The area within Western Lands Lease 2485 (519/761461) shown hatched on the following diagram shall not be cleared or cultivated and the lessees acknowledge that the Commissioner will not grant any consents for clearing and/or cultivation over the area.



GRAFTON OFFICE
76 Victoria Street (Locked Bag 10), Grafton NSW 2460
Phone: (02) 6640 2000 Fax: (02) 6640 2035

**DRAFT ASSESSMENT OF CROWN LAND UNDER
PART 3 OF THE CROWN LANDS ACT 1989 AND
THE CROWN LANDS REGULATION 2000**

THE Minister for Lands has prepared a draft assessment for the Crown land described hereunder.

Inspection of this draft assessment can be made at the Coffs Harbour office of the Department of Lands at 24 Gordon Street during normal business hours.

Representations are invited from the public on the draft assessment. These may be made in writing for a period of twenty-eight (28) days commencing from 27 August 2004 and should be sent to the Land Assessment Officer, Department of Lands, Locked Bag 10, Grafton, NSW 2460. Please quote file reference number GF02 H 259.

This assessment is undertaken to determine whether the existing Crown lease should be allowed to be purchased and converted to freehold.

TONY KELLY, M.L.C.,
Minister for Lands

Description

Crown Land adjoining eastern boundary of Mount Bishop Road, Karangi, comprising 2469 square metres, Lot 518, DP 820059, Parish Coff, County Fitzroy, Coffs Harbour City held under Special Lease 189722, Bellingen for residence.

Contact: Stephen Channells on 6653 0124.

NOTIFICATION OF CLOSING OF ROAD

IN pursuance of the provisions of the Roads Act 1993, the road hereunder described is closed and the land comprised therein ceases to be a public road and the rights of passage and access the previously existed in relation to the road are extinguished. On road closing, title to the land comprising the former public road vests in the body specified in the Schedule hereunder.

TONY KELLY, M.L.C.,
Minister for Lands

Description

Land District – Casino; L.G.A. – Kyogle Council.

Roads Closed: Lots 108, 109, 110, 111, 112, 119, 120, 121, 122, 123 and 124, DP 873899 at Sandy Creek, Parish Robertson, County Buller.

File No.: GF00 H 248.

SCHEDULE

On closing, the land within Lots 108, 109, 110, 111, 112, 119, 120, 121, 122, 123 and 124, DP 873899, becomes vested in Kyogle Council as operational land for the purposes of the Local Government Act 1993.

Councils Reference: John F Gibson:00/198:AW.

APPOINTMENT OF TRUST BOARD MEMBERS

PURSUANT to section 93 of the Crown Lands Act 1989, the persons whose names are specified in Column 1 of the Schedule hereunder are appointed, for the terms of office specified thereunder, as members of the trust board for the reserve trust specified opposite thereto in Column 2, which has been established and appointed as trustee of the reserve referred to opposite thereto in Column 3 of the Schedule.

TONY KELLY, M.L.C.,
Minister for Lands

SCHEDULE

COLUMN 1	COLUMN 2	COLUMN 3
Wendy Carmel ELLEM (new member), Judith Ann CREER (new member), Graham Neville DOUST (re-appointment), Stephen Leslie WOODHOUSE (re-appointment), Desmond James CASSIDY (re-appointment), Roderick John JAMES (re-appointment).	Boambee Public Recreation and Public Hall Reserve Trust.	Reserve No.: 74100. Public Purpose: Public recreation and public hall. Notified: 16 March 1951. File No.: GF81 R 264.

Term of Office

For a term commencing 24 September 2004 and expiring 23 September 2009.

**APPOINTMENT OF ADMINISTRATOR TO
MANAGE A RESERVE TRUST**

PURSUANT to section 117, Crown Lands Act 1989, the person specified in Column 1 of the Schedule hereunder, is appointed as administrator as from the date also specified thereunder, of the reserve trust specified opposite thereto in Column 2, which is trustee of the reserve referred to in Column 3 of the Schedule.

TONY KELLY, M.L.C.,
Minister for Lands

SCHEDULE

COLUMN 1	COLUMN 2	COLUMN 3
Geoff FIRKIN.	Broken Head Reserve Trust.	Reserve No.: 24495. Public Purpose: Public recreation. Notified: 25 July 1896. File No.: GF01 R 5.

Commencing on the 1 September 2004.

ERRATUM

IN the notice appearing in the *NSW Government Gazette* No. 134, Folio 6553, dated 13 August 2004, under the heading "Reservation of Crown Land", in Column 1 of the Schedule, replace "Lot 525, DP No.129429" with, "Lot 525, DP No.729429".

TONY KELLY, M.L.C.,
Minister for Lands

HAY OFFICE**126 Lachlan Street (PO Box 182), Hay NSW 2711****Phone: (02) 6993 1306 Fax: (02) 6993 1135****APPOINTMENT OF TRUST BOARD MEMBERS**

PURSUANT to section 93 of the Crown Lands Act 1989, the persons whose names are specified in Column 1 of the Schedule hereunder are appointed, for the terms of office specified thereunder, as members of the trust board for the reserve trust specified opposite thereto in Column 2, which has been established and appointed as trustee of the reserve referred to opposite thereto in Column 3 of the Schedule.

TONY KELLY, M.L.C.,
Minister for Lands

SCHEDULE

COLUMN 1	COLUMN 2	COLUMN 3
Wayne John MORRIS (new member).	Finley Lake Trust.	Public Purpose: Public Recreation. Notified: 2 July 1971. File No.: HY81 R 139.

Term of Office

For a term commencing the date of this notice and expiring 30 May 2006.

MAITLAND OFFICE**Cnr Newcastle Road and Banks Street (PO Box 6), East Maitland NSW 2323****Phone: (02) 4934 2280 Fax: (02) 4934 2252****APPOINTMENT OF TRUST BOARD MEMBERS**

PURSUANT to section 93 of the Crown Lands Act 1989, the persons whose names are specified in Column 1 of the Schedule hereunder are appointed, for the terms of office specified thereunder, as members of the trust board for the reserve trust specified opposite thereto in Column 2, which has been established and appointed as trustee of the reserve referred to opposite thereto in Column 3 of the Schedule.

TONY KELLY, M.L.C.,
Minister for Lands

SCHEDULE

COLUMN 1	COLUMN 2	COLUMN 3
Barbara ROBERTS (new member), Lawrence Alec WHITE (re-appointment), Leslie David NORRIS (re-appointment), Robert Bruce CURTIS (re-appointment), Maxwell William ALEXANDER (re-appointment), Bruce GIBSON (re-appointment).	Morisset Showground Trust.	Reserve No.: 65735. Public Purpose: Public recreation and showground. Notified: 10 January 1936. File No.: MD80 R 225/5.

Term of Office

For a term commencing the date of this notice and expiring 26 August 2009.

TAREE OFFICE**98 Victoria Street (PO Box 440), Taree NSW 2430****Phone: (02) 6552 2788 Fax: (02) 6552 2816****ROADS ACT 1993**

Order

Transfer of Crown Road to a Council

IN pursuance of the provisions of section 151 of the Act, the Crown road specified in Schedule 1 is transferred to the roads authority specified in Schedule 2 hereunder, as from the date of publication of this notice and as from that date the road specified in Schedule 1 ceases to be Crown road.

TONY KELLY, M.L.C.,
Minister for Lands

SCHEDULE 1

*Parishes – Boolambayte and Teleraree;
County – Gloucester;
Land District – Gloucester;
Local Government Area – Great Lakes.*

Crown public road known as Markwell Back Road commencing at the south eastern corner of Lot 142, DP 807477 extending north to the intersection with Markwell Road (this excludes tracks within the State Forest).

SCHEDULE 2

Roads Authority: Great Lakes Council.

File No.: TE03 H 191.

Council Reference: Doc 647893 JM:ST.

WAGGA WAGGA REGIONAL OFFICE**Corner Johnston and Tarcutta Streets (PO Box 60), Wagga Wagga NSW 2650****Phone: (02) 6937 2700 Fax: (02) 6921 1851****APPOINTMENT OF TRUST BOARD MEMBERS**

PURSUANT to section 93 of the Crown Lands Act 1989, the persons whose names are specified in Column 1 of the Schedule hereunder are appointed, for the terms of office specified thereunder, as members of the trust board for the reserve trust specified opposite thereto in Column 2, which has been established and appointed as trustee of the reserve referred to opposite thereto in Column 3 of the Schedule.

TONY KELLY, M.L.C.,
Minister for Lands

SCHEDULE

COLUMN 1	COLUMN 2	COLUMN 3
Neil Alexander SHIPARD (re-appointment).	Bungowannah Public Hall Trust.	Reserve No.: 47781. Public Purpose: Public hall. Notified: 8 May 1912. File No.: WA80 R 28.

Term of Office

For a term commencing the date of this notice and expiring 3 November 2007.

Department of Primary Industries

NSW Fisheries

FISHERIES MANAGEMENT ACT 1994

FISHERIES MANAGEMENT (AQUACULTURE) REGULATION 2002

Clause 37(3) – Notice of Granting of Class 1 Aquaculture Lease

THE Minister has granted the following Class 1 Aquaculture Lease:

OL94/032 within the estuary of Port Stephens having an area of 6.9435 hectares to ALLDINGA PTY LTD of Oyster Cove, NSW, for a term of 15 years expiring on 7 June 2019.

DR NICK RAYNS,
Director,
Fisheries Management,
Agriculture and Fisheries Division,
Department of Primary Industries

FISHERIES MANAGEMENT ACT 1994

FISHERIES MANAGEMENT (AQUACULTURE) REGULATION 2002

Clause 39(4) – Notice of Aquaculture Lease Renewal

THE Minister has renewed the following Class 1 Aquaculture Leases:

OL59/133 within the estuary of Port Stephens, having an area of 0.3980 hectares to Mark HUNTER and Stephen HUNTER of Hawks Nest, NSW, for a term of 15 years expiring on 30 April 2019.

OL60/039 within the estuary of Port Stephens, having an area of 1.1577 hectares to Gordon Keith LATIMORE, Robyn Ann LATIMORE and Robert Wayne LATIMORE of Karuah, NSW, for a term of 15 years expiring on 12 March 2020.

OL73/394 within the estuary of Port Stephens, having an area of 1.1632 hectares to Dean Micheal JOHNSON of Karuah, NSW, for a term of 15 years expiring on 12 February 2019.

OL87/020 within the estuary of the Bellinger River, having an area of 0.2443 hectares to Beverly SHIELDS, Owen SHIELDS, Christopher SHIELDS and Anthony SHIELDS of Urunga, NSW, for a term of 15 years expiring on 5 June 2019.

OL87/021 within the estuary of the Bellinger River, having an area of 0.1209 hectares to Beverly SHIELDS, Owen SHIELDS, Christopher SHIELDS and Anthony SHIELDS of Urunga, NSW, for a term of 15 years expiring on 5 June 2019.

OL89/001 within the estuary of Wallis Lake, having an area of 0.5567 hectares to Paul McRAE, Anne McRAE and Andrew McRAE of Rainbow Flat, NSW, for a term of 15 years expiring on 16th July 2019.

OL73/191 within the estuary of Merimbula Lake, having an area of 0.8761 hectares to Rodney RUTTER and Robert SHERLOCK of Tathra, NSW, for a term of 15 years expiring on 5 March 2018.

OL57/228 within the estuary of the Manning River, having an area of 0.4472 hectares to Stanley Graham RUPRECHT of Mitchells Island, NSW, for a term of 15 years expiring on 30 September 2018.

