



## *Government Gazette*

OF THE STATE OF  
NEW SOUTH WALES

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## LEGISLATION

### **Allocation of Administration of Acts**

The Cabinet Office, Sydney  
27 August 2003

#### **ALLOCATION OF THE ADMINISTRATION OF ACTS**

Her Excellency the Governor, with the advice of the Executive Council, has approved of the administration of the Acts set out in the attached schedule being vested in the Ministers indicated against each respectively, subject to the administration of any such Act, to the extent that it directly amends another Act, being vested in the Minister administering the other Act or the relevant portion of it.

These arrangements are in substitution for those in operation before the date of this notice.

Bob Carr  
Premier

**ALLOCATION OF THE ADMINISTRATION OF ACTS****PREMIER**

Anti-Discrimination Act 1977 No 48, Part 9A (remainder, Attorney General)  
Anzac Memorial (Building) Act 1923 No 27  
Australia Acts (Request) Act 1985 No 109  
Competition Policy Reform (New South Wales) Act 1995 No 8  
Constitution Act 1902 No 32  
Constitution Further Amendment (Referendum) Act 1930 No 2  
Constitution (Legislative Council Reconstitution) Savings Act 1993 No 19  
Election Funding Act 1981 No 78  
Essential Services Act 1988 No 41, Parts 1 and 2 (remainder, Minister for Industrial Relations)  
Freedom of Information Act 1989 No 5  
Independent Commission Against Corruption Act 1988 No 35  
Independent Commission Against Corruption (Commissioner) Act 1994 No 61  
Independent Pricing and Regulatory Tribunal Act 1992 No 39  
Interpretation Act 1987 No 15  
Legislation Review Act 1987 No 165  
Licensing and Registration (Uniform Procedures) Act 2002 No 28  
Mutual Recognition (New South Wales) Act 1992 No 61  
Ombudsman Act 1974 No 68  
Parliamentary Electorates and Elections Act 1912 No 41  
Parliamentary Evidence Act 1901 No 43  
Parliamentary Precincts Act 1997 No 66  
Parliamentary Remuneration Act 1989 No 160  
Protected Disclosures Act 1994 No 92  
Public Finance and Audit Act 1983 No 152, sections 28, 28A, 29, 30, 34 and Schedule 1 (remainder, Treasurer)  
Public Sector Employment and Management Act 2002 No 43 (except Chapter 7, jointly Treasurer and Minister for Commerce)  
Reprints Act 1972 No 48  
Returned and Services League of Australia (New South Wales Branch) Incorporation Act 1935 No 39  
Royal Commission (Police Service) Act 1994 No 60  
Royal Commissions Act 1923 No 29  
Seat of Government Surrender Act 1909 No 14  
Seat of Government Surrender Act 1915 No 9  
Seat of Government Surrender (Amendment) Act 1923 No 31  
Senators' Elections Act 1903 No 9  
Special Commissions of Inquiry Act 1983 No 90  
State Owned Corporations Act 1989 No 134  
Statutory and Other Offices Remuneration Act 1975 (1976 No 4)  
Subordinate Legislation Act 1989 No 146  
Subordinate Legislation (Repeal) Act 1985 No 232  
Sustainable Energy Development Act 1995 No 96  
Transferred Officers Extended Leave Act 1961 No 13  
Trans-Tasman Mutual Recognition (New South Wales) Act 1996 No 102  
Visy Mill Facilitation Act 1997 No 139

**MINISTER FOR THE ARTS**

Art Gallery of New South Wales Act 1980 No 65  
Australian Museum Trust Act 1975 No 95  
Copyright Act 1879 42 Vic No 20  
Film and Television Office Act 1988 No 18  
Historic Houses Act 1980 No 94  
Library Act 1939 No 40  
Museum of Applied Arts and Sciences Act 1945 No 31  
State Records Act 1998 No 17  
Sydney Opera House Trust Act 1961 No 9

**MINISTER FOR CITIZENSHIP**

Community Relations Commission and Principles of Multiculturalism Act 2000 No 77

**DEPUTY PREMIER**

Nil

**MINISTER FOR EDUCATION AND TRAINING**

Apprenticeship and Traineeship Act 2001 No 80  
Australian Catholic University Act 1990 No 110  
Australian William E. Simon University Act 1988 No 89  
Board of Adult and Community Education Act 1990 No 119  
Board of Vocational Education and Training Act 1994 No 33  
Charles Sturt University Act 1989 No 76  
Education Act 1990 No 8  
Education (School Administrative and Support Staff) Act 1987 No 240  
Higher Education Act 2001 No 102  
Higher Education (Amalgamation) Act 1989 No 65  
Macquarie University Act 1989 No 126  
Moree and District War Memorial Educational Centre Act 1962 No 15  
Parents and Citizens Associations Incorporation Act 1976 No 50  
Saint Andrew's College Act 1998 No 15  
Sancta Sophia College Incorporation Act 1929 No 45  
Southern Cross University Act 1993 No 69  
Teacher Housing Authority Act 1975 No 27  
Teachers' College Act 1912 No 47  
Teaching Services Act 1980 No 23  
Technical and Further Education Commission Act 1990 No 118  
Technical Education Trust Funds Act 1967 No 95  
University of New England Act 1993 No 68  
University of New South Wales Act 1989 No 125  
University of New South Wales (St George Campus) Act 1999 No 45  
University of Newcastle Act 1989 No 68  
University of Sydney Act 1989 No 124  
University of Technology, Sydney, Act 1989 No 69  
University of Western Sydney Act 1997 No 116  
University of Wollongong Act 1989 No 127  
Vocational Education and Training Accreditation Act 1990 No 120  
West Scholarships Act 1930 No 19  
Women's College Act 1902 No 71

**MINISTER FOR ABORIGINAL AFFAIRS**

Aboriginal Land Rights Act 1983 No 42

**TREASURER**

Accommodation Levy Act 1997 No 32  
Annual Reports (Departments) Act 1985 No 156  
Annual Reports (Statutory Bodies) Act 1984 No 87  
Australia and New Zealand Banking Group Limited (NMRB) Act 1991 No 35  
Bank Integration Act 1992 No 80  
Bank Mergers Act 1996 No 130  
Bank Mergers (Application of Laws) Act 1996 No 64  
Banks and Bank Holidays Act 1912 No 43, section 22 (remainder, Minister for Industrial Relations)  
Betting Tax Act 2001 No 43  
Canberra Advance Bank Limited (Merger) Act 1992 No 17  
Capital Debt Charges Act 1957 No 1  
Commonwealth Places (Mirror Taxes Administration) Act 1998 No 100  
Commonwealth Powers (State Banking) Act 1992 No 104  
Conversions of Securities Adjustment Act 1931 No 63  
Dartmouth Reservoir (Financial Agreement) Act 1970 No 30  
Debits Tax Act 1990 No 112  
Decimal Currency Act 1965 No 33  
Duties Act 1997 No 123  
Electricity (Pacific Power) Act 1950 No 22  
Energy Services Corporations Act 1995 No 95  
Finances Adjustment Act 1932 No 27  
Financial Agreement Act 1944 No 29  
Financial Agreement Act 1994 No 71  
Financial Agreement (Amendment) Act 1976 No 35  
Financial Agreement (Decimal Currency) Act 1966 No 39  
Financial Agreement Ratification Act 1928 No 14  
Financial Agreement (Returned Soldiers Settlement) Ratification Act 1935 No 1  
Financial Sector Reform (New South Wales) Act 1999 No 1  
Fines Act 1996 No 99 (except parts, Attorney General)  
First Home Owner Grant Act 2000 No 21  
Freight Rail Corporation (Sale) Act 2001 No 35  
General Government Debt Elimination Act 1995 No 83  
General Government Liability Management Fund Act 2002 No 60  
Government Guarantees Act 1934 No 57  
Government Insurance Office (Privatisation) Act 1991 No 38  
Health Insurance Levies Act 1982 No 159  
Inscribed Stock Act 1902 No 79  
Inscribed Stock (Issue and Renewals) Act 1912 No 51  
Insurance Protection Tax Act 2001 No 40  
Interest Reduction Act 1931 No 44  
Intergovernmental Agreement Implementation (GST) Act 2000 No 44  
Internal Audit Bureau Act 1992 No 20  
Land Tax Act 1956 No 27  
Land Tax Management Act 1956 No 26  
NSW Grain Corporation Holdings Limited Act 1992 No 31

Pacific Power (Dissolution) Act 2003 No 17  
Pay-roll Tax Act 1971 No 22  
Petroleum Products Subsidy Act 1997 No 112  
Premium Property Tax Act 1998 No 79  
Public Authorities (Financial Arrangements) Act 1987 No 33  
Public Finance and Audit Act 1983 No 152 (except parts, Premier)  
Public Loans Act 1902 No 81  
Public Sector Employment and Management Act 2002 No 43, Chapter 7 (jointly with the Minister for Commerce; remainder Premier)  
Road Improvement (Special Funding) Act 1989 No 95  
Secondary Mortgage Market (State Equity Participation) Act 1985 No 131  
Snowy Hydro Corporatisation Act 1997 No 99  
Stamp Duties Act 1920 No 47  
State Bank (Corporatisation) Act 1989 No 195  
State Bank of South Australia (Transfer of Undertaking) Act 1994 No 47  
State Bank (Privatisation) Act 1994 No 73  
Superannuation Administration Act 1996 No 39  
Superannuation (Axiom Funds Management Corporation) Act 1996 No 40  
Taxation Administration Act 1996 No 97  
Totalizator Act 1997 No 45, section 70 and sections 72-79 (remainder, Minister for Gaming and Racing)  
Totalizator Agency Board Privatisation Act 1997 No 43  
Treasury Corporation Act 1983 No 75  
Trustees Protection Act 1931 No 28  
Unclaimed Money Act 1995 No 75  
Wills, Probate and Administration Act 1898 No 13, section 61B (7) and (8) (remainder, Attorney General)

#### **MINISTER FOR STATE DEVELOPMENT**

Innovation Council Act 1996 No 77  
New South Wales Investment Corporation (Sale) Act 1988 No 50  
State Development and Industries Assistance Act 1966 No 10  
Very Fast Train (Route Investigation) Act 1989 No 44

#### **VICE-PRESIDENT OF THE EXECUTIVE COUNCIL**

Nil

#### **SPECIAL MINISTER OF STATE**

Coal and Oil Shale Mine Workers (Superannuation) Act 1941 No 45  
First State Superannuation Act 1992 No 100  
Hunter District Water Board Employees' Provident Fund (Special Provisions) Act 1987 No 213  
Local Government and Other Authorities (Superannuation) Act 1927 No 35  
New South Wales Retirement Benefits Act 1972 No 70  
Parliamentary Contributory Superannuation Act 1971 No 53  
Police Association Employees (Superannuation) Act 1969 No 33  
Police Regulation (Superannuation) Act 1906 No 28  
Public Authorities Superannuation Act 1985 No 41  
State Authorities Non-contributory Superannuation Act 1987 No 212  
State Authorities Superannuation Act 1987 No 211

State Public Service Superannuation Act 1985 No 45  
Superannuation Act 1916 No 28  
Superannuation Administration Authority Corporatisation Act 1999 No 5  
Transport Employees Retirement Benefits Act 1967 No 96

#### **MINISTER FOR COMMERCE**

The Minister for Commerce has joint administration of all Acts listed for the Minister for Fair Trading (which are not listed again below), and the following Acts

Architects Act 1921 No 8  
Bennelong Point (Parking Station) Act 1985 No 189  
Border Railways Act 1922 No 16  
Building and Construction Industry Security of Payment Act 1999 No 46  
Explosives Act 2003 No 39  
Glen Davis Act 1939 No 38, Part 4 (remainder, Minister for Local Government)  
Government Telecommunications Act 1991 No 77  
Land Acquisition (Charitable Institutions) Act 1946 No 55  
Land Acquisition (Just Terms Compensation) Act 1991 No 22  
Motor Accidents Act 1988 No 102  
Motor Accidents Compensation Act 1999 No 41  
Motor Vehicles (Third Party Insurance) Act 1942 No 15  
Occupational Health and Safety Act 2000 No 40 (except parts, Minister for Mineral Resources)  
Public Sector Employment and Management Act 2002 No 43, Chapter 7 (jointly with the Treasurer; remainder, Premier)  
Public Works Act 1912 No 45 (except parts, Minister for Energy and Utilities)  
State Brickworks Act 1946 No 16  
Workers Compensation Act 1987 No 70  
Workers' Compensation (Brucellosis) Act 1979 No 116  
Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987 No 83  
Workers' Compensation (Dust Diseases) Act 1942 No 14  
Workmen's Compensation (Lead Poisoning-Broken Hill) Act 1922 No 31  
Workplace Injury Management and Workers Compensation Act 1998 No 86

#### **MINISTER FOR INDUSTRIAL RELATIONS**

Annual Holidays Act 1944 No 31  
Associated General Contractors Insurance Company Limited Act 1980 No 38  
Banks and Bank Holidays Act 1912 No 43 (except part, Treasurer)  
Bishopsgate Insurance Australia Limited Act 1983 No 81  
Broken Hill Trades Hall Site Act of 1898 No 31  
Broken Hill Trades Hall Site Extension Act 1915 No 42  
Builders Labourers Federation (Special Provisions) Act 1986 No 17  
Building and Construction Industry Long Service Payments Act 1986 No 19  
Coal Industry Act 2001 No 107  
Coal Industry (Industrial Matters) Act 1946 No 44  
*Dangerous Goods Act 1975 No 68*  
Employment Protection Act 1982 No 122  
Entertainment Industry Act 1989 No 230  
Essential Services Act 1988 No 41 (except parts, Premier)  
Funeral Services Industry (Days of Operation) Repeal Act 2000 No 14  
Government and Related Employees Appeal Tribunal Act 1980 No 39  
Industrial Arbitration (Special Provisions) Act 1984 No 121

Industrial Relations Act 1996 No 17 (except parts, Attorney General)  
Industrial Relations (Ethical Clothing Trades) Act 2001 No 128  
Long Service Leave Act 1955 No 38  
Long Service Leave (Metalliferous Mining Industry) Act 1963 No 48  
Road and Rail Transport (Dangerous Goods) Act 1997 No 113 (except parts, Minister for the Environment)  
Rural Workers Accommodation Act 1969 No 34  
Shops and Industries Act 1962 No 43  
Sporting Injuries Insurance Act 1978 No 141  
The Standard Insurance Company Limited and Certain Other Insurance Companies Act 1963 No 18  
Transport Appeal Boards Act 1980 No 104

#### **ASSISTANT TREASURER**

Nil

#### **MINISTER FOR THE CENTRAL COAST**

Nil

#### **MINISTER FOR INFRASTRUCTURE AND PLANNING**

The Minister for Infrastructure and Planning has joint administration of all Acts (except section 8 of the Environmental Planning and Assessment Act 1979 No 203, and section 102 of the Heritage Act 1977 No 136) listed for the Minister Assisting the Minister for Infrastructure and Planning (Planning Administration) (which are not listed again below), and the following Acts

Blue Mountains Land Development (Special Provisions) Act 1985 No 55  
Botany and Randwick Sites Development Act 1982 No 99  
Callan Park (Special Provisions) Act 2002 No 139  
Environmental Planning and Assessment Act 1979 No 203 (except section 8, as noted above) (jointly with the Minister Assisting the Minister for Infrastructure and Planning (Planning Administration) as noted above, and also jointly with the Minister for Natural Resources)  
Growth Centres (Development Corporations) Act 1974 No 49  
Heritage Act 1977 No 136 (except section 102, as noted above)  
Kooragang Coal Terminal (Special Provisions) Act 1997 No 138  
Lake Illawarra Authority Act 1987 No 285  
Land Development Contribution Act 1970 No 24  
Land Development Contribution Management Act 1970 No 22  
National Trust of Australia (New South Wales) Act 1990 No 92  
Port Kembla Development (Special Provisions) Act 1997 No 40  
Sir Henry Parkes National (War) Memorial Museum and Library Act 1957 No 47  
State Environmental Planning (Permissible Mining) Act 1996 No 27  
Walsh Bay Development (Special Provisions) Act 1999 No 3  
Warnervale Airport (Restrictions) Act 1996 No 57  
Western Sydney Regional Park (Revocation for Western Sydney Orbital) Act 2001 No 60

#### **MINISTER FOR NATURAL RESOURCES**

The Minister for Natural Resources has joint administration of all Acts (except section 7 of the Chipping Norton Lake Authority Act 1977 No 38) listed for the Minister Assisting the Minister for Natural



Resources (Forests), and the Minister Assisting the Minister for Natural Resources (Lands) (which are not listed again below), and the following Acts

Australian Lubricating Oil Refinery Limited Agreement Ratification Act 1962 No 16  
Australian Oil Refining Limited Agreement Ratification Act 1954 No 34  
Australian Oil Refining Pty. Limited Agreement Ratification (Amendment) Act 1961 No 35  
Broken Hill Proprietary Company Limited (Reclamation and Exchange) Agreement Ratification Act 1950 No 11  
Broken Hill Proprietary Company Limited (Steelworks) Agreement Ratification Act 1950 No 12  
Catchment Management Act 1989 No 235  
Chipping Norton Lake Authority Act 1977 No 38 (except section 7, as noted above)  
Coastal Protection Act 1979 No 13  
Dams Safety Act 1978 No 96  
Environmental Planning and Assessment Act 1979 No 203 (except section 8) (jointly with the Minister for Infrastructure and Planning, and the Minister Assisting the Minister for Infrastructure and Planning (Planning Administration))  
Farm Water Supplies Act 1946 No 22  
Forestry and National Park Estate Act 1998 No 163 (except parts, Minister for the Environment)  
Googong Dam Catchment Area Act 1975 No 4  
Hay Irrigation Act 1902 No 57  
Hunter Water Act 1991 No 53, Part 5, Division 8, (remainder, Minister for Energy and Utilities)  
Irrigation Areas (Reduction of Rents) Act 1974 No 83  
Menindee Lakes Storage Agreement Act 1964 No 4  
Murray-Darling Basin Act 1992 No 65  
Murrumbidgee Irrigation Areas Occupiers Relief Act 1934 No 52  
National Parks and Wildlife Act 1974 No 80, in so far as it relates to part of Burrinjuck State Recreation Area (remainder, Minister for the Environment)  
Native Vegetation Conservation Act 1997 No 133  
New South Wales - Queensland Border Rivers Act 1947 No 10  
Plantations and Reafforestation Act 1999 No 97  
*Rivers and Foreshores Improvement Act 1948 No 20*  
Soil Conservation Act 1938 No 10  
Tweed River Entrance Sand Bypassing Act 1995 No 55  
*Water Act 1912 No 44*  
Water Management Act 2000 No 92 (except part, Minister for Energy and Utilities)  
Wentworth Irrigation Act 1890 54 Vic. No 7  
Western Lands Act 1901 No 70

**ATTORNEY GENERAL**

Administration of Justice Act 1924 No 42  
Administration (Validating) Act 1900 No 38  
Administrative Decisions Tribunal Act 1997 No 76  
Anglican Church of Australia (Bodies Corporate) Act 1938 No 15  
Animals Act 1977 No 25  
Anti-Discrimination Act 1977 No 48 (except part, Premier)  
Antiochian Orthodox Church Property Trust Act 1993 No 20  
Application of Laws (Coastal Sea) Act 1980 No 146  
Arbitration (Civil Actions) Act 1983 No 43  
Attachment of Wages Limitation Act 1957 No 28  
Australian Mutual Provident Society Act 1988 No 47



Australian Mutual Provident Society (Demutualisation and Reconstruction) Act 1997 No 56  
Bail Act 1978 No 161  
Benevolent Society (Reconstitution) Act 1998 No 153  
Births, Deaths and Marriages Registration Act 1995 No 62  
Burns Philp Trustee Company Limited Act 1990 No 82  
Charitable Trusts Act 1993 No 10  
Children (Criminal Proceedings) Act 1987 No 55  
Children (Protection and Parental Responsibility) Act 1997 No 78  
Children's Court Act 1987 No 53  
Choice of Law (Limitation Periods) Act 1993 No 94  
Churches of Christ in New South Wales Incorporation Act 1947 No 2  
Churches of Christ, Scientist, Incorporation Act 1962 No 21  
Civil Liability Act 2002 No 22  
Classification (Publications, Films and Computer Games) Enforcement Act 1995 No 63  
Commercial Arbitration Act 1984 No 160  
Common Carriers Act 1902 No 48  
Commonwealth Bank (Interpretation) Act 1953 No 29  
Commonwealth Places (Administration of Laws) Act 1970 No 80  
Commonwealth Powers (Family Law - Children) Act 1986 No 182  
Community Justice Centres Act 1983 No 127  
Community Protection Act 1994 No 77  
Companies (Acquisition of Shares) (Application of Laws) Act 1981 No 62  
Companies (Acquisition of Shares) (New South Wales) Code  
Companies (Administration) Act 1981 No 64  
Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Act 1981 No 63  
Companies and Securities (Interpretation and Miscellaneous Provisions) (New South Wales) Code  
Companies (Application of Laws) Act 1981 No 122  
Companies (New South Wales) Code  
*Compensation Court Act 1984 No 89*  
Compensation Court Repeal Act 2002 No 23  
Compensation to Relatives Act 1897 No 31  
Confiscation of Proceeds of Crime Act 1989 No 90  
Constitutional Powers (Coastal Waters) Act 1979 No 138  
Contractors Debts Act 1997 No 110  
Co-operative Schemes (Administrative Actions) Act 2001 No 45  
Coptic Orthodox Church (NSW) Property Trust Act 1990 No 67  
Coroners Act 1980 No 27  
Corporations (Administrative Actions) Act 2001 No 33  
Corporations (Ancillary Provisions) Act 2001 No 32  
Corporations (Commonwealth Powers) Act 2001 No 1  
Corporations (New South Wales) Act 1990 No 83  
Costs in Criminal Cases Act 1967 No 13  
Council of Law Reporting Act 1969 No 59  
Crimes Act 1900 No 40  
Crimes at Sea Act 1998 No 173  
Crimes (Forensic Procedures) Act 2000 No 59  
Crimes (Local Courts Appeal and Review) Act 2001 No 120  
Crimes Prevention Act 1916 No 80  
Crimes (Sentencing Procedure) Act 1999 No 92  
Criminal Appeal Act 1912 No 16

Criminal Procedure Act 1986 No 209  
Criminal Records Act 1991 No 8  
Crown Advocate Act 1979 No 59  
Crown Proceedings Act 1988 No 70  
Crown Prosecutors Act 1986 No 208  
Damage by Aircraft Act 1952 No 46  
Damages (Infants and Persons of Unsound Mind) Act 1929 No 25  
Defamation Act 1974 No 18  
Director of Public Prosecutions Act 1986 No 207  
Discharged Servicemen's Badges Act 1964 No 49  
District Court Act 1973 No 9  
Domicile Act 1979 No 118  
Dormant Funds Act 1942 No 25  
Drug Court Act 1998 No 150  
Drug Misuse and Trafficking Act 1985 No 226 (except part, Minister for Police, and Minister for Health)  
Dust Diseases Tribunal Act 1989 No 63  
Electronic Transactions Act 2000 No 8  
Employees Liability Act 1991 No 4  
Evidence Act 1995 No 25  
Evidence (Audio and Audio Visual Links) Act 1998 No 105  
Evidence (Children) Act 1997 No 143  
Evidence (Consequential and Other Provisions) Act 1995 No 27, Schedule 2  
Evidence on Commission Act 1995 No 26  
Factors (Mercantile Agents) Act 1923 No 2  
Family Provision Act 1982 No 160  
Federal Courts (State Jurisdiction) Act 1999 No 22  
Felons (Civil Proceedings) Act 1981 No 84  
Financial Transaction Reports Act 1992 No 99  
Fines Act 1996 No 99, Part 2, Divisions 1 and 2, section 120 (in so far as it relates to registrars of the courts and the Sheriff) and section 123 (remainder, Treasurer)  
Foreign Judgments Act 1973 No 39  
Forfeiture Act 1995 No 65  
Frustrated Contracts Act 1978 No 105  
Futures Industry (Application of Laws) Act 1986 No 66  
Futures Industry (New South Wales) Code  
Greek Orthodox Archdiocese of Australia Consolidated Trust Act 1994 No 65  
Habitual Criminals Act 1957 No 19  
Holy Apostolic Catholic Assyrian Church of the East Property Trust Act 1992 No 10  
Imperial Acts Application Act 1969 No 30  
Inclosed Lands Protection Act 1901 No 33  
Industrial Relations Act 1996 No 17, sections 147, 148 (except in relation to the appointment of Commissioners), 149, 150, 151, 152, 153, 154, 156(3), 157(3), 159(2), 164(2), 168, 180, 185(2)(d) and (e), 196, 197, 207, 208, 381, 382, 383, 407 (in relation to provisions administered by the Attorney General), Schedule 2 (in relation to provisions administered by the Attorney General), and Schedule 4 (in relation to provisions administered by the Attorney General), (remainder, Minister for Industrial Relations)  
Inebriates Act 1912 No 24  
Infants' Custody and Settlements Act 1899 No 39  
Inheritance Act of 1901 No 19  
Insurance Act 1902 No 49

Insurance (Application of Laws) Act 1986 No 13  
*Intoxicated Persons Act 1979 No 67*  
Judges' Pensions Act 1953 No 41  
Judgment Creditors' Remedies Act 1901 No 8  
Judicial Office (Papua New Guinea) Act 1979 No 177  
Judicial Officers Act 1986 No 100  
Jurisdiction of Courts (Cross-vesting) Act 1987 No 125  
Jurisdiction of Courts (Foreign Land) Act 1989 No 190  
Jury Act 1977 No 18  
Justices of the Peace Act 2002 No 27  
Land and Environment Court Act 1979 No 204  
Law and Justice Foundation Act 2000 No 97  
Law Courts Limited Act 1977 No 10  
Law Enforcement (Powers and Responsibilities) Act 2002 No 103  
Law Reform Commission Act 1967 No 39  
Law Reform (Law and Equity) Act 1972 No 28  
Law Reform (Marital Consortium) Act 1984 No 38  
Law Reform (Miscellaneous Provisions) Act 1944 No 28  
Law Reform (Miscellaneous Provisions) Act 1946 No 33  
Law Reform (Miscellaneous Provisions) Act 1965 No 32  
Law Reform (Vicarious Liability) Act 1983 No 38  
Legal Aid Commission Act 1979 No 78  
Legal Profession Act 1987 No 109  
Lie Detectors Act 1983 No 62  
Limitation Act 1969 No 31  
Liquor Act 1982 No 147, Part 2 (remainder, Minister for Gaming and Racing)  
Listening Devices Act 1984 No 69  
Local Courts Act 1982 No 164  
Local Courts (Civil Claims) Act 1970 No 11  
Lutheran Church of Australia (New South Wales District) Property Trust Act 1982 No 101  
Maintenance, Champerty and Barratry Abolition Act 1993 No 88  
Maintenance Orders (Facilities for Enforcement) Act 1923 No 4  
Marketable Securities Act 1970 No 72  
Married Persons (Equality of Status) Act 1996 No 96  
Matrimonial Causes Act 1899 No 14  
Mental Health (Criminal Procedure) Act 1990 No 10  
Methodist Church of Samoa in Australia Property Trust Act 1998 No 96  
Mining Act 1992 No 29, section 293 (remainder, Minister for Mineral Resources)  
Minors (Property and Contracts) Act 1970 No 60  
Moratorium Act 1932 No 57  
Notice of Action and Other Privileges Abolition Act 1977 No 19  
Oaths Act 1900 No 20  
Parliamentary Papers (Supplementary Provisions) Act 1975 No 49  
Partnership Act 1892 55 Vic. No 12  
Piracy Punishment Act 1902 No 69  
*Police Powers (Drug Detection Dogs) Act 2001 No 115*  
*Police Powers (Drug Premises) Act 2001 No 30*  
*Police Powers (Internally Concealed Drugs) Act 2001 No 31*  
Police (Special Provisions) Act 1901 No 5 (except part, Minister for Police)  
Presbyterian Church of Australia Act 1971 No 42  
Pre-Trial Diversion of Offenders Act 1985 No 153

Printing and Newspapers Act 1973 No 46  
Privacy and Personal Information Protection Act 1998 No 133  
Professional Standards Act 1994 No 81  
Property (Relationships) Act 1984 No 147  
Protected Estates Act 1983 No 179  
Public Defenders Act 1995 No 28  
Public Notaries Act 1997 No 98  
Public Trustee Act 1913 No 19  
Recovery of Imposts Act 1963 No 21  
Reorganised Church of Jesus Christ of Latter Day Saints Trust Property Act 1959 No 13  
Restraints of Trade Act 1976 No 67  
Restricted Premises Act 1943 No 6  
Roman Catholic Church Communities' Lands Act 1942 No 23  
Roman Catholic Church Trust Property Act 1936 No 24  
Royal Institute for Deaf and Blind Children Act 1998 No 6  
Russian Orthodox Church (NSW) Property Trust Act 1991 No 91  
Sale of Goods Act 1923 No 1  
Sale of Goods (Vienna Convention) Act 1986 No 119  
Scout Association of Australia (New South Wales Branch) Incorporation Act 1928 No 26  
Sea-Carriage Documents Act 1997 No 92  
*Search Warrants Act 1985 No 37*  
Securities Industry (Application of Laws) Act 1981 No 61  
Sheriff Act 1900 No 16  
Solicitor General Act 1969 No 80  
Standard Time Act 1987 No 149  
Status of Children Act 1996 No 76  
Stewards' Foundation of Christian Brethren Act 1989 No 172  
Suitors' Fund Act 1951 No 3  
Summary Offences Act 1988 No 25  
Sunday (Service of Process) Act 1984 No 45  
Supreme Court Act 1970 No 52  
Telecommunications (Interception) (New South Wales) Act 1987 No 290  
Terrorism (Commonwealth Powers) Act 2002 No 114  
Terrorism (Police Powers) Act 2002 No 115  
Testator's Family Maintenance and Guardianship of Infants Act 1916 No 41  
Trustee Act 1925 No 14  
Trustee Companies Act 1964 No 6  
Trustees Delegation of Powers Act 1915 No 31  
Unauthorised Documents Act 1922 No 6  
Uncollected Goods Act 1995 No 68  
Uniting Church in Australia Act 1977 No 47  
Victims Rights Act 1996 No 114  
Victims Support and Rehabilitation Act 1996 No 115  
Voluntary Workers (Soldiers' Holdings) Amendment Act 1974 No 27, sections 4 to 9 (remainder,  
Minister for Natural Resources, and Minister Assisting the Minister for Natural Resources  
(Lands))  
Westpac Banking Corporation (Transfer of Incorporation) Act 2000 No 71  
Wills, Probate and Administration Act 1898 No 13 (except parts, Treasurer)  
Witnesses Examination Act 1900 No 34  
Workplace Video Surveillance Act 1998 No 52  
Young Offenders Act 1997 No 54 (except parts, Minister for Juvenile Justice)

**MINISTER FOR THE ENVIRONMENT**

Contaminated Land Management Act 1997 No 140

Crown Lands Act 1989 No 6, so far as it relates to the Crown Reserve known as Jenolan Caves

Reserves, reserve number 190075 for preservation of caves, preservation of fauna, preservation of native flora and public recreation and the land dedicated for the public purpose of accommodation house D590137, in the Parishes of Jenolan, Bombah and Bouverie, Counties of Westmoreland and Georgiana, (remainder, Minister for Natural Resources and Minister Assisting the Minister for Natural Resources (Lands), and Minister for Tourism and Sport and Recreation)

Environmental Trust Act 1998 No 82

Environmentally Hazardous Chemicals Act 1985 No 14

Forestry and National Park Estate Act 1998 No 163 (Part 2, and Schedules 1-7, remainder Minister for Natural Resources)

Forestry Restructuring and Nature Conservation Act 1995 No 50

Forestry Revocation and National Park Reservation Act 1996 No 131

Forestry Revocation and National Parks Reservation Act 1983 No 37

Forestry Revocation and National Parks Reservation Act 1984 No 85

Lane Cove National Park (Sugarloaf Point Additions) Act 1996 No 71

Lord Howe Island Act 1953 No 39

Lord Howe Island Aerodrome Act 1974 No 25

Marine Parks Act 1997 No 64 (jointly with the Minister for Agriculture and Fisheries)

National Environment Protection Council (New South Wales) Act 1995 No 4

National Park Estate (Reservations) Act 2002 No 137

National Park Estate (Reservations) Act 2003 No 24

National Park Estate (Southern Region Reservations) Act 2000 No 103

National Parks and Wildlife Act 1974 No 80 (except in so far as it relates to part of Burrinjuck State Recreation Area, Minister for Natural Resources)

National Parks and Wildlife (Adjustment of Areas) Act 2001 No 49

Nature Conservation Trust Act 2001 No 10

Ozone Protection Act 1989 No 208

Pesticides Act 1999 No 80

Protection of the Environment Administration Act 1991 No 60

Protection of the Environment Operations Act 1997 No 156

Radiation Control Act 1990 No 13

Recreation Vehicles Act 1983 No 136 (except parts, Minister for Roads)

Road and Rail Transport (Dangerous Goods) Act 1997 No 113, so far as it relates to the on-road and on-rail transport of dangerous goods by road or rail (remainder, Minister for Industrial Relations)

Roads Act 1993 No 33, so far as it relates to Lord Howe Island (remainder, Minister for Roads,

Minister for Natural Resources, Minister for Local Government, and Minister Assisting the Minister for Natural Resources (Lands))

Royal Botanic Gardens and Domain Trust Act 1980 No 19

Sydney Water Catchment Management Act 1998 No 171

Threatened Species Conservation Act 1995 No 101

*Unhealthy Building Land Act 1990 No 122*

Waste Avoidance and Resource Recovery Act 2001 No 58

Waste Recycling and Processing Corporation Act 2001 No 59

Wilderness Act 1987 No 196

Zoological Parks Board Act 1973 No 34

**MINISTER FOR ROADS**

Campbelltown Presbyterian Cemetery Act 1984 No 19  
Driving Instructors Act 1992 No 3  
Motor Vehicles Taxation Act 1988 No 111  
Recreation Vehicles Act 1983 No 136, Parts 4 and 6 (remainder, Minister for the Environment)  
Road Transport (Driver Licensing) Act 1998 No 99  
Road Transport (General) Act 1999 No 18  
Road Transport (Heavy Vehicles Registration Charges) Act 1995 No 72  
Road Transport (Safety and Traffic Management) Act 1999 No 20  
Road Transport (Vehicle Registration) Act 1997 No 119  
Roads Act 1993 No 33 (except parts, Minister for the Environment, Minister for Natural Resources, Minister for Local Government, and Minister Assisting the Minister for Natural Resources (Lands))  
Sydney Harbour Tunnel (Private Joint Venture) Act 1987 No 49  
Transport Administration Act 1988 No 109, Part 6, and so much of the Act as relates to the Roads and Traffic Authority (remainder, Minister for Transport Services)

**MINISTER FOR HOUSING**

Aboriginal Housing Act 1998 No 47  
Commonwealth and State Housing Agreement Act 1946 No 19  
Commonwealth and State Housing Agreement Act 1955 No 41  
HomeFund Restructuring Act 1993 No 112 (except parts, Minister for Commerce, and Minister for Fair Trading)  
Housing Act 2001 No 52  
Housing Agreement Act 1956 No 35  
Housing Agreement Act 1961 No 39  
Housing Agreement Act 1966 No 40  
Housing Agreement Act 1973 No 57  
Housing Agreement Act 1974 No 90  
Housing Agreement Act 1978 No 149  
Housing Agreement Act 1981 No 129  
Housing Agreement Act 1985 No 32  
Landcom Corporation Act 2001 No 129  
Loan Fund Companies Act 1976 No 94

**MINISTER FOR HEALTH**

Ambulance Services Act 1990 No 16  
Anatomy Act 1977 No 126  
Cancer Institute (NSW) Act 2003 No 14  
Centenary Institute of Cancer Medicine and Cell Biology Act 1985 No 192  
Chiropractors Act 2001 No 15  
Dental Practice Act 2001 No 64  
Dental Technicians Registration Act 1975 No 40  
*Dentists Act 1989 No 139*  
Drug Misuse and Trafficking Act 1985 No 226, Part 2A (jointly with the Minister for Police, remainder, Attorney General)  
Fluoridation of Public Water Supplies Act 1957 No 58  
Food Act 1989 No 231  
Garvan Institute of Medical Research Act 1984 No 106  
Gladesville Mental Hospital Cemetery Act 1960 No 45  
Health Administration Act 1982 No 135



Health Care Complaints Act 1993 No 105  
Health Care Liability Act 2001 No 42  
Health Professionals (Special Events Exemption) Act 1997 No 90  
Health Records and Information Privacy Act 2002 No 71  
Health Services Act 1997 No 154  
Human Tissue Act 1983 No 164  
Lunacy and Inebriates (Commonwealth Agreement Ratification) Act 1937 No 37  
Lunacy (Norfolk Island) Agreement Ratification Act 1943 No 32  
Medical Practice Act 1992 No 94  
Mental Health Act 1990 No 9  
*New South Wales Cancer Council Act 1995 No 43*  
New South Wales Institute of Psychiatry Act 1964 No 44  
Nurses Act 1991 No 9  
Nursing Homes Act 1988 No 124  
Optical Dispensers Act 1963 No 35  
*Optometrists Act 1930 No 20*  
Optometrists Act 2002 No 30  
Osteopaths Act 2001 No 16  
Pharmacy Act 1964 No 48  
Physiotherapists Act 2001 No 67  
Podiatrists Act 1989 No 23  
Poisons and Therapeutic Goods Act 1966 No 31  
Private Hospitals and Day Procedure Centres Act 1988 No 123  
Psychologists Act 2001 No 69  
Public Health Act 1991 No 10  
Smoke-free Environment Act 2000 No 69  
Sydney Hospital (Trust Property) Act 1984 No 133  
Tuberculosis Act 1970 No 18

#### **MINISTER FOR TRANSPORT SERVICES**

Air Navigation Act 1938 No 9  
Air Transport Act 1964 No 36  
Border Railways (Grain Elevators) Amendment Act 1957 No 9  
Broken Hill to South Australian Border Railway Agreement Act 1968 No 59  
Civil Aviation (Carriers' Liability) Act 1967 No 64  
*Commercial Vessels Act 1979 No 41*  
Glenreagh to Dorrigo Railway (Closure) Act 1993 No 65  
*Marine (Boating Safety-Alcohol and Drugs) Act 1991 No 80*  
*Marine Pilotage Licensing Act 1971 No 56*  
Marine Pollution Act 1987 No 299  
Marine Safety Act 1998 No 121  
Marine Safety Legislation (Lakes Hume and Mulwala) Act 2001 No 78  
*Maritime Services Act 1935 No 47*  
National Rail Corporation (Agreement) Act 1991 No 82  
*Navigation Act 1901 No 60*  
Parking Space Levy Act 1992 No 32  
Passenger Transport Act 1990 No 39  
Ports Corporatisation and Waterways Management Act 1995 No 13  
Rail Safety Act 2002 No 96  
Railway Construction (East Hills to Campbelltown) Act 1983 No 111  
Railway Construction (Maldon to Port Kembla) Act 1983 No 112



Tow Truck Industry Act 1998 No 111  
Transport Administration Act 1988 No 109 (except part, Minister for Roads)

#### **MINISTER FOR THE HUNTER**

Nil

#### **MINISTER ASSISTING THE MINISTER FOR NATURAL RESOURCES (FORESTS)**

The Minister Assisting the Minister for Natural Resources (Forests) has joint administration of the following Acts with the Minister for Natural Resources

Forestry Act 1916 No 55  
Softwood Forestry Agreement Act 1968 No 20  
Softwood Forestry Agreement Ratification Act 1980 No 90  
Softwood Forestry (Further Agreement) Act 1973 No 7  
Timber Marketing Act 1977 No 72

#### **MINISTER FOR POLICE**

Australian Crime Commission (New South Wales) Act 2003 No 13  
Child Protection (Offenders Registration) Act 2000 No 42  
Commercial Agents and Private Inquiry Agents Act 1963 No 4  
Criminal Assets Recovery Act 1990 No 23  
Drug Misuse and Trafficking Act 1985 No 226, Part 2A (jointly with the Minister for Health, remainder Attorney General)  
Federation of New South Wales Police-Citizens Youth Clubs (Reconstitution) Act 1989 No 163  
Firearms Act 1996 No 46  
Law Enforcement and National Security (Assumed Identities) Act 1998 No 154  
Law Enforcement (Controlled Operations) Act 1997 No 136  
New South Wales Crime Commission Act 1985 No 117  
Police Act 1990 No 47  
Police Department (Transit Police) Act 1989 No 58  
Police Integrity Commission Act 1996 No 28  
Police Powers (Drug Detection in Border Areas Trial) Act 2003 No 28  
*Police Powers (Vehicles) Act 1998 No 166*  
Police (Special Provisions) Act 1901 No 5, Part 4 (remainder, Attorney General)  
Road Obstructions (Special Provisions) Act 1979 No 9  
Security Industry Act 1997 No 157  
Weapons Prohibition Act 1998 No 127  
Witness Protection Act 1995 No 87  
Wool, Hide and Skin Dealers Act 1935 No 40

#### **MINISTER FOR COMMUNITY SERVICES**

Adoption Act 2000 No 75  
Child Welfare (Commonwealth Agreement Ratification) Act 1941 No 11  
Child Welfare (Commonwealth Agreement Ratification) Act 1962 No 28  
Children and Young Persons (Care and Protection) Act 1998 No 157  
*Children (Care and Protection) Act 1987 No 54*  
Community Services (Complaints, Reviews and Monitoring) Act 1993 No 2 (jointly with the Minister for Ageing, and the Minister for Disability Services)  
Community Welfare Act 1987 No 52 (jointly with the Minister for Disability Services)

**MINISTER FOR AGEING**

Community Services (Complaints, Reviews and Monitoring) Act 1993 No 2 (jointly with the Minister for Community Services, and the Minister for Disability Services)  
Home Care Service Act 1988 No 6 (jointly with the Minister for Disability Services)

**MINISTER FOR DISABILITY SERVICES**

Community Services (Complaints, Reviews and Monitoring) Act 1993 No 2 (jointly with the Minister for Community Services, and the Minister for Ageing)  
Community Welfare Act 1987 No 52 (jointly with the Minister for Community Services)  
Disability Services Act 1993 No 3  
Guardianship Act 1987 No 257  
Home Care Service Act 1988 No 6 (jointly with the Minister for Ageing)  
*Youth and Community Services Act 1973 No 90*

**MINISTER FOR YOUTH**

Child Protection (Prohibited Employment) Act 1998 No 147  
Commission for Children and Young People Act 1998 No 146  
Youth Advisory Council Act 1989 No 39

**MINISTER FOR ENERGY AND UTILITIES**

Aberdare County Council (Dissolution) Act 1982 No 74  
AGL Corporate Conversion Act 2002 No 16  
Eastern Gas Pipeline (Special Provisions) Act 1996 No 126  
Electricity Safety Act 1945 (1946 No 13) (except part jointly with Minister for Commerce, and Minister for Fair Trading)  
Electricity Supply Act 1995 No 94  
Energy Administration Act 1987 No 103  
Eraring Power Station Act 1981 No 107  
Gas Industry Restructuring Act 1986 No 213  
Gas Pipelines Access (New South Wales) Act 1998 No 41  
Gas Supply Act 1996 No 38 (except parts, jointly Minister for Commerce, and Minister for Fair Trading)  
Gosford-Wyong Electricity Supply (Special Provisions) Act 1985 No 182  
Hunter Water Act 1991 No 53 (except parts, Minister for Natural Resources)  
National Electricity (New South Wales) Act 1997 No 20  
Northern Rivers County Council (Undertaking Acquisition) Act 1981 No 95  
Pipelines Act 1967 No 90  
Public Works Act 1912 No 45, sections 34(3) and 34(4) (remainder, Minister for Commerce)  
Sydney Water Act 1994 No 88  
Water Management Act 2000 No 92, Part 1 of Chapter 5 (remainder, Minister for Natural Resources)

**MINISTER FOR SCIENCE AND MEDICAL RESEARCH**

Human Cloning and Other Prohibited Practices Act 2003 No 20  
Research Involving Human Embryos (New South Wales) Act 2003 No 21

**MINISTER ASSISTING THE MINISTER FOR HEALTH (CANCER)**

Nil

**MINISTER ASSISTING THE PREMIER ON THE ARTS**

Nil

**MINISTER FOR TOURISM AND SPORT AND RECREATION**

Boxing and Wrestling Control Act 1986 No 11

Centennial Park and Moore Park Trust Act 1983 No 145

Crown Lands Act 1989 No 6, so far as it relates to the Crown Reserve known as Parramatta Park, reserve number D500239, the Crown Reserve known as Wollongong Sportsground, reserve number D580096 for public recreation and tourist purposes, in the Parish of Wollongong, County of Camden, the Crown Reserve known as Newcastle International Sports Centre, reserve number D84753 for public recreation, in the Parish of Newcastle, County of Northumberland, and the Crown Reserve known as Newcastle Showground, reserve number D570083 for showground, in the Parish of Newcastle, County of Northumberland, (remainder, Minister for the Environment, Minister for Natural Resources, and Minister Assisting the Minister for Natural Resources (Lands))