OL89/040 within the estuary of the Manning River, having an area of 0.0694 hectares to Ian Campbell CRISP of Coopernook, NSW, for a term of 15 years expiring on 18 April 2020.

OL74/195 within the estuary of Wapengo Lake, having an area of 0.7297 hectares to Colin Authur WREN and Cindy Belinda WREN of Bermagui, NSW, for a term of 15 years expiring on 28 January 2019.

OL73/085 within the estuary of Wapengo Lake, having an area of 0.4884 hectares to Colin Authur WREN and Cindy Belinda WREN of Bermagui, NSW, for a term of 15 years expiring on 7 January 2019.

OL57/296 within the estuary of the Moruya River, having an area of 0.3173 hectares to Glenn JONES, Christopher COX and Tippavan COX of Tuross Head, NSW, for a term of 15 years expiring on 24 June 2018.

OL87/179 within the estuary of the Tweed River having an area of 0.9035 hectares to Gary Francis KIRKHAM of Tweed Heads, NSW, for a term of 15 years expiring on 14 February 2019.

OL87/180 within the estuary of the Tweed River having an area of 0.8037 hectares to Gary Francis KIRKHAM of Tweed Heads, NSW, for a term of 15 years expiring on 14 February 2019.

OL59/260 within the estuary of the Manning River, having an area of 0.4362 hectares to Ian Cambell CRISP of Coopernook, NSW, for a term of 15 years expiring on 19 April 2020.

OL74/039 within the estuary of Moruya River, having an area of 0.3976 hectares to Trevor KENNEDY and Christina KENNEDY of Kirribilli NSW, for a term of 15 years expiring on 2 August 2019.

OL57/264 within the estuary of the Hawkesbury River, having an area of 0.8195 hectares to Peter Lance BARCLAY of Forster, NSW, for a term of 15 years expiring on 11 November 2018.

OL89/006 within the estuary of the Manning River, having an area of 0.6166 hectares to Gary RUPRECHT and Errol RUPRECHT of Mitchells Island, NSW, for a term of 15 years expiring on 23 December 2018.

Dr NICK RAYNS,
Director,
Fisheries Management,
Agriculture and Fisheries Division,
Department of Primary Industries

FISHERIES MANAGEMENT ACT 1994**PUBLIC NOTICE****AMENDMENT**

THIS notice amends the notice "Invitation to apply for shares in share management fisheries" published on 23 April 2004, *Government Gazette* No. 75, pages 2155-2162.

Part 7

Item 3: Criteria for the allocation of shares in fishery

B Spanner Crab (Northern Zone) Shares

Omit:

- i. 5 shares will be allocated for each 1,200 kilogram range of spanner crab weight as indicated in the validated catch history of the fishing business during the 3 best years between 1986 and 1990.

Insert instead:

- i. 5 shares will be allocated for each 1,200 kilogram range of average spanner crab weight as indicated in the validated catch history of the fishing business during the 3 best years between 1986 and 1990.

BARRY BUFFIER,
Director-General,
Department of Primary Industries

Dated: 24 August 2004.

Mineral Resources

NOTICE is given that the following applications have been received:

EXPLORATION LICENCE APPLICATIONS

(04-598)

No. 2413, MITHRIL RESOURCES LTD (ACN 099 883 922), area of 100 units, for Group 1, dated 4 August, 2004. (Broken Hill Mining Division).

(04-599)

No. 2414, AURICULA MINES PTY LIMITED (ACN 108 362 027), area of 6 units, for Group 1, dated 10 August, 2004. (Cobar Mining Division).

(04-601)

No. 2415, GLEN JAMES NEIL, area of 9 units, for Group 2, dated 10 August, 2004. (Cobar Mining Division).

(04-602)

No. 2416, CLANCY EXPLORATION PTY LTD (ACN 105 578 756), area of 23 units, for Group 1, dated 13 August, 2004. (Orange Mining Division).

MINING LEASE APPLICATIONS

(04-600)

No. 250, DONALD ROY HALSE, area of about 1 hectare, to mine for opal, dated 6 August, 2004. (Lightning Ridge Mining Division).

(04-1767)

No. 251, MUSWELLBROOK COAL COMPANY LIMITED (ACN 000 009 521), area of about 312.7 hectares, to mine for coal, dated 17 August, 2004. (Singleton Mining Division).

KERRY HICKEY, M.P.,
Minister for Mineral Resources

NOTICE is given that the following applications have been granted:

EXPLORATION LICENCE APPLICATIONS

(T03-0844)

No. 2167, now Exploration Licence No. 6269, MARLBOROUGH RESOURCES NL (ACN 010 126 708), County of King, Map Sheet (8628, 8629, 8728, 8729), area of 39 units, for Group 1, dated 13 July, 2004, for a term until 12 July, 2006.

(T03-0877)

No. 2196, now Exploration Licence No. 6268, SAMS REEF MINING PTY LIMITED (ACN 108 530 712), Counties of Ashburnham and Bathurst, Map Sheet (8630, 8631), area of 120 units, for Group 1, dated 13 July, 2004, for a term until 12 July, 2006.

(T03-0883)

No. 2202, now Exploration Licence No. 6268, SAMS REEF MINING PTY LIMITED (ACN 108 530 712), Counties of Ashburnham and Bathurst, Map Sheet (8630, 8631), area of 120 units, for Group 1, dated 13 July, 2004, for a term until 12 July, 2006.

(T03-1004)

No. 2260, now Exploration Licence No. 6275, WESTLIME PTY LIMITED (ACN 090 152 828), County of Ashburnham, Map Sheet (8630, 8631), area of 9 units, for Group 2, dated 23 July, 2004, for a term until 22 July, 2006.

(T04-0024)

No. 2288, now Exploration Licence No. 6277, PARADIGM NSW PTY LTD (ACN 099 477 979), Counties of Auckland and Wellesley, Map Sheet (8724), area of 9 units, for Group 1, dated 4 August, 2004, for a term until 3 August, 2006.

(T04-0025)

No. 2289, now Exploration Licence No. 6276, ROCKWELL RESOURCES PTY LIMITED (ACN 107 798 998), County of Young, Map Sheet (7434), area of 100 units, for Group 1 and Group 6, dated 2 August, 2004, for a term until 1 August, 2006.

(T04-0031)

No. 2295, now Exploration Licence No. 6271, COMET RESOURCES LIMITED (ACN 060 628 202), Counties of Dampier and St Vincent, Map Sheet (8826, 8926), area of 100 units, for Group 1, dated 15 July, 2004, for a term until 14 July, 2006.

(T04-0036)

No. 2300, now Exploration Licence No. 6272, COMET RESOURCES LIMITED (ACN 060 628 202), County of Dampier, Map Sheet (8825), area of 96 units, for Group 1, dated 16 July, 2004, for a term until 15 July, 2006.

MINERAL CLAIM APPLICATIONS

(T03-0024)

Broken Hill No. 81, now Mineral Claim No. 299 (Act 1992) G.M. RICHARDSON PTY LTD (ACN 060 489 009), Parish of Gol Gol, County of Wentworth, area of about 1.998 hectares, to mine for gypsum, dated 4 August, 2004, for a term until 3 August, 2009.

(T03-0025)

Broken Hill No. 82, now Mineral Claim No. 300 (Act 1992) G.M. RICHARDSON PTY LTD (ACN 060 489 009), Parish of Gol Gol, County of Wentworth, area of about 1.998 hectares, to mine for gypsum, dated 4 August, 2004, for a term until 3 August, 2009.

KERRY HICKEY, M.P.,
Minister for Mineral Resources

NOTICE is given that the following applications for renewal have been received:

(T97-1341)

Exploration Licence No. 5527, JERVOIS MINING LIMITED (ACN 007 626 575), area of 48 units. Application for renewal received 11 August, 2004.

(T02-0044)

Exploration Licence No. 5992, LIONHEARTED LIMITED (ACN 078 697 864), area of 8 units. Application for renewal received 18 August, 2004.

(T02-0015)

Exploration Licence No. 5994, GARY GLEN JEFFERY and JOHN SCOTT STEWART, area of 14 units. Application for renewal received 17 August, 2004.

(T02-0062)

Exploration Licence No. 5995, GOLDEN CROSS OPERATIONS PTY LTD (ACN 050 212 827), area of 39 units. Application for renewal received 9 August, 2004.

(T02-0018)

Exploration Licence No. 5996, PARADIGM NSW PTY LTD (ACN 099 477 979), area of 30 units. Application for renewal received 20 August, 2004.

(T02-0086)

Exploration Licence No. 5999, ALAN ROBERT CAMERON and SYLVIA MAY CAMERON, area of 11 units. Application for renewal received 18 August, 2004.

(T01-0228)

Exploration Licence No. 6000, FALCON MINERALS LIMITED (ACN 009 256 535), area of 30 units. Application for renewal received 19 August, 2004.

KERRY HICKEY, M.P.,
Minister for Mineral Resources

RENEWAL OF CERTAIN AUTHORITY

NOTICE is given that the following authority has been renewed:

(T96-0185)

Mining Purposes Lease No. 313 (Act 1973), R & M MANSFIELD NOMINEES PL (ACN 005 203 805), Parish of Mebea, County of Finch, Map Sheet (8439-2-S), area of 1.752 hectares, for a further term until 12 July, 2008. Renewal effective on and from 22 June, 2004.

KERRY HICKEY, M.P.,
Minister for Mineral Resources

REFUSAL OF APPLICATION FOR RENEWAL

NOTICE is given that the application for renewal in respect of the following authority has been refused:

(T01-0083)

Exploration Licence No. 5921, PLATSEARCH NL (ACN 003 254 395), County of Farnell and County of Yancowinna, Map Sheet (7134), area of 50 units. The authority ceased to have effect on 2 August, 2004.

KERRY HICKEY, M.P.,
Minister for Mineral Resources

CANCELLATION OF AUTHORITIES AT REQUEST OF HOLDERS

NOTICE is given that the following authorities have been cancelled:

(T02-0377)

Exploration Licence No. 6043, FALCON MINERALS LIMITED (ACN 009 256 535), County of Forbes, Map Sheet (8530), area of 30 units. Cancellation took effect on 12 August, 2004.

(T02-0382)

Exploration Licence No. 6044, FALCON MINERALS LIMITED (ACN 009 256 535), County of Ashburnham, Map Sheet (8631), area of 18 units. Cancellation took effect on 12 August, 2004.

(C02-0339)

Mining Lease No. 1363 (Act 1992), SAXONVALE COAL PTY LIMITED (ACN 003 526 467), Parish of Vere, County of Northumberland; and Parish of Wollombi, County of Northumberland, Map Sheet (9132-4-S), area of 142 hectares. Cancellation took effect on 5 April, 2004.

KERRY HICKEY, M.P.,
Minister for Mineral Resources

PART CANCELLATION

NOTICE is given that the following authority has been cancelled in part:

(T04-0294)

Petroleum Production Lease No. 3, NARRABRI POWER LIMITED (ACN 104 570 943).

Description of area cancelled:

An area of 1.05 hectares. For further information contact Titles Branch.

Part cancellation took effect on 2 August, 2004.

The authority now embraces an area of 2638.95 hectares.

KERRY HICKEY, M.P.,
Minister for Mineral Resources

DELEGATION UNDER SECTION 8H OF THE PETROLEUM (SUBMERGED LANDS) ACT 1967 (COMMONWEALTH)

THE Joint Authority in respect of the adjacent area in respect of the State of New South Wales hereby revokes all existing delegations made pursuant to section 8H of the Act and delegates all its powers under the Act (other than power of delegation), or under an Act that incorporates the Act, to the following two persons together:

- The person from time to time performing the duties of General Manager, Offshore Resources Branch, Resources Division, Commonwealth Department of Industry, Tourism and Resources, as the person representing the Commonwealth Minister; and
- The person from time to time holding, occupying, or performing the duties of the office of Director, Minerals Development, Department of Primary Industries – Mineral Resources of the State of New South Wales, as the person representing the State Minister.

IAN ELGIN MACFARLANE,
Minister for Industry, Tourism and Resources

Dated this 16th day of June 2004.

KERRY ARTHUR HICKEY,
Minister for Mineral Resources

Dated this 24th day of June 2004.

Roads and Traffic Authority

ROADS ACT 1993

LAND ACQUISITION (JUST TERMS COMPENSATION) ACT 1991

Notice of Compulsory Acquisition of Land at
Wollongbar in the Ballina Shire Council Area

THE Roads and Traffic Authority of New South Wales by its delegate declares, with the approval of Her Excellency the Governor, that the land described in the Schedule below is acquired by compulsory process under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991, for the purposes of the Roads Act 1993.

T. D. CRAIG,
Manager,

Compulsory Acquisition and Road Dedication,
Roads and Traffic Authority of New South Wales.

SCHEDULE

ALL that piece or parcel of land situated in the Ballina Shire Council Area, Parish of Tuckombil and County of Rous, shown as Lot 2, Deposited Plan 1062895, being part of the land in Certificate of Title 11/868264.

The land is said to be in the possession of United Protestant Association of NSW Limited (registered proprietor) and Grindley Construction Pty Limited (mortgagee).

(RTA Papers: FPP 4M1610; RO 16/23.1270).

ROADS ACT 1993

Notice of Dedication of Land as Public Road at
Gowrie in the Liverpool Plains Council Area

THE Roads and Traffic Authority of New South Wales, by its delegate, dedicates the land described in the Schedule below as public road under section 10 of the Roads Act 1993.

T. D. CRAIG,
Manager,

Compulsory Acquisition and Road Dedication,
Roads and Traffic Authority of New South Wales.

SCHEDULE

ALL that piece or parcel of land situated in the Liverpool Plains Council Area, Parish of Evan and County of Buckland, shown as Lot 61, Deposited Plan 1068124.

(RTA Papers: FPP 2M5082; RO 9/375.186).

ROADS ACT 1993

LAND ACQUISITION (JUST TERMS COMPENSATION) ACT 1991

Notice of Compulsory Acquisition and Dedication
as Public Road of Land at Canowindra in the
Cabonne Shire Council Area

THE Roads and Traffic Authority of New South Wales by its delegate declares, with the approval of Her Excellency the Governor, that the land described in the Schedule below is acquired by compulsory process under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991, for the purposes of the Roads Act 1993 and further dedicates the land as public road under section 10 of the Roads Act 1993.

T. D. CRAIG,
Manager,

Compulsory Acquisition and Road Dedication,
Roads and Traffic Authority of New South Wales.

SCHEDULE

ALL that piece or parcel of Crown Land situated in the Cabonne Shire Council Area, Parish of Canowindra and County of Bathurst, shown as Lot 8, Deposited Plan 836346 being part of Reserve No. 55924 for Approach to Bridge, notified in *Government Gazette* No. 174 of 22 December 1922, on page 6731 and part of Reserve No. 65720 for Access and Crossing, notified in *Government Gazette* No. 1 of 3 January 1936, on page 42.

(RTA Papers FPP 4M1039; RO 72.1182).

ROADS ACT 1993**LAND ACQUISITION (JUST TERMS
COMPENSATION) ACT 1991**

Notice of Compulsory Acquisition of Land at Leura
in the Blue Mountains City Council Area

THE Roads and Traffic Authority of New South Wales by its delegate declares, with the approval of Her Excellency the Governor, that the land described in the Schedule below is acquired by compulsory process under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991, for the purposes of the Roads Act 1993.

T. D. CRAIG,
Manager,

Compulsory Acquisition and Road Dedication,
Roads and Traffic Authority of New South Wales.

SCHEDULE

ALL those pieces or parcels of land situated in the Blue Mountains City Council Area, Parishes of Jamison and Megalong and County of Cook, shown as Lots 98 and 99, Deposited Plan 1052149, being parts of land confirmed for railway purposes by notification in the *Government Gazette* of 19 May 1865, on pages 1076 and 1077.

The land is said to be in the possession of the State Rail Authority of New South Wales.

(RTA Papers FPP 4M3397; RO 5/44.12290).

ROADS ACT 1993**LAND ACQUISITION (JUST TERMS
COMPENSATION) ACT 1991**

Notice of Compulsory Acquisition of Land at
Frederickton in the Kempsey Shire Council Area

THE Roads and Traffic Authority of New South Wales by its delegate declares, with the approval of Her Excellency the Governor, that the land described in the Schedule below is acquired by compulsory process under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991, for the purposes of the Roads Act 1993.

T. D. CRAIG,
Manager,

Compulsory Acquisition and Road Dedication,
Roads and Traffic Authority of New South Wales.

SCHEDULE

ALL that piece or parcel of land situated in the Kempsey Shire Council Area, Parish of Yarrabandini and County of Dudley, shown as Lot 18, Deposited Plan 1069003, being part of the land in Certificate of Title 48/832352.

The land is said to be in the possession of Kempsey Shire Council.

(RTA Papers FPP 4M3386; RO 10/235.1404).

ROADS ACT 1993**LAND ACQUISITION (JUST TERMS
COMPENSATION) ACT 1991**

Notice of Compulsory Acquisition and Dedication
as Public Road of Land at Gillenbah in the
Narrandera Shire Council Area

THE Roads and Traffic Authority of New South Wales by its delegate declares, with the approval of Her Excellency the Governor, that the land described in the Schedule below is acquired by compulsory process under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991, for the purposes of the Roads Act 1993 and further dedicates the land as public road under section 10 of the Roads Act 1993.

T. D. CRAIG,
Manager,

Compulsory Acquisition and Road Dedication,
Roads and Traffic Authority of New South Wales.

SCHEDULE

ALL those pieces or parcels of land situated in the Narrandera Shire Council Area, Parish of Gillenbah and County of Mitchell, shown as Lots 2 and 3, Deposited Plan 1057460, being parts of the land dedicated as Gillenbah State Forest No. 154 by proclamation in *Government Gazette* No. 112 of 1 July 1914, on pages 3766 and 3767.

The land is said to be in the possession of the Forestry Commission of New South Wales.

(RTA Papers FPP 4M1143; RO 17/321.1179).

ROADS ACT 1993

Notice under Clause 17 of the Road Transport (Mass, Loading and Access) Regulation 1996

BEGA VALLEY SHIRE COUNCIL, in pursuance of Division 2 of Part 3 of the Road Transport (Mass, Loading and Access) Regulation 1996, by this Notice, specify the routes and areas on or in which B-Doubles may be used subject to any requirements or conditions set out in the Schedule.

DAVID JESSON,
General Manager,
Bega Valley Shire Council
(by delegation from the Minister for Roads)

SCHEDULE
1. Citation

This Notice may be cited as the Bega Valley Shire Council B-Doubles Notice No. 1/2004.

2. Commencement

This Notice takes effect from the date of gazettal.

3. Effect

This Notice remains in force until 31 December 2009 unless it is amended or repealed earlier.

4. Application

4.1 This Notice applies to B-Doubles that comply with Schedule 1 to the Road Transport (Mass, Loading and Access) regulation 1996 and Schedule 4 to the Road Transport (Vehicle Registration) Regulation 1998.

5. Routes

B-Double routes within the Bega Valley Shire Council

<i>Type</i>	<i>Road No.</i>	<i>Road Name</i>	<i>Starting point</i>	<i>Finishing point</i>	<i>Conditions</i>
25	091	Mt Darragh Road, South Pambula	Princes Highway (SH1)	Bobbins Transport Depot, Lot 7 Mt Darragh Road	Extension of existing route

ROADS ACT 1993

Notice under Clause 17 of the Roads Transport (Mass, Loading and Access) Regulation, 1996

CAMPBELLTOWN CITY COUNCIL, in pursuance of Division 2 of Part 3 of the Road Transport (Mass, Loading, Access) Regulation 1996, by this Notice, specify the routes and areas on or in which B-Doubles may be used subject to any requirements or conditions set out in the Schedule.

PAUL TOSI,
General Manager,
Campbelltown City Council
(by delegation from the Minister for Roads)

11 August 2004

SCHEDULE**1. Citation**

This Notice may be cited as the Campbelltown City Council B-Double Notice No. 2/2004.

2. Commencement

This Notice takes effect from the date of Gazettal.

3. Effect

This Notice remains in force until 1 July 2008 unless it is amended or repealed earlier.

4. Application

4.1 This Notice applies to B-Doubles which comply with Schedule 1 of the Road Transport (Mass, Loading and Access) regulation 1996 and Schedule 4 of the Road Transport (Vehicle Registration) Regulation 1998.

5. Routes

B-Double routes within the Campbelltown City Council

<i>Type</i>	<i>Road</i>	<i>Starting point</i>	<i>Finishing point</i>	<i>Condition</i>
19	Fitzgibbon Road	Appin Road	Copperfield Drive	Deliveries between 1700-0700 hrs only
19	Copperfield Drive	Fitzgibbon Lane	Thomas Rose Drive	
19	Thomas Rose Drive	Copperfield Drive	Fitzgibbon Lane	
19	Raby Road	Campbelltown Road	Eagle Vale Road	Deliveries between 1700-0700 hrs only
19	Eagle Vale Road	Raby Road	Gould Road	
	Gould Road	Eagle Vale Road	Eagle Vale Marketplace	
19	Broughton Street	Moore Oxley Bypass	Queen Street	Deliveries between 1700-0700 hrs only
19	Queen Street	Broughton Street	27 Queen Street	
25	MacDonald Road, Ingleburn	Williamson Road	Lot 21, 6 MacDonald Road	

Other Notices

ABORIGINAL LAND RIGHTS ACT 1983

Notice

I, the Honourable ANDREW REFSHAUGE, M.P., Minister for Aboriginal Affairs, following approval by the New South Wales Aboriginal Land Council, do, by this notice pursuant to section 222 (1) of the Aboriginal Land Rights Act 1983 (the Act), appoint Mr Paul GIDLEY as Administrator to the La Perouse Local Aboriginal Land Council for a maximum period of twelve (12) calendar months. During the period of his appointment, the Administrator will have all of the functions of a Local Aboriginal Land Council as specified in section 52 (1) of the Act, and any other duties as specified by the agreed terms of appointment. The Administrator's remuneration is not to exceed \$132,000.00 dollars.

Signed and sealed this 25th day of August 2004.

ANDREW REFSHAUGE, M.P.,
Minister for Aboriginal Affairs

GOD SAVE THE QUEEN

ASSOCIATIONS INCORPORATION ACT 1984

Transfer of Incorporation Pursuant to Section 48 (4) (a)

TAKE notice that the company "The Sydney Rockclimbing Club Ltd" formerly registered under the provisions of the Corporations Act 2001 is now incorporated under the Associations Incorporation Act 1984 as "Sydney Rockclimbing Club Incorporated" effective 20 August 2004.