Institute of Sport Act 1995 No 52

Luna Park Site Act 1990 No 59

Motor Vehicle Sports (Public Safety) Act 1985 No 24

Mount Panorama Motor Racing Act 1989 No 108

Newcastle Agricultural, Horticultural, and Industrial Association Act of 1905

Newcastle International Sports Centre Act 1967 No 63

Parramatta Park (Old Government House) Act 1967 No 33

Parramatta Park Trust Act 2001 No 17

Parramatta Stadium Trust Act 1988 No 86

Sporting Bodies' Loans Guarantee Act 1977 No 3

Sporting Venues Management Act 2002 No 56

Sports Drug Testing Act 1995 No 45

State Sports Centre Trust Act 1984 No 68

Sydney Cricket and Sports Ground Act 1978 No 72

Sydney Entertainment Centre Act 1980 No 135

Sydney Olympic Park Authority Act 2001 No 57

Sydney 2000 Games Administration Act 2000 No 81

Tourism New South Wales Act 1984 No 46

Wollongong Sportsground Act 1986 No 174

**MINISTER FOR WOMEN**

Nil

**MINISTER FOR RURAL AFFAIRS**

Nil

**MINISTER FOR LOCAL GOVERNMENT**

Carlingford Drainage Improvement (Land Exchange) Act 1992 No 68

City of Sydney Act 1988 No 48

Collarenebri Water Supply Act 1968 No 18

Companion Animals Act 1998 No 87

Country Towns Water Supply and Sewerage (Debts) Act 1937 No 32

Dividing Fences Act 1991 No 72

Glen Davis Act 1939 No 38 (except part, Minister for Commerce)

Grafton Water Supply Act 1956 No 33

Impounding Act 1993 No 31  
Local Government Act 1993 No 30  
Local Government Areas Amalgamation Act 1980 No 110  
Local Government Associations Incorporation Act 1974 No 20  
Local Government (City of Sydney Boundaries) Act 1967 No 48  
Newcastle (Miscellaneous Lands) Act 1979 No 140  
Newcastle National Park Enabling Act 1924 No 49  
Queen Victoria Building Site Act 1952 No 30  
Roads Act 1993 No 33, section 178 (2); Division 2 of Part 3 (so far as it relates to the widening of a public road for which a council is the roads authority); section 175 (so far as it relates to the power to enter land along or near a public road for which a council is the roads authority); and section 252 (so far as it relates to the functions of the Minister for Local Government under the Act) (remainder, Minister for the Environment, Minister for Natural Resources, Minister for Roads, and Minister Assisting the Minister for Natural Resources (Lands))  
Swimming Pools Act 1992 No 49  
Walgett Water Supply Act 1959 No 17

#### **MINISTER FOR EMERGENCY SERVICES**

Fire Brigades Act 1989 No 192  
Fire Services Joint Standing Committee Act 1998 No 18  
Rural Fires Act 1997 No 65  
State Emergency and Rescue Management Act 1989 No 165  
State Emergency Service Act 1989 No 164

#### **MINISTER ASSISTING THE MINISTER FOR NATURAL RESOURCES (LANDS)**

The Minister Assisting the Minister for Natural Resources (Lands) has joint administration of the following Acts with the Minister for Natural Resources (except section 7 of the Chipping Norton Lake Authority Act 1977 No 38 which is solely administered by the Minister Assisting the Minister for Natural Resources (Lands))

Access to Neighbouring Land Act 2000 No 2  
Bills of Sale Act 1898 No 10  
Botany Cemetery and Crematorium Act 1972 No 6  
Camperdown Cemetery Act 1948 No 14  
Chipping Norton Lake Authority Act 1977 No 38 (section 7 solely administered by the Minister Assisting the Minister for Natural Resources (Lands) as noted above)  
Christ Church Cathedral, Newcastle, Cemetery Act 1966 No 20  
Commons Management Act 1989 No 13  
Community Land Development Act 1989 No 201  
Conversion of Cemeteries Act 1974 No 17  
Conveyancing Act 1919 No 6  
Conveyancing and Law of Property Act 1898 No 17  
Crown Lands Act 1989 No 6 (except parts, Minister for the Environment, and Minister for Tourism and Sport and Recreation)  
Crown Lands (Continued Tenures) Act 1989 No 7  
Crown Lands (Validation of Revocations) Act 1983 No 55  
Encroachment of Buildings Act 1922 No 23  
Geographical Names Act 1966 No 13  
Gore Hill Memorial Cemetery Act 1986 No 116  
Gosford Cemeteries Act 1970 No 84  
Land Agents Act 1927 No 3

Land Sales Act 1964 No 12  
Liens on Crops and Wool and Stock Mortgages Act 1898 No 7  
Mudgee Cemeteries Act 1963 No 2  
Native Title (New South Wales) Act 1994 No 45  
Necropolis Act 1901 (1902 No 20)  
Old Balmain (Leichhardt) Cemetery Act 1941 No 12  
Old Liverpool Cemetery Act 1970 No 49  
Old Roman Catholic Cemetery, Crown Street, Wollongong, Act 1969 No 56  
Old Wallsend Cemetery Act 1953 No 5  
Parramatta Methodist Cemetery Act 1961 No 44  
Perpetuities Act 1984 No 43  
Public Reserves Management Fund Act 1987 No 179  
Queanbeyan Showground (Variation of Purposes) Act 1995 No 14  
Real Property Act 1900 No 25  
Real Property (Legal Proceedings) Act 1970 No 92  
Registrar-General Act 1973 No 67  
Roads Act 1993 No 33, Parts 2, 4 and 12 (section 178 (2) excepted) and section 148; and the remaining provisions of the Act so far as they relate to Crown roads (remainder, Minister for the Environment, Minister for Roads, and Minister for Local Government)  
St. Andrew's Church of England, Mayfield, Cemetery Act 1957 No 39  
St. Andrew's Presbyterian Church, Woonona, Cemetery Act 1966 No 6  
St. Anne's Church of England, Ryde, Act 1968 No 47  
St. George's Church of England, Hurstville, Cemetery Act 1961 No 63  
St. Peter's Church of England, Cook's River, Cemetery Act 1968 No 48  
St. Thomas' Church of England, North Sydney, Cemetery Act 1967 No 22  
Strata Schemes (Freehold Development) Act 1973 No 68  
Strata Schemes (Leasehold Development) Act 1986 No 219  
Surveying Act 2002 No 83  
Transfer of Records Act 1923 No 14  
Trustees of Schools of Arts Enabling Act 1902 No 68  
Valuation of Land Act 1916 No 2  
Voluntary Workers (Soldiers' Holdings) Act 1917 No 25  
Voluntary Workers (Soldiers' Holdings) Amendment Act 1974 No 27 (except parts, Attorney General)  
Wagga Wagga Racecourse Act 1993 No 109, sections 4 and 5 (remainder, Minister for Gaming and Racing)  
Wild Dog Destruction Act 1921 No 17

#### **MINISTER FOR REGIONAL DEVELOPMENT**

*Albury-Wodonga Development Act 1974 No 47*  
Albury-Wodonga Development Repeal Act 2000 No 18  
Country Industries (Pay-roll Tax Rebates) Act 1977 No 79

#### **MINISTER FOR THE ILLAWARRA**

Nil

#### **MINISTER FOR SMALL BUSINESS**

Retail Leases Act 1994 No 46  
Small Business Development Corporation Act 1984 No 119  
Small Businesses' Loans Guarantee Act 1977 No 34

**MINISTER FOR AGRICULTURE AND FISHERIES**

Agricultural and Veterinary Chemicals (New South Wales) Act 1994 No 53  
Agricultural Industry Services Act 1998 No 45  
Agricultural Livestock (Disease Control Funding) Act 1998 No 139  
Agricultural Scientific Collections Trust Act 1983 No 148  
Agricultural Tenancies Act 1990 No 64  
Animal Research Act 1985 No 123  
Apiaries Act 1985 No 16  
Banana Industry Act 1987 No 66  
Biological Control Act 1985 No 199  
C.B. Alexander Foundation Incorporation Act 1969 No 61  
Dairy Adjustment Programme Agreement Ratification Act 1975 No 31  
Dairy Adjustment Programme Agreement Ratification Act 1977 No 98  
Dairy Industry Act 2000 No 54  
Dried Fruits (Repeal) Act 1997 No 124  
Exhibited Animals Protection Act 1986 No 123  
Exotic Diseases of Animals Act 1991 No 73  
Farm Debt Mediation Act 1994 No 91  
*Farm Produce Act 1983 No 30*  
Farrer Memorial Research Scholarship Fund Act 1930 No 38  
Fertilisers Act 1985 No 5  
Fish Marketing Act 1994 No 37  
Fisheries Act 1935 No 58  
Fisheries Management Act 1994 No 38  
Food Production (Safety) Act 1998 No 128  
Game and Feral Animal Control Act 2002 No 64  
Gene Technology (GM Crop Moratorium) Act 2003 No 12  
Gene Technology (New South Wales) Act 2003 No 11  
Grain Marketing Act 1991 No 15  
Marginal Dairy Farms Reconstruction Scheme Agreement Ratification Act 1971 No 72  
Marine Parks Act 1997 No 64 (jointly with the Minister for the Environment)  
Marketing of Primary Products Act 1983 No 176  
Meat Industry Act 1978 No 54  
*Murray Valley Citrus Marketing Act 1989 No 155*  
Non-Indigenous Animals Act 1987 No 166  
Noxious Weeds Act 1993 No 11  
Plant Diseases Act 1924 No 38  
Poultry Meat Industry Act 1986 No 101  
Prevention of Cruelty to Animals Act 1979 No 200  
Rural Adjustment Scheme Agreement Act 1993 No 107  
Rural Assistance Act 1989 No 97  
Rural Lands Protection Act 1998 No 143  
Seeds Act 1982 No 14  
States and Northern Territory Grants (Rural Adjustment) Agreement Ratification Act 1985 No 113  
States and Northern Territory Grants (Rural Adjustment) Agreement Ratification Act 1989 No 168  
States Grants (Rural Adjustment) Agreement Ratification Act 1977 No 104  
States Grants (Rural Reconstruction) Agreement Ratification Act 1971 No 37  
Stock (Artificial Breeding) Act 1985 No 196  
Stock (Chemical Residues) Act 1975 No 26  
Stock Diseases Act 1923 No 34



Stock Foods Act 1940 No 19  
Stock Medicines Act 1989 No 182  
Swine Compensation Act 1928 No 36  
Sydney Market Authority (Dissolution) Act 1997 No 62  
Veterinary Surgeons Act 1986 No 55

#### **MINISTER FOR JUVENILE JUSTICE**

Children (Community Service Orders) Act 1987 No 56  
Children (Detention Centres) Act 1987 No 57  
Children (Interstate Transfer of Offenders) Act 1988 No 85  
Young Offenders Act 1997 No 54, sections 49, 60 and 61, and Schedule 1 (remainder, Attorney General)

#### **MINISTER FOR WESTERN SYDNEY**

Nil

#### **MINISTER ASSISTING THE MINISTER FOR INFRASTRUCTURE AND PLANNING (PLANNING ADMINISTRATION)**

The Minister Assisting the Minister for Infrastructure and Planning (Planning Administration) has joint administration of the following Acts with the Minister for Infrastructure and Planning (except section 8 of the Environmental Planning and Assessment Act 1979 No 203 and section 102 of the Heritage Act 1977 No 136 which are solely administered by the Minister Assisting the Minister for Infrastructure and Planning (Planning Administration))

Environmental Planning and Assessment Act 1979 No 203  
Heritage Act 1977 No 136  
Sydney Harbour Foreshore Authority Act 1998 No 170

#### **MINISTER FOR FAIR TRADING**

The Minister for Fair Trading has joint administration of the following Acts with the Minister for Commerce

Associations Incorporation Act 1984 No 143  
*Business Names Act 1962 No 11*  
Business Names Act 2002 No 97  
Community Land Management Act 1989 No 202  
Consumer Claims Act 1998 No 162  
Consumer Credit Administration Act 1995 No 69  
Consumer Credit (New South Wales) Act 1995 No 7  
Consumer, Trader and Tenancy Tribunal Act 2001 No 82  
Contracts Review Act 1980 No 16  
*Conveyancers Licensing Act 1995 No 57*  
Conveyancers Licensing Act 2003 No 3  
Co-operative Housing and Starr-Bowkett Societies Act 1998 No 11  
Co-operatives Act 1992 No 18  
Credit Act 1984 No 94  
*Credit (Finance Brokers) Act 1984 No 96*  
Credit (Home Finance Contracts) Act 1984 No 97  
*Door-to-Door Sales Act 1967 No 36*



Electricity Safety Act 1945 (1946 No 13) so far as it relates to electrical articles and electrical installations (jointly with Minister for Energy and Utilities)  
Fair Trading Act 1987 No 68  
Fitness Services (Pre-paid Fees) Act 2000 No 95  
Funeral Funds Act 1979 No 106  
Gas Supply Act 1996 No 38, section 83A (remainder, Minister for Energy and Utilities)  
Holiday Parks (Long-term Casual Occupation) Act 2002 No 88  
Home Building Act 1989 No 147  
HomeFund Commissioner Act 1993 No 9  
HomeFund Restructuring Act 1993 No 112, sections 14, 15, 16 and Schedule 2 (remainder, Minister for Housing)  
Landlord and Tenant Act 1899 No 18  
Landlord and Tenant (Amendment) Act 1948 No 25  
Landlord and Tenant (Rental Bonds) Act 1977 No 44  
*Mock Auctions Act 1973 No 17*  
Motor Dealers Act 1974 No 52  
Motor Vehicle Repairs Act 1980 No 71  
Pawnbrokers and Second-hand Dealers Act 1996 No 13  
Price Exploitation Code (New South Wales) Act 1999 No 55  
Prices Regulation Act 1948 No 26  
*Property, Stock and Business Agents Act 1941 No 28*  
Property, Stock and Business Agents Act 2002 No 66  
Registration of Interests in Goods Act 1986 No 37  
Residential Parks Act 1998 No 142  
Residential Tenancies Act 1987 No 26  
Retirement Villages Act 1999 No 81  
Strata Schemes Management Act 1996 No 138  
Trade Measurement Act 1989 No 233  
Trade Measurement Administration Act 1989 No 234  
Travel Agents Act 1986 No 5  
Valuers Act 2003 No 4  
*Valuers Registration Act 1975 No 92*  
Warehousemen's Liens Act 1935 No 19

**MINISTER ASSISTING THE MINISTER FOR COMMERCE**

Nil

**MINISTER FOR JUSTICE**

Crimes (Administration of Sentences) Act 1999 No 93  
International Transfer of Prisoners (New South Wales) Act 1997 No 144  
Parole Orders (Transfer) Act 1983 No 190  
Prisoners (Interstate Transfer) Act 1982 No 104

**MINISTER ASSISTING THE PREMIER ON CITIZENSHIP**

Nil

**MINISTER FOR GAMING AND RACING**

Australian Jockey Club Act 1873  
Casino Control Act 1992 No 15  
Charitable Fundraising Act 1991 No 69

Gambling (Two-up) Act 1998 No 115  
Gaming Machine Tax Act 2001 No 72  
Gaming Machines Act 2001 No 127  
Greyhound Racing Act 2002 No 38  
Harness Racing Act 2002 No 39  
Hawkesbury Racecourse Act 1996 No 74  
Innkeepers Act 1968 No 24  
Liquor Act 1982 No 147 (except part, Attorney General)  
Liquor (Repeals and Savings) Act 1982 No 148  
Lotteries and Art Unions Act 1901 No 34  
New South Wales Lotteries Corporatisation Act 1996 No 85  
Public Lotteries Act 1996 No 86  
Racing Administration Act 1998 No 114  
Racing Appeals Tribunal Act 1983 No 199  
Registered Clubs Act 1976 No 31  
Sydney Turf Club Act 1943 No 22  
Thoroughbred Racing Board Act 1996 No 37  
Totalizator Act 1997 No 45 (except sections, Treasurer)  
Unlawful Gambling Act 1998 No 113  
Wagga Wagga Racecourse Act 1993 No 109 (except sections, Minister for Natural Resources)

#### **MINISTER FOR MINERAL RESOURCES**

Coal Acquisition Act 1981 No 109  
Coal Mine Health and Safety Act 2002 No 129  
*Coal Mines Regulation Act 1982 No 67*  
Coal Ownership (Restitution) Act 1990 No 19  
Mine Subsidence Compensation Act 1961 No 22  
Mines Inspection Act 1901 No 75  
Mining Act 1992 No 29 (except part, Attorney General)  
Occupational Health and Safety Act 2000 No 40, so far as it relates to mines within the meaning of the  
Mines Inspection Act 1901 and the Coal Mines Regulation Act 1982 (remainder, Minister for  
Commerce)  
Offshore Minerals Act 1999 No 42  
Petroleum (Onshore) Act 1991 No 84  
Petroleum (Submerged Lands) Act 1982 No 23  
Uranium Mining and Nuclear Facilities (Prohibitions) Act 1986 No 194

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## Proclamations

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### Proclamation

under the

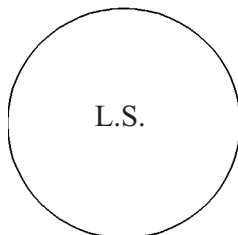
Children and Young Persons (Care and Protection) Act 1998  
No 157

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 *Children and Young Persons (Care and Protection) Act 1998*, do, by this my Proclamation, appoint 29 August 2003 as the day on which Chapter 13 and section 236 of, and Schedule 2 to, that Act commence.

Signed and sealed at Sydney, this 22nd day of August 2003.

By Her Excellency's Command,



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

GOD SAVE THE QUEEN!

#### Explanatory note

The object of this Proclamation is to commence those provisions of the *Children and Young Persons (Care and Protection) Act 1998* that relate to children's employment.



## Proclamation

under the

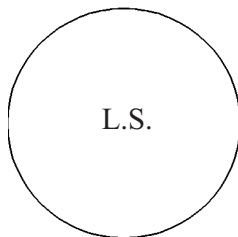
City of Sydney Amendment (Electoral Rolls) Act 2003 No 7

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 *City of Sydney Amendment (Electoral Rolls) Act 2003*, do, by this my Proclamation, appoint 1 September 2003 as the day on which that Act commences.

Signed and sealed at Sydney, this 27th day of August 2003.

By Her Excellency's Command,



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

GOD SAVE THE QUEEN!



## Proclamation

under the

Driving Instructors Amendment Act 2002 No 127

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 *Driving Instructors Amendment Act 2002*, do, by this my Proclamation, appoint 1 September 2003 as the day on which that Act commences.

Signed and sealed at Sydney, this 27th day of August 2003.

By Her Excellency's Command,

CARL SCULLY, M.P.,  
Minister for Roads

GOD SAVE THE QUEEN!



## Proclamation

under the

Local Government Amendment (National Competition Policy Review) Act 2003 No 8

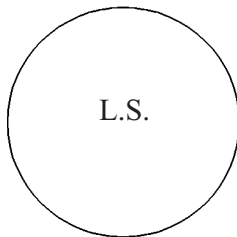
MARIE BASHIR, Governor

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 *Local Government Amendment (National Competition Policy Review) Act 2003*, do, by this my Proclamation, appoint the following as the dates on which the following provisions of that Act commence:

- (a) 1 September 2003—the whole Act except for Schedule 1 [7],
- (b) 1 November 2003—Schedule 1 [7].

Signed and sealed at Sydney, this 27th day of August 2003.

By Her Excellency's Command,



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

GOD SAVE THE QUEEN!



## Proclamation

under the

Road Transport (General) Amendment (Operator Onus Offences) Act 2002 No 11

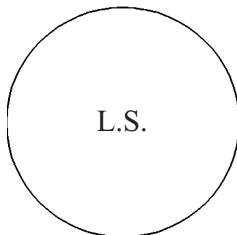
MARIE BASHIR, Governor

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 *Road Transport (General) Amendment (Operator Onus Offences) Act 2002*, do, by this my Proclamation, appoint 1 September 2003 as the day on which the following provisions of that Act commence:

- (a) Schedule 1 [1] to the extent that it inserts section 43 (4A) into the *Road Transport (General) Act 1999*,
- (b) Schedule 1 [5].

Signed and sealed at Sydney, this 27th day of August 2003.

By Her Excellency's Command,



CARL SCULLY, M.P.,  
Minister for Roads

GOD SAVE THE QUEEN!

### Explanatory note

The object of this Proclamation is to commence the provisions of the *Road Transport (General) Amendment (Operator Onus Offences) Act 2002* that contain amendments relating to the serving of penalty notices under the *Road Transport (General) Act 1999*.





## Proclamation

under the

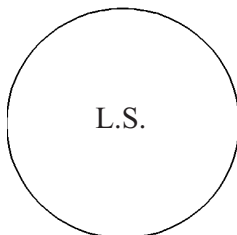
Road Transport Legislation Amendment (Interlock Devices) Act  
2002 No 72

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 *Road Transport Legislation Amendment (Interlock Devices) Act 2002*, do, by this my Proclamation, appoint 8 September 2003 as the day on which that Act commences.

Signed and sealed at Sydney, this 27th day of August 2003.

By Her Excellency's Command,



CARL SCULLY, M.P.,  
Minister for Roads

GOD SAVE THE QUEEN!



## Proclamation

under the

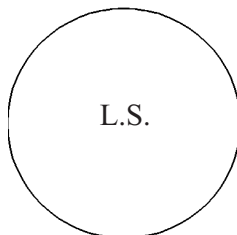
Summary Offences Amendment (Spray Paint Cans) Act 2002  
No 118

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 *Summary Offences Amendment (Spray Paint Cans) Act 2002*, do, by this my Proclamation, appoint 1 September 2003 as the day on which that Act commences.

Signed and sealed at Sydney, this 27th day of August 2003.

By Her Excellency's Command,



BOB DEBUS, M.P.,  
Attorney General

GOD SAVE THE QUEEN!

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## Regulations

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# Australian Museum Trust Regulation 2003

under the

Australian Museum Trust Act 1975

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Australian Museum Trust Act 1975*.

BOB CARR, M.P.,  
Minister for the Arts

### Explanatory note

The object of this Regulation is to remake, without substantial alteration, the *Australian Museum Trust Regulation 1998*. That Regulation will be repealed on 1 September 2003 by section 10 (2) of the *Subordinate Legislation Act 1989*. Both Regulations deal with the following matters:

- (a) the regulation of visitors, both in relation to admission to the Museum and in relation to the photographing of Museum exhibits (Part 2),
- (b) the proceedings of the Australian Museum Trust and committees appointed by the Trust (Part 3),
- (c) formal and ancillary matters (Parts 1 and 4).

This Regulation is made under the *Australian Museum Trust Act 1975*, including section 19 (the general regulation-making power).

## Australian Museum Trust Regulation 2003

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Clause 1 Australian Museum Trust Regulation 2003

Part 1 Preliminary

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## Australian Museum Trust Regulation 2003

under the

Australian Museum Trust Act 1975

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Australian Museum Trust Regulation 2003*.

#### 2 Commencement

This Regulation commences on 1 September 2003.

**Note.** This Regulation replaces the *Australian Museum Trust Regulation 1998* which is repealed on 1 September 2003 by section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3 Definitions

In this Regulation:

**meeting** means a meeting of the Trust.

**member of staff** means a member of the staff of the Museum.

**Museum** means the Australian Museum, and includes any branch or department of the Museum.

**President** means the President of the Trust.

**the Act** means the *Australian Museum Trust Act 1975*.

**visitor** means a person who is on the premises of the Museum, but does not include:

- (a) a trustee or member of staff, or
- (b) a person who is on the premises in connection with the provision of goods or services.

#### 4 Notes

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

Clause 5 Australian Museum Trust Regulation 2003

Part 2 Visitors to Museum

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## Part 2 Visitors to Museum

### 5 Fees

- (1) The Trust may from time to time determine the following:
  - (a) the fees payable for admission to the Museum or any part of the Museum,
  - (b) the fees payable for the photographing of exhibits for commercial purposes.
- (2) Fees may differ according to such factors as the Trust may determine.
- (3) The Trust may exempt any person or class of persons from paying any fee.

### 6 Admission to Museum

- (1) The Museum is to be open to the public, on such days and at such times as the Trust may from time to time determine, on payment of the relevant admission fee.
- (2) No admission fees are payable by visitors who are exempted by the Trust from payment of admission fees or who belong to a class of visitors so exempted.

### 7 Photographing exhibits

- (1) A visitor must not photograph any exhibit otherwise than:
  - (a) with the permission of the Director or of a member of staff authorised by the Director to give such permission, and
  - (b) if the photograph is taken for commercial purposes, on payment of the relevant fee for photographing the exhibit.

Maximum penalty: 2 penalty units.

- (2) Subclause (1) (b) does not apply if the visitor is exempted by the Trust from payment of the fee or belongs to a class of visitors so exempted.

Australian Museum Trust Regulation 2003

Clause 8

Proceedings of Trust

Part 3

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## Part 3 Proceedings of Trust

### 8 Ordinary meetings

Ordinary meetings of the Trust are to be held, at least 4 times in each year, at such times as are determined by the Trust.

### 9 Special meetings

- (1) Special meetings of the Trust may be called by the Director at the written request of:
  - (a) the President and any 2 trustees, or
  - (b) a majority of the trustees.
- (2) Such a request must set out the purpose of the proposed meeting.
- (3) At a special meeting, the only business that may be transacted is that specified in the notice of the meeting.

### 10 Notice of meetings

The Director is to give each trustee at least 48 hours' written notice of the day, hour and place of, and of the business to be considered at, each meeting.

### 11 Adjourned meetings

- (1) If a quorum of a meeting is not present within 15 minutes of the time specified in the notice calling the meeting:
  - (a) the meeting is to be adjourned to a day to be specified by the trustees then present, and
  - (b) if a quorum of the Trust Committee is present, the business of the meeting is to be referred to that Committee for its consideration and report to the adjourned meeting.
- (2) In this clause, *Trust Committee* means the Trust Committee established under section 8 (7) of the Act.

### 12 Committees

The President is entitled to attend any committee established by the Trust and to be heard on any matter being considered by the committee.

Clause 13 Australian Museum Trust Regulation 2003

Part 4 Miscellaneous

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## **Part 4 Miscellaneous**

### **13 Saving**

Any act, matter or thing that, immediately before the repeal of the *Australian Museum Trust Regulation 1998*, had effect under that Regulation continues to have effect under this Regulation.





# Charitable Fundraising Regulation 2003

under the

Charitable Fundraising Act 1991

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Charitable Fundraising Act 1991*.

GRANT McBRIDE, M.P.,  
Minister for Gaming and Racing

## Explanatory note

The object of this Regulation is to remake (with some modifications) the *Charitable Fundraising Regulation 1998 (the former Regulation)*, which is to be repealed on 1 September 2003 by section 10 of the *Subordinate Legislation Act 1989*.

This Regulation prescribes a number of matters that are necessary or incidental to the operation of the *Charitable Fundraising Act 1991 (the Act)*, including:

- (a) activities and appeals that do not constitute a “fundraising appeal” for the purposes of the Act (clauses 5 and 6),
- (b) the religious organisations that are exempt from the Act (clause 7),
- (c) what constitutes a lawful and proper expense in connection with fundraising appeals (clause 8),
- (d) the particulars that are to be shown in the records of income and expenditure that a person or organisation conducting a fundraising appeal must keep under the Act (clause 9),
- (e) the identification and obligations of participants in fundraising appeals (clauses 10 and 11),
- (f) certain financial and organisational information that must be provided to the public on request, and the fees payable for that information (clause 12),
- (g) the changes in particulars that an authorised fundraiser must furnish to the Minister (clause 13),

## Charitable Fundraising Regulation 2003

## Explanatory note

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- (h) standard conditions to apply to authorities to conduct fundraising appeals that are taken to have been granted under the Act when applications have not been dealt with in time (clause 14 and Schedules 1 and 2),
  - (i) other provisions of a minor, consequential or ancillary nature (clauses 1–4 and 15–17).

The modifications made by this Regulation to the former Regulation relate mainly to the standard conditions set out in Schedule 1. Other modifications include clarifying the particulars to be shown in records of income and expenditure that must be kept under the Act, increasing the fees payable for certain information that must be provided to the public on request under the Act, removing superfluous provisions, and updating certain references.

This Regulation refers to the *ADMA Code of Practice*, dated November 2001, published by the Australian Direct Marketing Association Limited.

This Regulation is made under the *Charitable Fundraising Act 1991*, including section 55 (the general power to make regulations) and various sections referred to in the Regulation.

## Charitable Fundraising Regulation 2003

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Clause 1	Charitable Fundraising Regulation 2003
Part 1	Preliminary

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## Charitable Fundraising Regulation 2003

under the

Charitable Fundraising Act 1991

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Charitable Fundraising Regulation 2003*.

#### 2 Commencement

This Regulation commences on 1 September 2003.

**Note.** This Regulation replaces the *Charitable Fundraising Regulation 1998* which is repealed on 1 September 2003 by section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3 Definitions

In this Regulation:

***authorised fundraiser***, in relation to a fundraising appeal, means a person or organisation that holds an authority to conduct the appeal.

***child*** means a person under the age of 15 years.

***face-to-face collector*** means a person who participates in a fundraising appeal by face-to-face solicitation.

***financial year***, in relation to an organisation, means the financial year fixed for the organisation by its constitution or, if no financial year is fixed, the year commencing 1 July.

***the Act*** means the *Charitable Fundraising Act 1991*.

***trader*** means a person so described in section 11 of the Act.

#### 4 Notes

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

Charitable Fundraising Regulation 2003

Clause 5

Fundraising appeals

Part 2

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## Part 2 Fundraising appeals

### 5 Certain requests for, or receipts of, money not to constitute fundraising appeal

For the purposes of section 5 (3) (f) of the Act, a request for, or the receipt of, money from a person is prescribed if the money is wholly payable by the person as the genuine fee or charge for the provision of:

- (a) educational facilities or services, or
- (b) child-minding services, or
- (c) goods or services supplied through a sheltered workshop or through supported employment services for people with disabilities, or
- (d) nursing or medical services, or
- (e) other care or welfare services.

### 6 Requests for, or receipts of, money or other benefit from certain registered clubs not to constitute fundraising appeals

- (1) For the purposes of section 5 (3) (f) of the Act, a request for, or the receipt of, money, property or other benefit from a registered club that is a participant in the community development and support expenditure scheme is prescribed.
- (2) A club is taken to be a participant in the community development and support expenditure scheme if it is for the time being included in a list prepared by, and kept in the offices of, the Department of Gaming and Racing, indicating those registered clubs that are likely to be participants in the scheme during the current tax year.
- (3) In this clause:

**registered club** means a club registered under the *Registered Clubs Act 1976*.

**tax year** has the same meaning as it has in relation to a registered club in the *Gaming Machine Tax Act 2001*.

### 7 Religious organisations exempt from Act

For the purposes of section 7 (1) (b) of the Act, the following are prescribed as religious bodies or religious organisations to which the Act (apart from section 48) does not apply:

ACE Global Ministries Incorporated

Clause 8 Charitable Fundraising Regulation 2003

Part 2 Fundraising appeals

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Buddhist Council of New South Wales Incorporated  
Christian Broadcasting Association Limited trading as FM103.2  
Crystal Cathedral Ministries Australia Limited trading as Hour of Power  
Far East Broadcasting Company, Australia  
Gospel Service Ministries Incorporated  
Loyal Orange Institution of New South Wales  
NSW Auxiliary of the British and Foreign Bible Society trading as Bible Society NSW  
Open Doors with Brother Andrew (Australia) Inc.  
Shoalhaven Employers of Christian Education Teachers Incorporated  
The Hermitage Incorporated  
Voice of the Martyrs Limited

## **8 Lawful and proper expenses**

- (1) For the purposes of section 20 (3) of the Act, an expense is a lawful and proper expense in connection with a fundraising appeal if:
  - (a) the Minister has, pursuant to this clause, determined that such an expense constitutes a lawful expense in connection with that fundraising appeal, fundraising appeals of that class or description, or fundraising appeals generally, and
  - (b) it is not an expense referred to in subclause (5) (a)–(c), and
  - (c) it complies with the requirements of this clause.
- (2) The Minister may, subject to this clause, decide what constitutes a lawful and proper expense in respect of particular fundraising appeals or any class or description of fundraising appeals or fundraising appeals generally.
- (3) The Minister, in deciding what constitutes a lawful and proper expense, must have regard to the provisions of this clause and to:
  - (a) the type and amount of expenses generally accepted as being associated with the manner of appeal concerned, and
  - (b) whether the ratio that the amount of the expense in question bears to the gross income obtained from the appeal is reasonable in the circumstances.

Charitable Fundraising Regulation 2003

Clause 9

Fundraising appeals

Part 2

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- (4) The Minister's decision has effect with respect to an authorised fundraiser when it is notified to the authorised fundraiser or when it is notified in the Gazette, whichever first occurs.
  - (5) An expense is not a lawful and proper expense:
    - (a) if it is prohibited under any law, or
    - (b) if it is not supported by documentary evidence or is not otherwise verifiable as being properly incurred, or
    - (c) in the case of an expense paid or incurred by an organisation that is an authorised fundraiser, if it was not properly authorised by or on behalf of the organisation.
  - (6) Commissions paid or payable to any person as part of a fundraising appeal must not exceed one-third of the gross money obtained by that person in the appeal.
  - (7) If a fundraising appeal is conducted with a trader, expenses must be of a type and amount provided for, or described in, a written agreement between the authorised fundraiser and the trader.

#### **9 Particulars to be shown in records of income and expenditure**

The following particulars are to be included in the records kept under section 22 of the Act in relation to each fundraising appeal:

- (a) particulars of all items of gross income received or receivable and of the transactions to which those particulars relate,
- (b) particulars of all items of expenditure incurred (including the application or disposition of any income obtained from the appeal) and of the transactions to which those particulars relate.

**Note.** Accordingly, particulars of all invoices, receipts, vouchers and other documents of prime entry relating to each fundraising appeal, and such working papers and other documents as are necessary to explain the methods and calculations by which accounts relating to the appeal are made up, must be included in the records kept under section 22 of the Act.

#### **10 Identification of face-to-face collectors**

While participating in a fundraising appeal, a face-to-face collector must prominently display the identification card or badge issued to the person for the purposes of the appeal.

Maximum penalty: 5 penalty units.



Clause 11 Charitable Fundraising Regulation 2003

Part 2 Fundraising appeals

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### **11 Obligations of participants**

A person:

- (a) who conducts or participates in a fundraising appeal otherwise than as a face-to-face collector (such as by telephone or by mail), and
- (b) who receives a wage, commission or fee for doing so,

must, whether or not required to do so by the person being solicited, disclose to that person the fact that he or she is so employed and the name of his or her employer for the purposes of the appeal.

Maximum penalty: 5 penalty units.

### **12 Public access to information**

- (1) On request by any person under section 47 of the Act, an authorised fundraiser is required to furnish to that person a copy of the annual audited financial statements (also known as financial reports) in respect of all fundraising appeals conducted by the authorised fundraiser during the 7 financial years prior to the request.
- (2) If the authorised fundraiser is an organisation, the following must also be furnished on request:
  - (a) a copy of or extract from the organisation's objects and constitution, including any amendments,
  - (b) the names, qualifications and occupations of the members of the governing body of the organisation.
- (3) The maximum fee that may be charged by an authorised fundraiser for furnishing financial statements or information under section 47 of the Act is \$13.00 for the first page and \$1.00 for each additional page.
- (4) The fee for furnishing financial statements or information by or on behalf of the Minister under section 47 of the Act is \$13.00 for the first page and \$1.00 for each additional page.

### **13 Notification of changes to particulars of authorised fundraiser**

- (1) An authorised fundraiser must furnish to the Minister in writing:
  - (a) details of any change in the name, including the trading or business name, of the authorised fundraiser, and
  - (b) details of any change in the business address, postal address, e-mail address, website address, address of the registered

Charitable Fundraising Regulation 2003

Clause 13

Fundraising appeals

Part 2

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- office or telephone or facsimile number of the authorised fundraiser, and
- (c) if the authorised fundraiser is a natural person, details of any amendment, deletion or addition to the charitable objects or purposes for which the person wishes to raise funds under its authority, and
  - (d) if the authorised fundraiser is an unincorporated organisation, details of any alteration or amendment to its constitution, and
  - (e) if the authorised fundraiser is an incorporated organisation, details of any changes to its constitution with respect to:
    - (i) the charitable objects or purposes of the organisation, or
    - (ii) the non-profit nature of the organisation with respect to the disposition of funds obtained through its fundraising appeals, or
    - (iii) the disposition of funds and assets obtained from fundraising appeals to a non-profit organisation with similar or identical charitable objects or purposes in the event of a winding-up of the organisation, and
  - (f) if the authorised fundraiser is an organisation with branches that are not authorised fundraisers in their own right, details of any change in the following particulars:
    - (i) the name, including the trading or business name, of any branch,
    - (ii) the business address, postal address, e-mail address, website address, address of the registered office and the telephone and facsimile numbers of any branch,
    - (iii) the name of any branch that is no longer under the direction and control of the governing body of the authorised fundraiser,
    - (iv) the name of any branch that has ceased to operate, and
  - (g) details of any change to the incorporated status of the authorised fundraiser, and
  - (h) the following details if there have been any modifications to the particulars of an existing trader, or if a new trader has been engaged:
    - (i) if the trader is a natural person, the person's name, business address, postal address, e-mail address, website address, and telephone and facsimile numbers,

Clause 13 Charitable Fundraising Regulation 2003

Part 2 Fundraising appeals

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- (ii) if the trader is an organisation, its full name (together with any trading or business name), its business address, postal address, e-mail address, website address, and its telephone and facsimile numbers,
- (iii) if the trader is an organisation, the full name of each director and owner of the trade or business,
- (iv) the period for which the trader is authorised to conduct the appeal according to the written contract,
- (v) the type of appeal or appeals to be undertaken, and
- (i) details of any change in the name, address or telephone or facsimile number of the auditor, and
- (j) confirmation of any decision by the authorised fundraiser to cease to conduct fundraising appeals.

Maximum penalty: 20 penalty units.

- (2) An authorised fundraiser must furnish any information required by this clause within 28 days (or within such further time as the Minister may allow) after the change or event requiring the furnishing of the information.

Maximum penalty: 20 penalty units.

- (3) This clause does not require an authorised fundraiser to notify the Minister of any change that has previously been notified, whether in a notice furnished under this clause or in the authorised fundraiser's most recent application for an authority.

Charitable Fundraising Regulation 2003

Clause 14

Miscellaneous

Part 3

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## Part 3 Miscellaneous

### 14 Conditions of authority when application delayed

Subject to any variations under section 19 of the Act:

- (a) the conditions set out in Schedule 1 are conditions of any authority taken to have been granted under section 16 (6) of the Act, and
- (b) the conditions set out in Schedule 2 are conditions of any authority taken to have been granted under section 16 (6) of the Act, in so far as children are participants (whether on a paid or voluntary basis) in any fundraising appeal conducted under the authority.

### 15 Police authorised to act as inspectors

For the purposes of section 49 (3) of the Act, any police officer:

- (a) who holds rank of sergeant or above, or
- (b) who acts in the capacity of a police officer holding rank of sergeant or above,

is authorised to exercise the functions of an authorised inspector under the Act.

### 16 Evidence by certificate

For the purposes of section 52 of the Act, the Director-General, Department of Gaming and Racing, is a prescribed officer.

### 17 Savings provision

Any act, matter or thing that, immediately before the repeal of the *Charitable Fundraising Regulation 1998*, had effect under that Regulation continues to have effect under this Regulation.

Charitable Fundraising Regulation 2003

Schedule 1 Conditions applying to certain authorities

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## Schedule 1 Conditions applying to certain authorities

(Clause 14 (a))

### 1 Maximum period for which authority is taken to have been granted

- (1) An authorised fundraiser may conduct a fundraising appeal or appeals only for the period of time specified in the application for its authority.
- (2) If no such period is specified, an authorised fundraiser may conduct an indefinite number of fundraising appeals within a maximum period of 12 months.

### 2 Internal controls

Proper and effective controls must be exercised by an authorised fundraiser over the conduct of all fundraising appeals, including accountability for the gross income and all articles obtained from any appeal and expenditure incurred.

### 3 Safeguarding of assets

An authorised fundraiser must ensure that all assets obtained during, or as a result of, a fundraising appeal are safeguarded and properly accounted for.

### 4 Maintenance of proper books of account and records

- (1) An authorised fundraiser must, in relation to each fundraising appeal it conducts, maintain such books of account and records as are necessary to correctly record and explain its transactions, financial position and financial performance, including the following documents:
  - (a) a cash book for each account (including any passbook account) held with a bank, building society or credit union, or with any other institution, or institution of a class, prescribed under section 20 (6) of the Act, into which the gross income obtained from any fundraising appeal is deposited or invested,
  - (b) a register of assets,
  - (c) a register recording details of receipt books or computerised receipt stationery,
  - (d) a register recording details of tickets or computerised ticket stationery,
  - (e) a petty cash book (if petty cash is used).

Charitable Fundraising Regulation 2003

Conditions applying to certain authorities

Schedule 1

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- (2) If the authorised fundraiser is an organisation, a minute book must be kept containing minutes of all business relating to fundraising appeals that is transacted by the governing body of the organisation (or by any committee of that governing body) and any general or extraordinary meeting of its general membership.
  - (3) If the authorised fundraiser engages persons to participate (whether on a paid or voluntary basis) in a fundraising appeal, it must keep a register of participants.

#### **5 Report on outcome of appeal or appeals**

- (1) An authorised fundraiser that is an unincorporated organisation must send a section 23 return to the Minister:
  - (a) if the organisation ceases to conduct appeals, within 2 months after it ceases to conduct appeals, and
  - (b) if in any financial year the gross income obtained from any appeals conducted by it exceeds \$20,000:
    - (i) within 3 months after the audited financial statements are adopted at its annual general meeting, or
    - (ii) within 7 months after the conclusion of the financial year concerned,whichever occurs sooner.
- (2) An authorised fundraiser that is a natural person must send a section 23 return to the Minister within one month after the close of each appeal conducted by the person.
- (3) In this clause, *section 23 return* means a return referred to in section 23 of the Act.

#### **6 Maintenance of an account**

- (1) The title of the account into which the gross income obtained from any fundraising appeal is to be paid in accordance with section 20 (6) of the Act must include the name of the authorised fundraiser.
- (2) If a fundraising appeal is conducted jointly by the authorised fundraiser and a trader, and the trader maintains an account for the purposes of section 20 (6) of the Act, the account is to consist only of money raised in the fundraising appeal conducted on behalf of that fundraiser.

## Charitable Fundraising Regulation 2003

Schedule 1 Conditions applying to certain authorities

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- (3) Disbursement from the account in amounts of \$260 or more must be by cheque drawn on the account, unless the particular conditions of the authority otherwise provide.

**7 Annual financial accounts**

- (1) The annual financial accounts (also known as financial reports) of an authorised fundraiser that is an organisation must contain:
- (a) a statement of financial performance (also known as a statement of income and expenditure or a profit and loss statement) that summarises the income and expenditure of all fundraising appeals conducted during the financial year, and
  - (b) a statement of financial position (also known as a balance sheet) that summarises all assets and liabilities resulting from the conduct of fundraising appeals as at the end of the financial year.
- (2) The annual financial accounts of an authorised fundraiser that is an organisation must also contain the following information as notes accompanying the statement of financial performance and the statement of financial position if, in the financial year concerned, the gross income obtained from any fundraising appeals conducted by it exceeds \$20,000:
- (a) details of the accounting principles and methods adopted in the presentation of the financial statements,
  - (b) information on any material matter or occurrence, including those of an adverse nature such as an operating loss from fundraising appeals,
  - (c) a statement:
    - (i) that describes the manner in which the net surplus or deficit obtained from fundraising appeals for the period was applied, and
    - (ii) that distinguishes between amounts spent on direct services in accordance with the charitable objects or purposes for which the authority was granted, recurrent costs of administration and any other significant purposes (including transfers to reserves or accumulated funds),
  - (d) details of aggregate gross income and aggregate direct expenditure incurred in appeals in which traders were engaged,



## Charitable Fundraising Regulation 2003

## Conditions applying to certain authorities

## Schedule 1

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- (e) a list of all forms of fundraising appeals conducted by the authorised fundraiser during the period covered by the financial statements,
  - (f) the following comparisons (expressed in each case both as a monetary figure and as a ratio or percentage):
    - (i) a comparison of the total costs of fundraising to the gross income obtained from fundraising,
    - (ii) a comparison of the net surplus from fundraising to the gross income obtained from fundraising,
    - (iii) a comparison of the total costs of services provided by the authorised fundraiser to the total expenditure,
    - (iv) a comparison of the total costs of services provided by the authorised fundraiser to the gross income received.
  - (3) The statement of financial performance for fundraising appeals must show:
    - (a) the aggregate gross income received, and
    - (b) the total expenditure associated with all fundraising appeals, and
    - (c) the net operating surplus or deficit.
  - (4) The annual financial accounts of an authorised fundraiser that is an organisation are to include a declaration by the president or principal officer or some other responsible member of the governing body of the organisation stating whether, in his or her opinion:
    - (a) the statement of financial performance gives a true and fair view of all income and expenditure of the organisation with respect to fundraising appeals, and
    - (b) the statement of financial position gives a true and fair view of the state of affairs of the organisation with respect to fundraising appeals conducted by the organisation, and
    - (c) the provisions of the Act, the regulations under the Act and the conditions attached to the authority have been complied with by the organisation, and
    - (d) the internal controls exercised by the organisation are appropriate and effective in accounting for all income received and applied by the organisation from any of its fundraising appeals.

## Charitable Fundraising Regulation 2003

## Schedule 1 Conditions applying to certain authorities

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- (5) If the organisation is a company incorporated under the *Corporations Act 2001* of the Commonwealth, the declaration above is required in addition to the directors' declaration provided under section 295 of that Act.
  - (6) The annual financial accounts of an authorised fundraiser that is an organisation, after being audited in accordance with the provisions of section 24 of the Act or otherwise according to law, are to be submitted to an annual general meeting of the membership of the organisation within 6 months after the conclusion of the financial year.
  - (7) The requirements of this clause do not oblige an authorised fundraiser that is an organisation to reproduce information that is already contained in its annual financial statements, but merely require the information to be separately itemised or to be shown as notes to its statement of financial performance or its statement of financial position.
  - (8) The requirements of this clause are subject to the particular conditions of the authority concerned.

**8 Ratio of expenses to receipts**

- (1) An authorised fundraiser conducting a fundraising appeal for donations only (that is, without any associated supply of goods or services) must take all reasonable steps to ensure that the expenses payable in respect of the appeal do not exceed 40 per cent of the gross income obtained, whether the appeal is conducted house-to-house, in a public place, by telephone canvassing or in any other manner.
- (2) An authorised fundraiser conducting a fundraising appeal otherwise than for donations only (that is, with associated supply of goods or services) must take all reasonable steps to ensure that the expenses payable in respect of the appeal do not exceed a fair and reasonable proportion of the gross income obtained.
- (3) For the purposes of this clause, giving a person who donates to a fundraising appeal a badge, sticker, token or other thing in acknowledgment of the person's donation is not a supply of goods.

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Conditions applying to certain authorities

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## 9 Receipting requirements

- (1) Receipts are to be written or issued immediately for all money received, even when not requested by the donor, except where:
  - (a) the money is received through a collection box or similar device, or
  - (b) the money is received through the supply of goods or services, or
  - (c) the money is received through a payroll deduction scheme, or
  - (d) the money is deposited directly into an account established at a bank, building society or credit union, or at any other institution prescribed (or of a class prescribed) under section 20 (6) of the Act, or
  - (e) the particular conditions of the authority provide otherwise.
- (2) Receipts used by a trader must be only those authorised and issued to the trader by the authorised fundraiser, details of which must be recorded in registers maintained by the trader and the authorised fundraiser.
- (3) Effective controls must be exercised over the custody and accountability of receipts, including the following controls:
  - (a) each receipt must be consecutively numbered as part of an ongoing series,
  - (b) each receipt (not being a ticket) must have the name of the authorised fundraiser printed on it.
- (4) If collection boxes or similar devices are employed for monetary donations, it is sufficient to issue a single receipt for the gross money cleared from each such box or device.
- (5) If money is received by direct debit from the donor's account into a bank, building society or credit union, or into any other institution prescribed (or of a class prescribed) under section 20 (6) of the Act, it is sufficient for the authorised fundraiser to issue a receipt to the donor, for the aggregate amounts received through the periodical payment, at intervals of not greater than 12 months.
- (6) The gross money received by any participant in a fundraising appeal must be counted in the presence of the participant and a receipt must then be issued to the participant for that amount.

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- (7) For the purposes of this clause, giving a person who donates to a fundraising appeal a badge, sticker, token or other thing in acknowledgment of the person's donation is not a supply of goods.
- (8) For the purposes of this clause, a receipt is taken to include a ticket.

**10 Record systems for items used in fundraising appeals**

A record system must be instituted and maintained for:

- (a) all identification cards or badges issued to participants in a fundraising appeal, by which a number assigned to and shown on each card or badge is correlated with the name of the person to whom it was issued, the date of issue and the date it was returned, and
- (b) all receipt books used in a fundraising appeal, by which a number assigned to and shown on each book is correlated with the name of the person to whom it was issued, the date of issue and the date it was returned, and
- (c) all collection boxes or similar devices used in a fundraising appeal for monetary donations, by which a number assigned to and shown on each box or device is correlated with the name of the person to whom it was issued, the location of the box or other device, the date of issue and the date it was returned.

**11 Persons conducting or participating in a fundraising appeal on behalf of an authorised fundraiser**

- (1) This clause applies when an authorised fundraiser authorises a member, employee or agent as mentioned in section 9 (1) (b) of the Act.
- (2) The authorisation given by an authorised fundraiser to a person who conducts or participates in a fundraising appeal otherwise than as a face-to-face collector:
  - (a) must be in writing, and
  - (b) must include the person's name, and
  - (c) must include the terms and conditions under which the authorisation is granted, and
  - (d) must include a description of the appeal or appeals to be undertaken, and
  - (e) must indicate the specific period for which the authorisation will apply, including the issue and expiry dates, and

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- (f) must be signed and dated by the authorised fundraiser (or a delegate of the authorised fundraiser or its governing body), and
  - (g) must be recovered by the authorised fundraiser from the person as soon as the person's authorised involvement in the appeal has ended.
- (3) The authorisation given by an authorised fundraiser to a person who participates in a fundraising appeal as a face-to-face collector:
- (a) must be in the form of an identification card or badge, and
  - (b) must be consecutively numbered, and
  - (c) must include the name of the authorised fundraiser and a contact telephone number, and
  - (d) must include the name of the face-to-face collector, and
  - (e) if the face-to-face collector receives a wage, commission or fee for services, must include the words "paid collector" and the name of the collector's employer, and
  - (f) must indicate its issue and expiry dates, and
  - (g) must be signed and dated by the authorised fundraiser (or a delegate of the authorised fundraiser or its governing body), and
  - (h) must be of sufficient size to ensure that the particulars on it may be easily read by members of the public, and
  - (i) must be recovered by the authorised fundraiser from the face-to-face collector as soon as the face-to-face collector's authorised involvement in the appeal is ended.
- (4) In an appeal conducted jointly with a trader, the person signing the authorisation for the purposes of subclause (2) (f) or (3) (g) may be the trader, but only if the trader is authorised to do so under a written agreement between the trader and the authorised fundraiser.
- (5) Despite subclause (3), the authorisation by Apex, the Country Women's Association, Lions, Quota, Rotary or Soroptimist (being community service organisations) of a member as a face-to-face collector may be in the form of the organisation's membership badge if:
- (a) the appeal concerned is of a type generally associated with the organisation, and

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- (b) the name and contact telephone number of the organisation is clearly shown at the place of solicitation on a banner or sign or similar display, and
- (c) the organisation maintains a register of membership badges on which is entered, in relation to each badge issued, a number assigned to and shown on the badge, the name of the person to whom it was issued, the date of issue and the date it was returned, and
- (d) the organisation recovers any membership badge it issues to a person as soon as the person ceases to be a member of the organisation.

**12 Participation of children in fundraising appeals**

Children may be authorised to participate in a fundraising appeal only if:

- (a) in the case of children who do not receive any wages or commission or some other material benefit (other than reimbursement for reasonable out-of-pocket expenses):
  - (i) the child has attained the age of 8 years, and
  - (ii) Part 1 of Schedule 2 is complied with, and
- (b) in the case of children who receive wages or commission or some other material benefit (other than reimbursement for reasonable out-of-pocket expenses):
  - (i) the child has attained the age of 13 years, and
  - (ii) Parts 1 and 2 of Schedule 2 are complied with.

**13 Fundraising through telemarketing**

If a fundraising appeal is conducted by soliciting through means of a telephone, the authorised fundraiser conducting the appeal must ensure that it is conducted in accordance with Part C of the *ADMA Code of Practice* published by the Australian Direct Marketing Association Limited, dated November 2001.

**14 Use of collection boxes for monetary donations**

- (1) If a collection box or similar device is used for monetary donations, it must be:
  - (a) securely constructed, and
  - (b) properly sealed, and
  - (c) consecutively numbered, and

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- (d) clearly labelled with the name of the authorised fundraiser.
  - (2) Proper supervision, security and control must be exercised over the use and clearance of the box or device.

#### **15 Authorisation of expenditure**

If the authorised fundraiser is an organisation, all payments made in connection with:

- (a) any expenditure involved with the conduct of a fundraising appeal, and
- (b) any disposition of funds and profits resulting from a fundraising appeal,

must be properly authorised by or on behalf of the organisation.

#### **16 Advertisements, notices and information**

- (1) Any advertisement, notice or information provided as part of a fundraising appeal:
  - (a) must clearly and prominently disclose the name of the authorised fundraiser, and
  - (b) must be conducted in accordance with decency, dignity and good taste, and
  - (c) must be based on fact and must not be false or misleading, and
  - (d) must conform strictly to the provisions of any relevant law.
- (2) A person conducting or participating in a fundraising appeal must use his or her best endeavours, at all times, to answer honestly any question directed to the person in relation to the purpose of the appeal or the details of the appeal, or to arrange to find answers to questions that he or she is unable to answer. In particular, if it is requested, information is to be given as to how the gross income and any articles obtained from the appeal will be distributed and on the other matters referred to in subclauses (3) (a) and (4).
- (3) If a fundraising appeal is jointly conducted with a trader, the following additional requirements must be complied with:
  - (a) any written or printed advertisement, notice or information must include:
    - (i) the full name under which the trader operates for purposes of the appeal, and the details of the trader's normal place of business, telephone and facsimile numbers, and e-mail and website addresses, and



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- (ii) details of the basis on which the benefit to be received by the authorised fundraiser is to be calculated or provided (*not* to be expressed as a percentage of the “net” income obtained from the appeal), and
    - (iii) details of the extent of the benefit to be obtained by the trader from the appeal (*not* to be expressed as a percentage of the “net” income obtained from the appeal), and
    - (iv) the date on which the appeal commenced, or will commence, and the date on which it will end,
  - (b) in respect of any advertisement, notice or information provided or displayed:
    - (i) the format and text of any advertisement or any notice must be approved by the authorised fundraiser, and
    - (ii) if the name of the trader is shown, it must be in the same print size as the name of the authorised fundraiser, and
    - (iii) if the logo of the authorised fundraiser is displayed (including any such logo in the form of a graphic or watermark), it must appear once only, and represent not more than 10 per cent of the surface area.
  - (4) If a fundraising appeal involves the collection of donated goods or material, any advertisement, notice or information must also include particulars of what is to happen to any goods and material collected.
  - (5) If a fundraising appeal referred to in subclause (3) involves the collection of donated goods and material:
    - (a) details of the basis for calculating or providing the benefit to be received by the authorised fundraiser, as referred to in subclause (3) (a) (ii), must be expressed in the advertisement, notice or information as:
      - (i) a percentage of the average gross income derived or expected to be derived from all goods and material collected over a specified period of the appeal, and
      - (ii) if the collection device is a bin, an average dollar amount derived or expected to be derived from each bin for each month over a specified period of the appeal, and

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- (b) if the advertisement, notice or information is continuously displayed:
    - (i) the details referred to in paragraph (a) must be reviewed at least once every 12 months (starting from the date the advertisement, notice or information is first displayed), and the advertisement, notice or information updated if the review reveals a significant change in those details, and
    - (ii) the advertisement, notice or information must be updated if at any other time there is a significant change in those details.
  - (6) The requirements of this clause do not apply in relation to a notice referred to in clause 17 (1) (e) (i) or (3) (a).

**17 Appeals for goods to be donated by way of collection bins or bags**

- (1) If a fundraising appeal involves the collection of donated goods or material jointly with a trader and the collection device is a bin, the following requirements must be complied with:
  - (a) each bin must be consecutively numbered, and the number displayed in a prominent manner on the bin,
  - (b) if there is more than one bin used in connection with the appeal, there must be a reference on the bin to the total number of bins currently used in connection with the appeal, and this reference should be reviewed and updated whenever there is a significant change in the number of bins in use but otherwise at least once every 12 months (starting from the date the appeal commences),
  - (c) the trader must maintain a record of bins that includes the date, and the number and location of each bin,
  - (d) at least once a month during the appeal, the trader must provide to the authorised fundraiser a report that includes the date, and the number and location of each bin,
  - (e) if the appeal is for the collection of donated articles of clothing:
    - (i) each bin must have continuously displayed on its chute a notice, to be obtained from the Department of Gaming and Racing, that bears the Department's logo and the words "COMMERCIALY OPERATED", and

## Charitable Fundraising Regulation 2003

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- (ii) the trader must maintain a record of the appeal (that relates to that appeal only), that includes the date, and the aggregate gross weight of unsorted clothing obtained from the appeal, and
    - (iii) at least once a month during the appeal, the trader must provide to the authorised fundraiser a report (that may be combined with the report referred to in paragraph (d)) that includes the date, and the aggregate gross weight of unsorted clothing obtained from the appeal.
  - (2) If a fundraising appeal involves the collection of donated goods or material jointly with a trader and the collection device is a collection bag, the following requirements must be complied with:
    - (a) the trader must maintain a record that includes the date, and the locality and the number of bags distributed as part of the appeal,
    - (b) at least once a month during the appeal, the trader must provide to the authorised fundraiser a report that includes the date, and the locality and the number of bags distributed as part of the appeal,
    - (c) if the appeal is for the collection of donated articles of clothing:
      - (i) each bag, or any advertisement, notice or information distributed with each bag, must bear the words “COMMERCIALY OPERATED” in a clearly visible position, printed in accordance with the specifications set out in subclause (4), and
      - (ii) the trader must maintain a record of the appeal (that relates to that appeal only) that includes the date, and the aggregate gross weight of unsorted clothing obtained from the appeal, and
      - (iii) at least once a month during the appeal, the trader must provide to the authorised fundraiser a report (that may be combined with the report referred to in paragraph (b)) that includes the date, and the aggregate gross weight of unsorted clothing obtained from the appeal.
  - (3) If a fundraising appeal is for the collection of donated articles of clothing by the authorised fundraiser (not jointly with a trader), the following requirements must be complied with:
    - (a) if the collection device is a bin, each bin must have continuously displayed on its chute a notice, to be obtained

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from the National Association of Charitable Recycling Organisations Incorporated (NSW) or the Department of Gaming and Racing, that bears the Department's logo and the words "CHARITY OPERATED",

- (b) if the collection device is a collection bag, each bag, or any advertisement, notice or information distributed with each bag, must bear the words "CHARITY OPERATED" in a clearly visible position, printed in accordance with the specifications set out in subclause (4).
- (4) For the purposes of subclauses (2) (c) (i) and (3) (b), the words "COMMERCIALY OPERATED" and "CHARITY OPERATED" must:
  - (a) be in capital letters, in Helvetica, Arial or similar font style, and not less than 5 millimetres in height, and
  - (b) appear in black and white in the following format:

**COMMERCIALY**  
**OPERATED**

**CHARITY**  
**OPERATED**

#### **18 Appeal connected with sale of goods or provision of services**

If a trader conducts a fundraising appeal involving the supply of goods or services, records of the goods and services supplied must be maintained by the trader, which (in the case of goods for sale) must include the date and number of units purchased or manufactured, together with their cost, the date and number of units sold and the gross income obtained.

#### **19 Lotteries and games of chance**

If a fundraising appeal involves a lottery or game of chance, in addition to complying with the requirements of the Act and the conditions of the authority, the authorised fundraiser must also comply with the provisions of the *Lotteries and Art Unions Act 1901* and any regulations under that Act.

#### **20 Agreement with trader**

- (1) If a fundraising appeal is conducted jointly with a trader the return to the authorised fundraiser must be governed by a written agreement between the authorised fundraiser and the trader.

## Charitable Fundraising Regulation 2003

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- (2) Such an agreement must include at least the following particulars:
- (a) the amount of the return to be obtained by the authorised fundraiser from the appeal, or the basis or method by which this will be calculated (*not* to be expressed as a percentage of the “net” income obtained from the appeal), and the manner in which payment will be effected,
  - (b) details of any commission, wage or fee payable to the trader and any other persons from the gross income obtained from the appeal,
  - (c) details of the type, and any limitation on the amount, of expenses to be borne by the trader and the authorised fundraiser as part of the appeal,
  - (d) the basic rights, duties and responsibilities of both parties,
  - (e) insurance risks to be covered by each party (for example, public liability, workers compensation for employees, personal accident insurance for volunteers, third party property insurance),
  - (f) details of any records and documentation to be maintained by the trader (including those required by or under the Act) and the requirement that the trader keep these at the registered office of the authorised fundraiser, unless provided for otherwise by a condition attached to the authority,
  - (g) details of the specific internal controls and safeguards to be employed to ensure proper accountability for the gross income obtained from the appeal,
  - (h) the process to be followed in resolving disputes between the parties to the contract or agreement, complaints from the public and grievances from employees,
  - (i) the reporting requirements imposed on the trader,
  - (j) an undertaking by the trader to comply with the provisions of the Act, the regulations under the Act and the conditions of the authority,
  - (k) a mechanism to deal with the effect on the contract of any subsequent addition, variation or deletion of an existing condition of the authority,
  - (l) the circumstances in which the contract is or may be terminated.

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## **21 Management**

If the authorised fundraiser is an organisation:

- (a) it must be administered in relation to its fundraising activities by a governing body of not fewer than 3 persons, and
- (b) all business transacted by the governing body in relation to its fundraising activities must be properly recorded in the organisation's minutes.

## **22 Circumstances under which records may be kept at a place other than registered office**

Records may be removed from the authorised fundraiser's registered office for either of the following reasons:

- (a) to be taken into the custody of the auditor for purposes of audit,
- (b) any other purpose required by law or by a condition of the authority.

## **23 Conflicts of interest**

If the authorised fundraiser is an organisation, it must establish:

- (a) a register of pecuniary interests, and
- (b) a mechanism for dealing with any conflicts of interest that may occur involving a member of the governing body or an office-holder or employee of the organisation.

## **24 Internal disputes**

If the authorised fundraiser is an organisation, its constitution must establish a mechanism for resolving internal disputes within the membership of the organisation in relation to its fundraising activities.

## **25 Complaint handling mechanism**

The authorised fundraiser must provide a mechanism that will properly and effectively deal with complaints made by members of the public and grievances from employees in relation to its fundraising activities.

Charitable Fundraising Regulation 2003

Schedule 1 Conditions applying to certain authorities

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## 26 Retention of records

Unless otherwise approved by the Minister, all entries made in any record required to be kept by this Schedule must be maintained:

- (a) in the case of accounting records, for a period of at least 7 years, and
- (b) in any other case, for a period of at least 5 years.

## 27 Soliciting from occupants of motor vehicles

- (1) A fundraising appeal must not be conducted by soliciting persons occupying motor vehicles while they are being driven on a road or road related area (including motor vehicles that are temporarily stopped for any reason, such as at traffic lights or at an intersection).
- (2) In this clause:

**road** means a road within the meaning of the *Road Transport (General) Act 1999* (other than a road that is the subject of a declaration made under section 9 (1) (b) of that Act relating to all of the provisions of that Act).

**road related area** means a road related area within the meaning of the *Road Transport (General) Act 1999* (other than a road related area that is the subject of a declaration made under section 9 (1) (b) of that Act relating to all of the provisions of that Act).

Charitable Fundraising Regulation 2003

Conditions relating to participation of children in fundraising appeals

Schedule 2

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## Schedule 2 Conditions relating to participation of children in fundraising appeals

(Clause 14 (b))

### Part 1 General

#### 1 Application of this Part

- (1) In this Schedule:

*child participant* means a child who participates in a fundraising appeal.

*parent*, in relation to a child, means:

- (a) a parent, step parent or guardian of the child, or
  - (b) a person who has for the time being parental responsibility for the child.
- (2) This Part prescribes conditions with respect to the participation of children in fundraising appeals, whether or not a child participant receives a wage or commission or some other material benefit (other than reimbursement of reasonable out-of-pocket expenses) in respect of the appeal.
- (3) An authorised fundraiser conducting an appeal:
- (a) must ensure that the relevant requirements of this Schedule are complied with in relation to any child participant, and
  - (b) must take all reasonable steps to ensure that any child participant in the appeal complies with the relevant requirements of this Schedule.

#### 2 Parental consent and contact

- (1) An authorised fundraiser that proposes to allow a child to participate in an appeal conducted by it:
- (a) must take all reasonable steps to notify a parent of the child of its proposal before allowing the child to participate in the appeal, and
  - (b) must not allow the child to participate in the appeal if a parent of the child notifies it that the parent objects to the child participating in the appeal.



## Charitable Fundraising Regulation 2003

Schedule 2 Conditions relating to participation of children in fundraising appeals

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- (2) The person or organisation conducting the appeal must take all reasonable steps to ensure that a child participant is able to contact his or her parents during the appeal.

**3 Supervision**

- (1) A child participant must be adequately supervised having regard to the age, sex and degree of maturity of the child.
- (2) A supervisor may supervise no more than 6 child participants simultaneously.
- (3) A supervisor must be in close proximity to a child participant, must know the whereabouts of the child and must make contact with the child at intervals not greater than 30 minutes.
- (4) In the case of a child participant less than 11 years of age, the supervisor must be in constant contact with the child.

**4 Working in pairs**

Child participants must work at least in pairs.

**5 Endangering of child**

An authorised fundraiser conducting an appeal must ensure that the physical and emotional well-being of a child participant are not put at risk.

**6 Insurance**

Appropriate insurance must be secured for a child participant, together with any other insurance required to protect the interests of the child against any claim which could be brought against the child for property damage, public risk liability and other such risks.

**7 Entry of private homes, and dealing with persons in motor vehicles, prohibited**

An authorised fundraiser conducting an appeal must take all reasonable steps to ensure that a child participant:

- (a) does not enter a private dwelling when soliciting door-to-door, and
- (b) does not solicit, sell to or collect from a person in a motor vehicle.

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Conditions relating to participation of children in fundraising appeals

Schedule 2

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## **8 Hours of participation**

- (1) A child participant may not participate in a fundraising appeal for more than 4 hours on any school day (that is, a day on which the child is required to attend school).
- (2) On days other than school days, a child participant must not participate in a fundraising appeal for more than 6 hours.
- (3) A child participant must not participate in a fundraising appeal on more than 5 days per week.
- (4) If participating in a fundraising appeal outdoors, a child participant must not start before sunrise and must not finish later than sunset.
- (5) A child participant must not be required or permitted to participate in a fundraising appeal later than 8.30 pm if the following day is a school day.

## **9 Minimum breaks between successive shifts**

A child participant must not be required or permitted to participate further in a fundraising appeal after participating for any maximum period permitted by this Part without receiving a minimum break of 12 hours.

## **10 Maximum loads for lifting**

A child participant must not be required or permitted to lift any weight that, having regard to the age and condition of the child, would be likely to be dangerous to the health of the child.

## **11 Food and drink**

- (1) An authorised fundraiser conducting an appeal must take all reasonable steps to ensure that a child participant receives appropriate and sufficient nutritious food.
- (2) Food should be available to a child participant at reasonable hours and drinking water at all times.

## **12 Toilet facilities**

Toilet, hand-washing and hand-drying facilities must be accessible to each child participant.

## Charitable Fundraising Regulation 2003

Schedule 2 Conditions relating to participation of children in fundraising appeals

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**13 Travel**

- (1) A child participant must be accompanied:
- (a) by a parent of the child, or
  - (b) by an adult authorised by a parent of the child,
- when the child is travelling home after his or her participation in the appeal is finished.
- (2) This clause does not apply:
- (a) if the child is more than 12 years old, and
  - (b) if the distance to the child's home is less than 10 kilometres, and
  - (c) if public transport is available, and
  - (d) if the journey is to be completed within daylight hours.

**14 Protection from elements**

A child participant is to be adequately clothed and otherwise protected from extremes of climate or temperature.

**15 Punishment prohibited**

A child participant is not to be subjected to any form of punishment, social isolation or immobilisation or subjected to any other behaviour likely to humiliate or frighten the child.

**Part 2 Additional requirements—if child receives a wage or other benefit****16 Application of this Part**

This Part prescribes additional conditions with respect to the participation of children in fundraising appeals, in circumstances in which a child participant receives a wage or commission or some other material benefit (other than reimbursement of reasonable out-of-pocket expenses) in respect of the appeal.

**17 Letter of appointment**

- (1) A letter of employment or engagement must be issued to a child participant, being a letter containing details of the terms and conditions under which he or she is employed or engaged.

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Conditions relating to participation of children in fundraising appeals

Schedule 2

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- (2) The letter must include:
- (a) details of the basis or method on or by which payment of wages or commission or some other material benefit will be calculated or provided, including details of any guaranteed minimum payment or benefit, and
  - (b) the method by which payment will be effected, and
  - (c) the general conditions of employment, and
  - (d) the rights of the employee.

**18 Record of employment**

- (1) A record of employment must be maintained for each child participant employed or engaged.
- (2) The record must include the following particulars with respect to the child:
  - (a) the child's full name, residential address and telephone number (if any),
  - (b) the child's date of birth,
  - (c) a description of the nature of the employment,
  - (d) details of any consent provided by the child's parents (any written documentation to be retained),
  - (e) the name and address of the person immediately responsible for the child during the appeal.
- (3) If the employer is a trader, the employer must make the records available to the authorised fundraiser.



# Conveyancing (General) Regulation 2003

under the

Conveyancing Act 1919

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Conveyancing Act 1919*.

ANTHONY KELLY, M.L.C.,  
Minister Assisting the Minister for Natural Resources (Lands)

## Explanatory note

The object of this Regulation is to remake, with various modifications, the *Conveyancing (General) Regulation 1998* which will be repealed on 1 September 2003 under section 10 (2) of the *Subordinate Legislation Act 1989*. The new Regulation contains provisions with respect to the following matters:

- (a) the registration of instruments in the General Register of Deeds,
- (b) the register of plans, including the lodgment of plans for registration and the form in which plans are to be lodged,
- (c) the lodgment of signatures forms with the Registrar-General containing signatures required in connection with the lodgment of plans, including the electronic lodgment of plans,
- (d) requirements as to the form and content of certain documents lodged with the Registrar-General, including deposited plans affecting interests in land and section 88B instruments (relating to the creation and release of an easement, profit à prendre or restriction on the use of land by a plan),
- (e) the manner in which a requisition for a search of old system title land, or a certificate of such a search, is to be made,
- (f) the times at which information in the registers kept under the *Conveyancing Act 1919* is to be made available to the public for searches and the manner in which such information is to be provided to an applicant,
- (g) the payment of fees,

## Conveyancing (General) Regulation 2003

Explanatory note

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- (h) prescribing the form of certain documents required under the *Conveyancing Act 1919*,
- (i) requirements relating to the attestation of certain instruments,
- (j) prescribing authorities for the purposes of provisions of the *Conveyancing Act 1919* dealing with the creation of certain easements and the imposition of restrictions and public positive covenants on land,
- (k) prescribing the period during which the Registrar-General may require production in electronic format or hard copy of certain documents lodged in electronic form,
- (l) prescribing documents that may be reproduced in hard copy by the Registrar-General from electronic format where the copy has the same effect as the original document,
- (m) savings and transitional matters.

This Regulation is made under the *Conveyancing Act 1919*, including section 202 (the general regulation-making power).

This Regulation (other than the provisions dealing with fees) relates to matters of a machinery nature.

Conveyancing (General) Regulation 2003

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Part 1             Preliminary

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## Conveyancing (General) Regulation 2003

under the

Conveyancing Act 1919

### Part 1            Preliminary

#### 1    Name of Regulation

This Regulation is the *Conveyancing (General) Regulation 2003*.

**Note.** This Regulation replaces the *Conveyancing (General) Regulation 1998* which is repealed on 1 September 2003 under section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 2    Commencement

This Regulation commences on 1 September 2003.

#### 3    Definitions

In this Regulation:

***approved*** means approved for the time being by the Registrar-General.

***deeds index particulars form*** means an approved form setting out the particulars of or relating to an instrument that is signed and lodged for registration under section 184D (1) of the Act.

***deposited plan*** means a plan (other than a strata plan) lodged for registration or recording in the office of the Registrar-General.

***identified document*** means a document specified for the purposes of section 203A of the Act in clause 55.

***plan of survey*** means a formal land survey plan within the meaning of the *Surveying Act 2002*.

***register of plans*** means the register of plans kept by the Registrar-General that includes plans registered under Division 3 of Part 23 of the Act and strata plans registered under the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986*.

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**roads plan** means a plan prepared for the purpose of the acquisition, opening or closing of one or more roads.

**section 88B instrument** means an instrument of a kind that:

- (a) under clause 31, is required to accompany a deposited plan that creates an easement, profit à prendre, restriction or positive covenant, or
- (b) under clause 32, is required to accompany a deposited plan that releases an easement or profit à prendre,

under section 88B of the Act, and includes a section 88B instrument within the meaning of the *Strata Schemes (Freehold Development) Regulation 2002* or the *Strata Schemes (Leasehold Development) Regulation 2002*.

**signatures form** means an approved form for signatures used in connection with the lodging of a plan.

**strata plan** means a strata plan, a strata plan of subdivision, a strata plan of consolidation or a building alteration plan within the meaning of the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986*.

**the Act** means the *Conveyancing Act 1919*.

Clause 4 Conveyancing (General) Regulation 2003

Part 2 The General Register of Deeds

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## Part 2 The General Register of Deeds

### 4 Registration of instruments generally

- (1) An instrument that is lodged for registration in the General Register of Deeds must be accompanied by:
  - (a) a registration copy of the instrument or a request that a registration copy of the instrument be prepared by the Registrar-General, and
  - (b) a completed deeds index particulars form that includes the certificate referred to in section 184D (3) of the Act, and
  - (c) the relevant fee as set out in Schedule 1, and
  - (d) a completed statement of the title particulars in the approved form, if required by the Registrar-General, and
  - (e) a completed notice of sale in the approved form, if required by the Registrar-General.
- (2) In the case of a bill of sale that is lodged for registration:
  - (a) the affidavit required by section 4 (1) of the *Bills of Sale Act 1898* must appear on the same document as that on which the bill of sale is written or, if the bill of sale is accompanied by a registration copy that is not a photocopy of the bill of sale, on the same document as that comprising the registration copy, and
  - (b) the statutory declaration required by section 5A (1) of the *Bills of Sale Act 1898* must, in accordance with the requirements of section 5A (2) of that Act, be annexed to or endorsed on the same document as that on which the bill of sale is written, and
  - (c) a photocopy of the bill of sale may be lodged as a registration copy so long as:
    - (i) the affidavit referred to in paragraph (a) appears on the same document as that on which the bill of sale is written, and
    - (ii) the photocopy is of an acceptable standard to the Registrar-General, and
    - (iii) each page of the bill of sale is photocopied on a separate sheet, and

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The General Register of Deeds

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- (d) the bill of sale is accompanied by a completed deeds index particulars form that includes the certificate referred to in section 184D (3) of the Act.
- (3) This clause does not apply to the registration of writs, court orders or legal proceedings under section 186 of the Act, the registration of notices of resumption under section 196A of the Act or the registration of notifications of compulsory acquisition under a Commonwealth Act.

#### **5 Registration of writs, court orders or legal proceedings**

- (1) An application for registration of a writ, court order or legal proceeding in the General Register of Deeds under section 186 of the Act must be in the approved form and must be accompanied by:
- (a) the original or a copy of the writ, court order or legal proceeding, and
  - (b) a completed deeds index particulars form that includes the certificate referred to in section 184D (3) of the Act, and
  - (c) the relevant fee as set out in Schedule 1,
- and may also be accompanied by a registration copy of the writ, court order or legal proceeding concerned.
- (2) For the purposes of section 186 (2) of the Act, the prescribed manner in which registration of a writ, order or current legal proceeding in the General Register of Deeds is to be renewed is by means of an application in the approved form accompanied by the relevant fee as set out in Schedule 1.

#### **6 Registration of notices of resumption**

A notice of resumption that is lodged for registration in the General Register of Deeds under section 196A (3) (a) of the Act:

- (a) must be in the form of Form 1 as set out in Schedule 2 (executed by the resuming authority or by an agent appointed by the resuming authority to execute the notice on its behalf), and
- (b) must be accompanied by:
  - (i) a completed deeds index particulars form that includes the certificate referred to in section 184D (3) of the Act, and
  - (ii) the relevant fee as set out in Schedule 1, and

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- (iii) a completed notice of sale in the approved form, if required by the Registrar-General.

#### **7 Production of instrument etc and copy**

- (1) An instrument that is lodged for registration in the General Register of Deeds (including any accompanying application and any registration copy of the instrument or application):
- (a) must have endorsed on it the name, address and delivery box number (if any) of the person by whom or on whose behalf it is lodged, and
  - (b) must be produced in such manner as may be approved at the office of the Registrar-General.
- (2) Documents that are lodged for registration must not be bound together except by means of a pin, staple or split pin or other similar means acceptable to the Registrar-General.

#### **8 Certificate to accompany instrument for registration**

For the purposes of section 184D (3) of the Act, the certificate to accompany an instrument for registration must be signed by:

- (a) the person lodging the instrument, or
- (b) a party to the instrument, or
- (c) a solicitor or agent acting for the person lodging, or a party to, the instrument.

#### **9 Instruments to comply with Schedule 3 requirements**

An instrument lodged for registration in the General Register of Deeds (including any accompanying application and any registration copy of the instrument or application) must comply with the requirements set out in Schedule 3.

#### **10 Plans and diagrams to comply with Schedule 3 requirements**

The registration copy of a plan or diagram annexed to an instrument or, if no registration copy is lodged, the plan or diagram from which a registration copy is to be prepared by the Registrar-General:

- (a) must comply with the requirements set out in items 3, 4, 6, 7 and 9–13 of Schedule 3, and
- (b) must have all line work, dimensions, hatchings and notations in dense black ink, and

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- (c) must not have on it any coloured ink, and
  - (d) must have margins of not less than 10 mm on the top, bottom and sides.

**11 Allocation of distinctive references to instruments**

For the purposes of section 184E (1) of the Act, the Registrar-General is to allocate a distinctive reference to an instrument by placing the distinctive reference and the Registrar-General's seal on the original instrument and on the registration copy (if any) of the instrument.

**12 Vacation of registration**

For the purposes of section 190A (3) of the Act, an application for vacation of a registration under Division 2 of Part 23 of the Act must:

- (a) be made in the approved form, and
- (b) be accompanied by the relevant fee as set out in Schedule 1.

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## **Part 3      Register of plans**

### **Division 1      General**

#### **13      Electronic signatures, seals and certificates**

In this Part, a reference to a signature, seal or certificate means, in respect of a plan that is allowed by the Registrar-General to be lodged electronically, a signature, seal or certificate that is provided in an approved electronic form.

#### **14      Particulars of deposited plans to be recorded**

The Registrar-General is to record in the register of plans particulars of all deposited plans registered or recorded under Division 3 of Part 23 of the Act.

#### **15      Certain deposited plans to be plans of survey**

- (1) A deposited plan containing 5 lots or more must be in the form of a plan of survey unless the Registrar-General otherwise permits.
- (2) A deposited plan containing 4 lots or less must be in the form of a plan of survey if the Registrar-General so requires.

#### **16      Numbering of parcels**

- (1) All parcels of land (including parcels intended for public reserves and drainage reserves, but excluding public roads) must be numbered consecutively in strict numerical sequence, using no more than 4 numerals for each parcel number.
- (2) Parcels must not be identified by reference to a "section" or "block".
- (3) The complete dimensions (including area) of each parcel must be shown.
- (4) Each deposited plan must include (if required by the Registrar-General) a table indicating the street address of each parcel shown in the plan.

#### **17      Other information on plans**

- (1) The following matters must be shown in the relevant spaces of the information panels of a deposited plan:
  - (a) the purpose of the deposited plan and a short description of the land,



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- (b) the local government area, town or other locality, parish and county,
  - (c) certificates, signatures, seals and other information, except where they are provided on a signatures form that complies with the requirements set out in Schedule 4.
- (2) In the case of a plan of subdivision for lease purposes (within the meaning of Division 3B of Part 2 of the Act), the plan must be endorsed by a subdivision certificate that states that the plan is a plan of subdivision for lease purposes, except where the certificate is provided on a signatures form that complies with the requirements set out in Schedule 4.
- (3) In the case of a plan of subdivision for lease purposes (within the meaning of Division 3C of Part 2 of the Act), the plan must be endorsed by a subdivision certificate that states that the plan is a plan of subdivision for forestry lease purposes, except where the certificate is provided on a signatures form that complies with the requirements set out in Schedule 4.

**18 Plans lodged for registration as deposited plans to comply with Schedule 5 or 6 and 8**

- (1) A plan lodged by hand for registration at the office of the Registrar-General as a deposited plan must comply with the requirements set out in Schedule 5.
- (2) Where the Registrar-General permits a plan to be lodged electronically for registration as a deposited plan:
- (a) the plan must comply with the requirements set out in Schedule 6, and
  - (b) if other documents are lodged with it, the other documents must also be lodged electronically and the requirements set out in Schedule 8 must be complied with, except in the case of any documents referred to in clause 22 (5).

**19 Particulars on a deposited plan which is a plan of survey**

- (1) A deposited plan which comprises a plan of survey must contain the following particulars:
- (a) references to any marks of former surveys used, or in respect of which connections are shown, and the recorded numbers of the plans of those surveys,

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- (b) the widths of all roads indicated in the plan and of their footways and carriageways if defined by alignment,
  - (c) information sufficient to indicate that the external boundaries have been properly established and do not include any part of adjoining properties or roads,
  - (d) the present name of every road shown in the plan.
- (2) If the name of a road shown in the plan differs from that shown on the cadastral record referred to in subclause (3), the plan must be accompanied by a letter from the appropriate authority confirming the change of name and the extent of the change.
- (3) The Registrar-General is to maintain a cadastral record, being a record of mapping and titling information referenced to the Digital Cadastral Database (DCDB) in which the locations and, where appropriate, names of roads are identified for the purposes of this clause

## **20 Particulars on a deposited plan which is not a plan of survey**

A deposited plan which does not comprise a plan of survey must contain the following particulars:

- (a) sufficient connections to locate each parcel comprised in the plan,
- (b) a statement identifying the source of the information from which the plan has been compiled,
- (c) the signature of the surveyor or other person who prepared the plan, except where it is provided on a signatures form that complies with the requirements set out in Schedule 4,
- (d) the date of preparation of the plan.

## **21 Lodgment of plans by hand**

- (1) A person lodging a plan by hand for registration in the office of the Registrar-General must produce the plan at that office in such manner as may be approved.
- (2) The original plan must be accompanied by:
  - (a) a completed plan lodgment form in the approved form, and
  - (b) a completed statement of the title particulars in the approved form, if required by the Registrar-General, and
  - (c) one print of each sheet of the plan (each sheet being a positive reproduction on a light background), and

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- (d) the relevant fee as set out in Schedule 1, and
  - (e) a completed plan checklist in the approved form, if required by the Registrar-General, and
  - (f) such certificates of titles, and such instruments as the Registrar-General may require, and
  - (g) a signatures form, if adopted, that complies with the requirements set out in Schedule 4.
- (3) The print of each sheet of the plan lodged must contain particulars of the subdivision certificate, where required, under an original signature of the person who gave that certificate.

## 22 Lodgment of plans electronically

- (1) An approved person lodging a plan electronically for registration in the office of the Registrar-General must lodge the plan in accordance with the e-plan system or otherwise with the consent of the Registrar-General.
- Note.** The e-plan system is explained in section 195AA of the Act.
- (2) Plan lodgment details must be provided in the manner required by the Registrar-General.
- (3) The electronic data file containing the plan in electronic form must be accompanied by electronic data files containing in electronic form:
- (a) a completed signatures form and such other instruments and data as the Registrar-General may require, and
  - (b) a completed plan checklist in the approved form, if required by the Registrar-General.
- (4) The relevant fee as set out in Schedule 1 must be paid in the manner and by the time specified by the Registrar-General.
- (5) The following original documents may not be lodged electronically but must be produced and lodged by hand at the office of the Registrar-General or in some other manner (not being electronically) specified by the Registrar-General:
- (a) such certificates of title, deeds, office copies of court orders, powers of attorney and statutory declarations as the Registrar-General may require,
  - (b) a completed statement of title particulars in the approved form, if required by the Registrar-General,

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- (c) a primary application and associated documents, if required by the Registrar-General,
- (d) such consents in writing to the registration of the plan signed by a lessee, caveator, judgment creditor or other person, as may be required by the Registrar General,
- (e) any other original documents that may be required by the Registrar-General.

### 23 Miscellaneous plans: section 195

For the purposes of paragraph (c) of the definition of *miscellaneous plan* in section 195 (1) of the Act, the following matters are prescribed as matters which, if shown on a plan, constitute the plan as a miscellaneous plan:

- (a) matter indicating the site of an easement, profit à prendre, restriction or positive covenant to be created under section 88B of the Act,
- (b) matter indicating the site of an easement or profit à prendre to be released under section 88B of the Act,
- (c) matter indicating minor adjustments to the boundaries of development lots and association property within the meaning of the *Community Land Development Act 1989* in such a manner as to constitute the plan as a boundary adjustment plan within the meaning of that Act,
- (d) matter indicating a division of land effected prior to 1 July 1920 by the erection of structures (such as buildings, walls and fences), being matter that states:
  - (i) that the various parts of the land so divided are separately rateable under the *Local Government Act 1993*, and
  - (ii) that the structures that are currently on the land are in the same position as were the structures by which the division of land was effected.

### 24 Plans of identification: section 195

For the purposes of paragraph (i) of the definition of *plan of identification* in section 195 (1) of the Act, the following plans are plans of identification:

A plan supporting a primary application to bring land under the provisions of the *Real Property Act 1900*, being land in respect of which the applicant claims to have acquired title wholly or partly by adverse possession.

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## Division 2 Signatures form

### Note.

If a plan is lodged by hand but the signatures and consents required are not endorsed on the plan, or the plan is lodged electronically, the signatures and consents required must be endorsed on the form approved by the Registrar-General for signatures (the **signatures form**) and that form must be lodged in the same way as the plan (see section 195D (2A) of the Act).

### 25 Content of the signatures form

- (1) The signatures form must repeat the plan heading and the surveyor's reference in the appropriate panels on each sheet of the approved form.
- (2) The signatures form must repeat any statement of intention to dedicate a public road (including a temporary public road) under the *Roads Act 1993* or to create a public reserve or drainage reserve under the *Local Government Act 1993*, as indicated on the plan, in the panel provided on the approved form.
- (3) The signatures form must contain all the certificates required by the Registrar-General, endorsed in the appropriate panels on the approved form.

### 26 Signatures form to comply with Schedule 4 or Schedules 4 and 7 requirements

- (1) A signatures form that is lodged by hand at the office of the Registrar-General must comply with the requirements set out in Schedule 4.
- (2) A signatures form may be lodged electronically only if:
  - (a) the plan to which it relates is also lodged electronically, and
  - (b) the signatures form complies with the requirements set out in Schedule 4 and is lodged in accordance with the requirements set out in Schedule 7.

### 27 Refusal to accept a signatures form

The Registrar-General may refuse to accept a signatures form that, in the Registrar-General's opinion, does not comply with or is not lodged in accordance with this Division.

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## **28 Registration of a signatures form**

On registration of a deposited plan that is accompanied by a signatures form, the signatures form is to be registered in the register of plans.

## **Division 3      Deposited plans affecting interests in land**

### **29 Indication of site of proposed easement or variation of site of existing easement**

- (1) A notation referring to an intention to create or release an easement or profit à prendre, or to create a restriction or positive covenant, must not be entered on a deposited plan unless it is intended that it is to be created or released pursuant to section 88B of the Act.
- (2) However, a deposited plan may designate the site of a proposed easement, profit à prendre, restriction or positive covenant that is intended to be created (otherwise than by registration of the plan) by an instrument of grant or reservation, or the proposed varied site of an existing easement or profit à prendre that is intended to be varied by an instrument of variation, if:
  - (a) the designation of the site of the proposed easement, profit à prendre, restriction or positive covenant, or of the proposed variation of existing easement or profit à prendre, includes the word “proposed” or an abbreviation of that word, and
  - (b) no other statement of the intention to create or vary the easement or profit à prendre, or to create the restriction or positive covenant, is entered elsewhere on the plan.
- (3) For the purposes of section 88B of the Act, the designation of the site of a proposed easement, profit à prendre, restriction or positive covenant in accordance with subclause (2) is not taken to indicate in the prescribed manner an intention to create an easement, profit à prendre, restriction or positive covenant.
- (4) A notation referring to the proposed varied site of an existing easement or profit à prendre must not be entered on a deposited plan unless it is intended that the easement or profit à prendre is to be varied pursuant to section 47 (5A) of the *Real Property Act 1900*.

### **30 Indication of dedication of public roads or creation of reserves**

- (1) In a deposited plan which, on registration, is intended to dedicate a public road (including a temporary public road) under the *Roads Act 1993* or to create a public reserve or drainage reserve under the

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*Local Government Act 1993*, the statement of intention to dedicate the road or to create the reserve must be legibly printed in the panel provided on the approved form.

- (2) The signatures form, if adopted, that accompanies the plan must repeat the statement of intention to dedicate in the panel provided on the signatures form.

### **31 Indication of creation of easements**

- (1) In a deposited plan which, on registration, is intended to create an easement, profit à prendre, restriction or positive covenant pursuant to section 88B of the Act:
- (a) a statement of intention to create the easement, profit à prendre, restriction or positive covenant must be legibly printed in the panel provided on the approved form, and
  - (b) the site of an easement must be indicated in the plan-drawing area of the approved form with sufficient indication of the nature of the easement to distinguish it from any other easement intended to be created on registration of the plan, and
  - (c) if an easement is limited in height or depth, the levels of the limits must be related to Australian Height Datum (AHD) as defined in the *Surveying Act 2002*.
- (2) A statement of intention referred to in subclause (1) (a) must neither incorporate the text of the easement, profit à prendre, restriction or positive covenant nor specify the lots intended to be benefited and burdened.
- (3) The deposited plan must be accompanied by a section 88B instrument that complies with Division 4.

### **32 Indication of release of easements**

- (1) In a deposited plan which, on registration, is intended to release an easement or profit à prendre (in respect of some or all of the land to which it formerly applied) pursuant to section 88B of the Act:
- (a) a statement of intention to release the easement or profit à prendre must be legibly printed in the panel provided on the plan form, and
  - (b) sufficient information must be shown on the plan, or included in the relevant section 88B instrument, to indicate the extent of the release.

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- (2) The deposited plan must be accompanied by a section 88B instrument that complies with Division 4.