CHRIS GOWLAND,
Delegate of Commissioner,
Office of Fair Trading

CO-OPERATIVES ACT 1992

Change of Name

IT is hereby notified that on 20th August 2004, I registered a change of name for Kendall Comboyne Community Co-operative Limited to Kendall Community Co-operative Limited.

Dated this 20th day of August 2004.

CHANDELLE BARLOW,
Delegate of the Registrar of Co-Operatives

DISTRICT COURT OF NEW SOUTH WALES

Direction

PURSUANT to section 32 of the District Court Act 1973, I direct that the District Court shall sit in its civil jurisdiction at the place and time shown as follows:

Newcastle	10.00am	18 October 2004 (2 weeks)
		Sittings Cancelled

Dated this 20th day of August 2004.

R. O. BLANCH,
Chief Judge

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

Office of the Commissioners of Inquiry for Environment and Planning

Notice of Commission of Inquiry into the Proposed
Alterations to and Extensions of the existing
Eastern Creek Waste Management Centre, Ferrers
Road, Eastern Creek, Blacktown Local Government
Area

PURSUANT to section 119 of the EP&A Act the Honourable CRAIG KNOWLES, M.P., Minister for Infrastructure and Planning and Minister for Natural Resources, directed that a Commission of Inquiry be held into all environmental aspects of the proposed alterations to, and extensions of, the existing Eastern Creek Waste Management Centre (ECWMC) by the Waste Recycling and Processing Corporation (Waste Service NSW).

The Minister has appointed Commissioner Kevin Cleland, Deputy Chairperson to constitute the Commission of Inquiry. The Commissioners of Inquiry are independent of government, its departments/agencies and councils.

The Minister will determine the matter after considering the findings and recommendations of the Commission of Inquiry. Each party appearing before the Inquiry will be advised of the Commission's findings and recommendations.

HEARING SESSIONS: Public hearing sessions will commence at the Hearing Room, Office of the Commissioners of Inquiry, Level 13, 301 George Street, Sydney from 9:30 a.m., Tuesday, 12 October 2004 and continue as required. The Commission will be conducted in two sessions and will be open to the public. The first session is for parties to present relevant information relating to the proposal which is contained in their primary submissions. The second session (date to be advised at first session) is for the purpose of enabling parties to present a submission in reply summing up their position and/or responding to submissions made by other parties.

LODGING SUBMISSIONS AND REGISTERING FOR APPEARANCE: Persons seeking to make a submission to the Commission of Inquiry are required to register by sending **FOUR COPIES** of their primary submission in writing, together with any supporting submissions to the Office of the Commissioners of Inquiry (GPO Box 3415, Sydney 2001) by 1:00 p.m., Wednesday, 29 September 2004.

All submissions to the Commission are public documents and will be placed on public exhibition unless confidentiality is requested and upheld by the Commission.

Please indicate at the start of your submission if you wish to appear before the Commission of Inquiry and the estimated time you require to present your submission.

INSPECTING DOCUMENTS: Any person may inspect the Development Application, Environmental Impact Statement and other relevant documents from 2:00 p.m., Thursday, 2 September 2004 and submissions to the Commission from 10:00 a.m., Tuesday, 5 October 2004, at the following locations:

- Office of the Commissioners of Inquiry, Level 13, 301 George Street, Sydney;

- Max Webber Library, Level 4, Westpoint Shopping Centre, Blacktown; and
- Fairfield City Library, Barbara and Kenyon Streets, Fairfield.

QUESTIONS AND RESPONSES: Procedures for lodging written questions and receiving responses will be determined during the first session of the Commission.

Further information on the preparation of submissions and conduct of the Commission of Inquiry is available on the Internet at <http://www.coi.nsw.gov.au> or from Mr Paul Freeman on (02) 9299 2904.

PAUL FREEMAN,
Registrar

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

Office of the Commissioners of Inquiry for
Environment and Planning

Notice of Commission of Inquiry into the Proposed
Construction and Operation of a New Container
Terminal at Port Botany, Botany Bay City

THE first public hearing session of the Commission of Inquiry into the proposed Port Botany Expansion by Sydney Ports Corporation was adjourned on 31 May 2004. This followed an amendment to the Commission's terms of reference by the Honourable CRAIG KNOWLES, M.P., Minister for Infrastructure and Planning and Minister for Natural Resources. The adjournment was to allow Sydney Ports Corporation to address the amendment. The additional term of reference requires the Commission to have particular emphasis on:

An analysis of any potentially feasible alternatives at Port Botany to the carrying out of the development, including, the alternative proposed by P&O Ports Limited.

The Commission has now received a supplementary report by Sydney Ports Corporation (submission 1.4) addressing the additional term of reference. The report will be available for public viewing from 10:00 a.m., on Wednesday, 1 September 2004, at the following locations:

- Office of the Commissioners of Inquiry, Level 13, 301 George Street, Sydney;
- Botany Bay City Council, 141-143 Coward Street, Mascot;
- Botany Bay City Library, Eastgardens Shopping Centre, Pagewood;
- Kogarah Municipal Council, 2 Belgrave Street, Kogarah;
- Randwick City Council, 30 Frances Street, Randwick;
- Randwick City Branch Library, 1203 Anzac Parade, Matraville;
- Rockdale City Council, 2 Bryant Street, Rockdale; and
- Sutherland Central Library, 30-36 Belmont Street, Sutherland.

If you wish to comment on the supplementary report, please send two copies of your submission to the Office of the Commissioners of Inquiry (GPO Box 3415, Sydney 2001) or by email to paula.poon@coi.nsw.gov.au on or before 1:00 p.m., Tuesday, 12 October 2004.

Please indicate in your submission if you wish to appear before the Commission of Inquiry, the venue at which you wish to present your submission, whether you wish to present your submission at an out-of-business hours sitting, and the estimated time you require to present your submission. Parties who have already registered to appear will be advised of the new hearing program.

Public hearing sessions will reconvene at the Office of the Commissioners of Inquiry, Level 13, 301 George Street, Sydney at 10:00 a.m., Tuesday, 19 October 2004. Afternoon and evening sittings will be held at the Stamford Airport Hotel, O'Riordan Street, Mascot, on dates to be advised.

If you have made a submission to the Department of Infrastructure, Planning and Natural Resources (DIPNR) in relation to the supplementary report, your submission will be considered a submission to the Commission unless you have requested confidentiality.

All submissions previously received by the Commission will continue to be considered submissions to the Commission. Submissions to the Commission are public documents and will be placed on public exhibition unless confidentiality is requested and upheld by the Commission.

Submissions to the supplementary report will be available for public viewing from 2:00 p.m., Wednesday, 13 October 2004, at the abovementioned locations. The background documents including the Development Application, Environmental Impact Statement, other relevant documents and submissions previously made to the Commission will remain on public exhibition at these locations.

Further information concerning the Commission's terms of reference, a list of submissions to the Commission, the preparation of submissions and conduct of the Commission of Inquiry is available on the Internet at <http://www.coi.nsw.gov.au> or from Mrs Paula Poon on (02) 9299 2904.

PAUL FREEMAN,
Registrar

HEALTH CARE LIABILITY ACT 2001

Notified Insurers

IT is hereby advised, that as at 23 August 2004, the following are notified insurers for the purposes of the Insurance Approval Order made under the Health Care Liability Act 2001:

United Medical Protection Limited
Australasian Medical Insurance Limited
Medical Defence Association of South Australia Limited
Medical Insurance Australia Pty Limited
The Medical Defence Association of Victoria Limited
Professional Indemnity Insurance Company Australia Pty. Limited
MDA National Pty Ltd
MDA National Insurance Pty Ltd
Health Professionals Insurance Australia Pty. Ltd.

K. J. CRAWSHAW,
Director,
Employee Relations,
Legal and Legislation and General Counsel,
NSW Department of Health

HUNTER WATER ACT 1991**LAND ACQUISITION (JUST TERMS
COMPENSATION) ACT 1991**

Hunter Water Corporation

Notice of Compulsory Acquisition of Land and
Easements at Karuah

HUNTER Water Corporation declares, with the approval of Her Excellency the Governor and the Executive Council that the Land and Easements described in the Schedule below are acquired by compulsory process in accordance with the provisions of the Land Acquisition (Just Terms Compensation) Act 1991, for sewerage purposes under the Hunter Water Act 1991.

Dated at Sydney this 21st day of July 2004.

KEVIN YOUNG,
Managing Director,
Hunter Water Corporation

SCHEDULE

Land

Lot 1, DP 1064917.

Interest in Land

Easement rights as described under the heading Easement for Sewermain in Memorandum O352656 filed in the Land and Property Information NSW over the site shown as:

“(B) PROPOSED EASEMENT FOR SEWERMAIN 4 WIDE & VARIABLE” in Deposited Plan 1057485 within Part Lot 195 in Deposited Plan 753196 being Reserve No. 91014 for public recreation, notified in *Government Gazette* of 13 January 1978, in the Parish of Tarean, County of Gloucester.

Easement rights as described under the heading Easement for Sewermain in Memorandum O352656 filed in the Land and Property Information NSW over the site shown as:

“(M) PROPOSED EASEMENT FOR SEWERMAIN 4 WIDE” in Deposited Plan 1054893 within Reserve No. 85047 for public recreation, notified in *Government Gazette* of 16 October 1964, 21 December 1979 and 1 February 1980, in the Parish of Tarean, County of Gloucester.

(C5/11256)

HUNTER WATER ACT 1991**LAND ACQUISITION (JUST TERMS
COMPENSATION) ACT 1991**

Compulsory Acquisition of Easements

Stockton to Shortland Pipeline

HUNTER Water Corporation declares, with the approval of Her Excellency the Governor and the Executive Council that the easement described in the Schedule below is acquired by compulsory process in accordance with the provisions of the Land Acquisition (Just Terms Compensation) Act 1991, for sewerage purposes under the Hunter Water Act 1991.

Dated at Sydney this 4th day of August 2004.

KEVIN YOUNG,
Managing Director,
Hunter Water Corporation

SCHEDULE

Interest in Land

Easement rights as described under the heading Easement for Sewermain in Memorandum O352656 filed in the Land Titles Office over the sites shown as:

“(A) PROPOSED EASEMENT FOR SEWERMAIN 4 WIDE” in Deposited Plan 1032146 within Lot 2, DP 594332.

“(A) PROPOSED EASEMENT FOR SEWERMAIN 4.0 WIDE” in Deposited Plan 1043538 within Lot 7, DP 1015754.

“(A) PROPOSED EASEMENT FOR SEWERMAIN 4.0 WIDE” in Deposited Plan 1043538 within Lot 1, DP 608317.

“(A) PROPOSED EASEMENT FOR SEWERMAIN 4.0 WIDE” in Deposited Plan 1043538 within Lot 2, DP 262783.

“(A) PROPOSED EASEMENT FOR SEWERMAIN 4.0 WIDE” in Deposited Plan 1043538 within Lot 1, DP 126347.

(C5/11394)

HUNTER WATER ACT 1991**LAND ACQUISITION (JUST TERMS
COMPENSATION) ACT 1991**

Compulsory Acquisition of Easement

Stockton to Shortland Pipeline

HUNTER Water Corporation declares, with the approval of Her Excellency the Governor and the Executive Council that the easement described in the Schedule below is acquired by compulsory process in accordance with the provisions of the Land Acquisition (Just Terms Compensation) Act 1991, for sewerage purposes under the Hunter Water Act 1991.

Dated at Sydney this 21st day of July 2004.

KEVIN YOUNG,
Managing Director,
Hunter Water Corporation

SCHEDULE

Interest in Land

Easement rights as described under the heading Easement for Sewermain in Memorandum O352656 filed in the Land Titles Office over the sites shown as:

“(A) PROPOSED EASEMENT FOR SEWERMAIN 4.0 WIDE” in Deposited Plan 1043538 within Lot 122, DP 874949.

(C5/11394)

**HUNTER WATER ACT 1991
LAND ACQUISITION (JUST TERMS
COMPENSATION) ACT 1991**

Compulsory Acquisition of Easements
Toronto to Belmont Effluent Pipeline

HUNTER Water Corporation declares, with the approval of Her Excellency the Governor and the Executive Council that the easement described in the Schedule below is acquired by compulsory process in accordance with the provisions of the Land Acquisition (Just Terms Compensation) Act 1991, for sewerage purposes under the Hunter Water Act 1991.

Dated at Sydney this 4th day of August 2004.

KEVIN YOUNG,
Managing Director,
Hunter Water Corporation

SCHEDULE

Interest in Land

Easement rights as described under the heading Easement for Sewermain in Memorandum O352656 filed in the Land Titles Office over the sites shown as:

“(B) PROPOSED EASEMENT FOR SEWERMAIN 4.0 WIDE” in Deposited Plan 1062218 within Lot 20, DP 817883.

“(D) PROPOSED EASEMENT FOR SEWERMAIN 4.0 WIDE” in Deposited Plan 1062218 within Lot 23, DP 709388.

(C5/111240)

**HUNTER WATER ACT 1991
LAND ACQUISITION (JUST TERMS
COMPENSATION) ACT 1991**

Hunter Water Corporation
Compulsory Acquisition of Interest in Land
Wye Point Sewerage Scheme

HUNTER Water Corporation declares, with the approval of Her Excellency the Governor and the Executive Council that the interest described in the Schedule below are acquired by compulsory process in accordance with the provisions of the Land Acquisition (Just Terms Compensation) Act 1991, for sewerage purposes under the Hunter Water Act 1991.

Dated at Sydney this 4th day of August 2004.

KEVIN YOUNG,
Managing Director,
Hunter Water Corporation

SCHEDULE

Interest in Land

Easement rights as described under the heading Easement for Sewermain in Memorandum O352656 filed in the Land and Property Information NSW over the site shown as:

“(C) PROPOSED EASEMENT FOR SEWERMAIN 2 WIDE” in Deposited Plan 1051214 within Lot 609 in Deposited Plan 789983.

Easement rights as described under the heading Easement for Sewermain in Memorandum O352656 filed in the Land and Property Information NSW over the whole of Lot 1 in Deposited Plan 124592.

Easement rights as described under the heading Easement for Watermain in Memorandum O352656 filed in the Land and Property Information NSW over the whole of Lot 1 in Deposited Plan 124592.

(C5/111245)

**HUNTER WATER ACT 1991
LAND ACQUISITION (JUST TERMS
COMPENSATION) ACT 1991**

Compulsory Acquisition of Easements
Windale to Belmont Pipeline

HUNTER Water Corporation declares, with the approval of Her Excellency the Governor and the Executive Council that the easement described in the Schedule below is acquired by compulsory process in accordance with the provisions of the Land Acquisition (Just Terms Compensation) Act 1991, for sewerage purposes under the Hunter Water Act 1991.

Dated at Sydney this 4th day of August 2004.

KEVIN YOUNG,
Managing Director,
Hunter Water Corporation

SCHEDULE

Interest in Land

Easement rights as described under the heading Easement for Sewermain in Memorandum O352656 filed in the Land Titles Office over the sites shown as:

“(H) PROPOSED EASEMENT FOR SEWERMAIN 4.0 WIDE” in Deposited Plan 1048534 within Lot 23, DP 709388.

“(I) PROPOSED EASEMENT FOR SEWERMAIN 4.0 WIDE” in Deposited Plan 1048534 within Lot 1, DP 208758.

“(L) PROPOSED EASEMENT FOR SEWERMAIN 4.0 WIDE” in Deposited Plan 1048534 within Lot 23, DP 709388.

“(N) PROPOSED EASEMENT FOR SEWERMAIN 4.0 WIDE” in Deposited Plan 1048534 within Lot 23, DP 709388.

“(O) PROPOSED EASEMENT FOR SEWERMAIN 4.0 WIDE” in Deposited Plan 1048534 within Lot 2064, DP 823738.

(C5/111254)

**LOCAL GOVERNMENT ACT 1993
PROCLAMATION**

(L.S.) M. BASHIR, Governor.

I, Professor MARIE BASHIR, A.C., Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 737 of the Local Government Act 1993, do on and from 18 June 2004, hereby alter the

boundaries of the Area of Richmond Valley as described by proclamation in *Government Gazette* No. 98 of 18 June 2004 and the Area of Clarence Valley as described by Proclamation in *Government Gazette* No. 98 of 18 June 2004, by taking the part of the Area of Clarence Valley as described in Schedule "A" hereto and adding it to the Area of Richmond Valley so that the boundaries of the Area of Clarence Valley and the Area of Richmond Valley shall be as respectively described in Schedules "B" and "C" hereto. (FF04/0111)

Signed and sealed at Sydney, this 4th day of August 2004.

By Her Excellency's Command,

Hon. TONY KELLY, M.L.C.,
Minister for Local Government

GOD SAVE THE QUEEN!

SCHEDULE A

Land to be Transferred

Area about 157.18 square kilometers. Commencing at the junction of the generally north-eastern boundary of Clarence Valley Council and the western prolongation of the southern boundary of Lot 3, DP 836748: and bounded thence by that prolongation, boundary and the southern boundaries of Lot 4, DP 836748 and Lots 2 and 1, DP 716637, easterly, part of a generally western boundary of Lot 18, DP 755667 and its prolongation, generally northerly, the generally southern boundaries of Lot 1, DP 796807, Lot 1, DP 740167, Lot 19, DP 755629 and part of the southern boundary of Lot 28, DP 755629, generally easterly to road running through the last lot; by the generally north-western side of that road and the generally north-western side of the road running through Lot 12, DP 755613, generally north-easterly to the northern boundary of the last lot; by that boundary easterly to the north-eastern corner of that lot; by a line south-easterly to the mean low water mark of the shore of the South Pacific Ocean; by that mean low water mark, generally north-easterly to the generally north-eastern boundary of Clarence Valley Council, aforesaid, and by that boundary, generally south-westerly to the point of commencement.

SCHEDULE B

Area of Clarence Valley (as altered)

Area about 10075.62 square kilometres: Commencing at the junction of Coombadjha Creek and the northern boundary of the Parish of Albert, County of Drake: and bounded thence by that boundary westerly to Gibraltar Range; by that range generally northerly to the source of Grasstree Creek; by that creek downwards to the generally eastern boundary of the Parish of Hong Kong; by part of that boundary generally northerly to the southern boundary of Portion 34; by part of that boundary westerly and the south-western and part of the generally north-western boundaries of that portion north-westerly and generally north-easterly to the southern prolongation of the generally western boundary of Portion 90, Parish of Hamilton; by that prolongation and boundary generally northerly and the southern boundary of that portion and its prolongation westerly to Timbarra River; by that river downwards to the generally northern boundary of the Parish of Hamilton; by that boundary generally easterly and the eastern prolongation of the northern boundary of Portion 54

easterly to a point north of Mount Pickapene; by a line southerly to that point; by the range forming the northern watershed of Surveyors Creek and Keembin Creek generally easterly and Richmond Range generally south-easterly, generally easterly to the western boundary of Lot 41, DP 755615; by that lot boundary, the western boundaries of Lots 38 and 44, DP 755615, northerly, the western, northern and part of the eastern boundaries of Lot 37, DP 755615, northerly, easterly and southerly, the northern boundaries of Lots 14 and 15, DP 755615, easterly, the western boundaries of Lots 17 and 19, DP 755615, northerly, part of the southern and the western boundaries of Lot 21, DP 755615, westerly and northerly, the southern boundary of Lot 34, DP 755615, westerly, the southern and western boundaries of Lot 35, DP 755615, westerly and northerly, the western, northern and eastern boundaries of Lot 30, DP 755615, northerly, easterly and southerly, to the northern side of the reserved road running through Lot 53, DP 755615; by that road, easterly to the eastern boundary of that lot; by part of that boundary, southerly and part of the northern boundary of Lot 10, DP 755629, easterly to the Richmond Range, aforesaid; by that range, generally northerly to the western prolongation of the southern boundary of Lot 3, DP 836748; by that prolongation, boundary and the southern boundaries of Lot 4, DP 836748 and Lots 2 and 1, DP 716637, easterly, part of a generally western boundary of Lot 18, DP 755667 and its prolongation, generally northerly, the generally southern boundaries of Lot 1, DP 796807, Lot 1, DP 740167, Lot 19, DP 755629 and part of the southern boundary of Lot 28, DP 755629, generally easterly to road running through the last lot; by the generally north-western side of that road and the generally north-western side of the road running through Lot 12, DP 755613, generally north-easterly to the northern boundary of the last lot; by that boundary easterly to the north-eastern corner of that lot; by a line south-easterly to the mean low water mark of the shore of the South Pacific Ocean; by that mean low water mark, (except at the entrance of any river, creek or inlet of the sea where the boundary shall be a straight line connecting two points on the shore opposite the outermost points of the headlands of the entrance of any such river, creek or inlet of the sea) generally southerly to the range forming the generally northern watershed of Station and Saltwater Creeks; by that range, generally north-westerly to the eastern prolongation of the southern boundary of Lot 13, DP 751381; by that prolongation, boundary and part of the western boundary of that lot, westerly and northerly to, again the range forming the generally northern watershed of Saltwater and Station Creeks; by that range, generally north-westerly, generally westerly and generally southerly to the generally northern boundary of Barcoongere State Forest No 826, gazetted 5th September, 1930; by that boundary, generally westerly and the generally north-western boundary of Newfoundland State Forest No. 827, gazetted 5th September, 1930, generally south-westerly to the western boundaries of Lots 16 and 15, DP 751381; by those boundaries, southerly, the eastern and southern boundaries of Lot 10, DP 751381, southerly and westerly, part of the generally eastern boundary of the Parish of Dundoo, County of Clarence, generally southerly, the generally north-eastern and eastern boundaries of Lot 9, DP 707325 and its prolongation, generally south easterly and southerly, part of the generally northern and the generally eastern boundaries of Lot 182, DP 588190, generally easterly and generally southerly, the generally eastern and southern boundaries of Lot 11, DP 705682, generally southerly and westerly, a line, westerly across the Pacific Highway, the southern boundary