#### **Division 4      Section 88B instruments**

##### **33 Form and content of section 88B instruments**

- (1) A section 88B instrument is to be in the approved form.
- (2) The instrument must repeat each statement of intention to create an easement, profit à prendre, restriction or positive covenant in the same form (and, where there is more than one statement of intention, in the same order) as set out in the information panel in the relevant plan form.
- (3) The instrument must repeat each statement (if any) of intention to release an easement or profit à prendre in the same form (and, where there is more than one, in the same order) as set out in the information panel in the relevant plan form.
- (4) The instrument must contain, after each statement, a schedule setting out the lot numbers of the lots burdened by the easement, profit à prendre, restriction or positive covenant (numbered individually and in numerical sequence) and, opposite the lot number of each lot burdened:
- (a) the numbers of the lots intended to receive the benefit of the easement, profit à prendre, restriction or positive covenant, and
  - (b) the name of any road to which any easement, profit à prendre, restriction or positive covenant is to be appurtenant, and
  - (c) the name of any body in whose favour any easement in gross or positive covenant without a dominant tenement is to be created, and
  - (d) the name of any prescribed authority in whose favour any restriction on the use of land or positive covenant that is of the type that may be imposed under section 88E of the Act is to be created.
- (5) The instrument must contain, after each statement, a schedule setting out the lot numbers of the lots burdened by each easement or profit à prendre, if any, proposed to be released and, opposite the lot number of each lot burdened:
- (a) the number of the lots that receive the benefit of the easement or profit à prendre, and



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- (b) the name of any road to which the easement is appurtenant, and
  - (c) the name of any prescribed authority in whose favour any easement in gross was created.
- (6) If each lot in a plan is intended to be burdened by an easement, profit à prendre, restriction or positive covenant the benefit of which is intended to be received by every other lot in the plan, it is sufficient if the words “each lot” and “every other lot”, or words to the same effect, are respectively noted in the schedule.
- (7) The instrument is to set out the text of each easement, profit à prendre, restriction or positive covenant referred to in the statements on the plan.
- (8) An entry is not to be made in the instrument in respect of a statement using a form of expression specified in Schedule 4A or 8 to the Act unless it is intended that the meaning given to the expression in that Schedule is to be modified by the instrument.

**34 Section 88B instruments to comply with Schedule 9 or Schedule 9 and 10 requirements**

- (1) A section 88B instrument that is lodged by hand at the office of the Registrar-General must comply with the requirements set out in Schedule 9.
- (2) A section 88B instrument that the Registrar-General permits to be lodged electronically must comply with the requirements set out in Schedule 9 and the requirements set out in Schedule 10 must also be complied with.

**35 Refusal to accept section 88B instruments**

The Registrar-General may refuse to accept a section 88B instrument which, in the Registrar-General’s opinion, does not comply with this Division.

**36 Registration of section 88B instruments**

On registration of a deposited plan that is accompanied by a section 88B instrument, the section 88B instrument is, if accepted, to be registered in the register of plans.

Clause 37      Conveyancing (General) Regulation 2003

Part 3          Register of plans

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## **Division 5      Additional provisions with respect to land under the Real Property Act 1900**

### **37      Application of Division**

This Division applies to deposited plans with respect to land that is subject to the provisions of the *Real Property Act 1900*.

### **38      Deposited plan relating to a limited folio**

A deposited plan which affects land comprised in a limited folio (within the meaning of the *Real Property Act 1900*) must be a plan of survey.

### **39      Subdivision, consolidation or acquisition of part of land in a folio**

- (1) If a proposed subdivision, consolidation or acquisition of land, or a proposed acquisition, opening or closing of a road, does not comprise the whole of a parcel of land described in a folio of the Register kept under the *Real Property Act 1900*, the relevant deposited plan or roads plan must show the residue to scale.
- (2) The residue must be numbered as a separate parcel.
- (3) If the boundaries of the residue are extensive, the part of the plan showing the residue may be compiled, and the bearings for the boundaries omitted, unless the Registrar-General otherwise requires.
- (4) The Registrar-General may dispense with the requirement to show the residue:
  - (a) in the case of a public road, a public railway, an irrigation channel or land vested in the Waterways Authority, or
  - (b) in any other case where the Registrar-General considers that compliance with the requirement would be unduly onerous.

### **40      Alteration of boundaries of strata title common property**

- (1) A deposited plan of subdivision or consolidation lodged for the purpose of altering the external boundaries of common property:
  - (a) created under the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986*, and
  - (b) held by an owners corporation constituted under the relevant Act, and

Conveyancing (General) Regulation 2003

Clause 40

Register of plans

Part 3

- 
- (c) comprised in a folio of the Register kept under the *Real Property Act 1900*,  
must show to scale the whole of the common property as it will  
subsist after the alteration.
- (2) The common property must be numbered as a separate parcel in the  
plan.

Clause 41      Conveyancing (General) Regulation 2003

Part 4          Searches

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## **Part 4      Searches**

### **41      Official searches**

- (1) A requisition for an official search of old system title land or a request for an office copy of a certificate of the result of such a search must be made on an approved form.
- (2) A requisition is to be limited to a single chain of title.
- (3) The relevant fee as set out in Schedule 1 must, if required by the Registrar-General, be paid before delivery of the office copy of a certificate of the result of a search.
- (4) If a requisition is withdrawn after commencement but before completion of a search, such fees as the Registrar-General determines having regard to the work done up to the time of withdrawal must be paid.
- (5) The Registrar-General may require an interim payment of fees before completion of a search.

### **42      Public searches**

For the purposes of section 199 of the Act:

- (a) the prescribed times at which information in registers kept under the Act is to be made available are 8.30 am to 4.30 pm each day (other than a Saturday, Sunday or public holiday) or such other times as the Registrar-General directs, and
- (b) the prescribed manner in which such information is to be made available in response to a requisition requiring dispatch of information by post, facsimile or other approved means is by the Registrar-General furnishing a copy of the information, and
- (c) the prescribed fee is the relevant fee as set out in Schedule 1.

Conveyancing (General) Regulation 2003

Clause 43

Fees

Part 5

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## **Part 5      Fees**

### **43    Fees payable to the Registrar-General**

- (1) The fees specified opposite the matters listed in Schedule 1 are payable to the Registrar-General in respect of those matters.
- (2) A fee is payable before the service to which the fee relates is provided or at such time and in accordance with such conditions as the Registrar-General may agree with the person paying the fee.

### **44    Fee payable to a prescribed authority for a certificate under section 88G of the Act**

For the purposes of section 88G (3) of the Act, the fee payable to a prescribed authority for a certificate under that section is:

- (a) \$10, or
- (b) if the authority has inspected the relevant land for the purpose of issuing the certificate—\$35.

Clause 45      Conveyancing (General) Regulation 2003

Part 6          Miscellaneous

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## **Part 6      Miscellaneous**

### **45      Vacation of registrations**

For the purposes of section 200 (2) of the Act, the prescribed form of application for vacation of a registration is the form of Form 2 as set out in Schedule 2.

### **46      Appointment of receiver by a mortgagee**

An appointment of a receiver by a mortgagee under section 109 (1) (c) of the Act is not to be registered in the General Register of Deeds unless it is in the approved form.

### **47      Compliance with covenants to produce documents**

- (1) A document that is deposited with the Registrar-General under section 64 of the Act for the purpose of complying with a covenant or undertaking to produce documents must be accompanied by a notice to that effect.
- (2) The notice must be in the approved form, must be lodged in duplicate and its particulars must not be handwritten.

### **48      Prescribed witnesses to deeds**

For the purposes of section 38 (1A) (c) of the Act, a prescribed witness is:

- (a) in the case of a deed that is signed within Australia, any person of a class referred to in Part 1 of Schedule 11, or
- (b) in the case of a deed that is signed within a foreign country, any person of a class referred to in Part 2 of Schedule 11.

### **49      Certification of copy of power of attorney**

For the purposes of section 163A (2) (a) (ii) of the Act, a person of a prescribed class is:

- (a) in the case of a document that is endorsed within Australia, any person of a class referred to in Part 1 of Schedule 11, or
- (b) in the case of a document that is endorsed within a foreign country, any person of a class referred to in Part 2 of Schedule 11.

Conveyancing (General) Regulation 2003

Clause 50

Miscellaneous

Part 6

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**50 Attestation of execution of certain powers of attorney**

- (1) For the purpose of attesting an instrument in accordance with section 163F (2) (b) of the Act within Australia, the following persons are prescribed persons:
  - (a) a registrar of a Local Court,
  - (b) a barrister or solicitor of a court of any State or Territory of the Commonwealth.
- (2) For the purpose of attesting an instrument in accordance with section 163F (2) (b) of the Act in a country outside Australia, the following persons are prescribed persons:
  - (a) a registrar of a Local Court,
  - (b) a barrister or solicitor of a court of any State or Territory of the Commonwealth,
  - (c) a legal practitioner duly qualified in that country, instructed and employed independently of any legal practitioner appointed as an attorney under the instrument,
  - (d) an Australian Consular Officer, or a British Consular Officer, exercising consular functions in that country.
- (3) A person is not a prescribed person for the purposes of section 163F (2) (b) of the Act if the person is:
  - (a) a solicitor acting for, or employed in the legal practice of, a solicitor appointed as an attorney under the instrument, or
  - (b) a solicitor who is a member of a partnership that carries on a legal practice and of which an attorney under the instrument is a member.

**51 Easements in gross**

- (1) For the purposes of section 88A of the Act, each of the following corporations is a prescribed authority:
  - (a) Hunter Water Corporation,
  - (b) Sydney Water Corporation,
  - (c) an irrigation corporation within the meaning of the *Water Management Act 2000*,
  - (d) an energy services corporation within the meaning of the *Energy Services Corporations Act 1995*,
  - (e) Rail Infrastructure Corporation,
  - (f) The Albury Gas Co Ltd (ACN 000 001 249),

Clause 52      Conveyancing (General) Regulation 2003

Part 6          Miscellaneous

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- (g) AGL Gas Networks Limited (ACN 003 004 322),
  - (h) Eastern Gas Pipeline Pty Ltd (ACN 067 715 646),
  - (i) Telstra Corporation Limited (ACN 051 775 556),
  - (j) Vodafone Network Pty Limited (ACN 081 918 461),
  - (k) Integral Energy Gas Pty Limited (ACN 078 702 655),
  - (l) Actew Distribution Ltd (ACN 073 025 224),
  - (m) AGL Gas Company (ACT) Pty Limited (ACN 008 552 663).
- (2) For the purposes of section 88A of the Act, a permittee or licensee is a prescribed authority, but only in respect of easements for the purpose of the construction and use of pipelines, for any purpose incidental to any such purpose and for the purpose of access to pipelines or to apparatus or works. Expressions used in this subclause have the same meanings they have in the *Pipelines Act 1967*.

**52 Imposition of restrictions or public positive covenants on certain land vested in prescribed authorities**

For the purposes of paragraph (c) of the definition of *prescribed authority* in section 88D (1) of the Act, each of the following is a prescribed authority:

- (a) Australian Postal Corporation,
- (b) Commonwealth Defence Housing Authority,
- (c) Hunter Water Corporation,
- (d) Sydney Water Corporation,
- (e) Rail Infrastructure Corporation,
- (f) an irrigation corporation within the meaning of the *Water Management Act 2000*,
- (g) The Uniting Church in Australia Property Trust (N.S.W.).

**53 Regulation of use of land not held by a prescribed authority**

For the purposes of paragraph (c) of the definition of *prescribed authority* in section 88E (1) of the Act, each of the following is a prescribed authority:

- (a) Australian Postal Corporation,
- (b) Hunter Water Corporation,
- (c) Sydney Water Corporation,



Conveyancing (General) Regulation 2003

Clause 54

Miscellaneous

Part 6

- 
- (d) Rail Infrastructure Corporation,
  - (e) an irrigation corporation within the meaning of the *Water Management Act 2000*,
  - (f) The Uniting Church in Australia Property Trust (N.S.W.).

**54 Periods for retention of documents (section 196AB of the Act)**

For the purposes of section 196AB (2) (c) of the Act, the period prescribed is the period of 12 months commencing with the day on which the plan or other document was registered or recorded.

**55 Identified documents (section 203A of the Act)**

For the purposes of section 203A of the Act, each of the following is an identified document:

- (a) a section 88B instrument,
- (b) a building management statement under Division 3B of Part 23 of the Act,
- (c) a statement of the by-laws referred to in section 8 (4B) of the *Strata Schemes (Freehold Development) Act 1973*,
- (d) a strata development contract referred to in Division 2A of Part 2 of the *Strata Schemes (Freehold Development) Act 1973*,
- (e) a strata management statement referred to in Division 2B of Part 2 of the *Strata Schemes (Freehold Development) Act 1973*,
- (f) a statement of the by-laws referred to in section 7 (2CC) of the *Strata Schemes (Leasehold Development) Act 1986*,
- (g) a strata development contract referred to in Division 5 of Part 2 of the *Strata Schemes (Leasehold Development) Act 1986*,
- (h) a strata management statement referred to in Division 5A of Part 2 of the *Strata Schemes (Leasehold Development) Act 1986*,
- (i) a development contract referred in section 5, 9, 13, 18 or 26 of the *Community Land Development Act 1989*, and
- (j) a community, precinct or neighbourhood management statement referred to in section 5, 9, 13 or 18 of the *Community Land Development Act 1989*.

Clause 56      Conveyancing (General) Regulation 2003

Part 6          Miscellaneous

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## 56 Savings and transitional provisions

Any act, matter or thing that had effect under the *Conveyancing (General) Regulation 1998* immediately before the commencement of this Regulation is taken to have effect under this Regulation.

## 57 Transitional provision consequent on the enactment of Environmental Planning and Assessment Amendment Act 1997

(1) This clause applies to:

- (a) any plan of subdivision certified in accordance with section 327 (1) (d) or (2) (b) of the repealed Act, regardless of when the plan is certified or lodged with the Registrar-General for registration under the Act, and
- (b) any plan of the division of land (other than a plan of subdivision) lodged with the Registrar-General for registration under the Act before the appointed day.

(2) The provisions of:

- (a) Division 3 of Part 23 of the Act, and
- (b) the *Conveyancing (General) Regulation 1992*,

as in force immediately before the appointed day apply to and in respect of a plan to which this clause applies as if the 1997 amending Act had not been enacted and any regulation made under the *Conveyancing Act 1919* on or after the commencement of the 1997 amending Act had not been made.

(3) In this clause:

***appointed day*** means the day appointed under section 2 of the 1997 amending Act for the commencement of that Act.

***plan of subdivision*** has the same meaning as it had in section 327AA of the repealed Act.

***repealed Act*** means the *Local Government Act 1919*.

***the 1997 amending Act*** means the *Environmental Planning and Assessment Amendment Act 1997*.

Conveyancing (General) Regulation 2003

Fees

Schedule 1

## Schedule 1 Fees

(Clauses 4, 5, 6, 12, 21, 22, 41, 42 and 43)

### Registration in the General Register of Deeds

	\$
1	20.00
For each registration, or renewal or vacation of registration, of any writ, order or legal proceeding made under Division 2 of Part 23 of the Act	
2	20.00
For each registration of a crop or wool lien or a stock mortgage, or any other instrument relating to such liens or mortgages, made under the <i>Liens on Crops and Wool and Stock Mortgages Act 1898</i>	
3	20.00
For each registration of a bill of sale, or any other instrument relating to a bill of sale, made under the <i>Bills of Sale Act 1898</i>	
4	20.00
For removal of a caveat in relation to a bill of sale	
5	20.00
For registration under Division 5 of Part 6 of the Act of a memorandum containing provisions that are capable of being covenants that may be included in a bill of sale, crop or wool lien or stock mortgage	
6	64.00
For recording or registering any instrument not otherwise provided for in this Schedule	
7	4.00 for up to 4 pages, and then 4.00 for each additional 4 pages or part of that number
On request for preparation of a registration copy of an instrument or part of an instrument	
In addition, for preparation of the copy	Such reasonable fee (determined by the Registrar-General) as is warranted by the work involved

Conveyancing (General) Regulation 2003		
Schedule 1	Fees	
		\$
<b>Copies</b>		
8	For supplying a copy of a document or part of a document available from the Document Copy Service (other than a certified copy, a copy supplied in response to a telephone request or a copy relating to land the subject of a community, precinct or neighbourhood plan under the <i>Community Land Development Act 1989</i> )	4.00
9	For supplying a copy, available from the Document Copy Service:	
(a)	of a community, precinct or neighbourhood plan under the <i>Community Land Development Act 1989</i>	4.00
(b)	of a management statement relating to such a plan	4.00
(c)	of a development contract relating to such a plan	4.00
(d)	of an annexure to such a plan, statement or contract	4.00
10	On lodgment of an application for a certified copy of a document or part of a document in the custody of the Registrar-General	64.00
	In addition, if a copy is prepared by a photocopying process	Such reasonable fee (determined by the Registrar-General) as is warranted by the work involved in preparing the copy

## Conveyancing (General) Regulation 2003

## Fees

## Schedule 1

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		\$
11	In the case of a requisition for a copy available from the Document Copy Service that, in the opinion of the Registrar-General, is a request for a copy for which the above schedule of fees is not appropriate	Such reasonable fee (determined by the Registrar-General in negotiation with the requesting party) as is warranted by the cost incurred in providing the copy
12	On lodgment of an application for a copy of a document in the custody of the Registrar-General, other than a certified copy or a copy available from the Document Copy Service	Such reasonable fee (determined by the Registrar-General) as is warranted by the work involved in preparing the copy
13	For supplying a copy (other than a certified copy) of a document in response to a telephone or facsimile request	22.00
	In addition, for a copy of each additional document required	4.00
<b>Official searches (General Register of Deeds)</b>		
14	On requisition for a search, or the continuation of a search, from the date of the prior certificate of result of the search (including the office copy certificate of the result of a search or the continuation of the search)	64.00
	In addition, for each half-hour or part of a half-hour occupied in the search or continuation of the search after the first hour	32.00
15	On request for a copy of an official search	64.00
<b>Search for writs, orders or legal proceedings</b>		
16	For a search against each name (other than a search in response to a telephone request)	4.00

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## Conveyancing (General) Regulation 2003

## Schedule 1 Fees

	\$	
17	For a search in response to a telephone request, in respect of a search for 1 or 2 names	22.00
	In addition, for a search of each additional name in excess of 2	4.00
<b>Plans</b>		
18	On lodgment for registration or recording of a plan, other than a plan prepared solely for the purpose of placing survey information on public record	625.00
	In addition, for each hour or part of an hour in excess of the first 4 hours occupied in the examination of the plan	64.00
	In the case of land the subject of a community, precinct or neighbourhood plan under the <i>Community Land Development Act 1989</i> :	
(a)	for each additional sheet in excess of 4	64.00
(b)	for the management statement accompanying the community, precinct or neighbourhood plan, including any associated plans or sketches	128.00
(c)	for any development contract accompanying the community, precinct or neighbourhood plan	128.00
	In addition, for each lot, allotment or portion shown or separately defined on the plan	64.00
	And, if the plan is accompanied by a section 88B instrument in which only 1 easement, restriction on the use of land, positive covenant or profit à prendre is to be created, irrespective of the number of lots burdened or benefited, an additional	64.00

## Conveyancing (General) Regulation 2003

## Fees

## Schedule 1

	\$
And, if the plan is accompanied by a section 88B instrument in which the combined number of easements, restrictions on the use of land, positive covenants or profits à prendre to be created is 2 or more, an additional	128.00
And, if the plan is accompanied by a section 88B instrument in which only 1 easement or profit à prendre is to be released, irrespective of the number of lots burdened or benefited, an additional	64.00
And, if the plan is accompanied by a section 88B instrument in which the number of easements or profits à prendre to be released is 2 or more, an additional	128.00
And, if the plan is accompanied by a building management statement, an additional	64.00
And, if the plan is lodged for the purpose of consolidating 2 or more folios of the Register kept under the <i>Real Property Act 1900</i> —for each folio of the Register to be consolidated, an additional	15.00
And, if a plan lodged in connection with an application to bring land under the <i>Real Property Act 1900</i> includes land already under that Act and a consolidated folio of the Register kept under that Act is to be created—for each folio to be consolidated, an additional	15.00
19 On lodgment of an additional or replacement sheet in conjunction with an application to amend a registered community, precinct or neighbourhood plan under the <i>Community Land Development Act 1989</i>	64.00
20 For recording a plan prepared solely for the purpose of placing survey information on public record	64.00

## Conveyancing (General) Regulation 2003

## Schedule 1 Fees

		\$
21	For examining a plan if survey information has been added to an original compiled plan as a result of a requisition	64.00
22	For pre-examination of a plan	687.50
	In addition, for each hour or part of an hour in excess of the first 4 hours occupied in the examination of the plan	70.40
23	For preparation and supply of a plan	106.00
	In addition, for each hour or part of an hour in excess of the first hour occupied in the preparation of the plan	64.00
24	On lodgment of an application for revival of a plan previously rejected or withdrawn	Such fee as would be appropriate to the plan as a new lodgment
25	On lodgment of a substituted plan or any sheet of such a plan or an additional sheet of a plan	64.00
26	On lodgment of a section 88B instrument in substitution for another such instrument or part of such instrument	Such fee as would be appropriate to the instrument as an original lodgment
27	On lodgment of an application to amend a plan	64.00
	In addition, if the application involves the amendment of a Crown grant, a certificate of title or a folio of the Register kept under the <i>Real Property Act 1900</i> :	
(a)	for the first grant, certificate or folio	64.00
(b)	for each subsequent grant, certificate or folio	10.00



## Conveyancing (General) Regulation 2003

## Fees

## Schedule 1

	\$
28	64.00
On lodgment of an application for an order terminating a neighbourhood scheme under section 72 of the <i>Community Land Development Act 1989</i>	
In addition, for each hour or part of an hour occupied in examining the application	106.00
<b>Miscellaneous</b>	
29	32.00
For furnishing a certificate of ownership ( <i>Local Government Act 1993</i> —section 700 (2) or <i>Environmental Planning and Assessment Act 1979</i> —section 151 (2))	
30	22.00
On depositing a document or documents pursuant to section 64 of the Act	
In addition, for each document in excess of 4	3.30
31	22.00
On application for return of a document or documents deposited pursuant to section 64 of the Act	
In addition, for each document in excess of 4	3.30
32	22.00
For inspection of a packet containing a document or documents deposited pursuant to section 64 of the Act	
33	20.00
For production of documents at the Office of State Revenue	
34	64.00
On request for entry of a marginal note evidencing a discrepancy between an original instrument and a registered copy of the instrument	

Conveyancing (General) Regulation 2003

Schedule 2 Forms

## Schedule 2 Forms

### Form 1

(Clause 6)

NOTICE OF RESUMPTION OF LAND NOT SUBJECT TO THE REAL PROPERTY ACT 1900

Conveyancing Act 1919, section 196A (3) (a)

Conveyancing (General) Regulation 2003, clause 6

(Extract from Gazette)

I, .....<sup>1</sup>,

certify that the above matter is a true copy of the notification of resumption published in the Government Gazette on ..... at page .....

.....  
(Signature)

Date: .....

**Notes:** <sup>1</sup> Insert name and address of person signing the notice.

### Form 2

(Clause 45)

APPLICATION FOR VACATION OF REGISTRATION

Conveyancing Act 1919, section 200

Conveyancing (General) Regulation 2003, clause 45

I, .....<sup>1</sup>,

apply for the vacation of the registration of .....<sup>2</sup>,

Evidence in support of my right to have the registration vacated is set out below/attached.

.....  
(Signature)

Date: .....

**Notes:** <sup>1</sup> Insert name and address of applicant.

<sup>2</sup> Insert nature of instrument and its registration number.

Conveyancing (General) Regulation 2003

Requirements for instruments generally

Schedule 3

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### **Schedule 3 Requirements for instruments generally** (Clauses 9 and 10)

- 1** The text must be clearly printed or written:

  - (a) across the width of each sheet of paper used, and
  - (b) unless the Registrar-General otherwise permits, on one side only of each sheet.
- 2** The sheets used must have clear margins:

  - (a) on the first sheet—of not less than 25 mm (at the top) and 10 mm (on the left-hand and right-hand sides and at the bottom), and
  - (b) on each subsequent sheet—of not less than 10 mm (on the left-hand and right-hand sides and at the top and bottom).
- 3** The paper used must be:

  - (a) white and free from discolouration and blemishes, and
  - (b) not less than 80 grams per square metre, and
  - (c) 297 mm in length by 210 mm in width (standard A4),

or such other paper as may be approved.
- 4** All text must be at least 10 point (1.8 mm) in size and be clear and legible and in dense black ink or dense dark blue ink. The lines must not overlap. A carbon copy, or a copy in which the typewritten characters blur or spread or are liable to mark or damage an adjacent sheet, will not be accepted.
- 5** Handwriting and any imprint of a seal must be clear and legible and in dense black ink or dense dark blue ink.
- 6** Typewriting, printing, writing or seals must not extend into the margin.
- 7** Typewriting, printing, writing or signatures must not extend into any seal.
- 8** In the top margin on the first sheet of a registration copy there must be printed or written the nature of the original instrument and a note of the stamp duty, if any, appearing on it.

## Conveyancing (General) Regulation 2003

Schedule 3 Requirements for instruments generally

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- 9** Alterations must be made by striking through the matter intended to be altered and not by rubbing, scraping or cutting the surface of the paper or by using correction fluid. An alteration must be initialled or verified by the parties to the instrument.
- 10** Signatures or initials noticing alterations by interlineation or the striking through of matter must be placed in the margin as near as practicable to the alteration.
- 11** The instrument must be flat and free from creases caused by folding or otherwise.
- 12** If a registration copy is made by a photographic or similar approved process, the image in the copy must be dense black, permanent, legible and free from excessive background. The process must not affect the quality and permanence of the paper.
- 13** A part of a lot must not be shown on a plan or diagram unless the whole of the lot is shown on another part of the plan or diagram, whether or not on the same sheet.

Conveyancing (General) Regulation 2003

Requirements for signatures form

Schedule 4

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## Schedule 4 Requirements for signatures form

(Clauses 17, 20, 21 and 26)

### Note.

When a signatures form is adopted, all signatures and seals must be shown on the form. No signatures or seals will appear on the plan drawing sheets, except as provided by clause 21 (3). The completed signatures form must be lodged with and in the same manner as the plan.

### 1 Use of approved form

- (1) A signatures form must be in the approved form.
- (2) Any signatures, seals or certificates that cannot satisfactorily be shown on one sheet may be shown on one or more additional sheets in the approved form. The total number of additional sheets must not be more than 3 unless the Registrar-General otherwise approves.

### 2 Paper

The paper used must be:

- (a) white and free from discolouration and blemishes, and
  - (b) not less than 80 grams per square metre, and
  - (c) 297 mm in length by 210 mm in width (standard A4),
- or such other paper as may be approved by the Registrar-General.

### 3 Margins

- (1) The sheets used must have clear margins of not less than 10mm on each side and top and bottom.
- (2) Typewriting, printing, writing or seals (other than directions or notations authorised by the Registrar-General) must not extend into the margin.

### 4 Lettering

- (1) The text of a signatures form must be clearly printed or written:
  - (a) across the width of each panel on the sheet of paper used, and
  - (b) on one side only of each sheet.
- (2) All text must be clear and legible and in dense black ink or dense dark blue ink. The lines must not overlap. A carbon copy, or a copy in which the typewritten characters blur or spread, or are liable to mark or damage an adjacent sheet, will not be accepted.

## Conveyancing (General) Regulation 2003

Schedule 4 Requirements for signatures form

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- (3) Handwriting and any imprint of a seal must be clear and legible and in dense black ink or dense dark blue ink.

**5 Alterations**

- (1) Alterations must be made by striking through the matter intended to be altered and not by rubbing, scraping or cutting the surface of the paper or by using correction fluid.
- (2) Signatures or initials noting alterations by interlineation or the striking through of matter must be placed in the margin as near as practicable to the alteration.

**6 Information to be included on multiple sheets**

If the signatures form comprises more than one sheet:

- (a) each sheet other than the first sheet must repeat the heading on the first sheet, the subdivision certificate number and date of endorsement and the surveyor's reference, and
- (b) each sheet must be numbered sequentially in the top right hand corner of each sheet as "Sheet ..... of ..... sheets".

Conveyancing (General) Regulation 2003

Requirements for deposited plans lodged by hand

Schedule 5

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## **Schedule 5 Requirements for deposited plans lodged by hand**

(Clause 18)

### **1 Material on which plan to be drawn**

- (1) Each plan sheet must consist of a polyester film, or some other medium approved by the Registrar-General.
- (2) A plan must be drawn on one side of a plan sheet only, and must be drawn on a matt surface.
- (3) Each plan sheet must be free from blemishes and creases.

### **2 Use of approved forms**

- (1) A plan intended to be lodged by hand for registration as a deposited plan must be in the approved form.
- (2) Any land that cannot satisfactorily be shown on one sheet may be shown on additional sheets in the approved form. The total number of additional sheets must not be more than 3 unless the Registrar-General otherwise approves.

### **3 Margins**

- (1) A margin of at least 10 millimetres must be left around the plan drawing area of each plan sheet.
- (2) No printing, writing or other notation (other than directions or notations authorised by the Registrar-General) must appear in, or extend into, the margin.

### **4 Lettering**

- (1) Unless the Registrar-General otherwise approves, all words must be in the English language, and all letters, numbers and other symbols appearing on a plan must be in a font style that is:
  - (a) dense and black in colour, and
  - (b) in upper case only (except as otherwise provided by this Schedule), and
  - (c) open in formation and construction, and
  - (d) in an upright style.
- (2) Unless the Registrar-General otherwise approves or this Schedule provides otherwise, all symbols used must be letters.

Conveyancing (General) Regulation 2003

Schedule 5 Requirements for deposited plans lodged by hand

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#### **5 Use of colouring and edging prohibited**

Neither colouring nor edging are to be used on a plan sheet.

#### **6 Clarity of detail**

The plan must be drawn in a manner and to a scale that allows all details and notations to be clearly reproduced by the copying processes used by the Registrar-General.

#### **7 Alterations**

- (1) A plan may be altered only by striking through the matter to be altered.
- (2) In particular, a plan may not be altered by the use of correction fluid or by rubbing, scraping or cutting the surface of the plan sheet.
- (3) The Registrar-General may require a plan sheet to be replaced if, in the opinion of the Registrar-General, any alteration on the sheet will render it unsuitable for copying.

#### **8 Information to be included on plan sheets**

- (1) Each plan sheet in a series of plan sheets must be numbered consecutively as part of the series (for example, the first and second sheets in a plan that is made up of 4 sheets must be numbered "Sheet 1 of 4 sheets" and "Sheet 2 of 4 sheets", respectively).
- (2) Each plan sheet must contain a north point (directed upwards) and must also specify the orientation to which the north point relates.
- (3) Any separate diagrams or tabulations of dimensions or marks used in an additional sheet must be shown on the sheet.
- (4) No information (other than the plan and any separate diagrams and tabulations of dimensions and marks relating to the plan) is to appear within the plan drawing area of a plan sheet.
- (5) Any signature or seal of a person referred to in section 195D (1) or (2) that cannot satisfactorily be shown on the plan sheet may be shown on an additional plan sheet, except where those signatures or seals are provided on a signatures form that complies with the requirements set out in Schedule 4.

#### **9 Linear dimensions**

- (1) Linear measurements must be expressed in metres, correct to 3 decimal places, without any accompanying symbol.



Conveyancing (General) Regulation 2003

Requirements for deposited plans lodged by hand

Schedule 5

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- (2) If a length of less than one metre is shown, the decimal point must be preceded by the numeral "0".

**10 Area dimensions**

- (1) Area measurements must be expressed as follows:
- (a) areas of less than one hectare must be expressed in square metres, accompanied by the symbol "m<sup>2</sup>",
  - (b) areas of one hectare or more must be expressed in hectares (using not more than 4 significant figures), accompanied by the symbol "ha",
  - (c) areas of 10 000 hectares or more must be expressed in square kilometres, accompanied by the symbol "km<sup>2</sup>".
- (2) The total area of a parcel:
- (a) must be shown within or related to the most significant part of the parcel, and
  - (b) must be the exact mathematical total of all the areas shown on the plan as being within that parcel.

**11 Reduction ratio**

There must be a statement on each sheet of the reduction ratio at which the plan is drawn.

**12 Identification of adjoining lands**

The identities of all adjoining lands must be shown.

**13 Identification of new or proposed easements, profits à prendre, restrictions and positive covenants**

- (1) A plan must contain sufficient information to define the site of:
- (a) any easement, profit à prendre, restriction or positive covenant that is intended to be created as a consequence of the registration of the plan, and
  - (b) any easement or profit à prendre intended to be partially released as a consequence of the registration of the plan, and
  - (c) any proposed easement (other than an easement referred to in paragraph (a) or (b)), profit à prendre, restriction or positive covenant, or proposed variation or partial release of an easement or profit à prendre,

Conveyancing (General) Regulation 2003

Schedule 5 Requirements for deposited plans lodged by hand

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and where necessary, must also contain sufficient information to indicate the relationship of any such easement, profit à prendre, restriction or positive covenant to the boundaries of any affected parcel or lot.

- (2) If a proposed easement is in respect of an existing tunnel, pipe, conduit, wire or other similar object that is underground or is within or beneath an existing building, it is sufficient to indicate on the plan the approximate position of the easement.

**14 Identification of existing easements, profits à prendre, restrictions and positive covenants**

- (1) A plan must:
  - (a) contain sufficient information to define the site, nature and origin of any existing easement, profit à prendre, restriction or positive covenant affecting a parcel, and
  - (b) wherever possible, show the relationship of the easement, profit à prendre, restriction or positive covenant to the boundaries of the parcel.
- (2) If an easement is in respect of an existing tunnel, pipe, conduit, wire or other similar object that is underground or is within or beneath an existing building, it is sufficient to indicate on the plan the approximate position of the easement.
- (3) In this clause, *origin*, in relation to an existing easement, profit à prendre, restriction or positive covenant means the Gazette reference or registration number of the instrument or plan by which the easement, profit à prendre, restriction or positive covenant was granted, reserved, notified or otherwise created.

Conveyancing (General) Regulation 2003

Requirements for deposited plans lodged electronically for registration

Schedule 6

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## **Schedule 6 Requirements for deposited plans lodged electronically for registration**

(Clause 18)

### **1 File type in which plan to be created**

- (1) Each plan sheet must be created in a Tagged Image File Format (TIFF) approved by the Registrar-General.
- (2) Each image must be created to the following specifications:
  - (a) Size—true to the approved form size (standard A2 or A3),
  - (b) Colour—must be black and white (monochrome),
  - (c) Resolution—200 dots per inch (dpi),
  - (d) Compression—CCITT Group 4.
- (3) A plan comprising more than one sheet must be created as a multipage file.

### **2 Use of approved forms**

- (1) A plan intended to be lodged electronically for registration as a deposited plan must be in the approved form.
- (2) Any land that cannot satisfactorily be shown on one sheet may be shown on additional sheets in the approved form. The total number of additional sheets must not be more than 3 unless the Registrar-General otherwise approves.

### **3 Margins**

- (1) A margin of at least 10 millimetres must be left around the plan drawing area of each plan sheet.
- (2) No printing, writing or other notation (other than directions or notations authorised by the Registrar-General) must appear in, or extend into, the margin.

### **4 Lettering**

- (1) Unless the Registrar-General otherwise approves, all words must be in the English language, and all letters, numbers and other symbols appearing on a plan must be in a font style that is:
  - (a) dense and black in colour, and
  - (b) in upper case only (except as otherwise provided by this Schedule), and

## Conveyancing (General) Regulation 2003

## Schedule 6 Requirements for deposited plans lodged electronically for registration

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- (c) open in formation and construction, and
  - (d) in an upright style.
- (2) Unless the Registrar-General otherwise approves or this Schedule provides otherwise, all symbols used must be letters.

**5 Use of colouring and edging prohibited**

Neither colouring nor edging are to be used on a plan sheet.

**6 Clarity of detail**

- (1) The plan must be drawn to a scale and the image created in a manner that allows all details and notations to be clearly reproduced by the copying processes used by the Registrar-General.
- (2) The Registrar-General may require a plan file to be resubmitted if, in the opinion of the Registrar-General, the plan image does not comply with subclause (1).

**7 Alterations**

- (1) A plan image must not be altered.
- (2) Any alterations must be made to the Computer Aided Drafting (CAD) software plan file and a new image created.

**8 Information to be included on plan sheets**

- (1) Each plan sheet in a series of plan sheets must be numbered consecutively as part of the series (for example, the first and second sheets in a plan that is made up of 4 sheets must be numbered "Sheet 1 of 4 sheets" and "Sheet 2 of 4 sheets", respectively).
- (2) Each plan sheet must contain a north point (directed upwards) and must also specify the orientation to which the north point relates.
- (3) Any separate diagrams or tabulations of dimensions or marks used in an additional sheet must be shown on the sheet.
- (4) No information (other than the plan and any separate diagrams and tabulations of dimensions and marks relating to the plan) is to appear within the plan drawing area of a plan sheet.

**9 Linear dimensions**

- (1) Linear measurements must be expressed in metres, correct to 3 decimal places, without any accompanying symbol.

Conveyancing (General) Regulation 2003

Requirements for deposited plans lodged electronically for registration

Schedule 6

- 
- (2) If a length of less than one metre is shown, the decimal point must be preceded by the numeral "0".

#### **10 Area dimensions**

- (1) Area measurements must be expressed as follows:
- (a) areas of less than one hectare must be expressed in square metres, accompanied by the symbol "m<sup>2</sup>",
  - (b) areas of one hectare or more must be expressed in hectares (using not more than 4 significant figures), accompanied by the symbol "ha",
  - (c) areas of 10,000 hectares or more must be expressed in square kilometres, accompanied by the symbol "km<sup>2</sup>".
- (2) The total area of a parcel:
- (a) must be shown within or related to the most significant part of the parcel, and
  - (b) must be the exact mathematical total of all the areas shown on the plan as being within that parcel.

#### **11 Reduction ratio**

There must be a statement on each sheet of the reduction ratio at which the plan is drawn.

#### **12 Identification of adjoining land**

The identity of all adjoining land must be shown.

#### **13 Identification of new or proposed easements, profits à prendre, restrictions and positive covenants**

- (1) A plan must contain sufficient information to define the site of:
- (a) any easement, profit à prendre, restriction or positive covenant that is intended to be created as a consequence of the registration of the plan, and
  - (b) any easement or profit à prendre intended to be partially released as a consequence of the registration of the plan, and
  - (c) any proposed easement (other than an easement referred to in paragraph (a) or (b)), profit à prendre, restriction or positive covenant, or proposed variation or partial release of an easement or profit à prendre,

Conveyancing (General) Regulation 2003

Schedule 6 Requirements for deposited plans lodged electronically for registration

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and where necessary, must also contain sufficient information to indicate the relationship of any such easement, profit à prendre, restriction or positive covenant to the boundaries of any affected parcel or lot.

- (2) If a proposed easement is in respect of an existing tunnel, pipe, conduit, wire or other similar object that is underground or is within or beneath an existing building, it is sufficient to indicate on the plan the approximate position of the easement.

**14 Identification of existing easements, profits à prendre, restrictions and positive covenants**

- (1) A plan must:
  - (a) contain sufficient information to define the site, nature and origin of any existing easement, profit à prendre, restriction or positive covenant affecting a parcel, and
  - (b) wherever possible, show the relationship of the easement, profit à prendre, restriction or positive covenant to the boundaries of the parcel.
- (2) If an easement is in respect of an existing tunnel, pipe, conduit, wire or other similar object that is underground or is within or beneath an existing building, it is sufficient to indicate on the plan the approximate position of the easement.
- (3) In this clause, *origin*, in relation to an existing easement, profit à prendre, restriction or positive covenant means the Gazette reference or registration number of the instrument or plan by which the easement, profit à prendre, restriction or positive covenant was granted, reserved, notified or otherwise created.

**15 Signatures not to appear**

No signatures or seals are to appear on the plan drawing sheets.

**Note.** All signatures and seals must be shown on the signatures form.

Conveyancing (General) Regulation 2003

Requirements for lodging signatures form electronically

Schedule 7

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## Schedule 7 Requirements for lodging signatures form electronically

(Clause 26)

### 1 File type in which image of document to be created

- (1) Each sheet of the completed paper signatures form complying with Schedule 4 that bears original signatures and seals will be scanned by the lodging party and an image created in a Tagged Image File Format (TIFF) approved by the Registrar-General.
- (2) Each image must be created to the following specifications:
  - (a) Size—true to the approved form size (standard A4),
  - (b) Colour—must be black and white (monochrome),
  - (c) Resolution—200 dots per inch (dpi),
  - (d) Compression—CCITT Group 4.

### 2 Multiple sheets

An image of a signatures form comprising more than one sheet must be created as a multipage file.

### 3 Lodging procedure

- (1) The TIFF image of the completed signatures form will be lodged electronically together with the TIFF image of the plan.
- (2) The standard of the electronic file received by the Registrar-General must be acceptable to the Registrar-General.

**Note.** The completed paper signatures form, bearing original signatures and seals, must be retained by the lodging party for a period of at least 12 months following the date of registration of the plan (see clause 54).

Conveyancing (General) Regulation 2003

Schedule 8 Requirements for lodging other documents electronically

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## Schedule 8 Requirements for lodging other documents electronically

(Clause 18)

### 1 File type in which image of document to be created

- (1) Where a document other than a signatures form is required to be lodged electronically with a plan, such as:
  - (a) a building management statement, or
  - (b) a development contract or management statement as required by the *Community Land Development Act 1989*, or
  - (c) any other documents required by the Registrar-General,each sheet of the completed paper document will be scanned by the lodging party and an image created in a Tagged Image File Format (TIFF) approved by the Registrar-General.
- (2) Each image must be created to the following specifications:
  - (a) Size—true to the approved form size (standard A4),
  - (b) Colour—must be black and white (monochrome),
  - (c) Resolution—200 dots per inch (dpi),
  - (d) Compression—CCITT Group 4.

### 2 Multiple sheets

An image of a document comprising more than one sheet must be created as a multipage file.

### 3 Lodging procedure

- (1) The TIFF image of the completed document will be lodged electronically together with the TIFF image of the plan.
- (2) The standard of the electronic file received by the Registrar-General must be acceptable to the Registrar-General.

**Note.** The completed paper document, bearing original signatures and seals, must be retained by the lodging party for a period of at least 12 months following the date of registration of the plan (see clause 54).



Conveyancing (General) Regulation 2003

Requirements for section 88B instruments

Schedule 9

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## Schedule 9 Requirements for section 88B instruments

(Clause 34)

### 1 Text

The text of a section 88B instrument must be clearly printed or written:

- (a) across the width of each sheet of paper used, and
- (b) unless the Registrar-General otherwise permits, on one side only of each sheet.

### 2 Margins

(1) The sheets used must have clear margins:

- (a) on the first sheet—of not less than 10 mm (on the left-hand side), 10 mm (on the right-hand side), 25 mm (at the top) and 10 mm (at the bottom), and
- (b) on each subsequent sheet—of not less than 10 mm (on the left-hand side) and 10 mm (on the right-hand side and at the top and bottom).

(2) Typewriting, printing, writing or seals must not extend into the margin.

### 3 Paper

The paper used must be:

- (a) white and free from discolouration and blemishes, and
- (b) not less than 80 grams per square metre, and
- (c) 297 mm in length by 210 mm in width (standard A4),  
or such other paper as may be approved.

### 4 Size of lettering

All text must be at least 10 point (1.8 mm) in size and be clear and legible and in dense black ink or dense dark blue ink. The lines must not overlap. A carbon copy, or a copy in which the typewritten characters blur or spread, or are liable to mark or damage an adjacent sheet, will not be accepted.

### 5 Legibility

Handwriting and any imprint of a seal must be clear and legible and in dense black ink or dense dark blue ink.

Conveyancing (General) Regulation 2003

Schedule 9 Requirements for section 88B instruments

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## **6 Form of alterations**

Alterations must be made by striking through the matter intended to be altered and not by rubbing, scraping or cutting the surface of the paper or by using correction fluid. An alteration must be initialled or verified by the parties to the instrument.

## **7 Acknowledgement of alterations**

Signatures or initials noting alterations by interlineation or the striking through of matter must be placed in the margin as near as practicable to the alteration.

## **8 Signatures**

The final sheet must bear:

- (a) the attested signatures of the persons who appear to the Registrar-General to be the owners, mortgagees, or covenant chargees of the land over which the easement, or in respect of which the restriction, covenant or profit à prendre, is intended to be created, and
- (b) the attested signature of the prescribed authority that is intending to impose a restriction on use or a positive covenant in respect of the land pursuant to section 88D or 88E of the Act, and
- (c) the attested signature of the prescribed authority or the owner of the land outside the plan where it is intended to create a covenant that requires the authority or the owner to maintain or repair, or to contribute to the maintenance or repair of, the site of an easement, and
- (d) the attested signatures of the persons who appear to the Registrar-General to be the owners, mortgagees or covenant chargees of the land that has the benefit of the easement or profit à prendre that is intended to be released or partially released, and
- (e) the attested signature of any person whose consent is required to a release or partial release of the easement or profit à prendre, and
- (f) the capacity in which each signatory has signed.

Conveyancing (General) Regulation 2003

Requirements for section 88B instruments

Schedule 9

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## 9 Numbering of sheets

If the instrument comprises more than one sheet:

- (a) each sheet other than the first sheet and the final sheet must repeat the heading on the first sheet and the plan identification appearing in Part 1 of the instrument, and
- (b) each sheet other than the final sheet must be signed by an attesting witness to the final sheet, and
- (c) each sheet must be numbered sequentially in the top right hand corner of each sheet as “Sheet ..... of ..... sheets”.

## 10 References to signatures

In this Schedule, a reference to a *signature* includes a reference to the affixing of a seal or any other method by which a corporation or prescribed authority executes an instrument.

Conveyancing (General) Regulation 2003

Schedule 10 Requirements for lodging section 88B instruments electronically

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## Schedule 10 Requirements for lodging section 88B instruments electronically

(Clause 34)

### 1 File type in which image of instrument to be created

- (1) Each sheet of the completed paper instrument complying with Schedule 9 that bears original signatures and seals will be scanned by the lodging party and an image created in a Tagged Image File Format (TIFF) approved by the Registrar-General.
- (2) Each image must be created to the following specifications:
  - (a) Size—true to the approved form size (standard A4),
  - (b) Colour—must be black and white (monochrome),
  - (c) Resolution—200 dots per inch (dpi),
  - (d) Compression—CCITT Group 4.

### 2 Multiple sheets

An image of an instrument comprising more than one sheet must be created as a multipage file.

### 3 Lodging procedure

- (1) The TIFF image of the instrument will be lodged electronically together with the TIFF image of the plan.
- (2) The standard of the electronic file received by the Registrar-General must be acceptable to the Registrar-General.

**Note.** The completed paper section 88B instrument, bearing original signatures and seals, must be retained by the lodging party for a period of at least 12 months following the date of registration of the plan (see clause 54).

Conveyancing (General) Regulation 2003

Prescribed witnesses

Schedule 11

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## Schedule 11 Prescribed witnesses

(Clauses 48 and 49)

### Part 1

accountant  
bank manager  
barrister  
chancellor, deputy chancellor or dean of a faculty of a university  
commissioned officer in the defence forces of the Commonwealth of Australia  
commissioner for taking affidavits  
dentist  
judge  
justice of the peace  
licensed conveyancer  
magistrate  
mayor or general manager of any local government council  
medical practitioner  
member of parliament of the Commonwealth or of a State or Territory  
member of the police force of the Commonwealth or of a State or Territory  
minister of religion  
notary public  
officer in charge of a police station  
pharmacist  
postal manager of a post office  
principal or deputy principal of a school or college  
registered surveyor  
registrar of a Local Court

Conveyancing (General) Regulation 2003

Schedule 11 Prescribed witnesses

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solicitor  
stockbroker  
veterinary surgeon

## Part 2

Australian or British Consular Officer exercising functions in  
country where the document is executed or witnessed  
commissioned officer in the defence forces of the Commonwealth  
of Australia  
commissioner for taking affidavits  
judge  
justice of the peace  
legal practitioner  
magistrate  
mayor or general manager of any local government corporation  
medical practitioner  
notary public  
officer in charge of a police station



## Criminal Procedure Amendment (Penalty Notices) Regulation 2003

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 postpone the expiry 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*, from 30 August 2003 to 30 August 2004.

This Regulation is made under the *Criminal Procedure Act 1986*, including section 4 (the general power to make regulations) and sections 336, 337 and 343.

Clause 1 Criminal Procedure Amendment (Penalty Notices) Regulation 2003

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## **Criminal Procedure Amendment (Penalty Notices) Regulation 2003**

under the

Criminal Procedure Act 1986

### **1 Name of Regulation**

This Regulation is the *Criminal Procedure Amendment (Penalty Notices) Regulation 2003*.

### **2 Amendment of Criminal Procedure Regulation 2000**

The *Criminal Procedure Regulation 2000* is amended by omitting clause 11C and by inserting instead the following clause:

#### **11C Expiry of Part and Schedule 2**

This Part and Schedule 2 expire at the end of 30 August 2004.





# Disability Services Regulation 2003

under the

Disability Services Act 1993

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Disability Services Act 1993*.

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

## Explanatory note

The object of this Regulation is to replace the *Disability Services Regulation 1993*, which is to be repealed on 1 September 2003 by section 10 of the *Subordinate Legislation Act 1989*.

This Regulation prescribes a class of services for the purpose of the definition of *designated service* in section 4 of the *Disability Services Act 1993*.

This Regulation is made under the *Disability Services Act 1993*, including section 26 (the general regulation-making power).

Disability Services Regulation 2003

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Disability Services Regulation 2003

Clause 1

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## Disability Services Regulation 2003

under the

Disability Services Act 1993

### 1 Name of Regulation

This Regulation is the *Disability Services Regulation 2003*.

### 2 Commencement

This Regulation commences on 1 September 2003.

**Note.** This Regulation replaces the *Disability Services Regulation 1993* which is repealed on 1 September 2003 by section 10 (2) of the *Subordinate Legislation Act 1989*.

### 3 Definition

In this Regulation, *the Act* means the *Disability Services Act 1993*.

### 4 Notes

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

### 5 Definition of “designated service”: section 4

- (1) The class of services that consists of all services provided or funded by the Minister (including co-funded services provided or funded through the Home Care Service, but not including any other co-funded services) is prescribed for the purposes of the definition of *designated service* in section 4 of the Act.
- (2) In this clause, *co-funded service* means a service that is provided or funded by the Minister in accordance with an agreement in force between the State and the Commonwealth under the *Home and Community Care Act 1985* of the Commonwealth.

### 6 Saving

Any act, matter or thing that, immediately before the repeal of the *Disability Services Regulation 1993*, had effect under that Regulation continues to have effect under this Regulation.



# Dental Technicians Registration Regulation 2003

under the

Dental Technicians Registration Act 1975

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Dental Technicians Registration Act 1975*.

MORRIS IEMMA, M.P.,  
Minister for Health

## Explanatory note

The object of this Regulation is to remake, without any changes in substance, the provisions of the *Dental Technicians Registration Regulation 1998*, which is to be repealed by section 10 (2) of the *Subordinate Legislation Act 1989* on 1 September 2003.

This Regulation contains provisions relating to the following matters:

- (a) the registration of dental technicians (clause 5),
- (b) the issue of practising certificates to dental prosthetists (clause 6),
- (c) the order form to be used for technical work (clause 7),
- (d) the requirement that dental prosthetists comply with infection control standards (clause 8),
- (e) the requirement that dental technicians (other than dental prosthetists) comply with infection control standards (clause 9),
- (f) requirements in relation to advertising by dental prosthetists (clause 10),
- (g) the various fees payable under the Act (clause 11).

This Regulation is made under the *Dental Technicians Registration Act 1975*, including sections 14, 15, 17, 18A, 18B, 18D, 27 and 35 (the general regulation-making power).

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

## Dental Technicians Registration Regulation 2003

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Dental Technicians Registration Regulation 2003

Clause 1

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## Dental Technicians Registration Regulation 2003

under the

Dental Technicians Registration Act 1975

### 1 Name of Regulation

This Regulation is the *Dental Technicians Registration Regulation 2003*.

### 2 Commencement

This Regulation commences on 1 September 2003.

**Note.** This Regulation replaces the *Dental Technicians Registration Regulation 1998* which is repealed on 1 September 2003 under section 10 (2) of the *Subordinate Legislation Act 1989*.

### 3 Definitions

In this Regulation:

**AS/NZS 4187** means AS/NZS 4187:2003, *Cleaning, disinfecting and sterilizing reusable medical and surgical instruments and equipment, and maintenance of associated environments in health care facilities*.

**AS/NZS 4815** means AS/NZS 4815:2001, *Office-based health care facilities not involved in complex patient procedures and processes—Cleaning, disinfecting and sterilizing reusable medical and surgical instruments and equipment, and maintenance of the associated environment*.

**Board** means the Dental Technicians Registration Board.

**Director-General** means the Director-General of the Department of Health.

**Secretary** means the Secretary to the Board.

**the Act** means the *Dental Technicians Registration Act 1975*.

Clause 4      Dental Technicians Registration Regulation 2003

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#### **4 Notes**

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

#### **5 Registration as a dental technician**

- (1) For the purposes of section 15 (1) of the Act, an application for registration as a dental technician is made in the prescribed manner if the application is lodged at the offices of the Board.
- (2) On the registration of a person as a dental technician, the Secretary must prepare and forward to the person a certificate of registration in the form approved by the Board.

#### **6 Practising certificates for dental prosthetists**

- (1) For the purposes of section 18B (1) of the Act, an application for a practising certificate for a dental prosthetist is made in the prescribed manner if the application is lodged at the offices of the Board.
- (2) On the granting of a practising certificate to a person as a dental prosthetist, the Secretary must prepare and forward to the person a practising certificate in the form approved by the Board.

#### **7 Order forms for technical work**

For the purposes of section 27 (b) (ii) of the Act, the prescribed form is the form in Schedule 1.

#### **8 Infection control standards**

- (1) A dental prosthetist must not, without reasonable excuse, fail to comply with the infection control standards set out in Schedule 2 to the extent that they apply to the dental prosthetist in the practice of dental prosthetics.
- (2) In determining whether or not a dental prosthetist has a reasonable excuse for failing to comply with a standard, particular consideration is to be given to:
  - (a) whether the dental prosthetist's employer failed to provide the necessary equipment, including providing access to it and training in its use, that would have enabled the dental prosthetist to comply with the standard, and
  - (b) whether the failure to provide the equipment was reported by the dental prosthetist to the Director-General.

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**9 Infection control standards for dental technicians (other than dental prosthetists)**

- (1) This clause does not apply to dental prosthetists in the practice of dental prosthetics.
- (2) A dental technician must not, without reasonable excuse, fail to comply with the infection control standards set out in Schedule 3 to the extent that they apply to the dental technician in carrying out technical work.

Maximum penalty: 2 penalty units.

- (3) In determining whether or not a dental technician has a reasonable excuse for failing to comply with a standard, consideration is to be given to:
  - (a) whether the dental technician's employer failed to provide the necessary equipment, including providing access to it and training in its use, that would have enabled the dental technician to comply with the standard, and
  - (b) whether the failure to provide the equipment was reported by the dental technician to the Director-General.

**10 Certain advertising prohibited**

A dental prosthetist must not advertise his or her services by means of an advertisement that:

- (a) is false, misleading or deceptive or is likely to mislead or deceive, or
- (b) creates an unjustified expectation of beneficial treatment, or
- (c) promotes the unnecessary or inappropriate use of dental prosthetic services.

Maximum penalty: 2 penalty units.



Clause 11 Dental Technicians Registration Regulation 2003

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## 11 Fees

The fees set out in the Table to this clause are the prescribed fees for the purposes of the provisions of the Act set out in that Table.

### Table

Provision of the Act	\$
Section 14 (3) (inspection of register)	10
Section 15 (4) (restoration of name to register)	120
Section 15 (5) (a) (registration as dental technician)	120
Section 17 (1) (annual roll fee)	80
Section 18A (3) (inspection of index)	10
Section 18B (2) (grant of practising certificate as dental prosthodontist)	120
Section 18D (2) (annual practising fee)	80

## 12 Savings

Any act, matter or thing that had effect under the *Dental Technicians Registration Regulation 1998* immediately before the commencement of this Regulation is taken to have effect under this Regulation.

Dental Technicians Registration Regulation 2003

Form

Schedule 1

**Schedule 1 Form**

(Clause 7)

**Order for the construction, repair or renewal of artificial dentures**

Dental Technicians Registration Act 1975  
(Section 27)

From:	Order No.: .....	To:
.....		.....
.....		.....
<i>(Name of dental prosthodontist)</i>		<i>(Name of dental technician)</i>
Address:	Date: .....	Address:
.....		.....
.....		.....
.....		.....
Telephone: .....		

Please carry out the following work:

Name of Patient:		Anterior	Posterior	Instructions:
.....				.....
Case type:	Teeth			.....
.....				.....
Date work required:	Shade			.....
.....				.....

Dental Technicians Registration Regulation 2003

Schedule 1 Form

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(U) Mould (L)		

*Signature of dental prosthetist:* .....

Dental Technicians Registration Regulation 2003

Infection control standards for dental prosthetists

Schedule 2

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## Schedule 2 Infection control standards for dental prosthetists

(Clause 8 (1))

### Part 1 Preliminary

#### 1 Definitions

- (1) In this Schedule:

*body substance* includes any human bodily secretion or substance other than blood.

*patient* includes (but is not limited to) a person who is accessing any medical or health services or who is undergoing any dental treatment.

*sharps* means any object capable of inflicting penetrating injury, and includes hollow bore needles, suture needles, scalpel blades, wires, trocars, auto lancets, stitch cutters and broken glassware.

- (2) The requirements set out in this Schedule apply to a dental prosthetist who is assisting in performing a procedure in the same way as they apply to a dental prosthetist who is actually performing the procedure.

### Part 2 General standards applying to dental prosthetists

#### 2 General precautions and aseptic techniques

- (1) Precautions must be taken to avoid direct exposure to a patient's blood or other body substances. This requirement applies regardless of whether there is any perceived risk of infection.
- (2) Aseptic techniques must be used in the course of complying with the requirements of this Schedule.

#### 3 Hand and skin washing

- (1) Hands must be cleaned:
- (a) immediately before and after any direct patient care, and
  - (b) immediately after handling blood or other body substances.

## Dental Technicians Registration Regulation 2003

Schedule 2 Infection control standards for dental prosthetists

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- (2) Hands may be cleaned by:
  - (a) using washing facilities involving water and a soap or antiseptic, or
  - (b) if any of the items specified in paragraph (a) are unavailable, using non-water cleansers or antiseptics.
- (3) Hands or other skin surfaces that are contaminated with a patient's blood or other body substance must be cleaned as soon as it is practicable to clean them.
- (4) The requirement to clean hands applies regardless of whether gloves are also required to be worn.

**4 Protective gowns and aprons**

A gown or apron made of impervious material must be worn while performing any procedure where there is a likelihood of clothing being splashed or contaminated with blood or other body substances.

**5 Gloves**

- (1) Gloves must be worn while handling blood or other body substances.
- (2) In particular, gloves must be worn:
  - (a) while performing any procedure where direct contact is anticipated with a patient's blood or other body substance, mucous membranes or non-intact skin, and
  - (b) while suctioning a patient, and
  - (c) while handling items or surfaces that have come into contact with blood or other body substances, and
  - (d) while performing any procedure where skin penetration is anticipated.
- (3) Sterile gloves must be worn if the procedure involves contact with tissue that would be sterile under normal circumstances.
- (4) Gloves must be changed and discarded:
  - (a) as soon as they are torn or punctured, and
  - (b) after contact with each patient.
- (5) Gloves must also be changed if separate procedures are being performed on the same patient and there is a risk of infection from one part of the body to another.

Dental Technicians Registration Regulation 2003

Infection control standards for dental prosthetists

Schedule 2

---

**6 Masks and protective eye wear**

- (1) A fluid repellent mask and protective eye wear must be worn while performing any procedure where there is a likelihood of splashing or splattering of blood or other body substances.
- (2) In cases where a mask is required to be worn, it must be worn and fitted in accordance with the manufacturer's instructions.
- (3) A mask must be discarded once it has been worn and it must not be used again.
- (4) In cases where protective eye wear is required to be worn, it must be worn and fitted in accordance with the manufacturer's instructions.
- (5) Protective eye wear must be discarded once it has been worn and not used again unless it is reusable in which case it is to be cleaned in accordance with the manufacturer's instructions.

**7 Sharps**

- (1) Sharps must not be passed by hand between a dental prosthetist and any other person.
- (2) A puncture resistant tray must be used to transfer sharps.
- (3) Reusable sharps must, immediately after being used, be placed in a puncture resistant container specially kept for that purpose and labelled as such.
- (4) Non-reusable sharps must, immediately after being used, be disposed of in a puncture resistant container.

**8 Management of waste**

- (1) Clinical waste must be properly packaged to protect against potential exposure to infectious agents and to facilitate the proper handling, storage and treatment or disposal of the waste.
- (2) Splashing or contamination of skin while disposing of blood or other body substances must be avoided as far as practicable.
- (3) Nothing in this clause limits any other requirement under this Part.

## Dental Technicians Registration Regulation 2003

## Schedule 2 Infection control standards for dental prosthetists

---

**Part 3 Processing of instruments and equipment****9 Prosthetic appliances**

Any prosthetic appliance or material that is intended to be sent to a laboratory for processing must be rinsed clear of any debris and be disinfected before it is sent.

**10 Cleaning of instruments and equipment**

- (1) Any instrument or equipment that comes into contact with intact skin must be cleaned before it is used.
- (2) Any instrument or equipment that is required under this Part to be sterilised or disinfected must be cleaned before it is sterilised or disinfected.
- (3) The process of cleaning must involve water and mechanical or physical action (such as washing machines) and a cleaning agent.
- (4) All cleaning agents must be removed from instruments and equipment by rinsing prior to further processing.
- (5) The method of cleaning must be consistent with AS/NZS 4187 or (in the case of an office-based practice) AS/NZS 4815.
- (6) In this clause *cleaning agent* means a detergent and includes proteolytic enzyme substances.

**11 Disinfection of instruments and equipment**

- (1) Any instrument, equipment or appliance that comes into contact with non-sterile tissue must be disinfected before it is used. It may also be sterilised if it is capable of withstanding that process.
- (2) The process of disinfection must involve either thermal or chemical methods. Chemical disinfection may be used only in cases where thermal methods are unsuitable.
- (3) The method of disinfection must be consistent with AS/NZS 4187 or (in the case of an office-based practice) AS/NZS 4815.

**12 Sterilisation of instruments and equipment**

- (1) Dental hand pieces or any other instrument or equipment used to enter, or that is capable of entering, tissue that would be sterile under normal circumstances must be sterilised before it is used.

Dental Technicians Registration Regulation 2003

Infection control standards for dental prosthetists

Schedule 2

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- (2) The method of sterilisation must be compatible with the particular type of instrument or equipment concerned and consistent with AS/NZS 4187 or (in the case of an office-based practice) AS/NZS 4815.
- (3) If a steriliser is used (whether it is a benchtop or portable steriliser or a permanently plumbed or wired steriliser), the following criteria must be met:
  - (a) the relevant manufacturer's instructions must be followed,
  - (b) an ongoing monitoring program must be followed which reflects the requirements of Table 7.1 Calibration, Monitoring and Maintenance of Sterilizers of AS/NZS 4187 or (in the case of an office-based practice) Table 7.1 Sterilizer Tests and Test Frequencies of AS/NZS 4815.



## Dental Technicians Registration Regulation 2003

Schedule 3 Infection control standards for dental technicians (other than dental prosthetists)

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### **Schedule 3 Infection control standards for dental technicians (other than dental prosthetists)**

(Clause 9 (2))

#### **Part 1 Preliminary**

##### **1 Definitions**

- (1) In this Schedule:  
*body substance* includes any human bodily secretion or substance other than blood.
- (2) The requirements set out in this Schedule apply to a dental technician who is assisting in carrying out technical work in the same way as they apply to a dental technician who is actually carrying out the work.

#### **Part 2 General standards applying to dental technicians**

##### **2 General precautions**

- (1) Precautions must be taken to avoid exposure to blood or other body substances. This requirement applies regardless of whether there is any perceived risk of infection.
- (2) Recognised work practices to prevent contamination must be used in the course of complying with the requirements of this Schedule.

##### **3 Hand and skin washing**

- (1) Hands must be cleaned immediately before and after any contact with artificial dentures, mouthguards, restorative or corrective dental appliance or any other prosthetic device.
- (2) Hands may be cleaned by:
  - (a) using washing facilities involving water and a soap or antiseptic, or
  - (b) if any of the items specified in paragraph (a) are unavailable, using non-water cleansers or antiseptics.

## Dental Technicians Registration Regulation 2003

Infection control standards for dental technicians (other than dental  
prosthetists)

Schedule 3

- 
- (3) Hands or other skin surfaces that are contaminated with blood or other body substance must be cleaned as soon as it is practicable to clean them.
  - (4) The requirement to clean hands applies regardless of whether gloves are also required to be worn.

**4 Protective gowns and aprons**

A protective gown or apron (or other similar clothing) must be worn while carrying out any technical work where there is a likelihood of clothing being splashed or contaminated with blood or other body substances.

**5 Gloves**

- (1) Gloves must be worn while handling any instrument, equipment or appliance that has been in direct contact with blood or other body substances.
- (2) Gloves must be changed and discarded as soon as they are torn or punctured.

**6 Masks and protective eye wear**

- (1) A fluid repellent mask and protective eye wear must be worn while carrying out any technical work where there is a likelihood of splashing or splattering of blood or other body substances.
- (2) In cases where a mask is required to be worn, it must be worn and fitted in accordance with the manufacturer's instructions.
- (3) A mask that is not capable of being disinfected must be discarded once it has been worn and it must not be used again.
- (4) A mask that is capable of being disinfected may be re-worn after it has been disinfected in accordance with the manufacturer's instructions.
- (5) In cases where protective eye wear is required to be worn, it must be worn and fitted in accordance with the manufacturer's instructions.
- (6) Protective eye wear must be discarded once it has been worn and not used again unless it is reusable in which case it is to be cleaned in accordance with the manufacturer's instructions.

## Dental Technicians Registration Regulation 2003

Schedule 3 Infection control standards for dental technicians (other than dental prosthetists)

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**7 Management of waste**

- (1) Clinical waste must be properly packaged to protect against potential exposure to infectious agents and to facilitate the proper handling, storage and treatment or disposal of the waste.
- (2) Contamination of skin while disposing of blood or body substances must be avoided as far as practicable.
- (3) Nothing in this clause limits any other requirement under this Part.

**Part 3 Processing of instruments and equipment****8 Prosthetic appliances**

Any prosthetic appliance or material must be disinfected before carrying out technical work.

**9 Cleaning of instruments and equipment**

- (1) Any instrument, equipment or substance that comes into contact with intact skin must be cleaned before it is used.
- (2) Any instrument, equipment or substance that is required under this Part to be disinfected or sterilised must be cleaned before it is disinfected or sterilised.
- (3) The process of cleaning must involve water and mechanical or physical action (such as washing machines) and a cleaning agent.
- (4) All cleaning agents must be removed from instruments and equipment by rinsing prior to further processing.
- (5) The method of cleaning must be consistent with AS/NZS 4187 or (in the case of an office-based practice) AS/NZS 4815.
- (6) In this clause *cleaning agent* means a detergent and includes proteolytic enzyme substances.

**10 Disinfection of instruments and equipment**

- (1) Any instrument or equipment that comes into contact with non-sterile tissue (other than intact skin) must, before it is used, be disinfected with a disinfectant specified in the Australian Register of Therapeutic Goods that is maintained under the *Therapeutic Goods Act 1989* of the Commonwealth, and the relevant manufacturer's instructions must be followed.

Dental Technicians Registration Regulation 2003

Infection control standards for dental technicians (other than dental  
prosthodontists)

Schedule 3

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- (2) The process of disinfection must involve either thermal or chemical methods. Chemical disinfection may only be used in cases where thermal methods are unsuitable.
- (3) The method of disinfection must be consistent with AS/NZS 4187 or (in the case of an office-based practice) AS/NZS 4815.



## Driving Instructors Regulation 2003

under the

Driving Instructors Act 1992

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Driving Instructors Act 1992*.

CARL SCULLY, M.P.,  
Minister for Roads

### Explanatory note

The object of this Regulation is to remake, with some changes, the provisions of the *Driving Instructors Regulation 1993*. That Regulation will be repealed on 1 September 2003 by section 10 (2) of the *Subordinate Legislation Act 1989*.

Both Regulations contain provisions relating to fees for driving instructors' licences and certificates, the display, and improper use or care, of driving instructors' licences, records to be kept by driving schools and driving instructors, and requirements for duplicate driving controls in driving instructors' vehicles.

This Regulation also contains provisions relating to the new requirement for comprehensive motor vehicle insurance in respect of motor vehicles used to provide driving instruction. That requirement is contained in section 54C of the *Driving Instructors Act 1992*, which was inserted by the *Driving Instructors Amendment Act 2002* and will commence at the same time as this Regulation commences.

This Regulation is made under the *Driving Instructors Act 1992*, including sections 4 (Meaning of "driving instructor") and 59 (the general regulation making power).

Driving Instructors Regulation 2003

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Driving Instructors Regulation 2003

Clause 1

Preliminary

Part 1

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## Driving Instructors Regulation 2003

under the

Driving Instructors Act 1992

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Driving Instructors Regulation 2003*.

#### 2 Commencement

This Regulation commences on 1 September 2003.

**Note.** This Regulation replaces the *Driving Instructors Regulation 1993* which is repealed on 1 September 2003 by section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3 Definitions

In this Regulation:

*Authority* has the same meaning as in the Act.

*driving instruction* means instruction given to a person for the purpose of teaching the person to drive a motor vehicle.

*driving instructor's licence* means a licence under the Act.

*the Act* means the *Driving Instructors Act 1992*.

#### 4 Notes

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

Clause 5            Driving Instructors Regulation 2003

Part 2             Meaning of “driving instructor”

---

## **Part 2        Meaning of “driving instructor”**

### **5    Certain persons not driving instructors for purpose of Act**

- (1)    A person who provides driving instruction which does not involve the use of a motor vehicle (such as in a classroom, by use of a simulator or by production of a book or manual) is not a driving instructor for the purposes of the Act when providing that instruction.
- (2)    A person who provides driving instruction to the holder of a driver licence, being a driver licence of a class that authorises the holder to drive a motor vehicle of the kind in respect of which the holder is receiving instruction, is not a driving instructor for the purposes of the Act when providing that instruction.



Driving Instructors Regulation 2003

Clause 6

Fees, licences, records and insurance

Part 3

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## **Part 3 Fees, licences, records and insurance**

### **6 Fees**

- (1) The fees payable for a licence, a renewal of a licence, a duplicate licence or a certificate under section 46 of the Act are as set out in Schedule 1.
- (2) A certificate under section 46 of the Act may be issued without the imposition of a fee.

### **7 Display of driving instructor's licence**

- (1) A person who holds a driving instructor's licence must not act as a driving instructor in a motor vehicle (other than a motor vehicle referred to in subclause (2)) unless his or her driving instructor's licence is firmly fixed in a conspicuous position on the exterior or interior of the motor vehicle so that all matter on the face of the licence can be conveniently seen and read by any person.
- (2) A person who holds a driving instructor's licence must not act as a driving instructor in:
  - (a) a motor vehicle provided by a person undergoing driving instruction, or
  - (b) a motor cycle,unless, before commencing instruction on each occasion on which instruction is given, the person produces his or her driving instructor's licence to the person who is to receive the instruction and allows that person time to examine the driving instructor's licence.

Maximum penalty: 20 penalty units.

### **8 Improper use or care of driving instructor's licence**

- (1) A person who holds a driving instructor's licence must not act as a driving instructor in a motor vehicle, or drive, or cause or permit to be stood or driven, a motor vehicle used for the giving of driving instruction, on which is fixed a driving instructor's licence which:
  - (a) has been altered, mutilated or defaced in any manner, or
  - (b) was not issued to the person, or
  - (c) contains any particulars which the person knows to be false or misleading in a material respect.

Clause 9	Driving Instructors Regulation 2003
Part 3	Fees, licences, records and insurance

---

- (2) A person must not, in purported compliance with clause 7 (2), produce a driving instructor's licence of a kind referred to in subclause (1).
- (3) A person must not, without reasonable excuse, alter, mutilate or deface a driving instructor's licence.
- (4) A person must not lend or otherwise part with possession of his or her driving instructor's licence.

Maximum penalty: 20 penalty units.

#### **9 Records to be kept by driving schools**

- (1) For the purposes of section 47 (1) of the Act, the proprietor of a driving school must keep or cause to be kept in a form approved by the Authority a record of the following:
  - (a) the name of the school,
  - (b) the name of each person who is an owner of the school (that is, a person who has any share in the capital of the business of the school, or any entitlement to receive any income derived from the school, whether the entitlement arises at law or in equity or otherwise, and may include a proprietor, or a person having principal control, management and administration, of the school),
  - (c) the name of the person having principal control, management and administration of the school,
  - (d) the name of any other person who engages in the control, management or administration of the school,
  - (e) the name, driver licence number and driving instructor's licence number of each driving instructor working for the school,
  - (f) the name, address and telephone number of each student who receives driving instruction from the school,
  - (g) the registration number of each motor vehicle used by the school to provide driving instruction,
  - (h) details (including the name of the insurer, the name of the insured, the number of the policy and the date on which the policy expires) of the comprehensive motor vehicle insurance policy in force in respect of each motor vehicle used by the school to provide driving instruction.

Driving Instructors Regulation 2003

Clause 10

Fees, licences, records and insurance

Part 3

- 
- (2) The proprietor of a driving school must retain such a record for at least 5 years after the record is made.

Maximum penalty: 20 penalty units.

#### **10 Records to be kept by driving instructors**

- (1) For the purposes of section 48 of the Act, the holder of a driving instructor's licence must keep in a form approved by the Authority a record of the following:
- (a) the name, driver licence number and driving instructor's licence number of the driving instructor,
  - (b) the name of each driving school for which the driving instructor works,
  - (c) the name, address and telephone number of each student who receives driving instruction from the driving instructor,
  - (d) the learner's licence number of each such student,
  - (e) the dates and times of theory and practical instruction for each such student,
  - (f) the registration number of each motor vehicle used for practical instruction by the driving instructor,
  - (g) the dates, locations and number of driving tests presented for by each student of the driving instructor,
  - (h) if the driving instructor's motor vehicle is hired solely for a driving test, the name, address and learner's licence number of the person presenting for the test.
- (2) The holder of a driving instructor's licence must retain such a record for at least 5 years after the record is made.

Maximum penalty: 20 penalty units.

#### **11 Compulsory comprehensive motor vehicle insurance**

- (1) A comprehensive motor vehicle insurance policy required by section 54C (1) of the Act:
- (a) must provide cover of at least \$5,000,000 against any liability for damage to property caused by or arising out of the use of any motor vehicle to which the policy relates, and

Clause 11      Driving Instructors Regulation 2003  
Part 3          Fees, licences, records and insurance

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- (b) must indemnify each person for the time being receiving driving instruction by means of or in connection with any such motor vehicle in relation to any damage (including any excess payable on a claim) arising out of the use of the motor vehicle, and
  - (c) must be maintained with a corporation authorised under the *Insurance Act 1973* of the Commonwealth to carry on insurance business.
- (2) The Authority may exempt a person from compliance with section 54C (1) of the Act.

Driving Instructors Regulation 2003

Clause 12

Miscellaneous

Part 4

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## Part 4 Miscellaneous

### 12 Duplicate driving controls

- (1) The holder of a driving instructor's licence must not use a motor vehicle to give driving instruction unless the motor vehicle is equipped with duplicate driving controls of a type approved by the Authority.

Maximum penalty: 20 penalty units.

- (2) This clause does not apply:
- (a) in the case of a motor cycle, or
  - (b) in any case in which a motor vehicle is provided by a person undergoing driving instruction, or
  - (c) in any case in which the use of a particular motor vehicle has been approved by the Authority in writing, or
  - (d) to any motor vehicle exceeding 4.5 tonnes manufacturer's gross vehicle mass, or
  - (e) to an implement within the meaning of the *Road Transport (Vehicle Registration) Regulation 1998*.

### 13 Saving

Any act, matter or thing that, immediately before the repeal of the *Driving Instructors Regulation 1993*, had effect under that Regulation continues to have effect under this Regulation.

## Driving Instructors Regulation 2003

## Schedule 1 Fees

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**Schedule 1 Fees**

(Clause 6)

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# Exotic Diseases of Animals Regulation 2003

under the

Exotic Diseases of Animals Act 1991

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Exotic Diseases of Animals Act 1991*.

IAN MACDONALD, M.L.C.,  
Minister for Agriculture and Fisheries

## Explanatory note

The object of this Regulation is to remake, with no substantial changes, the provisions of the *Exotic Diseases of Animals (General) Regulation 1998*. That Regulation will be repealed on 1 September 2003 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation deals with the following matters:

- (a) the purposes for which a person must be acting in order to have the benefit of an authority from the Chief Veterinary Officer to possess an exotic disease agent—clause 5,
- (b) the particulars that must be specified in a claim for compensation under section 61 of the *Exotic Diseases of Animals Act 1991* (*the Act*) and the method of lodgement of such claims—clause 6,
- (c) the persons (in addition to those specified in the Act) to whom the Minister may, under section 67 of the Act, delegate the Minister's powers under the Act—clause 7,
- (d) other minor, consequential or ancillary matters—clauses 1–4 and 8.

This Regulation is made under the *Exotic Diseases of Animals Act 1991*, including section 78 (the general regulation-making power) and the sections referred to in the Regulation.

## Exotic Diseases of Animals Regulation 2003

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Exotic Diseases of Animals Regulation 2003

Clause 1

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## Exotic Diseases of Animals Regulation 2003

under the

Exotic Diseases of Animals Act 1991

### 1 Name of Regulation

This Regulation is the *Exotic Diseases of Animals Regulation 2003*.

### 2 Commencement

This Regulation commences on 1 September 2003.

**Note.** This Regulation replaces the *Exotic Diseases of Animals (General) Regulation 1998* which is repealed on 1 September 2003 by section 10 (2) of the *Subordinate Legislation Act 1989*.

### 3 Definition

In this Regulation, *the Act* means the *Exotic Diseases of Animals Act 1991*.

### 4 Notes

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

### 5 Possession of exotic disease agent: section 9

A person who has the authority of the Chief Veterinary Officer to be in possession of an exotic disease agent is exempt from section 9 of the Act if and only if the person has possession of the agent for the purpose of undertaking or assisting in:

- (a) the diagnosis of disease in humans or animals, or
- (b) the manufacture of vaccines, or
- (c) veterinary, medical or scientific research, or
- (d) activities of a kind specified in the authority.

Clause 6 Exotic Diseases of Animals Regulation 2003

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**6 Claims for compensation: section 61**

- (1) For the purposes of section 61 (a) of the Act, a claim for compensation must contain (but need not be limited to) the particulars specified in Schedule 1.
- (2) The claim must be signed by the following people:
  - (a) the person making the claim,
  - (b) an adult witness to the signature of the person making the claim,
  - (c) the inspector approved by the Chief Veterinary Officer to agree with the owner on the market value of the animal or property or the person jointly nominated by the Minister and the owner to determine the market value of the animal or property.
- (3) For the purposes of section 61 (b) of the Act, the manner of making the claim is by causing it to be delivered to an office of the Department of Agriculture.

**7 Delegation: section 67**

For the purposes of section 67 of the Act, the persons holding the following positions in the Department of Agriculture are prescribed:

- (a) Deputy Director-General,
- (b) Executive Director, Regulatory,
- (c) Chief, Division of Animal Industries,
- (d) Deputy Chief, Division of Animal Industries,
- (e) Program Manager, Quality Assurance,
- (f) Program Manager, Agricultural Protection,
- (g) Program Manager, Wool and Sheep Meat Services,
- (h) Program Manager, Meat, Dairy and Intensive Livestock,
- (i) Program Manager, Farm Product Integrity.

**8 Saving**

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

Exotic Diseases of Animals Regulation 2003

Claims for compensation

Schedule 1

---

## Schedule 1 Claims for compensation

(Clause 6)

### Date of claim

### Details of ownership

- (a) Name of the owner(s)
- (b) Residential and postal address(es) of the owner(s)

### Nature of each owner's interest in the animals or property

### Details of animals in respect of which the claim is made

- (a) Itemised description of the animals destroyed pursuant to the Act or certified by an inspector as having died of an exotic disease
- (b) Place where the animals were ordinarily kept before their destruction or death
- (c) Date of destruction or death of the animals
- (d) Date of notification given to the Director-General or an inspector that the animal had been affected by, or had died of, an exotic disease (*in the case of an animal that has died of an exotic disease*)

### Details of property in respect of which the claim is made

- (a) Itemised description of the property destroyed
- (b) Date of destruction of the property

*(Note: property means any premises, animal products, fodder, fittings and vehicles)*

### Value of animals or property

- (a) Itemised market value of the animals or property in respect of which the claim is made, being a value determined:
  - (i) by agreement between the owner and an inspector, or
  - (ii) by a valuer nominated by the Minister and the owner
- (b) Total amount of compensation claimed

### Details of inspector who certified the death of an animal

- (a) Name of the inspector, authorised by the Chief Veterinary Officer, who certified under section 55 (1) (b) of the Act that the animal died of an exotic disease (*in the case of an animal that has died of an exotic disease*)
- (b) Date of the certification

## Exotic Diseases of Animals Regulation 2003

## Schedule 1 Claims for compensation

---

**Details of valuation**

- (a) Name of the inspector with whom the owner agreed, under section 59 (1) of the Act, on the value of the animal or property, or
- (b) Name of the valuer nominated, under section 59 (2) of the Act, to determine the market value

**Declaration by the owner(s)**

Declaration by the owner(s):

- (a) that the particulars and descriptions in the claim are correct, and
- (b) that the value is correct (*if the value was reached by agreement with the owner*)

**Additional details and declaration (required if the claim is made by a person other than the owner or by a person who is not the sole owner)**

- (a) Name, residential and postal address of the person making the claim
- (b) Description of the claimant's interest in the claim and how that interest was obtained
- (c) Declaration by the claimant:
  - (i) that the claimant has the authority of the owner (or of each other owner) to make the claim, and
  - (ii) that all the particulars and descriptions in the claim are correct.



## Health Services Regulation 2003

under the

Health Services Act 1997

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Health Services Act 1997*.

MORRIS IEMMA, M.P.,  
Minister for Health

### Explanatory note

The object of this Regulation is to replace the *Health Services Regulation 1998* which will be repealed on 1 September 2003 under section 10 (2) of the *Subordinate Legislation Act 1989*. The new Regulation, which is substantially the same as the repealed Regulation, contains provisions with respect to the following matters:

- (a) the appointment of visiting practitioners (Part 2),
- (b) the election of staff members to area health boards and health corporation boards (Part 3),
- (c) the management of Samaritan Funds (clause 38).

This Regulation is made under the *Health Services Act 1997*, including section 140 (the general regulation-making power) and clause 2 of Schedule 5 (relating to elected staff members of area health boards and health corporation boards).

This Regulation comprises or relates to matters of a machinery nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

Health Services Regulation 2003

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## Health Services Regulation 2003

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Clause 1	Health Services Regulation 2003
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## Health Services Regulation 2003

under the

Health Services Act 1997

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Health Services Regulation 2003*.

#### 2 Commencement

This Regulation commences on 1 September 2003.

**Note.** This Regulation replaces the *Health Services Regulation 1998* which is repealed on 1 September 2003 under section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3 Definitions

In this Regulation:

***casual employee*** of a public health organisation means an employee of the organisation who is employed on a casual basis, but does not include a person employed full-time or part-time (whether for a limited term or otherwise).

***clinical privileges*** has the same meaning as it has in section 105 (2) of the Act.

**Note.** Section 105 (2) of the Act defines ***clinical privileges*** to mean the kind of clinical work (subject to any restrictions) that a public health organisation determines a visiting practitioner is to be allowed to perform at any of its hospitals.

***close of nominations*** means the time and date for the close of nominations for an election that have been fixed under this Regulation by the notice of the election or, if that close has been postponed, the time and date to which that close has been postponed.



Health Services Regulation 2003

Clause 4

Preliminary

Part 1

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*close of the ballot* means the time and date for the close of any ballot for an election that have been fixed under this Regulation by the notice of the election or, if that close has been postponed, the time and date to which that close has been postponed.

*Department* means the Department of Health.

*medical and dental appointments advisory committee*, in relation to a public health organisation, means a committee:

- (a) established by the board of the public health organisation, and
- (b) having the function of advising the board in relation to the appointment of persons as visiting practitioners to the public health organisation and the clinical privileges that should be allowed to those persons.

*the Act* means the *Health Services Act 1997*.

**Note.** Terms defined in the Dictionary at the end of the Act and elsewhere in the Act include **appoint**, **board** of a public health organisation, **chief executive officer** of a public health organisation, **Director-General** and **visiting practitioner**.

#### 4 Notes

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

Clause 5 Health Services Regulation 2003

Part 2 Visiting practitioners

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## Part 2 Visiting practitioners

### 5 Advertising of available appointments as visiting practitioners

- (1) A board of a public health organisation that decides to make available an appointment as a visiting practitioner must advertise the availability of the appointment in at least one newspaper circulating generally in New South Wales. The board may, in addition, advertise the availability in other ways.
- (2) An application for appointment as a visiting practitioner is to be made in writing to the board of the public health organisation concerned and is to include:
  - (a) a statement setting out the clinical privileges sought by the applicant, and
  - (b) an authority for the medical and dental appointments advisory committee of the public health organisation to obtain information as to the applicant's past performance as a medical practitioner or dentist, as the case may be.
- (3) On receipt of the application, the board is to refer the application to that committee for advice.
- (4) Subclauses (1)–(3) do not apply:
  - (a) to an appointment as a visiting practitioner that is to be held as part of the duties of a person who is to be or has been appointed to a teaching position at a tertiary institution, or
  - (b) to an appointment as a visiting practitioner that is to be held by a person for a period of not more than 6 months, or
  - (c) to any appointment as a visiting practitioner, to the extent that the Director-General determines that the provisions of those subclauses are not to apply.
- (5) A determination under subclause (4) (c):
  - (a) may be made in respect of a particular appointment or in respect of appointments of any specified kind or description, and
  - (b) must be made in writing.

### 6 Appointment and conditions to be in written agreement

- (1) A person is to be appointed as a visiting practitioner to a public health organisation by written agreement between the person and the public health organisation.

Health Services Regulation 2003

Clause 7

Visiting practitioners

Part 2

- 
- (2) The written agreement must specify the conditions to which the appointment is subject, including the clinical privileges of the visiting practitioner.
  - (3) However, subclause (2) does not require conditions prescribed by or under the Act to be included in the written agreement.

#### **7 Term of appointment**

- (1) The period for which a person may be appointed as a visiting practitioner is such period (not exceeding 5 years) as the board of the public health organisation determines.
- (2) A person is, if otherwise qualified, eligible for re-appointment from time to time.
- (3) Despite subclause (1), a person may be appointed as a visiting practitioner for the duration of the person's appointment to a teaching position at a tertiary institution (or for such lesser period as the board may determine) if the board has first obtained the advice of the medical and dental appointments advisory committee about the length of the appointment.

#### **8 Resignation**

- (1) A person may resign an appointment as a visiting practitioner by giving 3 months' written notice of resignation to the board of the public health organisation concerned.
- (2) However, a board of a public health organisation may waive that requirement for notice or accept a lesser period of time for the giving of such notice if, in the opinion of the board, it is reasonable to do so.

Clause 9 Health Services Regulation 2003

Part 3 Elected staff members

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## **Part 3 Elected staff members**

### **Division 1 Application of Part**

#### **9 Public health organisations to which Part applies**

This Part applies to the following public health organisations only:

- (a) area health services,
- (b) statutory health corporations.

**Note.** Clause 2 of Schedule 5 to the Act provides for the election of an elected staff member to boards of area health services and statutory health corporations in accordance with the regulations.

### **Division 2 Administration of elections**

#### **10 Decision of returning officer final**

If the returning officer is permitted or required by this Regulation to make a decision on any matter relating to the holding of a ballot, the decision of the returning officer on that matter is final.

**Note.** Clause 2 (3) of Schedule 5 to the Act provides that the Electoral Commissioner for New South Wales (or a nominee of the Electoral Commissioner) is to be the returning officer for an election.

#### **11 Costs of election**

The costs of conducting an election are to be paid by the relevant public health organisation. The costs of the Electoral Commissioner for New South Wales in conducting the election are recoverable from the organisation as a debt owed to the Electoral Commissioner in a court of competent jurisdiction.

#### **12 Casual employees to enrol**

- (1) A person who is a casual employee of a public health organisation may apply in writing to the chief executive officer of the organisation to be included on the roll for an election.
- (2) The chief executive officer must include the person on the roll if the application is received by the officer between the first publication of notice of the election (as referred to in clause 13 (4)) and the close of nominations and the person is still an employee of the organisation at the close of nominations.

Health Services Regulation 2003

Clause 13

Elected staff members

Part 3

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### **Division 3      Pre-ballot procedure**

#### **13      Notice of election**

- (1) The returning officer must publish written notice of an election as soon as practicable after being informed in writing by the Minister that an election is to be held.
- (2) The minimum requirement is that the notice be published in the Gazette and in a daily newspaper circulating generally in New South Wales.
- (3) The notice is to:
  - (a) state that an election is to be held, and
  - (b) invite nominations of candidates, and
  - (c) fix the time and date for the close of nominations, and
  - (d) fix the time and date for the determination of the order of the candidates on the ballot-papers, and
  - (e) fix the time and date for the close of the ballot, and
  - (f) advise that casual employees must apply for enrolment if they wish to vote, and advise them how to apply.
- (4) The close of nominations is to be not less than 21 days nor more than 28 days after the date when the notice of the election is first published in a daily newspaper circulating generally in New South Wales.
- (5) The close of the ballot is to be not less than 28 days after the close of nominations.

#### **14      Extension of closing times**

- (1) The returning officer may, if of the opinion that an election would otherwise fail, fix later times and dates instead of those previously fixed.
- (2) The times and dates, and the publication of notice of them, must be in accordance with clause 13 (2)–(5).
- (3) A new date must not be more than 14 days after the corresponding date that was previously fixed.
- (4) The returning officer may exercise the power conferred by this clause more than once in respect of an election.

Clause 15      Health Services Regulation 2003

Part 3          Elected staff members

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### **15 Notification of chief executive officer**

The returning officer must notify the chief executive officer of the relevant board in writing that an election is to be held. The returning officer must also notify that officer in writing of the times and dates fixed for the close of nominations, for the determination of the order of candidates and for the close of the ballot (including any later times and dates).

### **16 Nomination**

- (1) For a nomination for election to be effective:
  - (a) it must be valid in terms of clause 2 (5) of Schedule 5 to the Act (that is, the employment criteria in that subclause must be satisfied), and
  - (b) the nomination must reach the returning officer at or before the close of nominations, and
  - (c) the nomination must specify the full names and the residential addresses of the nominators and be signed by them, and
  - (d) the nomination must include written consent to the nomination signed by the nominee.
- (2) Once an effective nomination reaches the returning officer, the nominee becomes a candidate for election.

### **17 Withdrawal of nomination**

A candidate may withdraw from an election by notice in writing that reaches the returning officer before the close of nominations.

### **18 Candidate information sheet**

- (1) A person who is nominated for election may set out in a statutory declaration addressed to the returning officer all or some of the following material for inclusion in a candidate information sheet:
  - (a) the person's date of birth,
  - (b) any academic and professional qualifications held by the person,
  - (c) the names of any bodies to which the person belongs,
  - (d) any offices that the person holds apart from those in which the person is employed by the relevant public health organisation,
  - (e) up to 50 words of additional material relevant to the person's candidature.