of Lot 13, DP 705682, westerly, the southern and western boundaries of Lot 17, DP 705682, westerly and northerly, the southern boundary of Lot 9, DP 705682, westerly, part of the eastern boundary of Lot 2, DP 816313, southerly and the generally south-eastern boundary of Lot 3, DP 816313, generally south-westerly to Dundoo Creek; by that creek, downwards to the eastern prolongation of the generally northern boundary of Lot 1361, DP 620406; by that prolongation, boundary and the western boundary of that lot, generally westerly and southerly, the western boundary of Lot 1360, DP 620406, southerly, the northern and eastern boundaries of Lot 124, DP 752820, easterly and southerly, the north-western and generally eastern boundaries of Lot 131, DP 253255, north-easterly and generally southerly, the north-western side of the reserved road, running through the previous lot, south-westerly, the generally south-eastern boundary of Lot 1411, DP 736567, generally south-westerly, the generally eastern and part of the southern boundaries of Lot 1416, DP 773554, generally southerly and westerly, the eastern and southern boundaries of Lot 2, DP 787962, southerly and westerly, the eastern, northern and generally north-western boundaries of Lot 121, DP 752849, northerly, westerly and generally south-westerly and the eastern prolongation of the southern boundary of Lot 2, DP 834760, boundary and its prolongation westerly to Sherwood Creek; by that creek, upwards to the eastern prolongation of the southern boundary of Lot 10, DP 708068; by that prolongation, boundary and part of the southern boundary of Lot 9, DP 708068, westerly to the generally eastern boundary of Sherwood Nature Reserve, gazetted 16th December, 1966; by part of that boundary, generally southerly to the generally southern boundary of the Parish of Waihou, County of Fitzroy; by part of that boundary, westerly to the Orara River; by that river, upwards to the generally northern boundary of the Parish of Bagawa; by part of that boundary, generally westerly, the generally western boundary of Portion 53 and the westernmost generally western boundary of Portion 51, generally southerly, the northern and north-eastern boundaries of Portion 50, easterly and south-easterly, the eastern boundaries of Portions 49 and 48, southerly, the southern boundary of the last mentioned portion, a line and part of the southern boundary of Portion 45, westerly to Averys Creek; by that creek upwards to the north-eastern prolongation of the south-eastern boundary of Portion 55; by that prolongation and boundary, south-westerly, the south-eastern and the generally south-western boundaries of Portion 47, south-westerly and generally north-westerly and part of the north-western boundary of Portion 15, Parish of Gundar, south-westerly to Bushmans Range; by that range generally north-westerly to the north-eastern prolongation of the south-eastern boundary of Portion 57, Parish of Towallum; by that prolongation, boundary and its prolongation south-westerly to Mole Creek; by that creek and Little Nymboida downwards and Bobo River upwards to the generally southern boundary of the Parish of Bobo; by that boundary generally westerly to Nymboida River; by that river upwards to the generally north-western boundary of Portion 22, Parish of Meldrum Downs; by part of that boundary and the western boundary of that portion generally south-westerly and southerly and part of the northern and the generally south-eastern boundary of Portion 47, Parish of Allans Waters easterly and generally south-westerly to the generally southern boundary of the County of Fitzroy; by part of that boundary generally south-westerly to the range partly forming the generally north-eastern boundary of the Parish of Lookout, County of Clark; by that range generally north-westerly to the road from

Armidale to Grafton; by that road north-easterly to the eastern prolongation of the generally northern boundary of Portion 26, Parish of Guy Fawkes, County of Clarke; by that prolongation and boundary westerly, northerly and generally westerly, part of the eastern boundary of Portion 24, a line, and the eastern and northern boundaries of Portion 47 northerly and westerly, part of the north-eastern boundary of Portion 43 north-westerly, the generally eastern and northernmost northern boundaries of Portion 39 generally northerly and westerly, part of the generally eastern and northernmost northern boundaries of Portion 36 generally northerly and westerly and part of the eastern boundary of Portion 35, the eastern boundary of Portion 37 and the generally eastern boundaries of Portions 38 and 49 and its prolongation generally northerly to Pantons Creek; by that creek, Guy Fawkes River and Boyd River downwards and Razorback Creek and Prairie Gully upwards to the generally northern boundary of Portion 10, Parish of Glen Nevis, County of Gresham; by part of that boundary generally westerly to the generally southern boundary of the Parish of Henry at London Bridge; by part of that boundary generally westerly to Roger Creek; by that creek, Henry River and Mann River downwards to the western boundary of the Parish of Puhoi, County of Drake; by that boundary northerly to Dandahra Creek; by that creek downwards to the generally western boundary of the Parish of Coombadjha; by that boundary generally northerly to Coombadjha Creek, aforesaid, and by that creek downwards to the point of commencement.

SCHEDULE C

Area of Richmond Valley (as altered)

Area about 2883.30 square kilometres: Commencing at the confluence of Wilsons and Richmond Rivers: and bounded thence by the latter river upwards to the southern prolongation of the easternmost eastern boundary of Lot 1, DP 586517; by that prolongation, boundary and its prolongation northerly to the generally eastern boundary of the Parish of Tomki, County of Rous; by that creek upwards to the southern prolongation of the western boundary of Portion 243; by that portion northerly and easterly and the western boundaries of Portion 170, 208 and 66 (and its prolongation) northerly to Back Creek; by that creek upwards to the generally southern boundary of the Parish of Runnymede; by that boundary generally westerly to Richmond River, aforesaid; by that river downwards to the eastern prolongation of the northern boundary of Portion 119, Parish of Stratheden; by that prolongation and boundary and the northern boundaries of Portions 116, 142, again 116, 141, again 116, 115, Lot 2, DP 785732 and its prolongation and 135 and its prolongation westerly to Eden Creek; by that creek downwards and Dyraaba Creek upwards to the generally western boundary of the County of Richmond; by that boundary generally south-westerly to Hogarth Range at the source of Oaky Creek; by that range generally south-westerly and Richmond Range generally south-easterly and generally easterly to the western boundary of Lot 41, DP 755615 by that lot boundary, the western boundaries of Lots 38 and 44, DP 755615, northerly, the western, northern and part of the eastern boundaries of Lot 37, DP 755615, northerly, easterly and southerly, the northern boundaries of Lots 14 and 15, DP 755615, easterly, the western boundaries of Lots 17 and 19, DP 755615, northerly, part of the southern and the western boundaries of Lot 21, DP 755615, westerly

and northerly, the southern boundary of Lot 34, DP 755615, westerly, the southern and western boundaries of Lot 35, DP 755615, westerly and northerly, the western, northern and eastern boundaries of Lot 30, DP 755615, northerly, easterly and southerly, to the northern side of the reserved road running through Lot 53, DP 755615; by that road, easterly to the eastern boundary of that lot; by part of that boundary, southerly and part of the northern boundary of Lot 10, DP 755629, easterly to the Richmond Range, aforesaid; by that range, generally northerly to the western prolongation of the southern boundary of Lot 3, DP 836748; by that prolongation, boundary and the southern boundaries of Lot 4, DP 836748 and Lots 2 and 1, DP 716637, easterly, part of a generally western boundary of Lot 18, DP 755667 and its prolongation, generally northerly, the generally southern boundaries of Lot 1, DP 796807, Lot 1, DP 740167, Lot 19, DP 755629 and part of the southern boundary of Lot 28, DP 755629, generally easterly to road running through the last lot; by the generally north-western side of that road and the generally north-western side of the road running through Lot 12, DP 755613, generally north-easterly to the northern boundary of the last lot; by that boundary easterly to the north-eastern corner of that lot; by a line south-easterly to the mean low water mark of the shore of the South Pacific Ocean; by that mean low water mark (except at the entrance of any river, creek or inlet of the sea where the boundary shall be a straight line connecting two points on the shore opposite the outermost points of the headlands of the entrance of any such river, creek or inlet of the sea) generally north-easterly to Boundary Creek; by that creek and Richmond River, aforesaid, upwards to the north-western prolongation south-easterly to the south-western prolongation of Yeagers Road; by that prolongation and road north-easterly and the road from East Coraki to Woodburn North via Buckendoon north-westerly to the south-western prolongation of the north-western boundary of Portion 7; by that prolongation, boundary and its prolongation north-easterly to Wilsons River, aforesaid, and by that river downwards to the point of commencement.

LOCAL GOVERNMENT ACT 1993

ERRATUM

THE notice published under the heading Local Government Act 1993, Proclamation, in *Government Gazette* No. 134, dated 13 August 2004, Folio 6578, had an incorrect date. The correct date is as follows:

Signed and sealed at Sydney, this 21st day of July 2004.

NATIONAL PARKS AND WILDLIFE ACT 1974

PROCLAMATION

I, Professor MARIE BASHIR, A.C., Governor of the State of New South Wales, with the advice of the Executive Council and in pursuance of the powers vested in me under section 68 of the National Parks and Wildlife Act 1974, with the consent of every owner and occupier do, on the recommendation of the Director-General of the Department of Environment and Conservation, by this my Proclamation declare the lands described hereunder to be a wildlife refuge for the purposes of the abovementioned Act.

To be known as "Fruit Spirit Botanical Gardens Wildlife Refuge"

Signed and sealed at Sydney this 4th day of August 2004.

MARIE BASHIR,
Governor

By Her Excellency's Command,

ROBERT JOHN DEBUS, M.P.,
Minister for the Environment

GOD SAVE THE QUEEN!

Description

Land District – Lismore; Council – Lismore.

County of Rous, Parish of Dunoon, 32.83 hectares, being Lot 69, DP 860497. NPWS 04/05064.

PUBLIC WORKS ACT 1912

LAND ACQUISITION (JUST TERMS COMPENSATION) ACT 1991

Compulsory Acquisition

Bathurst Water Supply Augmentation Stage 2E

Ben Chifley Dam Upgrade

THE Minister for Energy and Utilities, with the approval of Her Excellency the Governor, declares that the land described in the Schedule hereto, is acquired by compulsory process under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991, for an authorised work.

On publication of this notice in the *Government Gazette* the land is vested in the Minister for Energy and Utilities as Constructing Authority under section 4 of the Public Works Act 1912.

FRANK ERNEST SARTOR, M.P.,
Minister for Energy and Utilities

SCHEDULE

Land

Lot 1 in Deposited Plan 1061929; Lot 2 in Deposited Plan 1061929 and Lot 3 in Deposited Plan 1061929.

DoC Reference: 221.

PUBLIC WORKS ACT 1912

LAND ACQUISITION (JUST TERMS COMPENSATION) ACT 1991

ERRATUM

Compulsory Acquisition

Lidcombe Juvenile Justice Centre (Minda/Minali)

IN the notification appearing in *Government Gazette* No 85, dated 16 May 2003, page 4803, under the headings SCHEDULE and Land the following words should be removed:

site of

SUBORDINATE LEGISLATION ACT 1989

NSW Food Authority

Food (Plant Food Safety Scheme) Regulation 2004
NOTICE is given in accordance with section 5 (2) (a) of the Subordinate Legislation Act 1989 of the intention to make a principal statutory regulation under the Food Act 2003.

The proposed legislation prescribes a Food Safety Scheme for certain plant products that are consumed as food. These are fresh cut fruit, fresh cut vegetable, vegetables in oil, unpasteurised juice and seed sprouts. The purpose of the proposed regulation is to mandate preventative measures to be implemented by relevant food businesses in order to reduce the risk of foodborne illness.

The proposed regulation makes reference to a Plant Products Manual to be published by the NSW Food Authority.

Copies of the Regulatory Impact Statement, draft Food (Plant Food Safety Scheme) Regulation 2004 and draft Plant Products Manual may be inspected or obtained by contacting:

David Hook
NSW Food Authority
6 Avenue of the Americas
Newington NSW 2127
PO Box 6682
Silverwater NSW 1811
Telephone: (02) 9741 4855
Facsimile: (02) 9741 4898
Email: david.hook@foodauthority.nsw.gov.au

Comments or submissions on the proposed Regulation, Regulation Impact Statement and Plant Product Manual are invited and should be received at the above address no later than close of business on 30 September 2004.

SUBORDINATE LEGISLATION ACT 1989**CONVEYANCERS LICENSING REGULATION
2004**

Invitation to Comment

THE Conveyancers Licensing Act was passed by the NSW Parliament in May 2003. When the new Act comes into effect in October 2004 it will replace the current Act and repeal the current Regulation.