Health Services Regulation 2003

Clause 19

Elected staff members

Part 3

- 
- (2) If there is to be a ballot, the returning officer is to prepare a candidate information sheet. The returning officer must base the information in that sheet on what has been set out in the statutory declarations received by the returning officer before the close of nominations.
  - (3) However, the returning officer may amend or omit some or all of that material to ensure that it is, in the returning officer's opinion, appropriate, not misleading and no longer than permitted under this clause.

**19 Must there be a ballot?**

- (1) If, at the close of nominations, there is only one candidate, that candidate is elected. No ballot is then necessary.
- (2) If, at the close of nominations, there is more than one candidate, a ballot is to be held.

**20 Electoral roll**

- (1) If a ballot is to be held, the returning officer is to notify the chief executive officer of the public health organisation of that fact.
- (2) The chief executive officer is to deliver to the returning officer within the following 7 days:
  - (a) a roll (in written or electronic form) that sets out (as at the close of nominations) the full name of each employee of the relevant public health organisation (other than any casual employee who has not duly applied for enrolment for the election) and the address to which that employee's ballot-paper is to be sent, and
  - (b) a written label (or an electronic record enabling labels to be produced or envelopes to be addressed) for every name and address on the roll.
- (3) The address is to be one nominated by the employee. However, if none has been nominated by the employee, the address is to be one nominated by the chief executive officer as the address at which the employee is usually employed (or the address of the employee's headquarters in the case of an employee who has more than one usual place of employment).
- (4) The chief executive officer is to include in the roll a certificate signed by the officer to the effect that the roll complies with this clause.

Clause 21 Health Services Regulation 2003

Part 3 Elected staff members

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- (5) The returning officer is to allow an employee of the relevant public health organisation to inspect the roll without charge during the normal office hours of the returning officer.

#### **Division 4 Ballot**

##### **21 Type of ballot**

A ballot in an election is to be a postal ballot.

##### **22 Order of candidates on ballot-paper**

- (1) The returning officer is to determine the order of candidates on the ballot-papers for an election. That is to be done at the office of the returning officer at the time, and on the date, last fixed for the determination by notice of the election.
- (2) The persons who are entitled to be present at the determination are the candidates (or their agents), the returning officer and any staff to whom any functions of the returning officer have been delegated.
- (3) The determination is to be carried out in the following manner:
- (a) the returning officer must, in front of everyone present, make out in respect of each candidate a slip bearing the name under which the candidate has been nominated,
  - (b) the officer must then enclose the slips in separate identical containers, securely seal each container and deposit all the containers in a securely fastened ballot-box,
  - (c) the officer must then shake the ballot-box and turn it upside down several times, and allow anyone else present to do the same,
  - (d) the officer must then open the ballot-box and take out and open each container one by one,
  - (e) the officer must then announce to everyone present, and record, the name of the candidate whose name appears on the slip enclosed in the container first taken from the ballot-box and, in consecutive order, the name of the candidate whose name appears on the slip enclosed in the container next taken from the ballot-box, and so on until all the slips have been examined,
  - (f) the officer must sign the record and allow anyone else present to do the same.



Health Services Regulation 2003

Clause 23

Elected staff members

Part 3

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### **23 Form of ballot-paper**

- (1) The name of the candidate that was first taken from the ballot-box in the determination of the order of names is to be shown closest to the top of the ballot-papers. The name of the candidate next taken from the ballot-box is to be shown immediately below the name of the candidate first taken and so on.
- (2) The ballot-paper must contain:
  - (a) the names of the candidates with a small square opposite each name, and
  - (b) if, in the opinion of the returning officer, the names of 2 or more candidates are so similar as to cause confusion, such other matter as will, in the opinion of the returning officer, distinguish each of those candidates, and
  - (c) the directions required by this clause as to the manner in which a vote is to be recorded on the ballot-paper, and
  - (d) directions as to how the ballot-paper is to be returned to the returning officer.
- (3) The ballot-paper may contain such other directions as the returning officer considers appropriate.
- (4) The directions to electors must include directions to the effect that:
  - (a) the elector must record a vote for at least one candidate by placing the number "1" in the square opposite the name of the candidate for whom the elector wishes to give his or her first preference, and
  - (b) 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.

### **24 Distribution of ballot-papers**

- (1) The returning officer is to have the ballot-papers printed.
- (2) The returning officer must send to each elector a ballot-paper initialled by the returning officer.

Clause 25      Health Services Regulation 2003

Part 3          Elected staff members

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- (3) The returning officer must also send to each elector:
- (a) an unsealed declaration envelope addressed to the returning officer and bearing on the back the words "Name and address of elector" and "Signature of elector", together with appropriate spaces for the insertion of the name, address and signature, and
  - (b) a copy of the candidate information sheet.

## **25 Duplicates**

- (1) The returning officer may, at any time before the close of the ballot, send or deliver to an elector a new ballot-paper if the elector satisfies the returning officer by statutory declaration:
- (a) that the elector's previous ballot-paper in the election has been spoiled, lost or destroyed, and
  - (b) that the elector has not already voted at the election.
- (2) The returning officer must maintain a record of all ballot-papers sent or delivered to electors under this clause.
- (3) The returning officer may, at the request of an elector, send or deliver to the elector a duplicate of a declaration envelope or candidate information sheet.

## **26 Recording of vote**

- (1) An elector who wishes to vote is to:
- (a) record a vote on the ballot-paper sent or delivered to the elector, doing so in accordance with the directions shown on it, and
  - (b) place the completed ballot-paper in the declaration envelope, and
  - (c) seal the envelope, and
  - (d) state his or her full name and full address on the back of the envelope and sign it, and
  - (e) send or deliver the envelope (with its contents) to the returning officer so that it is received by the returning officer at or before the close of the ballot.
- (2) The declaration envelope may be sent or delivered to the returning officer inside a further envelope supplied by the elector.

Health Services Regulation 2003

Clause 27

Elected staff members

Part 3

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## **Division 5      Scrutiny**

### **27      Ascertaining result of ballot**

The result of the ballot is to be ascertained by the returning officer as soon as practicable after the close of the ballot.

### **28      Examination of envelopes**

- (1) The returning officer must reject any declaration envelope that the officer receives after the close of the ballot or that is unsealed.
- (2) The returning officer must examine the name on the back of a declaration envelope not rejected under subclause (1), and:
  - (a) if satisfied that a person of that name is an elector, must accept the envelope without opening it, or
  - (b) if not so satisfied, or if a name, address or signature does not appear on the back of the envelope, must reject the envelope.
- (3) If it appears to the returning officer that the signature on the back of a declaration envelope is not the signature of the person whose name and address are there, the returning officer may make such inquiries as the returning officer thinks fit.
- (4) If, after making those inquiries, the returning officer is satisfied that the signature is not the signature of that person, the officer must reject the envelope.
- (5) If a declaration envelope is to be rejected, its contents must also be rejected and the returning officer must not open it.

### **29      Scrutineers**

- (1) Each candidate is entitled to appoint a scrutineer to represent the candidate in respect of a ballot. The appointment is to be by notice in writing sent or delivered to the returning officer.
- (2) A scrutineer is entitled to be present at any proceeding in the election (for which the person who appointed the scrutineer is a candidate) from the opening of the unrejected declaration envelopes to the final sealing, endorsement and signing of the parcels of papers used in the election.

### **30      Scrutiny and count of votes**

The returning officer is to take the following steps after examining the declaration envelopes:

Clause 31 Health Services Regulation 2003

Part 3 Elected staff members

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- (a) produce the unrejected declaration envelopes, open each one and take out any ballot-paper inside,
- (b) place the ballot-papers and envelopes in separate piles or containers,
- (c) examine each ballot-paper and reject it if it is informal,
- (d) count the votes on the formal ballot-papers, and ascertain the result of the election, in accordance with Schedule 1,
- (e) declare the result of the election.

### **31 Formality**

- (1) An elector's ballot-paper is informal if:
  - (a) it has not been completed in accordance with the directions on it for the showing of preferences, or
  - (b) it has not been initialled by the returning officer, or
  - (c) it contains a mark or writing that, in the returning officer's opinion, would enable the elector to be identified.
- (2) However, a ballot-paper is not informal just because of the existence of marks or writing on the paper that are not in accordance with the directions for its completion if, in the opinion of the returning officer, the elector's intention is clearly indicated on the ballot-paper.
- (3) A ballot-paper that shows at least one preference is not informal just because a second or later preference has been repeated or omitted. However, a repeated preference cannot be counted and any preference after the repeated preference or after an omission cannot be counted.
- (4) If there are only 2 candidates, a tick or a cross in one square on a ballot-paper is to be treated as if it were the number "1" as long as the other square is blank.

### **32 Notification of result of election**

- (1) The returning officer is to give written notice of the result of an election to:
  - (a) the Minister, and
  - (b) the chief executive officer of the relevant public health organisation.

Health Services Regulation 2003

Clause 33

Elected staff members

Part 3

- 
- (2) The returning officer is to publish notice of the result of the election in the Gazette.

## **Division 6      General**

### **33    Voting not compulsory**

Voting is not compulsory.

### **34    Death of candidate**

If a candidate for election dies after the close of nominations and before the close of the ballot, the election fails.

**Note.** Clause 2 (8) of Schedule 5 to the Act provides that the Minister may appoint a person if an election fails.

### **35    Validity of election**

An election is not invalid just because there was a formal defect or error in or relating to the election, if the election was held substantially in accordance with this Regulation.

### **36    Security of election materials**

- (1) After the result of an election has been declared, the returning officer is to make a parcel of the papers used in the election. If, however, there was a ballot, the officer is to make two parcels: one parcel containing the marked and unmarked ballot-papers, together with the copies of the roll that were actually used, and the other parcel containing the other papers used in the election.
- (2) The returning officer is to seal, endorse and sign each parcel, and to allow any scrutineers, candidates, or agents of candidates, who are present to do the same to each parcel.
- (3) The Electoral Commissioner is to have each parcel kept securely for 12 months, and then have it destroyed.

### **37    Offences**

- (1) A person must not vote or attempt to vote more than once in the same capacity in an election.
- (2) A person must not vote or attempt to vote in an election in which the person is not entitled to vote.

Clause 37 Health Services Regulation 2003

Part 3 Elected staff members

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- (3) A person must not, in relation to an election, make a statement that the person knows is false or misleading in a material particular to, or in a document sent or delivered to, the returning officer or any other person exercising functions under this Regulation.

Maximum penalty: 5 penalty units.

Health Services Regulation 2003

Clause 38

Miscellaneous

Part 4

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## Part 4 Miscellaneous

### 38 Samaritan Funds

- (1) The Samaritan Fund of a public health organisation is to be kept as a separate account in its Special Purposes and Trust Fund.
- (2) The Minister may determine the manner in which the accounts for a Samaritan Fund are to be kept and the circumstances in which those accounts are to be audited.
- (3) Money is not to be withdrawn from the Samaritan Fund of a public health organisation except by, or with the written approval of, the chief executive officer (or person authorised in writing by the chief executive officer) of the public health organisation.
- (4) Money is not to be withdrawn from the Samaritan Fund of a public health organisation except for payment to, or for the purchase of items for, a necessitous patient or necessitous outgoing patient. The payment or purchase may be made only if it is essential to the well-being of the patient.
- (5) In this clause:

*Samaritan Fund* of a public health organisation means the Samaritan Fund of the organisation referred to in section 133 (2) of the Act.

*Special Purposes and Trust Fund*, in relation to a public health organisation, means the fund of that name established by the public health organisation.

### 39 Savings

Any act, matter or thing that, immediately before the repeal of the *Health Services Regulation 1998*, had effect under (or was done for the purposes of) that Regulation continues to have effect under (or is taken to have been done for the purposes of) this Regulation.

Health Services Regulation 2003

Schedule 1 Counting of votes

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## Schedule 1 Counting of votes

(Clause 30 (d))

### 1 Definitions

In this Schedule:

*absolute majority of votes* means a number greater than one-half of the total number of ballot-papers other than informal and exhausted ballot-papers.

*continuing candidate* means a candidate not already elected or excluded from the count.

*exhausted ballot-paper* is defined in clause 3 (2) of this Schedule.

*unrejected ballot-papers* means all ballot-papers not rejected as informal.

### 2 Counting and distributing

If only one candidate is to be elected, the votes are to be counted and the result of the election ascertained by the returning officer, or under the officer's supervision, as follows:

- (a) The unrejected ballot-papers are arranged under the names of the candidates by placing in a separate parcel all those on which a first preference is indicated for the same candidate.
- (b) The total number of first preferences given for each candidate is then counted.
- (c) The candidate who has received the largest number of first preference votes is declared elected if that number constitutes an absolute majority of votes.
- (d) If no candidate has received an absolute majority of first preference votes, a second count is made.
- (e) On the second count the candidate who has received the fewest first preference votes is excluded, and each unexhausted ballot-paper counted to that candidate is counted to the candidate next in the order of the elector's preference.
- (f) If a candidate then has an absolute majority of votes, the candidate is declared elected, but if no candidate then has an absolute majority of votes, the process of excluding the candidate who has the fewest votes and counting each of that candidate's unexhausted ballot-papers to the continuing



Health Services Regulation 2003

Counting of votes

Schedule 1

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candidate next in the order of the elector's preference is repeated until one candidate has received an absolute majority of votes.

- (g) The candidate who has received an absolute majority of votes is declared elected.

### 3 Exhausted ballot-papers

- (1) In the process of counting under clause 2 of this Schedule, exhausted ballot-papers are set aside as finally dealt with and are not then taken into account.
- (2) When a candidate is excluded, each ballot-paper counted to him or her is regarded as exhausted if there is not indicated upon it a next preference for one continuing candidate.
- (3) In this clause, *next preference* includes the first of the subsequent preferences marked on a ballot-paper which is not given to an excluded candidate. However, if there is a repetition or omission in the consecutive numbering of preferences marked on a ballot-paper (other than a repetition or omission which makes the ballot-paper informal), only those preferences preceding the repetition or omission can be taken into account.

### 4 Equality

- (1) If, on any count at which the candidate with the fewest votes has to be excluded, 2 or more candidates have equal numbers of votes (and that number is lower than the number of votes that any other candidate has, or those candidates are the only continuing candidates):
  - (a) the candidate who had the fewest votes at the last count before the equality occurred is excluded, or
  - (b) if they had equal numbers of votes at all preceding counts, the candidate whose name is on a slip drawn in accordance with subclause (2) is excluded.
- (2) For the purposes of subclause (1) (b), the returning officer writes the names of the candidates who have equal numbers of votes on similar slips of paper. The returning officer then folds the slips so as to prevent the names being seen, mixes them, and draws one slip at random.

Health Services Regulation 2003

Schedule 1      Counting of votes

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## **5 End of counting**

The process of counting each of the unexhausted ballot-papers of an excluded candidate to the continuing candidate next in the order of the elector's preference is not repeated if there is only one continuing candidate. Instead, that continuing candidate is declared elected.



## Impounding Regulation 2003

under the

Impounding Act 1993

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Impounding Act 1993*.

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

### Explanatory note

The object of this Regulation is to remake, with only minor changes of substance, the provisions of the *Impounding (General) Regulation 1998*. That Regulation will be repealed on 1 September 2003 by section 10 (2) of the *Subordinate Legislation Act 1989*. Both Regulations do the following:

- (a) they prescribe certain authorities as impounding authorities for the purposes of the *Impounding Act 1993*,
- (b) they prescribe certain offences as penalty notice offences for the purposes of that Act.

The minor changes are the following:

- (a) the substitution of references to the Sydney Olympic Park Authority and land vested in that Authority for references to the Bicentennial Park Trust and land vested in that Trust (since the Authority has replaced the Trust),
- (b) the omission of short descriptions of certain offences (since section 145B of the *Justices Act 1902*, which authorised the prescription of short descriptions, has been repealed).

This Regulation is made under the *Impounding Act 1993*, including sections 36 (Penalty notices) and 51 (the general regulation-making power).

This Regulation comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*—namely, matters of a machinery nature.

Impounding Regulation 2003

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Impounding Regulation 2003

Clause 1

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## Impounding Regulation 2003

under the

Impounding Act 1993

### 1 Name of Regulation

This Regulation is the *Impounding Regulation 2003*.

### 2 Commencement

This Regulation commences on 1 September 2003.

**Note.** This Regulation replaces the *Impounding (General) Regulation 1998* which is repealed on 1 September 2003 by section 10 (2) of the *Subordinate Legislation Act 1989*.

### 3 Definition

In this Regulation:

*the Act* means the *Impounding Act 1993*.

### 4 Notes

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

### 5 Impounding authorities

For the purposes of the definition of *impounding authority* in the Dictionary to the Act, each authority specified in the Table to this clause is prescribed as an impounding authority for the place or classes of places so specified in relation to the authority.

Clause 6 Impounding Regulation 2003

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**Table**

<b>Authority</b>	<b>Place or classes of place</b>
Parramatta Park Trust	All land vested in the Trust
Parramatta Stadium Trust	All land vested in the Trust
Royal Botanic Gardens and Domain Trust	All land vested in the Trust
State Sports Centre Trust	All land vested in the Trust
State Transit Authority	All places in NSW that are under the control of the Authority
Sydney Olympic Park Authority	All land vested in the Authority

**6 Penalty notice offences: section 36**

For the purposes of section 36 of the Act:

- (a) each offence created by a provision specified in Column 1 of Schedule 1 is a prescribed offence, and
- (b) the prescribed penalty for such an offence is the amount specified in Column 2 of Schedule 1.

**7 Saving**

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

Impounding Regulation 2003

Penalty notice offences

Schedule 1

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## Schedule 1 Penalty notice offences

(Clause 6)

Column 1	Column 2
Section 32 (1) (article not being a motor vehicle)	\$110.00
Section 32 (1) (article being a motor vehicle)	\$220.00
Section 32 (2)	\$220.00



## Liquor Amendment (Sunday Trading Special Rugby Events) Regulation 2003

under the

Liquor Act 1982

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Liquor Act 1982*.

GRANT McBRIDE, M.P.,  
Minister for Gaming and Racing

### Explanatory note

The object of this Regulation is to prescribe certain dates for the purposes of section 24B of the *Liquor Act 1982*. That section provides that hotels may be kept open after 10 pm until midnight on a Sunday that is such a prescribed date but only when liquor is sold or supplied for consumption on the licensed premises. The dates prescribed relate to the NRL grand final and Rugby World Cup 2003. This Regulation also makes amendments in the nature of law revision to remove past prescribed dates.

This Regulation is made under the *Liquor Act 1982*, including section 24B and section 156 (the general regulation-making power).



Clause 1           Liquor Amendment (Sunday Trading Special Rugby Events) Regulation  
2003

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## **Liquor Amendment (Sunday Trading Special Rugby Events) Regulation 2003**

under the

Liquor Act 1982

### **1 Name of Regulation**

This Regulation is the *Liquor Amendment (Sunday Trading Special Rugby Events) Regulation 2003*.

### **2 Amendment of Liquor Regulation 1996**

The *Liquor Regulation 1996* is amended as set out in Schedule 1.

Liquor Amendment (Sunday Trading Special Rugby Events) Regulation  
2003

Amendment

Schedule 1

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## Schedule 1 Amendment

(Clause 2)

### Clause 83A

Omit the clause. Insert instead:

#### **83A Dates prescribed for special events Sunday hotel trading**

The following dates are prescribed for the purposes of section  
24B of the Act:

Sunday 5 October 2003.

Sunday 12 October 2003.

Sunday 19 October 2003.

Sunday 26 October 2003.

Sunday 2 November 2003.

Sunday 9 November 2003.

Sunday 16 November 2003.



# Medical Practice Regulation 2003

under the

Medical Practice Act 1992

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Medical Practice Act 1992*.

MORRIS IEMMA, M.P.,  
Minister for Health

## Explanatory note

The object of this Regulation is to remake the provisions of the *Medical Practice Regulation 1998*. The *Medical Practice Regulation 1998* is due to be repealed on 1 September 2003 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation prescribes certain matters under the *Medical Practice Act 1992* for the purposes of the administration of that Act. In particular, this Regulation:

- (a) specifies the infection control standards that registered medical practitioners must comply with, and
- (b) specifies requirements for the making and keeping of records by registered medical practitioners and medical corporations, and
- (c) provides for restrictions on the advertising of medical services, and
- (d) specifies the persons who are required to give notice to the Registrar of the New South Wales Medical Board (the **Board**) of the mental incapacity of a registered medical practitioner, the time within which such notice is to be given and the contents of that notice, and
- (e) specifies the offences that are excluded from the requirements of section 71 of the Act (that section requires a court to notify the Registrar of the Board if a registered medical practitioner is convicted of an offence), and
- (f) prescribes fees for inspecting, and having additional information recorded in, the Register of Medical Practitioners that is kept by the Board.

Medical Practice Regulation 2003

Explanatory note

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This Regulation contains a number of changes to the infection control standards that registered medical practitioners must comply with, particularly in relation to hand and skin cleaning, the wearing of masks, the use of vials and ampoules containing medications or solutions, anaesthetic apparatus and the sterilisation of instruments and equipment.

This Regulation is made under the *Medical Practice Act 1992*, including section 194 (the general regulation-making power) and sections 70, 71 (1), 114 and 126 (1) of the Act and clauses 21 (4) and 22 (2) of Schedule 1 and clause 10 of Schedule 4 to the Act.

Medical Practice Regulation 2003

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Clause 1            Medical Practice Regulation 2003

Part 1             Preliminary

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## Medical Practice Regulation 2003

under the

Medical Practice Act 1992

### Part 1            Preliminary

#### 1    Name of Regulation

This Regulation is the *Medical Practice Regulation 2003*.

#### 2    Commencement

This Regulation commences on 1 September 2003.

**Note.** This Regulation replaces the *Medical Practice Regulation 1998* which is repealed on 1 September 2003 by section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3    Definitions

(1) In this Regulation:

***medical corporation*** means a corporation engaged in the provision of medical services.

***patient*** means a person to whom medical treatment or other medical services are provided.

***record*** means a record required to be made and kept under Part 3.

***the Act*** means the *Medical Practice Act 1992*.

(2) In this Regulation, a reference to a registered medical practitioner who provides medical treatment or other medical services to a patient includes a reference to a registered medical practitioner who does so on behalf of a medical corporation.

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

Medical Practice Regulation 2003

Clause 4

Infection control standards

Part 2

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## **Part 2      Infection control standards**

### **4      Infection control standards**

- (1) A registered medical practitioner must not, without reasonable excuse, fail to comply with the infection control standards set out in Schedule 1 to the extent that they apply to the medical practitioner in the practice of medicine.
- (2) In determining whether or not a registered medical practitioner has a reasonable excuse for failing to comply with a standard, particular consideration is to be given to the following:
  - (a) whether the circumstances involved the provision of emergency treatment,
  - (b) whether the medical practitioner's employer failed to provide the necessary equipment, including providing access to it and training in its use, that would have enabled the medical practitioner to comply with the standard (and whether the failure to provide such equipment was reported by the medical practitioner to the Director-General of the Department of Health).

Clause 5 Medical Practice Regulation 2003

Part 3 Records

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## Part 3 Records

### 5 Records relating to patients

- (1) A registered medical practitioner or medical corporation engaged in the provision of medical services must, in accordance with this Part and Schedule 2, make and keep a record, or ensure that a record is made and kept, for each patient of the medical practitioner or corporation.
- (2) This clause does not affect section 127 (4) of the Act.
- (3) For avoidance of doubt, contravention of this clause is not an offence.
- (4) Subclause (1) does not apply to the following:
  - (a) a public health organisation within the meaning of the *Health Services Act 1997*,
  - (b) a private hospital,
  - (c) a day procedure centre,
  - (d) a nursing home within the meaning of the *Nursing Homes Act 1988*.
- (5) Subclause (4) does not:
  - (a) affect the application of subclause (1) to a registered medical practitioner appointed, employed, contracted or otherwise engaged by a medical corporation referred to in subclause (4), or
  - (b) affect the operation of section 126 (2) of the Act in relation to a record made under this clause before 18 May 2001.

**Note.** Although contravention of this clause is not an offence, section 36 of the Act provides that any contravention of the regulations by a registered medical practitioner is unsatisfactory professional conduct.

In the case of a corporation that is engaged in the provision of medical services, section 127 of the Act requires the corporation to appoint a registered medical practitioner to be responsible for record keeping by the corporation. If the corporation contravenes the record keeping requirements imposed by the regulations, the person so appointed is taken to have contravened the regulations.

Section 126 (2) of the Act requires a person who makes or keeps a record under the regulations to ensure that when the record is disposed of it is disposed of in such a manner as to preserve its confidentiality. Contravention of that provision is an offence.

The significance of the reference to 18 May 2001 in subclause (5) is that this is the date on which the exemption provided for in subclause (4) commenced under the former *Medical Practice Regulation 1998*.



Medical Practice Regulation 2003

Clause 6

Records

Part 3

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**6 When records are to be made**

- (1) A record must be made contemporaneously with the provision of the medical treatment or other medical service or as soon as practicable afterwards.
- (2) This clause may be complied with by the making of further entries in a single record that relates to the patient concerned.

**7 How long records are to be kept**

- (1) A record must be kept for at least 7 years from the date of last entry in the record, unless the patient was less than 18 years old at the date of last entry in the record.
- (2) If the patient was less than 18 years old at the date of last entry in the record, the record must be kept until the patient attains or would have attained the age of 25 years.

- (3) In this clause:

*date of last entry in a record* means the date the patient concerned was last provided with medical treatment or other medical services by the registered medical practitioner or medical corporation who provided that treatment or those services.

**8 Disposal of medical practice**

- (1) If a registered medical practitioner or medical corporation disposes of a medical practice, the outgoing practitioner is taken to have complied with clause 7 if the outgoing practitioner makes reasonable efforts to ensure that the records are kept in accordance with that clause.

- (2) In this clause:

*outgoing practitioner* means the registered medical practitioner or medical corporation disposing of a practice.

*reasonable efforts* include the following:

- (a) providing the records to the registered medical practitioner or medical corporation that acquires the outgoing practitioner's medical practice,
- (b) providing the records to the patient to whom they relate.

Clause 9      Medical Practice Regulation 2003

Part 3        Records

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**9 Storage**

- (1) All reasonable steps must be taken to ensure that all records are kept in such a manner as to preserve the confidentiality of the information that is contained in them and to prevent them from being damaged, lost or stolen.
- (2) Despite subclause (1), a record must be reasonably accessible for the purpose of treating the patient to whom it relates.

Medical Practice Regulation 2003

Clause 10

Advertising of medical services

Part 4

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## Part 4 Advertising of medical services

### 10 Advertising

For the purposes of section 114 of the Act, a person (including a corporation) may advertise medical services in any manner except in a manner that:

- (a) is false, misleading or deceptive, or
- (b) creates an unjustified expectation of beneficial treatment, or
- (c) promotes the unnecessary or inappropriate use of medical services.

**Note.** Section 114 of the Act makes it an offence for a person (including a corporation) to advertise medical services except in accordance with the regulations.

Clause 11	Medical Practice Regulation 2003
Part 5	Duty to refer certain information about registered medical practitioners to Registrar

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## **Part 5      Duty to refer certain information about registered medical practitioners to Registrar**

### **11      Notice of mental incapacity of registered medical practitioner**

- (1) For the purposes of section 70 of the Act, the person required to cause notice of mental incapacity to be given to the Registrar is:
  - (a) in the case of a registered medical practitioner who is a mentally incapacitated person and becomes a patient at an institution because of that incapacity—the medical superintendent of the institution, or
  - (b) in the case of a registered medical practitioner who is a protected person under the *Protected Estates Act 1983*—the Protective Commissioner.
- (2) Notice for the purposes of section 70 of the Act is to be given by telephone by the next business day, and by post within the next 7 business days, after the day on which the registered medical practitioner is admitted to the institution or becomes a protected person, and is to specify the following:
  - (a) the name and residential address of the medical practitioner,
  - (b) the date on which the medical practitioner:
    - (i) was admitted to the institution at which the medical practitioner is a patient, or
    - (ii) became a protected person.
- (3) In this clause, **business day** means any day other than a Saturday, a Sunday or a public holiday throughout New South Wales.

### **12      Excluded offences (offences for which notice of conviction or criminal finding not required)**

- (1) All the offences under the road transport legislation (within the meaning of the *Road Transport (General) Act 1999*) are prescribed offences for the purposes of section 71 of the Act, except for the following offences:
  - (a) any offence under section 9 of the *Road Transport (Safety and Traffic Management) Act 1999* (which relates to presence of prescribed concentration of alcohol in person's blood),
  - (b) any offence under section 12 (1) of the *Road Transport (Safety and Traffic Management) Act 1999* (which relates to the use or attempted use of a motor vehicle while under the influence of alcohol or any other drug),

Medical Practice Regulation 2003

Clause 12

Duty to refer certain information about registered medical practitioners to Registrar

Part 5

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- (c) any offence under section 42 (1) of the *Road Transport (Safety and Traffic Management) Act 1999* (which relates to driving a motor vehicle on a road or road related area negligently) if the registered medical practitioner is, by way of penalty, sentenced to imprisonment or fined a sum of \$200 or more,
- (d) any offence under section 42 (2) of the *Road Transport (Safety and Traffic Management) Act 1999* (which relates to driving a motor vehicle on a road or road related area furiously, recklessly or at a speed or in a manner which is dangerous to the public),
- (e) any offence under section 43 of the *Road Transport (Safety and Traffic Management) Act 1999* (which relates to menacing driving),
- (f) any offence under section 70 of the *Road Transport (Safety and Traffic Management) Act 1999* (which relates to failing to stop and give assistance after an accident),
- (g) any offence under section 19 (2) of the *Road Transport (General) Act 1999* (which relates to refusing to produce a driver licence, or to state correct name or home address, when required),
- (h) any offence under section 25A (1), (2) or (3) of the *Road Transport (Driver Licensing) Act 1998* (which relates to driving while unlicensed),
- (i) any other offence under the road transport legislation if the court orders the disqualification of the medical practitioner from holding a driver licence.
- (2) All offences relating to the parking of motor vehicles are prescribed offences for the purposes of section 71 of the Act.

**Note.** An offence prescribed by this clause is an **excluded offence** for the purposes of the Act. A conviction or criminal finding for an offence listed in this clause (apart from the offences listed in paragraphs (a)–(i) of subclause (1)) is not required to be notified to the Registrar or to the Board under the provisions of the Act that require convictions and criminal findings made against medical practitioners to be so notified (see sections 71, 127A and 127B of the Act and clause 3A of Schedule 1 to the Act).

Clause 13      Medical Practice Regulation 2003

Part 6          Miscellaneous

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## **Part 6      Miscellaneous**

### **13    Fee for inspection of Register**

For the purposes of clause 21 (4) of Schedule 1 to the Act, the prescribed amount (being the maximum fee for an inspection of the Register) is \$10.

### **14    Fee for additional information to be recorded in Register**

For the purposes of clause 22 (2) of Schedule 1 to the Act, the prescribed fee (being the fee for recording additional particulars in the Register) is \$20.

### **15    Saving**

Any act, matter or thing that, immediately before the repeal of the *Medical Practice Regulation 1998*, had effect under that Regulation continues to have effect under this Regulation.

Medical Practice Regulation 2003

Infection control standards

Schedule 1

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## Schedule 1 Infection control standards

(Clause 4)

### Part 1 Preliminary

#### 1 Definitions

- (1) In this Schedule:

*body substance* includes any human bodily secretion or substance other than blood.

*invasive procedure* means any one or more of the following:

- (a) surgical entry into body tissue, cavities or organs,
- (b) surgical repair of injuries,
- (c) cardiac catheterisation and angiographic procedures,
- (d) vaginal or caesarean delivery or any other obstetric procedure during which bleeding may occur,
- (e) the manipulation, cutting, or removal of any oral or peri-oral tissue, including tooth structure, during which bleeding may occur.

*patient* includes a person who is accessing medical or health services or who is undergoing any medical or health procedure.

*sharps* means any object capable of inflicting penetrating injury, and includes hollow bore needles, suture needles, scalpel blades, wires, trocars, auto lancets, stitch cutters and broken glassware.

- (2) The requirements set out in this Schedule apply to a registered medical practitioner who is assisting in performing a procedure in the same way as they apply to a registered medical practitioner who is actually performing the procedure.

### Part 2 General standards applying to registered medical practitioners

#### 2 General precautions and aseptic techniques

- (1) Precautions must be taken to avoid direct exposure to a patient's blood or other body substance. This requirement applies regardless of whether there is any perceived risk of infection.

## Medical Practice Regulation 2003

Schedule 1 Infection control standards

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- (2) Aseptic techniques must be used in the course of complying with the requirements of this Schedule.

**3 Hand and skin cleaning**

- (1) Hands must be cleaned:
- (a) immediately before and after any direct patient care, and
  - (b) immediately after handling blood or other body substances.
- (2) Subclause (1) does not apply in circumstances where medical treatment is required to be performed urgently and cleaning facilities are not readily available.
- (3) Hands may be cleaned by:
- (a) using washing facilities involving water and a soap or antiseptic, or
  - (b) if any of the items specified in paragraph (a) are unavailable, using non-water cleansers or antiseptics.
- (4) Hands or other skin surfaces that are contaminated with a patient's blood or other body substance must be cleaned as soon as it is practicable to clean them.
- (5) The requirement to clean hands applies regardless of whether gloves are also required to be worn.

**4 Protective gowns and aprons**

A gown or apron made of impervious material must be worn during any procedure where there is a likelihood of clothing being splashed or contaminated with blood or other body substances.

**5 Gloves**

- (1) Gloves must be worn while handling blood or other body substances.
- (2) In particular, gloves must be worn:
- (a) during any procedure where direct contact is anticipated with a patient's blood or other body substance, mucous membranes or non-intact skin, and
  - (b) while suctioning a patient, and
  - (c) while handling items or surfaces that have come into contact with blood or other body substances, and



Medical Practice Regulation 2003

Infection control standards

Schedule 1

- 
- (d) while performing an invasive procedure, venipuncture or a finger or heel stick.
  - (3) Sterile gloves must be worn if the procedure involves contact with tissue that would be sterile under normal circumstances.
  - (4) Gloves must be discarded:
    - (a) as soon as they are torn or punctured, and
    - (b) after contact with each patient.
  - (5) Nothing in subclause (4) affects the operation of subclauses (1)–(3).
  - (6) Gloves must be changed if separate procedures are being performed on the same patient and there is a risk of infection from one part of the body to another.

## **6 Masks and protective eye wear**

- (1) A fluid repellent mask and protective eye wear must be worn while performing any procedure where there is a likelihood of splashing or splattering of blood or other body substances.
- (2) A mask must be worn when in close contact with patients known by the registered medical practitioner to have an infectious disease (or suspected by the medical practitioner of having such a disease) if the disease is capable of being transmitted by the airborne or droplet route. If the disease is tuberculosis, the mask must be a particulate mask that is capable of filtering to 0.3µm.
- (3) In cases where a mask is required to be worn, it must be worn and fitted in accordance with the manufacturer's instructions.
- (4) A mask must be discarded once it has been worn and it must not be used again.
- (5) In cases where protective eye wear is required to be worn, it must be worn and fitted in accordance with the manufacturer's instructions.
- (6) Protective eye wear must be discarded once it has been worn and not used again unless it is reusable (in which case it is to be cleaned in accordance with the manufacturer's instructions).

## **7 Sharps**

- (1) Sharps must not be passed by hand between a registered medical practitioner and any other person. However, this requirement does not apply if, in any case involving an invasive procedure, the proper conduct of the procedure would be adversely affected.

## Medical Practice Regulation 2003

## Schedule 1 Infection control standards

- 
- (2) A puncture resistant tray must be used to transfer sharps.
  - (3) A needle must not be removed from a disposable syringe for disposal, or be purposely broken or otherwise manipulated by hand, unless:
    - (a) it is necessary to remove the needle for technical reasons, or
    - (b) the medical practitioner is performing a procedure in which the needle is required to be bent.
  - (4) A needle must not be bent after it is contaminated with blood or other body substances.
  - (5) In any case where resheathing of a needle is required:
    - (a) the needle must be properly recapped, and
    - (b) the sheath must not be held in the fingers, and
    - (c) either a single handed technique or forceps, or a suitable protective guard designed for the purpose, must be used.
  - (6) Reusable sharps must, immediately after being used, be placed in a puncture resistant container specially kept for that purpose and labelled as such.
  - (7) Non-reusable sharps must, immediately after being used, be disposed of in a puncture resistant container.

**8 Management of waste**

- (1) Clinical waste must be properly packaged to protect against potential exposure to infectious agents and to facilitate the proper handling, storage and treatment or disposal of the waste.
- (2) Splashing or contamination of skin while disposing of blood or other body substances must be avoided as far as practicable.
- (3) Nothing in this clause limits any other requirement under this Part.

**Part 3 Specific standards applying to medical practitioners****9 Sterile medications and solutions**

- (1) A sterile needle and syringe must be used to withdraw any medication or solution from a vial or ampoule (or other similar container).
- (2) The needle and syringe must be discarded once the needle and syringe have been used.

Medical Practice Regulation 2003

Infection control standards

Schedule 1

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- (3) A medication or solution may be taken from a multi-dose vial or ampoule (or other similar container) only if the medication or solution is not reasonably available in another form.
  - (4) Precautions must be taken to ensure that contaminated material or fluid is not injected into a multi-dose vial or ampoule (or other similar container).

#### **10 Anaesthetic apparatus**

- (1) This clause applies in any case where anaesthetic apparatus is used.
- (2) Any anaesthetic apparatus that comes into contact with a patient or is contaminated with blood or other body substances must be discarded, or cleaned and disinfected, after each patient.
- (3) If the anaesthetic apparatus is a breathing circuit and the breathing circuit uses a filter:
  - (a) the filter must be discarded after each patient, and
  - (b) the part of the breathing circuit between the patient and the filter must be discarded, or cleaned and disinfected, after each patient, and
  - (c) in any case where a carbon dioxide absorber is also used—the part of the breathing circuit between the carbon dioxide absorber and the filter must be discarded, or cleaned and disinfected, at the end of each procedure list or operation list (as applicable), and
  - (d) in those cases where a carbon dioxide absorber is not used—the breathing circuit tubing that conducts the gas to and from the filter must be discarded, or cleaned and disinfected, at the end of each procedure list or operation list (as applicable).

#### **11 Invasive procedures**

- (1) In cases where it is technically feasible, retractors must be used for exposure and access during an invasive procedure.
- (2) Fingers must not be used for the purposes of an invasive procedure to expose or increase access for the passage of a suture.
- (3) Only one sharp at a time is to be placed in a puncture resistant tray that is being used in connection with an invasive procedure.
- (4) Forceps or a needle holder must be used when carrying out suturing both to pick up the suture needle and to draw it through tissue.

Medical Practice Regulation 2003

Schedule 1 Infection control standards

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## Part 4 Processing of instruments and equipment

### 12 Interpretation

In this Part:

*AS/NZS 4187* means AS/NZS 4187:2003, *Cleaning, disinfecting and sterilizing reusable medical and surgical instruments and equipment, and maintenance of associated environments in health care facilities.*

*AS/NZS 4815* means AS/NZS 4815:2001, *Office-based health care facilities not involved in complex patient procedures and processes—Cleaning, disinfecting and sterilizing reusable medical and surgical instruments and equipment, and maintenance of the associated environment.*

### 13 Cleaning of instruments and equipment

- (1) Any instrument or equipment that comes into contact with intact skin must be cleaned before it is used.
- (2) Any instrument or equipment that is required under this Part to be sterilised or disinfected must be cleaned before it is sterilised or disinfected.
- (3) The process of cleaning:
  - (a) must involve water and mechanical or physical action (such as washing machines) and a cleaning agent (with the cleaning agent being removed from instruments and equipment by rinsing), and
  - (b) must be consistent with AS/NZS 4187 or (in the case of an office-based practice) AS/NZS 4815.
- (4) In this clause *cleaning agent* means a detergent and includes proteolytic enzyme substances.

### 14 Disinfection of instruments and equipment

- (1) Any instrument or equipment that comes into contact with non-sterile tissue (other than intact skin) must, before it is used, be disinfected with a disinfectant specified in the Australian Register of Therapeutic Goods that is maintained under the *Therapeutic Goods Act 1989* of the Commonwealth, and the relevant manufacturer's instructions must be followed.

Medical Practice Regulation 2003

Infection control standards

Schedule 1

- 
- (2) The process of disinfection:
- (a) must involve either thermal methods or (if thermal methods are unsuitable) chemical methods, and
  - (b) must be consistent with AS/NZS 4187 or (in the case of an office-based practice) AS/NZS 4815.

**15 Sterilisation of instruments and equipment**

- (1) Any instrument or equipment used to enter, or that is capable of entering, tissue that would be sterile under normal circumstances, or the vascular system of a patient, must be sterilised before it is used.
- (2) The method of sterilisation must be:
  - (a) compatible with the particular type of instrument or equipment concerned, and
  - (b) consistent with AS/NZS 4187 or (in the case of an office-based practice) AS/NZS 4815.
- (3) If a steriliser is used (whether it is a benchtop or portable steriliser or a permanently plumbed or wired steriliser), the following criteria must be met:
  - (a) the relevant manufacturer's instructions must be followed,
  - (b) an ongoing monitoring program must be followed which reflects the requirements of Table 7.1 Calibration, Monitoring and Maintenance of Sterilizers of AS/NZS 4187 or (in the case of an office-based practice) Table 7.1 Sterilizer Tests and Test Frequencies of AS/NZS 4815.

Medical Practice Regulation 2003

Schedule 2 Records relating to patients

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## Schedule 2 Records relating to patients

(Clause 5)

### 1 Information to be included in record

- (1) A record must contain sufficient information to identify the patient to whom it relates.
- (2) A record must include:
  - (a) any information known to the registered medical practitioner who provides the medical treatment or other medical services to the patient that is relevant to his or her diagnosis or treatment (for example, information concerning the patient's medical history, the results of any physical examination of the patient, information obtained concerning the patient's mental state, the results of any tests performed on the patient and information concerning allergies or other factors that may require special consideration when treating the patient), and
  - (b) particulars of any clinical opinion reached by the registered medical practitioner, and
  - (c) any plan of treatment for the patient, and
  - (d) particulars of any medication prescribed for the patient.
- (3) The record must include notes as to information or advice given to the patient in relation to any medical treatment proposed by the registered medical practitioner who is treating the patient.
- (4) A record must include the following particulars of any medical treatment (including any medical or surgical procedure) that is given to or performed on the patient by the registered medical practitioner who is treating the patient:
  - (a) the date of the treatment,
  - (b) the nature of the treatment,
  - (c) the name of any person who gave or performed the treatment,
  - (d) the type of anaesthetic given to the patient (if any),
  - (e) the tissues (if any) sent to pathology,
  - (f) the results or findings made in relation to the treatment.
- (5) Any written consent given by a patient to any medical treatment (including any medical or surgical procedure) proposed by the registered medical practitioner who treats the patient must be kept as part of the record relating to that patient.

## Medical Practice Regulation 2003

Schedule 2 Records relating to patients

---

**2 General requirements as to content**

- (1) In general, the level of detail contained in a record must be appropriate to the patient's case and to the medical practice concerned.
- (2) A record must include sufficient information concerning the patient's case to allow another registered medical practitioner to continue management of the patient's case.
- (3) All entries in the record must be accurate statements of fact or statements of clinical judgment.

**3 Form of records**

- (1) Abbreviations and short hand expressions may be used in a record only if they are generally understood in the medical profession in the context of the patient's case or generally understood in the broader medical community.
- (2) Each entry in a record must be dated and must identify clearly the person who made the entry.
- (3) A record may be made and kept in the form of a computer database or other electronic form, but only if it is capable of being printed on paper.

**4 Alteration and correction of records**

A registered medical practitioner or medical corporation must not alter a record, or cause or permit another person to alter a record, in such a manner as to obliterate, obscure or render illegible information that is already contained in the record.

**5 Delegation**

If a person is provided with medical treatment or other medical services by a registered medical practitioner in a hospital, the function of making and keeping a record in respect of the patient may be delegated to a person other than the registered medical practitioner, but only if:

- (a) the record is made and kept in accordance with the rules and protocols of the hospital, and
- (b) the registered medical practitioner ensures that the record is made and kept in accordance with this Schedule.



New South Wales

## Landlord and Tenant (Rental Bonds) Regulation 2003

under the

Landlord and Tenant (Rental Bonds) Act 1977

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Landlord and Tenant (Rental Bonds) Act 1977*.

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

### Explanatory note

The object of this Regulation is to remake, with only minor changes of substance, the provisions of the *Landlord and Tenant (Rental Bonds) Regulation 1993*. That Regulation will be repealed on 1 September 2003 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation contains provisions with respect to the following:

- (a) the exemption from the provisions of the *Landlord and Tenant (Rental Bonds) Act 1977* (*the Act*) of rental bonds given in connection with short term leases of holiday houses,
- (b) the exemption of lessors from the operation of section 9 of the Act (which requires a rental bond to be in the form of money and limits the amount of money that may be demanded by way of a rental bond) in respect of the lessor's receipt of a *tenancy guarantee* (as defined in this Regulation),
- (c) the exemption of leases for furnished premises the rental of which is more than \$250 per week from the operation of section 9 (2) (b) of the Act (which limits the maximum bond for furnished premises to an amount equal to 6 weeks' rent),
- (d) the period within which a lessor or lessee must notify the Rental Bond Board of the commencement of proceedings in order to prevent the Board paying out a rental bond,



Landlord and Tenant (Rental Bonds) Regulation 2003

Explanatory note

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- (e) the rate of interest payable, and the period over which the interest is to be compounded, on a rental bond lodged with the Rental Bond Board,
- (f) the form of receipt to be given for the payment of a rental bond,
- (g) penalty notice offences,
- (h) formal matters (such as the date of commencement of this Regulation).

This Regulation is made under the *Landlord and Tenant (Rental Bonds) Act 1977*, including section 34 (the general regulation-making power) and the various other sections mentioned in the Regulation.

Landlord and Tenant (Rental Bonds) Regulation 2003

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Clause 1	Landlord and Tenant (Rental Bonds) Regulation 2003
Part 1	Preliminary

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## Landlord and Tenant (Rental Bonds) Regulation 2003

under the

Landlord and Tenant (Rental Bonds) Act 1977

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Landlord and Tenant (Rental Bonds) Regulation 2003*.

#### 2 Commencement

This Regulation commences on 1 September 2003.

**Note.** This Regulation replaces the *Landlord and Tenant (Rental Bonds) Regulation 1993* which is repealed on 1 September 2003 by section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3 Definitions

In this Regulation:

**Board** means the Rental Bond Board constituted under the Act.

**the Act** means the *Landlord and Tenant (Rental Bonds) Act 1977*.

#### 4 Notes

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

Landlord and Tenant (Rental Bonds) Regulation 2003

Clause 5

Exemptions and exclusions

Part 2

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## Part 2 Exemptions and exclusions

### 5 Short term leases of holiday premises

- (1) This clause applies to a lease of residential premises, where:
  - (a) the premises are ordinarily leased for holiday purposes only, and
  - (b) the lease is for a period of not more than 6 weeks, and
  - (c) the lessee is using, or intends to use, the premises for holiday purposes.
- (2) Any rental bond deposited or paid in respect of such a lease is exempt from the operation of all of the provisions of the Act.

### 6 Furnished premises let for more than \$250 per week

The provisions of section 9 (2) (b) of the Act do not apply to:

- (a) the demand of an amount of money that would, if deposited or paid, be a rental bond, or
- (b) the receipt of a rental bond,

in respect of a lease of furnished premises for which the weekly rental is \$250 or more.

### 7 Tenancy guarantee scheme

- (1) In this clause, *tenancy guarantee*, in relation to a lease, means an undertaking:
  - (a) given to a lessor by the Director-General of the Department of Housing, or by a person or body authorised in writing for the purposes of this clause by the Director-General, and
  - (b) that provides that, subject to specified conditions, the lessor will be indemnified up to a specified amount against loss or damage arising from any breach of the terms and conditions of the lease by a specified lessee.
- (2) A lessor is exempt from the provisions of section 9 of the Act in respect of the receipt of a tenancy guarantee.
- (3) In this clause, a reference to the *Director-General of the Department of Housing* includes a reference to the New South Wales Land and Housing Corporation and to the Department of Housing in a case where the Corporation is acting in the name of the Department.

Clause 8 Landlord and Tenant (Rental Bonds) Regulation 2003

Part 3 Miscellaneous

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## Part 3 Miscellaneous

### 8 Prescribed organisations (section 11)

- (1) The object of this clause is to identify those organisations that have a certain priority in relation to the payment of rental bonds held by the Board.
- (2) For the purposes of section 11 (1A) of the Act, the following are prescribed organisations:
  - (a) the Department of Housing,
  - (b) the New South Wales Land and Housing Corporation.

### 9 Payment out of rental bond (section 11)

- (1) The object of this clause is to fix the time within which a person must commence legal proceedings for recovery of a rental bond in the event that the Board serves notice of its intention to pay the rental bond to some other person.
- (2) For the purposes of section 11 (7) and (8) of the Act, the prescribed period is 14 days.

### 10 Interest payable on rental bonds (section 11A)

- (1) The object of this clause is to fix the rate at which interest is payable, and the period over which interest is to be compounded, on a rental bond that has been lodged with the Board.
- (2) For the purposes of section 11A (2) of the Act:
  - (a) the prescribed rate at which interest is payable on a rental bond is the rate payable (as at the last day of the month for which the interest is being calculated) by the Commonwealth Bank of Australia on a Streamline Account balance of \$1,000, and
  - (b) the interest payable on a rental bond is to be compounded on 30 June and 31 December in each year.

### 11 Receipts (section 12)

For the purposes of section 12 (2) of the Act, a receipt given by a lessor or lessor's agent must contain the following particulars:

- (a) the name of the lessee,
- (b) the address of the rented premises,

Landlord and Tenant (Rental Bonds) Regulation 2003

Clause 12

Miscellaneous

Part 3

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- (c) the amount of the rental bond,
- (d) the date of the receipt for the rental bond,
- (e) the signature of the lessor or agent.

## **12 Penalty notice offences**

For the purposes of section 15A of the Act:

- (a) each offence arising under a provision specified in Column 1 of Schedule 1 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 1.

## **13 Saving**

Any act, matter or thing that, immediately before the repeal of the *Landlord and Tenant (Rental Bonds) Regulation 1993*, had effect under that Regulation continues to have effect under this Regulation.

Landlord and Tenant (Rental Bonds) Regulation 2003

Schedule 1 Penalty notice offences

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## Schedule 1 Penalty notice offences

(Clause 12)

<b>Column 1</b>	<b>Column 2</b>
<b>Offence under Landlord and Tenant (Rental Bonds) Act 1977</b>	<b>Penalty</b>
Section 8 (2)	\$550
Section 12 (1)	\$220
Section 12 (2)	\$110



## Motor Accidents Compensation Amendment (APRA) Regulation 2003

under the

Motor Accidents Compensation Act 1999

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Motor Accidents Compensation Act 1999*.

JOHN DELLA BOSCA, M.L.C.,  
Minister for Commerce

### Explanatory note

The object of this Regulation is to amend the *Motor Accidents Compensation Regulation (No 2) 1999* so as to include the Australian Prudential Regulation Authority (APRA) as a prescribed authority to which protected information may be disclosed under the *Motor Accidents Compensation Act 1999*.

This Regulation is made under the *Motor Accidents Compensation Act 1999*, including sections 217 (2) (b) and 228 (the general regulation-making power).



Clause 1 Motor Accidents Compensation Amendment (APRA) Regulation 2003

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## **Motor Accidents Compensation Amendment (APRA) Regulation 2003**

under the

Motor Accidents Compensation Act 1999

### **1 Name of Regulation**

This Regulation is the *Motor Accidents Compensation Amendment (APRA) Regulation 2003*.

### **2 Amendment of Motor Accidents Compensation Regulation (No 2) 1999**

The *Motor Accidents Compensation Regulation (No 2) 1999* is amended as set out in Schedule 1.

Motor Accidents Compensation Amendment (APRA) Regulation 2003

Amendment

Schedule 1

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## **Schedule 1 Amendment**

(Clause 2)

### **Clause 16D**

Insert after clause 16C:

#### **16D Prescribed authority for access to protected information**

For the purposes of section 217 (2) (b) of the Act, the Australian Prudential Regulation Authority is a prescribed authority.



# Motor Vehicles Taxation Regulation 2003

under the

Motor Vehicles Taxation Act 1988

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Motor Vehicles Taxation Act 1988*.

CARL SCULLY, M.P.,  
Minister for Roads

## Explanatory note

The object of this Regulation is to remake, without substantial changes, the *Motor Vehicles Taxation Regulation 1998*. That Regulation will be repealed on 1 September 2003 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation provides for the amount of taxes paid under the *Motor Vehicles Taxation Act 1988* that may be refunded on surrender of registration to be calculated on the basis of the number of whole days of registration that are unexpired when the registration is cancelled.

This Regulation is made under the *Motor Vehicles Taxation Act 1988*, including sections 13 (b) and 23 (the general regulation-making power).

This Regulation comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*—namely, matters of a machinery nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

Clause 1 Motor Vehicles Taxation Regulation 2003

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## Motor Vehicles Taxation Regulation 2003

under the

Motor Vehicles Taxation Act 1988

### 1 Name of Regulation

This Regulation is the *Motor Vehicles Taxation Regulation 2003*.

### 2 Commencement

This Regulation commences on 1 September 2003.

**Note.** This Regulation replaces the *Motor Vehicles Taxation Regulation 1998* which is repealed on 1 September 2003 by section 10 (2) of the *Subordinate Legislation Act 1989*.

### 3 Definition

In this Regulation:

*the Act* means the *Motor Vehicles Taxation Act 1988*.

### 4 Notes

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

### 5 Calculation of refund of taxes on surrender of registration

(1) For the purposes of section 13 (b) of the Act, a refund of a tax imposed in respect of a vehicle under the Act is to be calculated in accordance with this clause.

(2) A refund is to be calculated using the following formula:

$$\left( \frac{\text{number of days} \times \text{tax}}{365} \right) - \text{fee}$$

where:

*fee* means any unpaid fee payable under the *Road Transport (Vehicle Registration) Act 1997* or under any regulation made under that Act (including any unpaid fee for the cancellation of the registration).

Motor Vehicles Taxation Regulation 2003

Clause 5

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*number of days* means the number of whole unexpired days of the registration period of the vehicle concerned on the date on which the Authority cancels the registration of the vehicle.

*tax* means the tax imposed in respect of the vehicle under the Act.

- (3) If an amount of refund determined in accordance with subclause (2) would comprise an amount that is not a whole number of dollars, the amount of refund is to be adjusted downwards to the next whole number of dollars.



New South Wales

## Noxious Weeds Regulation 2003

under the

Noxious Weeds Act 1993

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Noxious Weeds Act 1993*.

IAN MACDONALD, M.L.C.,  
Minister for Agriculture and Fisheries

### Explanatory note

The object of this Regulation is to remake the *Noxious Weeds Regulation 1993* without substantial alteration (apart from the omission of short descriptions of offences, since section 145B of the *Justices Act 1902*, which provided for the prescription of short descriptions, has been repealed). The *Noxious Weeds Regulation 1993* will be repealed on 1 September 2003 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation prescribes the following:

- (a) the manner in which certain agricultural machines that are brought into New South Wales from Queensland must be cleaned—clause 5 and Schedule 1,
- (b) the kind of traffic sign directing drivers of approaching vehicles to stop that inspectors may display on or near the boundary of a quarantine area (quarantine areas may be declared by the Minister under section 34A of the *Noxious Weeds Act 1993* (*the Act*))—clause 6 and Schedule 2,
- (c) the officers who may sign certificates of authority under the Act (a person must not exercise any power conferred by the Act to enter premises or do anything in or about any premises unless the person is in possession of such a certificate and produces it if required to do so by the occupier of the premises)—clause 7,
- (d) the offences under the Act in respect of which penalty notices (“on-the-spot” fines) may be issued—clause 8 and Schedule 3.

This Regulation also contains formal and savings provisions—clauses 1–4 and 9.

Noxious Weeds Regulation 2003

Explanatory note

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This Regulation is made under the *Noxious Weeds Act 1993*, including section 73 (the general regulation-making power) and the sections referred to in the Regulation.

Noxious Weeds Regulation 2003

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Clause 1            Noxious Weeds Regulation 2003

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## **Noxious Weeds Regulation 2003**

under the

Noxious Weeds Act 1993

### **1 Name of Regulation**

This Regulation is the *Noxious Weeds Regulation 2003*.

### **2 Commencement**

This Regulation commences on 1 September 2003.

**Note.** This Regulation replaces the *Noxious Weeds Regulation 1993* which is repealed on 1 September 2003 by section 10 (2) of the *Subordinate Legislation Act 1989*.

### **3 Definition**

In this Regulation:

*the Act* means the *Noxious Weeds Act 1993*.

### **4 Notes**

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

### **5 Cleaning of agricultural machines: section 31**

For the purposes of section 31 of the Act, an agricultural machine to which that section applies is cleaned as required by the regulations if it is cleaned in accordance with Schedule 1.

### **6 Prescribed type of traffic sign: section 34B**

- (1) For the purposes of section 34B (1) of the Act, the prescribed kind of traffic sign is a stop sign in or to the effect of the sign illustrated in Schedule 2.
- (2) The sign must, if not illuminated, be fitted with reflectors or other retro-reflecting material.

Noxious Weeds Regulation 2003

Clause 7

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#### **7 Certificates of authority: section 50**

For the purposes of section 50 (2) (f) of the Act, the officer whose signature is required on a certificate of authority is:

- (a) if the local control authority that issues the certificate is a council or a county council, the general manager of the council or county council, or
- (b) if the local control authority that issues the certificate is the Western Lands Commissioner, the Western Lands Commissioner, or
- (c) if the local control authority that issues the certificate is the Lord Howe Island Board, the Manager, Lord Howe Island Board, or
- (d) if the certificate is issued by the Minister, the Director-General or the Chief, Division of Plant Industries.

#### **8 Penalty notice offences: section 63**

For the purposes of section 63 (Penalty notices for certain offences) of the Act:

- (a) each offence created by a provision of the Act that is specified in Column 1 of Schedule 3 is prescribed, and
- (b) the prescribed amount of penalty for such an offence if dealt with under that section is the amount specified in Column 2 of Schedule 3.

#### **9 Saving**

Any act, matter or thing that, immediately before the repeal of the *Noxious Weeds Regulation 1993*, had effect under that Regulation continues to have effect under this Regulation.

Noxious Weeds Regulation 2003

Schedule 1      Cleaning of agricultural machines

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## Schedule 1    Cleaning of agricultural machines

(Clause 5)

### 1    Meaning of “clean”

In this Schedule, an obligation to clean an agricultural machine can be satisfied either:

- (a) by removing all plant material, dust and soil, and any accumulation of grease, from the machine, or
- (b) by using a treatment to sterilise seed in or on that machine, but only if that treatment cannot contaminate any material harvested by the machine in the future.

### 2    Cleaning grain harvesters and comb trailers

- (1) The exterior of a grain harvester or comb trailer (including any hollow sections of axles or structural components) must be cleaned.
- (2) The cabin and any storage containers attached to a grain harvester or comb trailer must be emptied and cleaned.
- (3) All parts of the interior of a grain harvester (including the areas above the stone guards/skid plates and within augers) must be cleaned. This must be done even if it requires the removal of inspection plates or other components of the machine to provide access to the relevant parts.
- (4) Any part of a grain harvester or comb trailer that has been sealed (either at manufacture or afterwards) is not required to be cleaned if it has been sealed in such a way that no plant material, dust or soil could enter the part.
- (5) Without limiting subclauses (1)–(4), the following areas of every grain harvester (as indicated in Diagrams 1 and 2) must be cleaned:
  - (a) Area 1: the area under the skid plate,
  - (b) Area 2: each header knife and finger,
  - (c) Area 3: the auger located horizontally across the header,
  - (d) Area 4: the area behind any cover on the header,
  - (e) Area 5: the area within any belts on any draper front (if fitted),
  - (f) Area 6: the feeder house,
  - (g) Area 7: the driver’s cab compartment floor area,
  - (h) Area 8: the cleaning fan and the area between the bottom of the fan housing and any shield under the fan housing,

Noxious Weeds Regulation 2003

Cleaning of agricultural machines

Schedule 1

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- (i) Area 9: the chassis, including the inside of any chassis rail ledges, back axle-beam and undercarriage areas,
  - (j) Area 10: any tailing auger,
  - (k) Area 11: any sieve area, including the full length and width of the grain pan,
  - (l) Area 12: any grain bin area, including any auger,
  - (m) Area 13: the engine compartment, including the radiator core,
  - (n) Area 14: any grain or “repeat” elevator including any cups and rubber flights,
  - (o) Area 15: any straw spreader or chopper,
  - (p) Area 16: any tyres and rims.
- (6) Without limiting subclauses (1)–(5), the following parts of any conventional harvester (as indicated in Diagram 1) must also be cleaned:
- (a) Area 17: the threshing or separating area, including the drum and concaves behind the rasp bars and lead-in plates and around concave wires,
  - (b) Area 18: the beater drum, including the area between the drum and walkers,
  - (c) Area 19: the straw walkers, including the beater and the chaff pan, underneath any straw walker and any concealed areas under rubber air flaps.
- (7) Without limiting subclauses (1)–(5), the following parts of any rotary harvester (as indicated in Diagram 2) must also be cleaned:
- (a) Area 17: the external top and sides of the conical section of the rotor cage,
  - (b) Area 18: the areas inside the top of the conical section,
  - (c) Area 19: the threshing or separating area, including along the rotor cage.

### **3 Bins for holding grain during harvest**

A bin for holding grain during harvest must be emptied and cleaned internally and externally.

### **4 Augers or similar equipment used for moving grain**

An auger, or any other similar equipment used for moving grain, must be cleaned internally and externally.

Noxious Weeds Regulation 2003

Schedule 1      Cleaning of agricultural machines

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## 5 Vehicles used for transporting grain harvesters

Any vehicle used for transporting a grain harvester across the border of New South Wales and Queensland must be cleaned by:

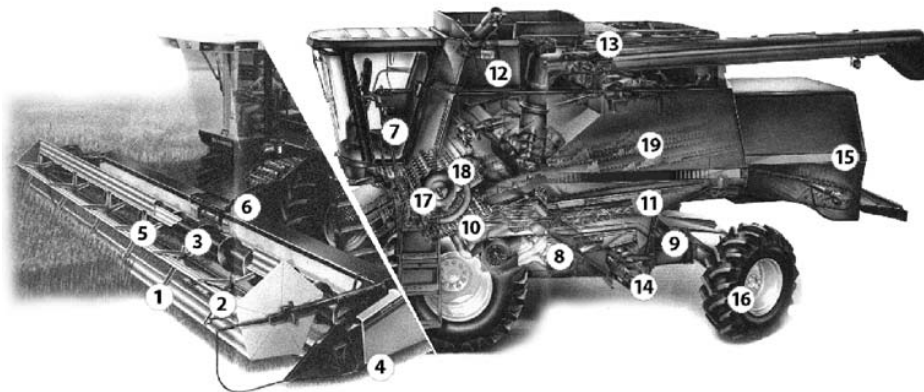
- (a) cleaning the cabin of the vehicle, and
- (b) cleaning all external areas of the vehicle, and
- (c) cleaning any storage container or box in or on the vehicle.

## 6 Vehicles used as support vehicles with grain harvesters and that have been driven in paddocks during harvest operations

Any vehicle that has either a utility or truck body, that is accompanying a grain harvester as a support vehicle and that has been driven in a paddock during harvest operations must be cleaned by:

- (a) completely emptying any contents in the tray or top of the truck, and
- (b) cleaning all external areas of the vehicle, and
- (c) cleaning any storage container or box in or on the vehicle, and
- (d) cleaning the radiator of the vehicle.

Diagram 1:

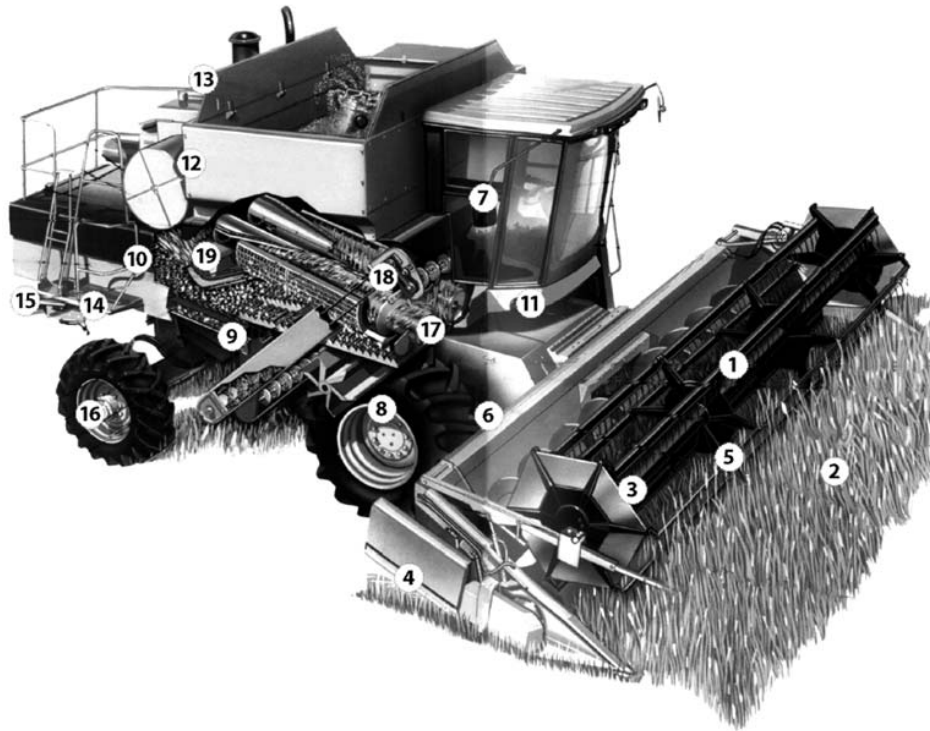


Noxious Weeds Regulation 2003

Cleaning of agricultural machines

Schedule 1

Diagram 2:



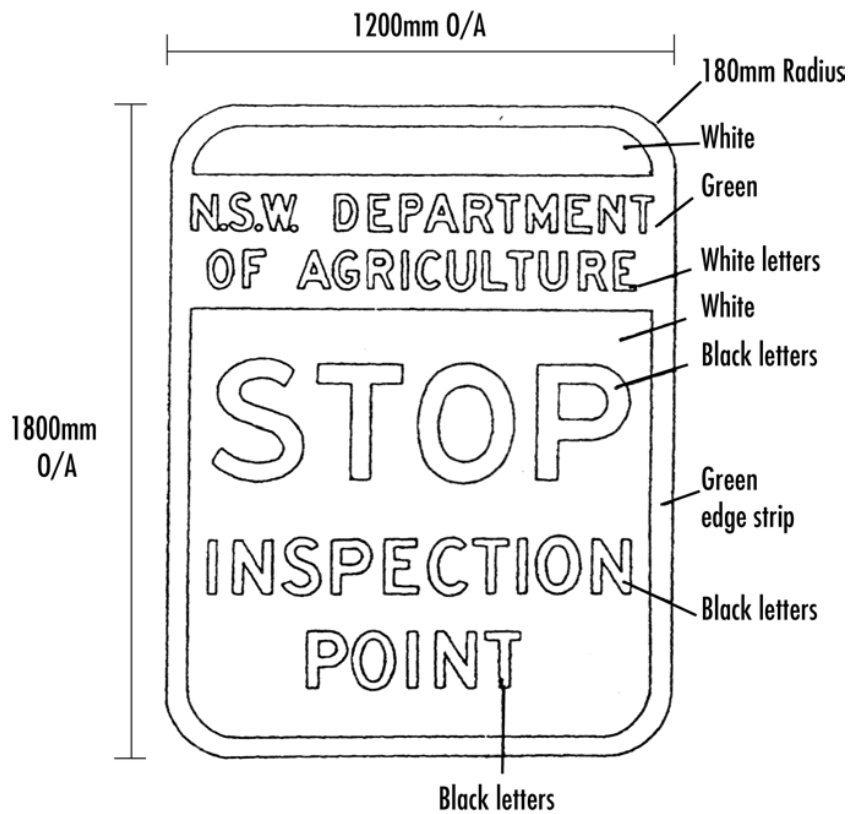
Noxious Weeds Regulation 2003

Schedule 2 Prescribed type of traffic sign

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**Schedule 2 Prescribed type of traffic sign**

(Clause 6)



Noxious Weeds Regulation 2003

Penalty notice offences

Schedule 3

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### Schedule 3 Penalty notice offences

(Clause 8)

Column 1	Column 2
Provision	Penalty
Section 12	\$200
Section 15	\$200
Section 19	\$200
Section 23 (1)	\$200
Section 27 (4) (a)	\$200
Section 27 (4) (b)	\$200
Section 27 (4) (c)	\$200
Section 28 (1) (a)	\$200
Section 28 (1) (b)	\$200
Section 28 (2)	\$200
Section 29	\$200
Section 30 (1)	\$200
Section 31 (4)	\$200
Section 31 (7)	\$200
Section 32	\$200
Section 54 (1) (a)	\$200
Section 54 (1) (b)	\$200
Section 54 (1) (c)	\$200



## Noxious Weeds Regulation 2003

Schedule 3 Penalty notice offences

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<b>Column 1</b>	<b>Column 2</b>
<b>Provision</b>	<b>Penalty</b>
Section 54 (1) (d)	\$200
Section 54 (2) (a)	\$200
Section 54 (2) (b)	\$200
Section 55	\$200

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New South Wales

## Nurses Regulation 2003

under the

Nurses Act 1991

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Nurses Act 1991*.

MORRIS IEMMA, M.P.,  
Minister for Health

### Explanatory note

The object of this Regulation is to replace, without any major changes in substance and as a consolidated Regulation, the provisions of the *Nurses (General) Regulation 1997* and the *Nurses (Elections) Regulation (No 2) 1997*, which are repealed on 1 September 2003 under section 10 (2) of the *Subordinate Legislation Act 1989*. The new Regulation deals with the following matters:

- (a) administrative matters relating to the registration of nurses (Part 2),
- (b) infection control procedures to be observed by nurses (Part 4 and Schedule 1),
- (c) the calling of elections for members of the Nurses Registration Board (Division 1 of Part 3),
- (d) nominations for such elections (Division 2 of Part 3),
- (e) the conduct of ballots in contested elections (Division 3 of Part 3),
- (f) the scrutiny of votes in contested elections (Division 4 of Part 3),
- (g) other matters of a minor, ancillary or consequential nature (Parts 1 and 4, Division 5 of Part 3 and Schedules 2 and 3).

This Regulation is made under the *Nurses Act 1991*, including sections 5, 9, 10, 16, 17, 18, 19, 19A, 20, 22, 24, 25, 26, 27, 28, 29, 33, 35, 37, 51, 57, 58, 59, 60, 67 and 78 (the general regulation-making power).

With the exception of clause 33 and Schedule 1, this Regulation comprises or relates to matters of a machinery nature.

Nurses Regulation 2003

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## Nurses Regulation 2003

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Clause 1	Nurses Regulation 2003
Part 1	Preliminary

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## Nurses Regulation 2003

under the

Nurses Act 1991

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Nurses Regulation 2003*.

#### 2 Commencement

This Regulation commences on 1 September 2003.

**Note.** This Regulation replaces the *Nurses (General) Regulation 1997* and the *Nurses (Elections) Regulation (No 2) 1997* which are repealed on 1 September 2003 under section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3 Definitions

(1) In this Regulation:

**close of nominations** for an election means the final time and date fixed by the returning officer for the close of nominations for the election.

**close of the ballot** for an election means the final time and date fixed by the returning officer for the close of the ballot for the election.

**election** means an election conducted under section 9 (2) (a), (b) or (b1) of the Act for the purpose of electing members of the Board.

**qualified voter** means:

- (a) in relation to an election of a registered nurse under section 9 (2) (a) of the Act, a person who is a registered nurse, and
- (b) in relation to an election of an enrolled nurse or enrolled nurse (mothercraft) under section 9 (2) (b) of the Act, a person who is an enrolled nurse or enrolled nurse (mothercraft), and
- (c) in relation to an election of a registered nurse authorised by the Board to practise midwifery under section 9 (2) (b1) of the

Nurses Regulation 2003

Clause 3

Preliminary

Part 1

Act, a person who is a registered nurse authorised by the Board to practise midwifery.

**returning officer** means:

- (a) the Electoral Commissioner for New South Wales, or
- (b) a person nominated by the Electoral Commissioner for the purpose of exercising the functions of a returning officer for an election.

**the Act** means the *Nurses Act 1991*.

- (2) In this Regulation, the forms set out in Schedule 3 are prescribed for the purposes of the following provisions of the Act and this Regulation:

**Provision of the Act**

Section 17 (a)	Form 1
Section 17 (b)	Form 2
Section 24	Form 3
Section 29	Form 4

**Provision of this Regulation**

Clause 14	Form 5
Clause 17	Form 6
Clause 18	Form 7

- (3) Notes included in this Regulation (except notes included in a form) do not form part of this Regulation.

Clause 4 Nurses Regulation 2003

Part 2 Registration

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## Part 2 Registration

### 4 Qualifications for registration in List "B"

For registration under section 19 of the Act:

- (a) the prescribed qualification is a certificate issued by a recognised hospital or other institution, and
- (b) the prescribed period of attendance is a minimum period of 2 years.

### 5 Functions not requiring registration

For the purposes of section 25 of the Act, the following functions are prescribed:

- (a) functions exercised to meet the needs of organ transplant patients and patients donating organs,
- (b) functions exercised as a member of a retrieval team that enters New South Wales to pick up a patient,
- (c) functions exercised while a nurse is on escort duty accompanying a patient on a journey that begins or ends outside New South Wales.

### 6 Roll of nurses

For the purposes of section 26 (3) of the Act, the prescribed manner of entry on the Roll is inclusion on an electronic database or such other manner as the Board determines.

### 7 Enrolment in List "A"

(1) For the purposes of section 27 (a) (i) of the Act:

- (a) the prescribed certificate is the certificate of attendance issued by each hospital and institution where the person received the training referred to in that subparagraph, and
- (b) the prescribed period is a minimum period of 12 months (not including any period by which the person's total leave of absence (if any) exceeded 5 weeks).

(2) For the purposes of section 27 (a) (ii) of the Act:

- (a) the prescribed tuition is the training in nursing given by the hospital or institution that the person attended, and
- (b) the prescribed examinations are those conducted for the purposes of that subparagraph by:

Nurses Regulation 2003

Clause 8

Registration

Part 2

- 
- (i) the TAFE Commission, or
  - (ii) any accredited providers of vocational training or higher education that are approved by the Board.
- (3) For the purposes of subclause (2) (b), *accredited* means accredited by a government department or public authority of the Commonwealth, or a State or Territory, with responsibility for vocational training or higher education.

#### **8 Enrolment in List "B"**

For the purposes of section 28 (a) of the Act:

- (a) the prescribed certificate is the certificate of attendance issued by each hospital, home for children, or similar institution whose practice the person attended as referred to in that paragraph, and
- (b) the prescribed period is a minimum period of 12 months (not including any period by which the person's total leave of absence (if any) exceeded 5 weeks).

#### **9 Replacement certificates**

- (1) The Registrar may, on application by a nurse and on payment of the relevant fee set out in Schedule 2, issue a replacement certificate if satisfied that a certificate issued to the nurse under the Act has been lost or destroyed or the information that it certifies is no longer correct.
- (2) The Registrar may require an application under this clause for a replacement for a lost or destroyed certificate to be verified by a statutory declaration as to the circumstances in which the certificate was lost or destroyed.

#### **10 Alterations of Register or Roll**

The Registrar may require such evidence as the Registrar thinks necessary before altering an entry in the Register or Roll.



Clause 11 Nurses Regulation 2003

Part 3 Elections

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## **Part 3 Elections**

### **Division 1 Calling of election**

#### **11 Notice of election**

- (1) As soon as possible after having been notified in writing by or on behalf of the Minister that one or more accredited nurses are required to be elected, the returning officer must cause notice of that fact:
  - (a) to be sent to the Registrar, and
  - (b) to be published in a newspaper circulating generally throughout New South Wales.
- (2) The notice to be sent to the Registrar:
  - (a) must state that an election is to be held for the purpose of appointing:
    - (i) one or more registered nurses, or
    - (ii) an enrolled nurse or enrolled nurse (mothercraft), or
    - (iii) a registered nurse authorised by the Board to practise midwifery, and
  - (b) must fix a time and date for the close of nominations.
- (3) The notice to be published in the newspaper:
  - (a) must state that an election is to be held for the purpose of appointing:
    - (i) one or more registered nurses, or
    - (ii) an enrolled nurse or enrolled nurse (mothercraft), or
    - (iii) a registered nurse authorised by the Board to practise midwifery, and
  - (b) must specify the number of nurses required to be elected, and
  - (c) must call for nominations of candidates, and
  - (d) must specify the time and date fixed for the close of nominations, and
  - (e) must advise where nomination forms may be obtained and where nominations may be lodged, and
  - (f) must specify the qualifications that qualify a person to nominate a candidate.

Nurses Regulation 2003

Clause 12

Elections

Part 3

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- (4) The date fixed for the close of nominations must not be earlier than 21 days, or later than 28 days, after the date on which the notice is published in the newspaper.

## **12 Postponement of close of nominations**

- (1) The returning officer may postpone the close of nominations for a period not exceeding 14 days by a notice in a form similar to, and published in the same manner as, a notice calling for the nomination of candidates.
- (2) The power conferred on the returning officer by this clause may be exercised more than once in respect of an election.

## **Division 2 Nominations**

### **13 Qualifications for nominating candidates**

A person is qualified to nominate a candidate for election if the person is a qualified voter.

### **14 Nomination of candidates**

- (1) A nomination of a candidate:
- (a) must be in Form 5, and
  - (b) must be made by at least 3 persons (other than the candidate) who are each qualified voters, and
  - (c) must be lodged with the returning officer before the close of nominations.
- (2) If the returning officer is of the opinion that an insufficient number of the persons by whom a candidate has been nominated are qualified to nominate a candidate, the returning officer must, as soon as practicable, cause notice of that fact to be given to the candidate.
- (3) For the purpose of enabling the returning officer to form an opinion as to whether a person by whom a candidate in an election has been nominated is qualified to nominate a candidate, the returning officer may require the Registrar to furnish the returning officer with such information regarding the person as the returning officer may specify.
- (4) The Registrar must comply with such a requirement as soon as practicable.

Clause 15        Nurses Regulation 2003

Part 3            Elections

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- (5) A candidate who has been nominated in an election may withdraw the nomination by notice in writing addressed to the returning officer that is forwarded in sufficient time to be received by the returning officer by the close of nominations.
- (6) If a candidate consents to nomination for election in more than one of the classes specified in section 9 (2) (a), (b) and (b1) of the Act and if all but one of the nominations of the candidate are not withdrawn by the close of nominations, the returning officer must reject all nominations of the candidate.

#### **15 Uncontested elections**

If the number of persons who have been duly nominated as candidates by the close of nominations does not exceed the number of persons to be elected in a class, those candidates are or that candidate is taken to have been elected.

#### **16 Contested elections**

If the number of persons who have been duly nominated as candidates by the close of nominations exceeds the number of persons to be elected in a class, a ballot must be held.

#### **17 Candidate information sheets**

- (1) At any time before the close of nominations, a candidate may submit to the returning officer a statutory declaration, in Form 6, containing information intended for inclusion in a candidate information sheet.
- (2) If more than the required number of persons have been nominated as candidates by the close of nominations, the returning officer must draw up a candidate information sheet consisting of the information contained in the statutory declarations submitted by the candidates.
- (3) In drawing up a candidate information sheet, the returning officer may omit (or, with the consent of the candidate, correct) so much of the information contained in a candidate's statutory declaration as the returning officer considers:
  - (a) to be false or misleading, or
  - (b) to be inappropriate for inclusion in the candidate information sheet, or
  - (c) to exceed the maximum amount of information that is suitable for inclusion in the candidate information sheet.

Nurses Regulation 2003

Clause 18

Elections

Part 3

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- (4) If a candidate does not submit a statutory declaration to the returning officer, the returning officer may, in drawing up a candidate information sheet, include in the sheet in respect of the candidate the words "NO INFORMATION RECEIVED".
  - (5) The names of the candidates must be listed on the candidate information sheet in the same order as they are listed on the ballot-paper for the election.

### **Division 3      Ballot**

#### **18    Preparation of roll**

- (1) As soon as practicable after it becomes apparent to the returning officer that a ballot is required to be held, the returning officer must cause notice of that fact to be sent to the Registrar.
- (2) The Registrar must provide the returning officer with:
  - (a) a roll of the persons who, in the opinion of the Registrar, are qualified to vote in the election, and
  - (b) an appropriately addressed label or an appropriately addressed envelope for each person whose name is included in the roll.
- (3) The roll:
  - (a) must contain the names (consecutively numbered and listed in alphabetical order) and addresses of the persons whose names are included in the roll, and
  - (b) must be certified by the Registrar in accordance with Form 7.
- (4) This clause does not apply to an election held as a consequence of an earlier election that has failed if a roll for the earlier election has already been provided to the returning officer.

#### **19    Printing of ballot-papers**

- (1) As soon as practicable after the close of nominations in an election, 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

Clause 20      Nurses Regulation 2003

Part 3          Elections

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- (b) must cause sufficient ballot-papers to be printed to enable a ballot-paper to be sent to each person included in the roll for the election, and
  - (c) if a candidate information sheet has been drawn up, must cause sufficient copies to be printed so that a copy may be sent to each person included in the roll.
- (2) A ballot-paper for an election must contain:
- (a) the names of the candidates arranged in the order determined in accordance with subclause (1) (a), with a small square set opposite each name, and
  - (b) if the returning officer considers that the names of 2 or more of the candidates are so similar as to cause confusion, such other matter as the returning officer considers will distinguish between the candidates, and
  - (c) such directions as to the manner in which a vote is to be recorded and returned to the returning officer as the returning officer considers appropriate.
- (3) The directions to voters must include a direction that:
- (a) the voter must record a vote for at least the number of candidates to be elected by placing consecutive numbers (beginning with the number "1" and ending with the number equal to the number of candidates to be elected) in the squares set opposite their names in the order of the voter's preferences for them, and
  - (b) the voter may, but is not required to, vote for additional candidates by placing consecutive numbers (beginning with the number next higher than the number of candidates to be elected) in the squares set opposite their names in the order of the voter's preferences for them.

## 20 Distribution of ballot-papers

As soon as practicable after the printing of the ballot-papers for an election, the returning officer must send to each person included in the roll for the election:

- (a) a ballot-paper initialled by the returning officer (or by a person authorised by the returning officer) or that bears a mark prescribed for the purposes of section 122A (3) of the *Parliamentary Electorates and Elections Act 1912*, and

Nurses Regulation 2003

Clause 21

Elections

Part 3

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- (b) an unsealed reply-paid envelope addressed to the returning officer and bearing on the back the words “NAME AND ADDRESS OF VOTER” and “SIGNATURE OF VOTER”, together with appropriate spaces for the insertion of a name, address and signature, and
  - (c) if applicable, a candidate information sheet.

**21 Duplicate ballot-papers**

- (1) At any time before the close of the ballot, the returning officer may issue to a voter a duplicate ballot-paper and envelope if the voter satisfies the returning officer by statutory declaration:
  - (a) that the original ballot-paper has been spoilt, lost or destroyed, and
  - (b) that the voter has not already voted in the election to which the ballot-paper relates.
- (2) The returning officer must maintain a record of all duplicate ballot-papers issued under this clause.

**22 Recording of votes**

In order to vote in an election, a person:

- (a) must record a vote on the ballot-paper in accordance with the directions shown on it, and
- (b) must place the completed ballot-paper (folded so that the vote cannot be seen) in the envelope addressed to the returning officer, and
- (c) must seal the envelope, and
- (d) must complete the person’s full name and address on, and must sign, the back of the envelope, and
- (e) must return the envelope to the returning officer so as to be received before the close of the ballot.

**Division 4 Scrutiny****23 Receipt of ballot-papers**

- (1) The returning officer must reject (without opening it) any envelope purporting to contain a ballot-paper if the envelope is not received before the close of the ballot or is received unsealed.

Clause 24      Nurses Regulation 2003

Part 3          Elections

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- (2) The returning officer must examine the name on the back of the envelope and, without opening the envelope:
  - (a) must accept the ballot-paper in the envelope and draw a line through the name on the roll that corresponds to the name on the back of the envelope, if satisfied that a person of that name is included in the relevant roll for the election, or
  - (b) must reject the ballot-paper in the envelope, if not so satisfied or if a signature that corresponds with a name on the roll does not appear on the back of the envelope.
- (3) The returning officer may reject a ballot-paper in an envelope without opening the envelope if, after making such inquiries as the returning officer thinks fit:
  - (a) the returning officer is unable to identify the signature on the back of the envelope, or
  - (b) it appears to the returning officer that the signature on the back of the envelope is not the signature of the person whose name and address appear on the back of the envelope.

#### **24    Ascertaining result of ballot**

The result of a ballot must be ascertained by the returning officer as soon as practicable after the close of the ballot.

#### **25    Scrutineers**

Each candidate in a ballot is entitled to appoint, by notice in writing, a scrutineer to represent the candidate at all stages of the scrutiny.

#### **26    Scrutiny of votes**

- (1) The scrutiny of votes in a ballot is to be conducted as follows:
  - (a) the returning officer must produce unopened the envelopes containing the ballot-papers accepted for scrutiny,
  - (b) the returning officer must then open each such envelope, extract the ballot-paper and (without unfolding it) place it in a locked ballot-box,
  - (c) when the ballot-papers from all the envelopes so opened have been placed in the ballot-box, the returning officer must then unlock the ballot-box and remove the ballot-papers,
  - (d) the returning officer must then examine each ballot-paper and reject those that are informal,

Nurses Regulation 2003

Clause 27

Elections

Part 3

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- (e) the returning officer must then proceed to count the votes and ascertain the result of the election.
- (2) At the scrutiny of votes in a ballot, a ballot-paper must be rejected as informal:
- (a) if it is neither initialled by the returning officer (or by a person authorised by the returning officer in that behalf) 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
  - (b) if it has on it any mark or writing that the returning officer considers could enable any person to identify the voter who completed it, or
  - (c) if it has not been completed in accordance with the directions shown on it.
- (3) A ballot-paper must not be rejected as informal merely because there is any mark or writing on it that is not authorised or required by this Regulation (not being a mark or writing referred to in subclause (2) (b)) if, in the opinion of the returning officer, the voter's intention is clearly indicated on the ballot-paper.

## 27 Counting of votes

- (1) If there is only one person to be elected:
- (a) the method of counting the votes so as to ascertain the result of the election is to be as provided in Part 2 of the Seventh Schedule to the *Constitution Act 1902*, and
  - (b) for the purpose of applying the provisions of that Part to the election, a reference in those provisions to the returning officer is to be read as a reference to the returning officer under this Regulation.
- (2) If there are 3 persons to be elected, the method of counting the votes is to be according to an optional multi-preferential system in which the first, second and third preference votes (represented by the numbers "1", "2" and "3", respectively, marked on the ballot-paper) are regarded as primary votes.

## 28 Notice of result of election

As soon as practicable after a candidate in an election has been elected, the returning officer must notify the Minister and the Registrar, in writing, of the name of the candidate elected.



Clause 29        Nurses Regulation 2003

Part 3            Elections

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## **Division 5        General**

### **29    Date of elections**

- (1) An election of members of the Board for the purposes of section 9 (2) (a), (b) or (b1) of the Act is to be carried out on a date determined by the Minister.
- (2) Such dates are to be as near as practicable to 1 December in every third year after 1 December 1997.

### **30    Decisions of returning officer final**

If the returning officer is permitted or required by the Act or this Regulation to make a decision on any matter relating to the taking of a ballot in an election, the decision of the returning officer on that matter is final.

### **31    Death of a candidate**

If a candidate dies after the close of nominations and before the close of the ballot:

- (a) the returning officer is to cause notice of the death to be published in the Gazette, and
- (b) all proceedings taken after the Minister notified the returning officer that the election was required to be held are of no effect and must be taken again.

### **32    Offences**

A person must not:

- (a) vote, or attempt to vote, more than once in any election, or
- (b) vote, or attempt to vote, in an election in which the person is not entitled to vote, or
- (c) make a statement that the person knows to be false or misleading in a material particular (not being a statement verified by statutory declaration):
  - (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.

Maximum penalty: 5 penalty units.

Nurses Regulation 2003

Clause 33

Miscellaneous

Part 4

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## Part 4      Miscellaneous

### 33    Infection control standards

- (1) An accredited nurse must not, without reasonable excuse, fail to comply with the infection control standards set out in Schedule 1 to the extent that they apply to the nurse in the practice of nursing.
- (2) In determining whether or not an accredited nurse has a reasonable excuse for failing to comply with a standard, particular consideration is to be given to the following:
  - (a) whether the circumstances involved the provision of emergency treatment,
  - (b) whether the nurse's employer failed to provide the necessary equipment, including providing access to it and training in its use, that would have enabled the nurse to comply with the standard (and whether the failure to provide such equipment was reported by the nurse to the Director-General).

### 34    Fees

The fees set out in Schedule 2 are prescribed for the purposes of the provisions of the Act and this Regulation set out in that Schedule.

### 35    Recognition of institutions and qualifications

- (1) A hospital, a nursing home or an educational or other institution (together with the curriculum for its course and the diploma, certificate or other qualification awarded by it) may be recognised by the Board under section 10 (1) (h) of the Act if and only if:
  - (a) curriculum details of the course that it offers or to which it contributes instruction, clinical experience or other training have been forwarded to the Board, and
  - (b) the objective of the course is the achievement by students of levels of educational and clinical competence approved by the Board, and
  - (c) the course itself is approved by the Board.
- (2) The Board is to notify its recognition in writing directly to the hospital, home or institution.
- (3) The hospital, home or institution is to notify the Board of any change of curriculum that occurs after details have been forwarded under this clause.

Clause 36 Nurses Regulation 2003

Part 4 Miscellaneous

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- (4) The Board may, by writing to the hospital, home or institution, revoke or vary its recognition if it is satisfied:
- (a) that the course is not being conducted in accordance with any conditions to which the recognition is subject, or
  - (b) that the course is not being conducted in accordance with the details received by the Board under this clause immediately before the Board granted recognition to the hospital, home or institution.

### **36 Notice of incapacity**

- (1) For the purposes of section 35 of the Act, the person required to cause notice of mental incapacity of an accredited nurse to be forwarded to the Board is:
- (a) if the nurse is a patient at an institution because of that incapacity, the director of the institution, or
  - (b) if the nurse has become a protected person, the Protective Commissioner.
- (2) Notice for the purposes of section 35 of the Act is to be given by telephone within one day, and posted within 7 days, after the nurse is admitted to the institution or becomes a protected person.

### **37 Badges**

For the purposes of sections 5 (2) and 37 of the Act, the prescribed design for a badge is one having on it the words "NURSES REGISTRATION BOARD", a representation of the State arms of New South Wales, and appropriate letters or symbols to convey information as to the wearer's registration, enrolment or authorisation.