The new Act introduces a number of reforms to the laws governing licensed conveyancers in NSW.

The Office of Fair Trading has developed a draft regulation which sets out the administrative detail needed to enable the new Act to be effectively administered and to support the consumer protection objectives of the Act.

Matters dealt with in the draft Regulation include:

- professional indemnity insurance;
- exemption from the requirement to have licensee-in-charge of each place of business;
- administrative detail for applications to the CTTT for a costs dispute;
- rules of conduct for conveyancers;
- trust accounting and record-keeping;
- particulars to be recorded in the public Register of licensed conveyancers;

- penalty notice offences and penalty amounts; and
- fees payable by conveyancers for the grant, renewal and restoration of a licence.

In keeping with the requirements of the Subordinate Legislation Act 1989, a draft Regulation has been prepared for public comment, together with a Regulatory Impact Statement which assesses the proposed Regulation.

Submissions will close on 20 September 2004.

Copies of the Regulatory Impact Statement and draft Regulation are available by telephoning the Office of Fair Trading on (02) 9338 8937 or from Fair Trading's website at www.fairtrading.nsw.gov.au by clicking on 'comment on proposed legislation' from the top menu bar.

Comments or submissions should be mailed, faxed or e-mailed to:

Conveyancers Licensing Regulation
Policy and Strategy Division
Office of Fair Trading
PO Box 972
Parramatta NSW 2124
Fax: (02) 9338 8929
Email: policy@oft.commerce.nsw.gov.au

The draft Regulation will be amended, if necessary, based on comments received during the consultation period.

TRANSPORT ADMINISTRATION ACT 1988**LAND ACQUISITION (JUST TERMS
COMPENSATION) ACT 1991**

Notice of Compulsory Acquisition of Land for
the Purposes of the Transport Infrastructure
Development Corporation

THE Transport Infrastructure Development Corporation, with the approval of Her Excellency the Governor, declares that the land described in the Schedule hereto is acquired by compulsory process under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991, for the purposes of the Transport Infrastructure Development Corporation, as authorised by the Transport Administration Act 1988, being for the Chatswood Transport Interchange.

JOHN BARRACLOUGH,
Chief Executive

SCHEDULE

All that piece or parcel of land situate at Chatswood in the Local Government Area of Willoughby, Parish of Willoughby, County of Cumberland and State of New South Wales, being Lot 20 in Deposited Plan 790323 said to be in the possession of The Council of the City of Willoughby.

All that piece or parcel of land situate at Chatswood in the Local Government Area of Willoughby, Parish of Willoughby, County of Cumberland and State of New South Wales, being Lot 21 in Deposited Plan 790323 said to be in the possession of The Council of the City of Willoughby.

All that piece or parcel of land situate at Chatswood in the Local Government Area of Willoughby, Parish of Willoughby, County of Cumberland and State of New South Wales, being Lot 14 in Deposited Plan 817116 said to be in the possession of The Council of the City of Willoughby.

All that piece or parcel of land situate at Chatswood in the Local Government Area of Willoughby, Parish of Willoughby, County of Cumberland and State of New South Wales, being Lot 62 in Deposited Plan 864346 said to be in the possession of The Council of the City of Willoughby.

All that piece or parcel of land situate at Chatswood in the Local Government Area of Willoughby, Parish of Willoughby, County of Cumberland and State of New South Wales, being Part of Orchard Road (formerly Dalton Street) and splay corner at south east intersection of Orchard Road and Victoria Avenue shown in W76-2005 below Lot 20 in Deposited Plan 790323 said to be in the possession of The Council of the City of Willoughby.

All that piece or parcel of land situate at Chatswood in the Local Government Area of Willoughby, Parish of Willoughby, County of Cumberland and State of New South Wales, being Parts of Victoria Avenue and Orchard Road shown in W76-2005 below Lot 21 in Deposited Plan 790323 said to be in the possession of The Council of the City of Willoughby.

All that piece or parcel of land situate at Chatswood in the Local Government Area of Willoughby, Parish of Willoughby, County of Cumberland and State of New South Wales, being part of Orchard Road (formerly Dalton Street) road widening shown in R22491-1603 below Lot 20 Deposited Plan 790323 being unlimited in depth said to be in the possession of The Council of the City of Willoughby.

All that piece or parcel of land situate at Chatswood in the Local Government Area of Willoughby, Parish of Willoughby, County of Cumberland and State of New South Wales, being part of Lot 6 in Deposited Plan 790011 below Lots 61 and 62 in Deposited Plan 864346 said to be in the possession of The Council of the City of Willoughby.

All that piece or parcel of land situate at Chatswood in the Local Government Area of Willoughby, Parish of Willoughby, County of Cumberland and State of New South Wales, being Lot 15 in Deposited Plan 817116 said to be in the possession of The Council of the City of Willoughby.

TIDC Reference: CTI-1.

TENDERS**Department of Commerce****SUPPLIES AND SERVICES FOR THE PUBLIC SERVICE**

Information in relation to the Department of Commerce proposed, current and awarded tenders is available on:

<http://www.tenders.nsw.gov.au>

PRIVATE ADVERTISEMENTS

COUNCIL NOTICES

BEGA VALLEY SHIRE COUNCIL

Road Naming
Reservoir Street, Candelo

NOTICE is hereby given that the Bega Valley Shire Council, pursuant to section 162(1) of the Roads Act 1993, has named the following section of road described hereunder:

The section of roadway, which extends approximately 360 metres in a westerly direction off Wolumla Road to Togo Street as Reservoir Street.

Authorised by Council Resolution dated 24 August 2004. D. G. JESSON, General Manager, Bega Valley Shire Council, PO Box 492, Bega, NSW 2550. [0615]

INVERELL SHIRE COUNCIL

Naming of Roads

IN accordance with section 162 of the Roads Act 1993, it is notified that Council has adopted the names of:

Old Road Name	New Road Name	Location
Nullamanna Lane	Pineleigh Lane	Off Poolbrook Road, Nullamanna
Unnamed lane	Monterey Lane	Off Old Bundarra Road heading west
Unnamed lane	Cicada Lane	Off Goonowigal Road heading north
Alsace Road North	Medhurst Road	The "T" at the end of Alsace Road.

By Order of Council 22 June 2004 – Resolution No. 160/04. P. J. HENRY, General Manager, Inverell Shire Council, Administration Centre, 144 Otho Street, Inverell NSW 2360. [0597]

MURRAY SHIRE COUNCIL

Naming of Roads in the Murray Shire Council Area under the Roads Act 1993

NOTICE is hereby given that Murray Shire Council, in pursuance of section 162 of the Roads Act 1993, resolved to name the roads and streets within Murray Shire as defined on the Murray Shire Road map dated 1st July, 2004. These maps are available from Murray Shire Council Offices, 21-25 Conargo Street, Mathoura and 6 Meninya Street, Moama. Authorised by resolution of the Council at its meeting on 18th May, 2004. GREG MURDOCH, General Manager, PO Box 21, Mathoura, NSW 2710. [0611]

PARKES SHIRE COUNCIL

Roads Act 1993, Section 162.1

Naming of Public Roads
Massurit Lane, Light Horse Place,
Langlands Street, Hanlon Street and Frogley Street

Location	Name
New road off Saleyards Road, Parkes.	Langlands Street.
New road off Saleyards Road, Parkes.	Hanlon Street.
New road between Langlands Street and Hanlon Street, Parkes.	Frogley Street.

Location

Shire Road 11, north of Orange Road (MR61).

New road off Military Road, Parkes. Light Horse Place.

Name

Massurit Lane.

Light Horse Place.

No objections to the proposed names were received within the prescribed period of time. A McCORMACK, General Manager, Parkes Shire Council, PO Box 337, Parkes, NSW 2870. [0614]

PORT STEPHENS COUNCIL

Roads Act 1993, Section 10

Dedication of Land as Public Road

NOTICE is hereby given that pursuant to section 10, Road Act 1993, Council hereby dedicates, as public road, the Council owned lands set out in the schedule below. Council resolution 194, dated 27 May 2004. Dated at Raymond Terrace this day, 27 August 2004. P. GESLING, General Manger, Port Stephens Council, PO Box 42, Raymond Terrace, NSW 2324. Council File: 5360-051.

SCHEDULE

Lots 3 and 4, DP 1052060; Lots 1 and 2, DP 842940. [0609]

PORT STEPHENS COUNCIL

Roads Act 1993, Section 162(1)

Naming of Roads

NOTICE is hereby given that pursuant to section 162(1), Roads Act 1993, Council has named the roads described:

Description	Name
Lane at Hinton, Parish of Seaham, County of Durham, adjacent to the western boundaries of Lot 1, DP 779649 and Lot 2, DP 998865.	Dillin Lane.
The section of road known locally as Lemon Tree Passage Road within DP10716. Between the eastern prolongation of the northern boundary of Lot 390, DP 1002768 and the northerly prolongation of the eastern boundary of Lot 2, DP 623151.	Lemon Tree Passage Road.

Council contact Cliff Johnson telephone (02) 4980 0265. P. GESLING, General Manager, PO Box 42, Raymond Terrace, NSW 2324. Council File: E5645-001. [0610]

SUTHERLAND SHIRE COUNCIL

Roads Act 1993, Roads (General) Regulation 1994

Renaming of Road – Rename Part of Ferntree Road, Engadine Between Ridge Road and Edgecliff Place to Edgecliff Place, Engadine

NOTICE is hereby given that Sutherland Shire Council, has pursuant to Division 2 of the Roads (General) Regulation, notified the proponents by way of advertisement and written

correspondence, for a period not less than one (1) month, of the intention to rename part of Ferntree Road, Engadine between Ridge Road and Edgecliff Place to Edgecliff Place, Engadine. Having received no objection after giving due consideration to all submissions, Council has resolved to proceed with the road naming effective from Friday 27th August 2004. J. W. RAYNER, General Manager, Sutherland Shire Council, PO Box 17, Sutherland. [0598]

SUTHERLAND SHIRE COUNCIL

Local Government Act 1993

Land Acquisition (Just Terms Compensation) Act 1991

Notice of Compulsory Acquisition of Land

THE Sutherland Shire Council declares, with the approval of Her Excellency the Governor, that the land described in the Schedule below, including mine and minerals in the lands, are acquired by compulsory process in accordance with the provisions of the Land Acquisition (Just Terms Compensation) Act 1991, for the purposes of open space. Dated at Sutherland, this 16th day of August, 2004. J. W. RAYNER, General Manager, Sutherland Shire Council, Locked Bag 17, Sutherland, NSW 1499.

SCHEDULE

Lot 52, DP 1057357; Lot 2, DP 1057376 and Lot 82, DP 1057374. [0603]

WOLLONGONG CITY COUNCIL

Road Dedication – Section 10, Roads Act 1993

PURSUANT to section 16 of the Roads Act 1993, Wollongong City Council hereby dedicates the following Council land as public road. R. J. OXLEY, General Manager, Wollongong City Council, Locked Bag 8821, South Coast Mail Centre, NSW 2521

SCHEDULE

That part of the land off Carrington Street, Bulli as shown hatched in heavy black on the accompanying plan.



GIS ref.GI04608



[0600]

UPPER LACHLAN COUNCIL

Certification Before Sale

Sale of Land for overdue rates in accordance with Local Government Act 1993, Section 713

NOTICE is hereby given to the persons named hereunder that the Council of Upper Lachlan has resolved in pursuance of Section 713 of the Local Government Act 1993, to sell the land described hereunder of which the persons named appear to be the owners or in which they appear to have an interest and on which the amount of rates stated in each case, as at 31 July 2004 is due:

Owner or persons with an interest in the land: Estate of the late O. E. Beattie

Name:

Description of land: Lot 118, DP 750019 and Lot 119, DP 750019.

<i>Assessment Number</i>	<i>Year Levied</i>	<i>Levy Date</i>	<i>Date of Rate Resolution</i>	<i>Levy</i>	<i>Prior Arrears</i>	<i>Payments</i>	<i>Interest</i>	<i>Legal Fees</i>	<i>Rebate & Journals</i>	<i>Land Value</i>
1067.00000.8	1993	25-Jan-93	18-Jan-03	180.00		73.00	76.73			7000
1067.00000.8	1994	21-Jan-94	20-Dec-93	110.00			34.55			7000
1067.00000.8	1994/95	27-Jul-94	20-Jun-94	220.00			80.01			7000
1067.00000.8	1995/96	28-Jul-95	19-Jun-95	185.02			116.28			7700
1067.00000.8	1996/97	29-Jul-96	24-Jun-96	185.75			136.73			7700
1067.00000.8	1997/98	31-Jul-97	20-Jun-97	205.18			124.78			7700
1067.00000.8	1998/99	31-Jul-98	22-Jun-98	204.60			118.62			7700
1067.00000.8	1999/00	30-Jul-99	21-Jun-99	215.66			128.41			8480
1067.00000.8	2000/01	31-Jul-00	19-Jun-00	230.68			157.44			8480
1067.00000.8	2001/02	31-Jul-01	25-Jun-01	242.21			199.09			8480
1067.00000.8	2002/03	31-Jul-02	24-Jun-02	257.60			185.31			8480
1067.00000.8	2003/04	31-Jul-03	19-May-03	328.18			211.35			8480
6397	2004/05	31-Jul-04	14-Jul-04	304.77			10.01			8810

Current Land Value obtained from the Valuer General's Department as at 1 July 2001 is \$8810.00.

Rates and Charges for each Rating Year became payable one month after service of Rates Notice for the above property.

Total Rates and Charges Outstanding of \$4375.96 as at 30 July 2004.

Unless payment is made to the Council of the amount stated as Total Amount Outstanding, together with any other rates (including extra charges) becoming due and payable after publication of this notice before the fixed time for sale, the said land will be offered for sale by Public Auction.

The Auction will be held at the Council Chambers, Nelanglo Street, GUNNING, on Saturday 27th November 2004 at 11.00am for the above property.

Auctioneer: Elders Real Estate.

Mr PHILLIP HARVEY, Acting General Manager, PO Box 10, Crookwell NSW 2583.

[0599]

ESTATE NOTICES

NOTICE of intended distribution of estate.—Any person having any claim upon the estate of DOUGLAS EVERARD HARRIMAN, late of Lake Wyangan, in the State of New South Wales, retired farmer, who died on 26th May, 2004, must send particulars of his claim to the executrix, June Rose Harriman, c.o. Messrs Olliffe & McRae, Solicitors, PO Box 874, Griffith, NSW 2680, within one (1) calendar month from publication of this notice. After that time the executrix may distribute the assets of the estate having regard only to the claims of which at the time of distribution she has notice. Probate was granted in New South Wales on 11th August, 2004. MESSRS OLLIFFE & McRAE, Solicitors, 381 Banna Avenue (PO Box 874), Griffith, NSW 2680 (DX5901, Griffith), tel.: (02) 6962 1744. Reference: JFM:CP/N607.

[0601]

NOTICE of intended distribution of estate.—Any person having any claim upon the estate of ANTHONY CHARLES PEARSON, late of 6 Metz Place, Plumpton, in the State of New South Wales, freight train driver, who died on 9th April, 2004, must send particulars of his/her claim to the administrators, Kim Nicole Pearson and Christine Leigh Pearson, c.o. Low Doherty & Stratford, Solicitors, 9 Campbell Street, Blacktown, NSW 2148, within one (1) calendar month from publication of this notice. After that time the assets of the estate may be conveyed and distributed having regard only to the claims of which at the time of distribution the administrators have notice. Letters of Administration were granted in New South Wales on 10th August, 2004. LOW DOHERTY & STRATFORD, Solicitors, 9 Campbell Street (PO Box 147), Blacktown, NSW 2148 (DX8109, Blacktown, tel.: (02) 9622 4644. Reference: GPD.SC.

[0602]

NOTICE of intended distribution of estate.—Any person having any claim upon the estate of ALAN JOHN CRAIG, late of 96 Alfred Road, Chipping Norton, in the State of New South Wales, retired, who died on 16th December, 2003, must send particulars of his/her claim to the executrix, Margaret Mary Craig, c.o. Doherty Partners, Solicitors, Level 1, 171 Bigge Street, Liverpool, NSW 2170, within one (1) calendar month from publication of this notice. After that time the assets of the estate may be conveyed and distributed having regard only to the claims of which at the time of distribution the executrix has notice. Probate was granted in New South Wales on 2nd August, 2004. DOHERTY PARTNERS, Solicitors, Level 1, 171 Bigge Street, Liverpool, NSW 2170. Reference: JULIE SHEDDEN:41346.

[0604]

NOTICE of intended distribution of estate.—Any person having any claim upon the estate of JAMES MCKENZIE BOWER, late of Randwick, in the State of New South Wales, who died on 2nd June, 2004, must send particulars of their claim to the executrix, Leonie Jacobs, c.o. Newnhams, Solicitors, 122 Castlereagh Street, Sydney, NSW 2000, within one (1) calendar month from publication of this notice. After that time the executrix may distribute the assets of the estate having regard only to the claims of which at the time of distribution she has notice. Probate was granted in New South Wales on 2nd August, 2004. NEWNHAMS, Solicitors, 7th Floor, Highmount House, 122 Castlereagh Street, Sydney, NSW 2000 (DX665, Sydney), tel.: (02) 92647788. Reference: BLM:MLH:5198.

[0605]

NOTICE of intended distribution of estate.—Any person having any claim upon the estate of RONALD JAMES McBURNEY, late of Cabramatta, in the State of New South Wales, retired, who died on 3rd July, 2003, must send particulars of his claim to the executor, c.o. Kencalo & Kencalo, Solicitors, 96 Moore Street, Liverpool, NSW 2170, within one (1) calendar month from publication of this notice. After that time the assets of the estate may be conveyed and distributed having regard only to the claims of which at the time of conveyance or distribution the executor has notice. Probate was granted in New South Wales on 9th January, 2004. KENCALO & KENCALO, Solicitors, Suite 1, 1st Floor, 96 Moore Street, Liverpool, NSW 2170 (PO Box 651, Liverpool BC 1871), (DX5003, Liverpool), tel.: (02) 9602 8333. Reference: 1K/03/4428.

[0606]

NOTICE of intended distribution of estate.—Any person having any claim upon the estate of MYRLE DOROTHY HURST, late of 3 Myall Street, Oatley, in the State of New South Wales, who died on 6th May, 2004, must send particulars of their claim to the executors, Noel Richard Hurst, 3/38 Martin Place, Mortdale, NSW 2223 and Colin Geoffrey Hurst, 6 Mala Street, Smithfield, NSW 2164, c.o. Colin J. Duff, Solicitor, 7 Morts Road, Mortdale, NSW 2223, within one (1) calendar month from publication of this notice. After that time the assets of the estate may be conveyed and distributed having regard only to the claims of which at the time of conveyance or distribution the executors have notice. Probate was granted in New South Wales on 4th August, 2004. COLIN J. DUFF, Solicitor, 7 Morts Road, Mortdale, NSW 2223 (DX11307, Hurstville), tel.: (02) 9570 2022.

[0607]

NOTICE of intended distribution of estate.—Any person having any claim upon the estate of BOUNCHANH SIMMALAVONG, late of 6 Cary Way, Fairfield, in the State of New South Wales, widow, who died on 22nd March, 2004, must send particulars of his/her claim to the executrix, Phonemani Sisopha (in the will called Somphone Simmalavong), c.o. Low Doherty & Stratford, Solicitors, 9 Campbell Street, Blacktown, NSW 2148, within one (1) calendar month from publication of this notice. After that time the assets of the estate may be conveyed and distributed having regard only to the claims of which at the time of distribution the executrix has notice. Probate was granted in New South Wales on 9th August, 2004. LOW DOHERTY & STRATFORD, Solicitors, 9 Campbell Street (PO Box 147), Blacktown, NSW 2148 (DX8109, Blacktown, tel.: (02) 9622 4644. Reference: DGL.SC.

[0608]

NOTICE of intended distribution of estate.—Any person having any claim upon the estate of HECTOR WILLIAM WRIGHT, late of Esther Somerville Nursing Home, Normanhurst, in the State of New South Wales, who died on 25th April, 2004, must send particulars of his/her claim to the executor, Hector William Errol Wright, c.o. Collins & Thompson, Solicitors, 8 Coronation Street, Hornsby, NSW 2077, within one (1) calendar month from publication of this notice. After that time the assets of the estate may be conveyed and distributed having regard only to the claims of which at the time of distribution the executor has notice. Probate was granted in New South Wales on 28th July, 2004. COLLINS & THOMPSON, Solicitors, 8 Coronation Street, Hornsby, NSW 2077 (PO Box 455, Hornsby 1630), (DX9691, Hornsby), tel.: (02) 9476 2788. Reference: DJT:JC:86292.

[0612]

NOTICE of intended distribution of estate.—Any person having any claim upon the estate of NEVILLE JOHN O'CONNOR, late of 34 Fulham Street, Newtown, in the State of New South Wales, marketing manager, who died on 28th June, 2003, must send particulars of his claim to the executrix, Jane Elizabeth Beniac, c.o. Steve Masselos & Co., Solicitors, PO Box A988, Sydney South, NSW 1235, within one (1) calendar month from publication of this notice. After that time the executrix may distribute the assets of the estate having regard only to the claims of which at the time of distribution she has notice. Probate was granted in New South Wales on 6th August, 2004, as number 103211/04. STEVE MASSELOS & CO., A Solicitor Corporation, 2nd Floor, 114-120 Castlereagh Street, Sydney, NSW 2000 (PO Box A988, Sydney South 1235), (DX305, Sydney), tel.: (02) 9264 7022. Reference: Mr Fitzgerald:sw:14189. [0613]

OTHER NOTICES

INTEGRAL ENERGY AUSTRALIA ELECTRICITY SUPPLY ACT 1995 LAND ACQUISITION (JUST TERMS COMPENSATION) ACT 1991

Notice of Compulsory Acquisition of Land at
Kellyville

INTEGRAL Energy Australia declares, with the approval of Her Excellency the Governor and the Executive Council, that the land described in Schedule 1 of this notice is acquired by compulsory process in accordance with the provisions of the Land Acquisition (Just Terms Compensation) Act 1991, for the purposes of the Electricity Supply Act 1995.

Dated at Huntingwood this 25th day of August 2004.

KAREN WALDMAN,
General Manager,
Regulatory and Corporate Affairs

Integral Energy Australia,
51 Huntingwood Drive, Huntingwood, NSW 2148.

SCHEDULE 1

The whole of the land described as Lot 21 in Deposited Plan 1071637 at Kellyville, in the Baulkham Hills Local Government area, Parish of Castle Hill, County of Cumberland. [0616]

Authorised to be printed

MICHAEL J. O'SHEA, Acting Government Printer.

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