### **38 Letters after name**

Accredited nurses may indicate their accreditation by placing after their names the following letters:

- (a) in the case of a registered nurse—"R.N.",
- (b) in the case of a nurse enrolled in List A of the Roll—"E.N.",
- (c) in the case of a nurse enrolled in List B of the Roll—"E.N. (M'craft)",
- (d) in the case of a registered nurse authorised to practise midwifery—"C.M." (standing for "certified midwife") as well as, or instead of, the letters "R.N."

Nurses Regulation 2003

Clause 39

Miscellaneous

Part 4

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**39 Payment of members of Committee**

For the purposes of section 51 (5) of the Act, a member of a Committee is entitled to be paid such remuneration as the Minister may from time to time determine.

**40 Appeals against decisions of Committee**

For the purposes of section 57 (1) of the Act, the prescribed time within which an appeal may be made to the Tribunal against any finding or exercise of power referred to in that subsection is the time ending 21 days after:

- (a) notice of the reasons for the finding, or
- (b) notice of the reasons for the exercise of power, or
- (c) a statement under section 56 (2) of the Act, or
- (d) a notice under section 56 (5) (b) of the Act,

whichever is the later, is given to the appellant.

**41 Appeal with respect to a point of law**

- (1) An appeal referred to in section 58 (2) of the Act is to be made:
  - (a) by causing a notice of appeal, specifying the grounds on which the appeal is made, to be given to the Chairperson (or, if a Deputy Chairperson is nominated under that section in that regard, to the Deputy Chairperson so nominated), and
  - (b) by causing a copy of the notice of appeal to be given to each other party to the proceedings from which the appeal has arisen.
- (2) For the purposes of section 58 (2) of the Act, the prescribed time within which an appeal referred to in that subsection may be made to the Chairperson (or, if a Deputy Chairperson is nominated under that section in that regard, to the Deputy Chairperson so nominated) is the time between the referral of the complaint and the commencement of the inquiry.

**42 Payment of ordinary members of Tribunal**

For the purposes of section 59 (8) of the Act, a member of the Tribunal (other than the Chairperson or a Deputy Chairperson) is entitled to be paid such remuneration as the Minister may from time to time determine.

Clause 43 Nurses Regulation 2003

Part 4 Miscellaneous

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**43 Payment of Chairperson and Deputy Chairperson of Tribunal**

For the purposes of section 60 (5) of the Act, the Chairperson or a Deputy Chairperson of the Tribunal is entitled to be paid at the same rate as a witness who gives expert evidence in the Supreme Court.

**44 Appeals against decisions of Tribunal**

For the purposes of section 67 (1) and (5) of the Act, the prescribed time within which an appeal may be made to the Supreme Court against a decision or exercise of power referred to in that subsection is the time ending:

- (a) on the date occurring 21 days after the date on which:
  - (i) notice of the Tribunal's reasons for the finding, or
  - (ii) notice of the Tribunal's reasons for the exercise of power, or
  - (iii) a statement under section 66 (3) of the Act, or
  - (iv) a notice under section 66 (6) (b) of the Act, whichever is the later, is given to the appellant, or
- (b) on such later date as the Supreme Court may allow in a particular case.

**45 Savings provision**

- (1) Any act, matter or thing that, immediately before the repeal of the *Nurses (General) Regulation 1997*, had effect under that Regulation continues to have effect under this Regulation.
- (2) Any act, matter or thing that, immediately before the repeal of the *Nurses (Elections) Regulation (No 2) 1997*, had effect under that Regulation continues to have effect under this Regulation.

Nurses Regulation 2003

Infection control standards

Schedule 1

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## Schedule 1 Infection control standards

(Clause 33)

### Part 1 Preliminary

#### 1 Definitions

- (1) In this Schedule:

*AS/NZS 4187* means AS/NZS 4187:2003, *Cleaning, disinfecting and sterilizing reusable medical and surgical instruments and equipment, and maintenance of associated environments in health care facilities.*

*AS/NZS 4815* means AS/NZS 4815:2001, *Office-based health care facilities not involved in complex patient procedures and processes—Cleaning, disinfecting and sterilizing reusable medical and surgical instruments and equipment, and maintenance of the associated environment.*

*body substance* includes any human bodily secretion or substance other than blood.

*invasive procedure* means any one or more of the following:

- (a) surgical entry into body tissue, cavities or organs,
- (b) surgical repair of injuries,
- (c) cardiac catheterisation and angiographic procedures,
- (d) vaginal or caesarean delivery or any other obstetric procedure during which bleeding may occur,
- (e) the manipulation, cutting, or removal of any oral or peri-oral tissue, including tooth structure, during which bleeding may occur.

*patient* includes (but is not limited to) a person who is accessing medical or health services or who is undergoing any medical or health procedure.

*sharps* means any objects capable of inflicting penetrating injury, and includes hollow bore needles, suture needles, scalpel blades, wires, trocars, auto lancets, stitch cutters and broken glassware.

- (2) The requirements set out in this Schedule apply to a nurse who is assisting in performing a procedure in the same way as they apply to a nurse who is actually performing the procedure.

## Nurses Regulation 2003

Schedule 1 Infection control standards

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**Part 2 General standards applying to nurses****2 General precautions and aseptic techniques**

- (1) Precautions must be taken to avoid direct exposure to a patient's blood or other body substances. This requirement applies regardless of whether there is any perceived risk of infection.
- (2) Aseptic techniques must be used in the course of complying with the requirements of this Schedule.

**3 Hand and skin cleaning**

- (1) Hands must be cleaned:
  - (a) immediately before and after any direct patient care, and
  - (b) immediately after handling blood or other body substances.
- (2) Subclause (1) does not apply in circumstances where treatment is required to be performed urgently and cleaning facilities are not readily available.
- (3) Hands may be cleaned by:
  - (a) using washing facilities involving water and a soap or antiseptic, or
  - (b) if any of the items specified in paragraph (a) are unavailable, using non-water cleansers or antiseptics.
- (4) Hands or other skin surfaces that are contaminated with a patient's blood or other body substances must be cleaned as soon as it is practicable to clean them.
- (5) The requirement to clean hands applies regardless of whether gloves are also required to be worn.

**4 Protective gowns and aprons**

A gown or apron made of impervious material must be worn while performing any procedure where there is a likelihood of clothing being splashed or contaminated with blood or other body substances.

**5 Gloves**

- (1) Gloves must be worn while handling blood or other body substances.

Nurses Regulation 2003

Infection control standards

Schedule 1

- 
- (2) In particular, gloves must be worn:
    - (a) during any procedure where direct contact is anticipated with a patient's blood or other body substances, mucous membranes or non-intact skin, and
    - (b) while suctioning a patient, and
    - (c) while handling items or surfaces that have come into contact with blood or other body substances, and
    - (d) while performing an invasive procedure, venipuncture or a finger or heel stick.
  - (3) Sterile gloves must be worn if the procedure involves contact with tissue that would be sterile under normal circumstances.
  - (4) Gloves must be changed and discarded:
    - (a) as soon as they are torn or punctured, and
    - (b) after contact with each patient.
  - (5) Gloves must also be changed if separate procedures are being performed on the same patient and there is a risk of infection from one part of the body to another.

## **6 Masks and protective eye wear**

- (1) A fluid repellent mask and protective eye wear must be worn while performing any procedure where there is a likelihood of splashing or splattering of blood or other body substances.
- (2) A mask must be worn when in close contact with patients known to have an infectious disease (or suspected of having such a disease) if the disease is capable of being transmitted by the airborne or droplet route. A particulate mask capable of filtering to 0.3 $\mu$ m must be worn when in close contact with a patient known or suspected to be infected with tuberculosis.
- (3) In cases where a mask is required to be worn, it must be worn and fitted in accordance with the manufacturer's instructions.
- (4) A mask must be discarded once it has been worn and it must not be used again.
- (5) In cases where protective eye wear is required to be worn, it must be worn and fitted in accordance with the manufacturer's instructions.
- (6) Protective eye wear must be discarded once it has been worn and not used again unless it is reusable in which case it is to be cleaned in accordance with the manufacturer's instructions.



## Nurses Regulation 2003

Schedule 1 Infection control standards

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**7 Sharps**

- (1) Sharps must not be passed by hand between a nurse and any other person. However, this requirement does not apply if, in any case involving an invasive procedure, the proper conduct of the procedure would be adversely affected.
- (2) A puncture-resistant tray must be used to transfer sharps.
- (3) A needle must not be removed from a disposable syringe for disposal, or be purposely broken or otherwise manipulated by hand, unless:
  - (a) it is necessary to remove the needle for technical reasons, or
  - (b) the nurse is performing a procedure in which the needle is required to be bent.
- (4) A needle must not be bent after it is contaminated with blood or other body substances.
- (5) In any case where resheathing of a needle is required:
  - (a) the needle must be properly recapped, and
  - (b) the sheath must not be held in the fingers, and
  - (c) either a single-handed technique or forceps, or a suitable protective guard designed for the purpose, must be used.
- (6) Reusable sharps must, immediately after being used, be placed in a puncture-resistant container specially kept for that purpose and labelled as such.
- (7) Non-reusable sharps must, immediately after being used, be disposed of in a puncture-resistant container.

**8 Management of waste**

- (1) Clinical waste must be properly packaged to protect against potential exposure to infectious agents and to facilitate the proper handling, storage and treatment or disposal of the waste.
- (2) Splashing or contamination of skin while disposing of blood or other body substances must be avoided as far as practicable.
- (3) Nothing in this clause limits any other requirement under this Part.

Nurses Regulation 2003

Infection control standards

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---

## **Part 3 Specific standards applying to nurses**

### **9 Sterile medications and solutions**

- (1) A sterile needle and syringe must be used to withdraw any medication or solution from a vial or ampoule (or other similar container).
- (2) The needle and syringe must be discarded once the needle and syringe have been used.
- (3) A medication or solution may be taken from a multi-dose vial or ampoule (or other similar container) only if the medication or solution is not reasonably available in another form.
- (4) Precautions must be taken to ensure that contaminated material or fluid is not injected into a multi-dose vial or ampoule (or other similar container).

### **10 Anaesthetic breathing circuits**

- (1) This clause applies in any case where an anaesthetic breathing circuit is used.
- (2) If the breathing circuit uses a filter:
  - (a) the filter must be discarded after each patient, and
  - (b) the part of the breathing circuit between the patient and the filter must be discarded, or cleaned and disinfected, after each patient, and
  - (c) the part of the breathing circuit between the carbon dioxide absorber and the filter must be discarded, or be cleaned and disinfected, at the end of each procedure list.
- (3) If the breathing circuit does not use a filter, the breathing circuit must be discarded, or be cleaned and disinfected, after each patient.

### **11 Invasive procedures**

- (1) In cases where it is technically feasible, retractors must be used for exposure and access during invasive procedures.
- (2) Fingers must not be used for the purposes of an invasive procedure to expose or increase access for the passage of a suture.
- (3) Only one sharp at a time is to be placed in a sharps tray that is being used in connection with an invasive procedure.

Nurses Regulation 2003

Schedule 1 Infection control standards

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- (4) Forceps or a needle holder must be used when carrying out suturing both to pick up the suture needle and to draw it through tissue.

## **Part 4 Processing of instruments and equipment**

### **12 Cleaning of instruments and equipment**

- (1) Any instrument or equipment that comes into contact with intact skin must be cleaned before it is used.
- (2) Any instrument or equipment that is required under this Part to be sterilised or disinfected must be cleaned before it is sterilised or disinfected.
- (3) The process of cleaning must involve water and mechanical or physical action (such as washing machines) and a cleaning agent.
- (4) All cleaning agents must be removed from instruments and equipment by rinsing prior to further processing.
- (5) In this clause, *cleaning agent* means a detergent and includes proteolytic enzyme substances.
- (6) The method of cleaning must be consistent with AS/NZS 4187 or (in the case of an office-based practice) AS/NZS 4815.

### **13 Disinfection of instruments and equipment**

- (1) Any instrument or equipment that comes into contact with non-sterile tissue (other than intact skin) must be disinfected before it is used with a disinfectant specified in the *Australian Register of Therapeutic Goods* (within the meaning of the *Therapeutic Goods Act 1989* of the Commonwealth), and the relevant manufacturer's instructions must be followed.
- (2) The process of disinfection must involve either thermal or chemical methods. Chemical disinfection may only be used in cases where thermal methods are unsuitable.
- (3) The method of disinfection must be consistent with AS/NZS 4187 or (in the case of an office-based practice) AS/NZS 4815.

### **14 Sterilisation of instruments and equipment**

- (1) Any instrument or equipment used to enter, or that is capable of entering, tissue that would be sterile under normal circumstances, or the vascular system of a patient, must be sterilised before it is used.

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Schedule 1

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- (2) The method of sterilisation must be compatible with the particular type of instrument or equipment concerned and consistent with AS/NZS 4187 or (in the case of an office-based practice) AS/NZS 4815.
- (3) If a steriliser is used (whether it is a benchtop or portable steriliser or a permanently plumbed or wired steriliser), the following criteria must be met:
  - (a) the relevant manufacturer's instructions must be followed,
  - (b) an ongoing monitoring program must be followed which reflects the requirements of Table 7.1 Calibration, Monitoring and Maintenance of Sterilizers of AS/NZS 4187 or (in the case of an office-based practice) Table 7.1 Sterilizer Tests and Test Frequencies of AS/NZS 4815.

## Nurses Regulation 2003

## Schedule 2 Fees

**Schedule 2 Fees**

(Clause 34)

**Fees under the Act**

Section 16 (7)	\$10
Section 18 (a) or (b)	\$45
Section 18 (c) or (d), if the place referred to in the relevant paragraph is within Australia	\$45
Section 18 (c) or (d), if the place referred to in the relevant paragraph is outside Australia	\$50
Section 19 (a) or (b)	\$45
Section 19 (c) or (d), if the place referred to in the relevant paragraph is within Australia	\$45
Section 19 (c) or (d), if the place referred to in the relevant paragraph is outside Australia	\$50
Section 19A (4)	\$150
Section 20	\$15
Section 22 (2)	\$12
Section 24 (1)	\$45
Section 26 (6)	\$10
Section 27	\$45
Section 28	\$45
Section 33 (2)	\$35
Section 33 (4)	\$45

Nurses Regulation 2003

Fees

Schedule 2

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**Fees under this Regulation**

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Clause 9	\$20
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**Note.** There is no fee prescribed for the purposes of section 23 (1) (d) of the Act. There is no fee prescribed for the purposes of section 26 (3) of the Act but there are fees prescribed for the purposes of sections 27 and 28 of the Act in respect of enrolment on the Roll of Nurses.

Nurses Regulation 2003

Schedule 3 Forms

### Schedule 3 Forms

#### Form 1 Certificate of registration

(Clause 3 (2))

Nurses Act 1991 (section 17 (a))

This is to certify that the name of ..... who has satisfied the Nurses Registration Board under section ..... of the *Nurses Act 1991* was entered on List ..... of the Register of Nurses under that Act on .....

This certificate was issued at Sydney on .....

President of the Board

Registrar

#### Form 2 Certificate of authorisation to practise midwifery

(Clause 3 (2))

Nurses Act 1991 (section 17 (b))

This is to certify that ..... who has satisfied the Nurses Registration Board under section 20 ..... of the *Nurses Act 1991* has been authorised under that Act to practise midwifery in New South Wales from .....

This certificate was issued at Sydney on .....

President of the Board

Registrar

Nurses Regulation 2003

Forms

Schedule 3

**Form 3 Certificate of temporary registration**

(Clause 3 (2))

Nurses Act 1991 (section 24)

This is to certify that the Nurses Registration Board has temporarily registered ..... under the *Nurses Act 1991* as a nurse on List ..... of the Register, and has authorised that person to practise midwifery,\* subject to the following conditions:

.....  
.....

from ..... to .....

This certificate was issued at Sydney on .....

President of the Board

Registrar

\* Delete the words “and has authorised that person to practise midwifery” if they are not appropriate.

**Form 4 Certificate of enrolment\***

(Clause 3 (2))

Nurses Act 1991 (section 29)

This is to certify that the name of ..... who has satisfied the Nurses Registration Board under section ..... of the *Nurses Act 1991* was entered on List ..... of the Roll of Nurses under that Act on .....

This certificate was issued at Sydney on .....

President of the Board

Registrar

\* Insert “(MOTHERCRAFT)” if appropriate.



Nurses Regulation 2003

Schedule 3 Forms

**Form 5 Nomination of candidate**

(Clause 3 (2))

Nurses Regulation 2003 (clause 14)

We nominate .....

*[name in full]*

of.....

*[postal address]*

as a candidate for the following election:

.....  
.....

*[specify the election to which the nomination relates]*

We declare that we are each qualified to vote in the election.

Name in full	Address	Signature
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....

**Note.** This nomination must be completed by not less than 3 persons (other than the candidate), each of whom is qualified to vote in the election.

I, ....., consent to being a candidate at the election to which this nomination relates.

Postal address: .....

Postcode: ..... Telephone No.: .....

Date of birth: .....

Dated: ..... Signed: .....

Nurses Regulation 2003

Forms

Schedule 3

**Form 6 Statutory declaration**

(Clause 3 (2))

Nurses Regulation 2003 (clause 17)

I, ..... of ....., do solemnly and sincerely declare that:

- 1 My full name is .....
- 2 My residential address is ..... Postcode: .....
- 3 My date of birth is .....
- 4 I am self-employed\*/employed by ..... \*  
as .....

*[specify nature of employment]*

5 I hold the following qualifications (academic/professional):  
.....  
.....

6 I am a member of the following organisations:  
.....  
.....

7 I hold the following offices (other than employment):  
.....  
.....

8 .....  
.....  
.....

*(See Note)*

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 at ..... this ..... day  
of ..... 20.....

Before me:

.....  
Justice of the Peace

.....  
*[signature]*

Nurses Regulation 2003

Schedule 3 Forms

**Note.** A candidate may include further information relating to the candidacy. Such information should not exceed 4 lines of typescript.

\* Delete whichever is inapplicable.

**Form 7 Certificate**

(Clause 3 (2))

Nurses Regulation 2003 (clause 18)

I certify that this roll contains the names (consecutively numbered and listed in alphabetical order) and addresses of those persons who, in my opinion, are qualified to vote in the following election in relation to which this roll has been prepared:

.....  
.....

*[specify the election to which the roll relates]*

The first and last entries in the roll are as follows:

First entry: No.: .....

Name: .....

Address: .....

Last entry: No.: .....

Name: .....

Address: .....

Dated: ..... Signed: .....



New South Wales

## Pesticides Amendment (User Training) Regulation 2003

under the

Pesticides Act 1999

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Pesticides Act 1999*.

BOB DEBUS, M.P.,  
Minister for the Environment

### Explanatory note

The objects of this Regulation are as follows:

- (a) to require individuals who use pesticides for commercial or occupational purposes, or in connection with agricultural operations or forestry operations, to undertake the training necessary to acquire competencies approved by the Environment Protection Authority,
- (b) to create offences relating to the employment of unqualified persons to use pesticides in the circumstances referred to above, the supervision of unqualified persons in the use of pesticides in connection with agricultural operations or forestry operations, and the misuse of documents evidencing the achievement of competencies (and to provide for penalty notices to be issued in respect of offences),
- (c) to provide for transitional arrangements in relation to matters referred to in the preceding paragraphs.

This Regulation also removes obsolete provisions in the *Pesticides Regulation 1995* concerning short descriptions of offences for which penalty notices may be issued and processing codes relating to those offences.

This Regulation is made under the *Pesticides Act 1999*, including sections 75, 78, 117 and 119 (the general regulation-making power).

Clause 1 Pesticides Amendment (User Training) Regulation 2003

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## **Pesticides Amendment (User Training) Regulation 2003**

under the

Pesticides Act 1999

### **1 Name of Regulation**

This Regulation is the *Pesticides Amendment (User Training) Regulation 2003*.

### **2 Commencement**

This Regulation commences on 1 September 2003.

### **3 Amendment of Pesticides Regulation 1995**

The *Pesticides Regulation 1995* is amended as set out in Schedule 1.

Pesticides Amendment (User Training) Regulation 2003

Amendments

Schedule 1

---

## Schedule 1 Amendments

(Clause 3)

### [1] Clause 3 Definitions

Insert “, notes in the text of this Regulation,” after “explanatory note” in clause 3 (2).

### [2] Part 3

Insert after Part 2:

## Part 3 Compulsory training for certain pesticide users

### Division 1 Preliminary

#### 7 Definitions

(1) In this Part:

*Australian Qualifications Framework* means the Australian Qualifications Framework developed under instructions from the Ministerial Council on Education, Employment, Training and Youth Affairs.

*former authority (fumigation permit)* means a fumigation permit in force under the *Occupational Health and Safety (Pest Control) Regulation 1988* immediately before its repeal.

*former authority (pest control operator’s licence)* means a pest control operator’s licence in force under the *Occupational Health and Safety (Pest Control) Regulation 1988* immediately before its repeal.

*fumigant* has the same meaning as in clause 265 of the *Occupational Health and Safety Regulation 2001*.

*prescribed qualification* means a qualification with respect to the use of pesticides that is granted to a person by a registered training provider:

- (a) in accordance with the Australian Qualifications Framework, and

## Pesticides Amendment (User Training) Regulation 2003

## Schedule 1 Amendments

- 
- (b) in recognition of the person's satisfactory achievement of specified units of competency (being units of competency that, at the time the prescribed qualification is issued, are approved by the Environment Protection Authority under clause 8).

**registered training provider** means a training provider registered under the *Vocational Education and Training Accreditation Act 1990*.

**Note.** Generally, registered training providers are also registered training organisations for the purposes of the Australian Qualifications Framework.

- (2) In this Part, a reference to evidence of a qualification is a reference to:
- (a) in the case of a permit or licence, the permit or licence concerned, and
- (b) in the case of any other qualification:
- (i) a document that is issued to a person as the qualification concerned achieved by that person, or
- (ii) a document (including a card) that is issued to the holder of the qualification concerned by a registered training provider, or other person or body approved by the Authority, as a record or evidence (or both) of the person's achievement of that qualification.
- (3) For the purposes of this Part, a prescribed qualification ceases to have effect in relation to a person at the end of 5 years after the person last obtained the qualification (unless sooner cancelled or revoked).

**Note.** In order to remain qualified, a person will therefore need to requalify every 5 years.

## **Division 2 Requirement for pesticide users to hold prescribed qualification**

### **7A Only qualified persons to use pesticides in certain circumstances**

- (1) A person must not use a pesticide in any of the following circumstances unless he or she holds a prescribed qualification:

## Pesticides Amendment (User Training) Regulation 2003

## Amendments

## Schedule 1

- 
- (a) in the course of acting as, or for or on behalf of, the landlord of any premises,
  - (b) in the course of acting for or on behalf of a public authority,
  - (c) in the course of carrying out pest control operations on a golf course, sporting field or bowling green,
  - (d) in connection with any agricultural operations (including farming, horticultural or aquacultural operations) or forestry operations,
  - (e) in the course of carrying on, or working in, a business, educational institution or hospital (whether as principal, contractor or employee, and regardless of whether, in the case of a business, the use of pesticides is a purpose of the business concerned).

Maximum penalty: 200 penalty units.

- (2) A person must not employ or engage a person to use a pesticide in any circumstance referred to in subclause (1) unless the second-mentioned person holds a prescribed qualification and evidence of the prescribed qualification.

Maximum penalty: 200 penalty units (in the case of an individual) or 400 penalty units (in the case of a corporation).

- (3) This clause does not apply to the storage of pesticides.
- (4) This clause commences on 1 September 2005.

**7B Exceptions to clause 7A (1) offence**

- (1) Clause 7A (1) does not apply to any person who:
  - (a) holds a licence under the Act, or
  - (b) holds a certificate of competency or recognised qualification (within the meaning of Part 9.1 of Chapter 9 of the *Occupational Health and Safety Regulation 2001*) in relation to the kind of work referred to in clause 11 (Application of pesticides) or 12 (Use of fumigants) of the Schedule to clause 266 of that Regulation, or



## Pesticides Amendment (User Training) Regulation 2003

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- 
- (c) is a trainee doing work of the type referred to in paragraph (b) and who is excepted under clause 271 of that Regulation from the requirement of that Regulation to hold a certificate of competency or recognised qualification in relation to that work, or
  - (d) holds a former authority (pest control operator's licence) that is taken to be a certificate of competency under clause 268 of that Regulation.
- (2) Clause 7A (1), to the extent only to which it prohibits a person from using a fumigant unless he or she holds a prescribed qualification, does not apply to any person who holds a former authority (fumigation permit) that is taken to be a certificate of competency under clause 268 of the *Occupational Health and Safety Regulation 2001*.
  - (3) Clause 7A (1) does not apply in relation to the use of a pesticide in public baths or in any swimming pool or spa.

**7C Defence to clause 7A offences**

- (1) It is a defence in any proceedings against a person for an offence under clause 7A (1) or (2) if the person establishes that the pesticide concerned:
  - (a) was being applied by hand or by a hand-held applicator, and
  - (b) was being used in a quantity that:
    - (i) in the case of outdoor use, is appropriate for outdoor domestic purposes (so long as it does not exceed 20 litres or 20 kilograms of "ready-to-use" product or 5 litres or 5 kilograms of concentrated product), or
    - (ii) in the case of indoor use, is appropriate for indoor domestic purposes (so long as it does not exceed 5 litres or 5 kilograms of "ready-to-use" product or 1 litre or 1 kilogram of concentrated product).
- (2) Subclause (1) does not apply unless the pesticide concerned:
  - (a) is ordinarily used for domestic purposes (including home gardening), and
  - (b) is widely available to the general public at retail outlets (for example, at supermarkets).

Pesticides Amendment (User Training) Regulation 2003

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Schedule 1

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**7D Additional defence and other provisions relating to clause 7A  
(1) (d) offence**

- (1) It is a defence in any proceedings against a person for an offence under clause 7A (1) (d) if the person establishes, in connection with the agricultural operations or forestry operations concerned:
- (a) that the person used the pesticide under the direct supervision of the holder of a relevant qualification, and
  - (b) that the holder of the relevant qualification:
    - (i) selected the pesticide as the pesticide to be used, and
    - (ii) prepared the pesticide for use, and
    - (iii) tested and calibrated the equipment used to apply the pesticide before it was so used, and
    - (iv) instructed the person in how to apply the pesticide, and
  - (c) that the person applied the pesticide by hand-held and hand-powered equipment, and
  - (d) that the person applied pesticide in connection with the agricultural operations or forestry operations concerned on no more than 12 days in the previous 12 months and on no more than 4 days in the previous month.
- (2) A person must not supervise a person, who does not hold a prescribed qualification, in the use of a pesticide in connection with any agricultural operations or forestry operations unless:
- (a) if the pesticide is a fumigant, the first-mentioned person holds a relevant qualification, or
  - (b) in any other case, the first-mentioned person holds a relevant qualification referred to in paragraph (a), (b), (c) or (e) of the definition of that term in subclause (3).

Maximum penalty: 200 penalty units.

- (3) For the purposes of this clause:

***relevant qualification*** means:

- (a) a prescribed qualification, or
- (b) a licence, certificate of competency or recognised qualification referred to in clause 7B (1) (a) or (b), or

## Pesticides Amendment (User Training) Regulation 2003

## Schedule 1 Amendments

- 
- (c) a former authority (pest control operator's licence) that is taken to be a certificate of competency as referred to in clause 7B (1) (d), or
  - (d) in connection only with the supervision of the use of a fumigant, a former authority (fumigation permit) that is taken to be a certificate of competency as referred to in clause 7B (2), or
  - (e) a certificate of completion or a statement of attainment referred to in clause 8A.
- (4) Subclause (2) commences on 1 September 2005.

**Division 3 Other requirements relating to qualifications****7E Evidence of qualification must be produced on request**

- (1) A person who:
- (a) under clause 7A (1), is required to hold a prescribed qualification in respect of the use of a pesticide, or
  - (b) under clause 7D (2), is required to hold a relevant qualification in respect of the supervision of the use of a pesticide,

must, if requested to do so by an authorised officer, produce evidence of the qualification concerned for inspection by the authorised officer.

Maximum penalty: 200 penalty units.

- (2) This clause commences on 1 September 2005.

**7F False representations and fraudulent misuse of evidence of prescribed qualification**

- (1) A person must not forge or alter evidence of a prescribed qualification.

Maximum penalty: 100 penalty units.

- (2) A person must not falsely represent, whether in writing, by word or by conduct, that he or she is the holder of a prescribed qualification.

Maximum penalty: 100 penalty units.

- (3) This clause commences on 1 September 2005.

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Schedule 1

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#### **Division 4      Miscellaneous provisions relating to prescribed qualifications**

##### **8 Approval of units of competency for prescribed qualification**

- (1) The Environment Protection Authority may from time to time approve of units of competency for the purposes of the definition of *prescribed qualification* in clause 7.
- (2) The Authority may only approve of units of competency that are specified in a current Training Package endorsed by the National Training Framework Committee of the Australian National Training Authority (being an Authority established under the *Australian National Training Authority Act 1992* of the Commonwealth).
- (3) Before approving units of competency under this clause, the Authority:
  - (a) must consult relevant groups, including registered training providers and environmental and industry representatives, and
  - (b) must be satisfied that the proposed units of competency are relevant to the objects of the Act.
- (4) An approval under this clause:
  - (a) must clearly identify all units of competency required to be achieved for the issue of a prescribed qualification, and
  - (b) may specify that particular units of competency must be achieved by particular pesticide users or classes of pesticide users (including, for example, the users of a particular type of pesticide).
- (5) An approval under this clause is to be published in the Gazette and takes effect on the day that it is so published or on such later date as may be specified in the approval.
- (6) The Authority must ensure that copies of any approval in force under this clause are available for public inspection, without charge and during ordinary business hours, at each of its offices.

## Pesticides Amendment (User Training) Regulation 2003

## Schedule 1 Amendments

**8A Transitional provision concerning ChemCert, Farmcare and SMARTtrain Programs**

A person who holds:

- (a) a certificate of completion under the ChemCert (NSW) Ltd Farm Chemical User Training Program (also known as the Farmcare Australia Farm Chemical User Training Program), or
- (b) a statement of attainment on completion of the SMARTtrain Chemical Application Course, the SMARTtrain Managing Chemical Use Course or the SMARTtrain Chemical Risk Management Course,

that is current immediately before 1 September 2003 is taken to hold a prescribed qualification for the purposes of this Part until the expiration of 5 years from the date of issue of the certificate or statement of attainment, as the case may be (unless sooner cancelled or revoked).

**Note.** Accordingly, before the date that such a certificate or statement ceases to be a prescribed qualification for the purposes of this Part, the person who holds the certificate or statement must ensure that he or she undertakes the training and assessment necessary for the award of a prescribed qualification.

**[3] Clause 12 Definitions**

Omit the clause.

**[4] Clause 14 Amounts of penalty payable: section 78**

Omit "Column 5" and "Column 6" wherever occurring.

Insert instead "Column 2" and "Column 3", respectively.

**[5] Clause 15 Short descriptions of offences**

Omit the clause.

**[6] Schedule 1 Penalty notice offences**

Omit "(Clauses 13–15)". Insert instead "(Clauses 13 and 14)".

**[7] Schedule 1**

Omit Columns 2, 3 and 4 (including all headings to, and all matter in, those Columns) and renumber Columns 5 and 6 as Columns 2 and 3, respectively.

## Pesticides Amendment (User Training) Regulation 2003

Amendments

Schedule 1

**[8] Schedule 1**

Insert in appropriate order in Columns 1, 2 and 3, respectively (as renumbered by item [7]):

Clause 7A (1) (a)	400	—
Clause 7A (1) (b)	400	—
Clause 7A (1) (c)	400	—
Clause 7A (1) (d)	400	—
Clause 7A (1) (e)	400	—
Clause 7A (2)	400	800
Clause 7D (2)	400	—
Clause 7E (1) (a)	400	—
Clause 7E (1) (b)	400	—
Clause 7F (1)	400	—



# Poultry Meat Industry Regulation 2003

under the

Poultry Meat Industry Act 1986

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Poultry Meat Industry Act 1986*.

IAN MACDONALD, M.L.C.,  
Minister for Agriculture and Fisheries

## Explanatory note

This Regulation replaces, with only minor changes in substance, the *Poultry Meat Industry Regulation 1995*. That Regulation will be repealed on 1 September 2003 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation deals with matters relating to the following:

- (a) the procedure for nominating members of the Poultry Meat Industry Committee who are to represent processors,
- (b) the procedure for electing members of the Poultry Meat Industry Committee who are to represent growers,
- (c) the forms to be used for the purposes of such elections,
- (d) the fees payable for the purposes of the *Poultry Meat Industry Act 1986*.

This Regulation is made under the *Poultry Meat Industry Act 1986*, including section 23 (the general regulation-making power).

This Regulation comprises or relates to matters of a machinery nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

## Poultry Meat Industry Regulation 2003

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## Poultry Meat Industry Regulation 2003

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Clause 1 Poultry Meat Industry Regulation 2003

Part 1 Preliminary

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## Poultry Meat Industry Regulation 2003

under the

Poultry Meat Industry Act 1986

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Poultry Meat Industry Regulation 2003*.

#### 2 Commencement

This Regulation commences on 1 September 2003.

**Note.** This Regulation replaces the *Poultry Meat Industry Regulation 1995* which is repealed on 1 September 2003 by section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3 Definitions

(1) In this Regulation:

**Association grower** means a grower who grows designated poultry under an agreement with an Association processor.

**Association processor** means a processor who is a member of the Australian Poultry Industries Association.

**calling of nominations**, in relation to the appointment of one or more processor members, means the date on which a notice is first published in respect of that appointment under clause 6.

**calling of the ballot** for an election means the date on which a notice is first published for the election under clause 23.

**calling of the election** for an election means the date on which a notice is published for the election under clause 14.

**close of enrolments** for an election means the final time and date fixed by the returning officer for the close of enrolments in the election.

Poultry Meat Industry Regulation 2003

Clause 3

Preliminary

Part 1

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**close of exhibition of the rolls** for an election means the final time and date fixed by the returning officer for the close of exhibition of the rolls.

**close of nominations** means:

- (a) in relation to the appointment of one or more processor members, the final time and date fixed by the returning officer for the close of nominations for that appointment, or
- (b) in relation to an election, the final time and date fixed by the returning officer for the close of nominations for the election.

**close of the ballot** for an election means the final time and date fixed by the returning officer for the close of the ballot for the election.

**election** means an election conducted for the purpose of appointing one or more grower members.

**final roll** for an election means:

- (a) the roll of independent growers, or
- (b) the roll of Association growers,

prepared by the returning officer under Division 5 of Part 3.

**grower member** means a member of the Committee appointed under section 4 (3) (c) of the Act.

**independent grower** means a grower who is not an Association grower.

**independent processor** means a processor who is not an Association processor.

**preliminary roll** for an election means:

- (a) the roll of independent growers, or
- (b) the roll of Association growers,

provided to the returning officer under clause 22.

**processor member** means a member of the Committee appointed under section 4 (3) (b) of the Act.

**returning officer** means:

- (a) the Electoral Commissioner for New South Wales, or
- (b) a person nominated by the Electoral Commissioner for the purpose of exercising the functions of a returning officer.

Clause 3 Poultry Meat Industry Regulation 2003

Part 1 Preliminary

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*secretary* means the secretary of the Poultry Meat Industry Committee.

*the Act* means the *Poultry Meat Industry Act 1986*.

- (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.

Poultry Meat Industry Regulation 2003

Clause 4

Nominations

Part 2

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## **Part 2 Nominations**

### **Division 1 Preliminary**

#### **4 Nomination of members to represent processors**

The processor members are to be nominated in accordance with this Part.

### **Division 2 Calling of nominations**

#### **5 Independent members and Association members**

Of the processor members, 3 are to represent independent processors and 3 are to represent Association processors.

#### **6 Notice of proposed appointment**

- (1) Whenever one or more processor members are required to be appointed, the secretary must cause notice of that fact to be published in the Gazette and at the same time sent by mail to each Association processor and independent processor.
- (2) The notice:
  - (a) must specify the number of members required to be appointed to represent independent processors or to represent Association processors (or both), and
  - (b) must call for nominations of candidates, and
  - (c) must fix the time and date for the close of nominations, and
  - (d) must advise where nomination forms may be obtained and where nominations may be lodged, and
  - (e) must specify the qualifications that qualify a processor to nominate a candidate.
- (3) The date fixed for the close of nominations must be not earlier than 21 days, or later than 28 days, after the date on which the notice is published in the Gazette.

#### **7 Postponement of close of nominations**

- (1) The secretary may postpone the close of nominations for a period not exceeding 14 days by a notice similar to, and published and sent by mail in the same manner as, the notice calling for the nomination of candidates.

Clause 8 Poultry Meat Industry Regulation 2003

Part 2 Nominations

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- (2) The power conferred on the secretary by this clause may be exercised more than once in respect of a proposed appointment.

### **Division 3 Nominations**

#### **8 Qualifications for nominating candidates**

- (1) A person is qualified to nominate a candidate for appointment as an independent processor member if the person is an independent processor and has processed designated poultry during the calendar year in which the calling of nominations occurred or during the previous calendar year.
- (2) A person is qualified to nominate a candidate for appointment as an Association member if the person is an Association processor and has processed designated poultry during the calendar year in which the calling of nominations occurred or during the previous calendar year.

#### **9 Eligibility for nomination**

Any person is eligible for nomination as a candidate for appointment as a processor member.

#### **10 Nomination of candidates**

- (1) A nomination of a candidate:
- (a) must be in Form 1, and
  - (b) must be made:
    - (i) in the case of a candidate to represent independent processors, by at least 1 independent processor (other than the candidate) who is qualified to nominate a candidate, or
    - (ii) in the case of a candidate to represent Association processors, by at least 1 Association processor (other than the candidate) who is qualified to nominate a candidate, and
  - (c) must be lodged with the secretary before the close of nominations.

Poultry Meat Industry Regulation 2003

Clause 11

Nominations

Part 2

- 
- (2) If the secretary is of the opinion that none of the persons by whom a candidate has been nominated is qualified to nominate a candidate, the secretary must, as soon as practicable, cause notice of that fact to be given to the candidate.
  - (3) A person must not consent to being nominated as a candidate to represent one class of processors if the person has, in respect of the same appointment, consented to being nominated as a candidate to represent the other class of processors.
  - (4) A candidate who has been nominated for appointment may withdraw the nomination at any time before the close of nominations by notice in writing addressed to the secretary.

#### **11 Selection of members**

In the appointment of one or more processor members:

- (a) the member or members to be appointed to represent independent processors must be selected from the persons duly nominated to represent independent processors, and
- (b) the member or members to be appointed to represent Association processors must be selected from the persons duly nominated to represent Association processors.

Clause 12 Poultry Meat Industry Regulation 2003

Part 3 Elections

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## **Part 3 Elections**

### **Division 1 Preliminary**

#### **12 Election of members to represent growers**

The grower members are to be elected in accordance with this Part.

### **Division 2 Calling of election**

#### **13 Independent members and Association members**

Of the grower members, 3 are to represent independent growers and 3 are to represent Association growers.

#### **14 Notice of election**

- (1) As soon as possible after having been notified in writing by or on behalf of the Minister that one or more grower members are required to be appointed, the returning officer must cause notice of that fact:
  - (a) to be published in the Gazette, and
  - (b) to be sent to the secretary and to each grower.
- (2) The notice to be published in the Gazette and the notice to be sent to the secretary:
  - (a) must state that an election is to be held for the purpose of appointing one or more grower members, and
  - (b) must fix a time and date for the close of nominations.
- (3) The notice to be sent to each grower:
  - (a) must state that an election is to be held for the purpose of appointing one or more grower members, and
  - (b) must specify the number of members required to be appointed to represent independent growers or to represent Association growers (or both), and
  - (c) must call for nominations of candidates, and
  - (d) must specify the time and date for the close of nominations, and
  - (e) must advise where nomination forms may be obtained and where nominations may be lodged, and



Poultry Meat Industry Regulation 2003

Clause 15

Elections

Part 3

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- (f) must specify the qualifications that qualify a grower to nominate a candidate.
- (4) The date fixed for the close of nominations must not be earlier than 21 days, or later than 28 days, after the date on which the notice is published in the Gazette.

### **15 Postponement of close of nominations**

- (1) The returning officer may postpone the close of nominations for a period not exceeding 14 days by a notice in a form similar to, and published in the same manner as, a notice calling for the nomination of candidates.
- (2) The power conferred on the returning officer by this clause may be exercised more than once in respect of an election.

## **Division 3 Nominations**

### **16 Qualifications for nominating candidates**

- (1) A person is qualified to nominate a candidate for election as an independent grower member if the person is an independent grower and has grown designated poultry (under an agreement with an independent processor) during the year in which the calling of the election occurred or during the previous calendar year.
- (2) A person is qualified to nominate a candidate for election as an Association grower if the person is an Association grower and has grown designated poultry (under an agreement with an Association processor) during the year in which the calling of the election occurred or during the previous calendar year.

### **17 Eligibility for nomination**

Any person is eligible for nomination as a candidate for election as a grower member.

### **18 Nomination of candidates**

- (1) A nomination of a candidate:
- (a) must be in Form 2, and
- (b) must be made:

Clause 19 Poultry Meat Industry Regulation 2003

Part 3 Elections

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- (i) in the case of a candidate to represent independent growers, by at least 5 independent growers (other than the candidate) who are qualified to nominate a candidate, or
  - (ii) in the case of a candidate to represent Association growers, by at least 5 Association growers (other than the candidate) who are qualified to nominate a candidate, and
- (c) must be lodged with the returning officer before the close of nominations.
- (2) If the returning officer is of the opinion that an insufficient number of the persons by whom a candidate has been nominated are qualified to nominate a candidate, the returning officer must, as soon as practicable, cause notice of that fact to be given to the candidate.
  - (3) For the purpose of enabling the returning officer to form an opinion as to whether a person by whom a candidate in an election has been nominated is qualified to nominate a candidate, the returning officer may require the secretary to furnish the returning officer with such information regarding the person as the returning officer may specify.
  - (4) The secretary must comply with such a requirement as soon as practicable.
  - (5) A person must not consent to being nominated as a candidate to represent one class of growers if the person has, in respect of the same election, consented to being nominated as a candidate to represent the other class of growers.
  - (6) A candidate who has been nominated in an election may withdraw the nomination at any time before the close of nominations by notice in writing addressed to the returning officer.

#### **19 Uncontested elections**

If the number of persons who have been duly nominated as candidates by the close of nominations does not exceed the number of persons to be elected, each of those persons is taken to have been elected.

Poultry Meat Industry Regulation 2003

Clause 20

Elections

Part 3

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## 20 Contested elections

If the number of persons who have been duly nominated as candidates by the close of nominations exceeds the number of persons to be elected, a ballot must be held.

## 21 Candidate information sheets

- (1) At any time before the close of nominations, a candidate may submit to the returning officer a statutory declaration, in Form 3, containing information intended for inclusion in a candidate information sheet.
- (2) If more than the required number of persons have been nominated as candidates by the close of nominations, the returning officer must draw up a candidate information sheet consisting of the information contained in the statutory declarations submitted by the candidates.
- (3) In drawing up a candidate information sheet, the returning officer may omit (or, with the consent of the candidate, correct) so much of the information contained in a candidate's statutory declaration as the returning officer considers:
  - (a) to be false or misleading, or
  - (b) to be inappropriate for inclusion in the candidate information sheet, or
  - (c) to exceed the maximum amount of information that is suitable for inclusion in the candidate information sheet.
- (4) If a candidate does not submit a statutory declaration to the returning officer, the returning officer may, in drawing up a candidate information sheet, include in the sheet in respect of the candidate the words "NO INFORMATION RECEIVED".
- (5) The names of the candidates must be listed on the candidate information sheet in the same order as they are listed on the ballot-paper for the election.

## Division 4 Calling of ballot

### 22 Preparation of preliminary rolls

- (1) As soon as practicable after it becomes apparent to the returning officer that a ballot is required to be held in respect of an election, the returning officer must cause notice of that fact to be sent to the secretary.

Clause 23 Poultry Meat Industry Regulation 2003

Part 3 Elections

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- (2) The secretary must provide the returning officer with:
- (a) in the case of an election of one or more members to represent independent growers, a preliminary roll of the independent growers who, in the opinion of the secretary, are qualified to vote in the election, and
  - (b) in the case of an election of one or more members to represent Association growers, a preliminary roll of the Association growers who, in the opinion of the secretary, are qualified to vote in the election, and
  - (c) an appropriately addressed label or an appropriately addressed envelope for each person whose name is included in that or those rolls.
- (3) A preliminary roll:
- (a) must contain the names (consecutively numbered and listed in alphabetical order) and addresses of the persons whose names are included in the roll and, for each such person, the name of a processor under an agreement with whom that person grows designated poultry, and
  - (b) must be certified by the secretary in accordance with Form 4.
- (4) This clause does not apply to an election held as a consequence of an earlier election that has failed if a preliminary roll for the earlier election has already been provided to the returning officer.

### **23 Notice of ballot**

- (1) As soon as practicable after receiving the preliminary roll or rolls for the election, the returning officer:
- (a) must cause notice that a ballot is to be held to be published in the Gazette and sent to each grower, and
  - (b) must cause copies of the preliminary roll or rolls to be exhibited for public inspection for at least 14 days (ending at the close of exhibition of the rolls) at a place specified in the notice sent to growers as a place where the roll or rolls will be exhibited.
- (2) The notice published in the Gazette:
- (a) must state that a ballot is to be taken, and
  - (b) must fix a time and date for the close of exhibition of the rolls, and

Poultry Meat Industry Regulation 2003

Clause 24

Elections

Part 3

- 
- (c) must fix a time and date for the close of enrolments, and
  - (d) must fix a time and date for the close of the ballot.
- (3) The notice sent to each grower:
- (a) must state that a ballot is to be taken, and
  - (b) must specify the time and date fixed for the close of exhibition of the rolls, and
  - (c) must specify the time and date fixed for the close of enrolments, and
  - (d) must specify the time and date fixed for the close of the ballot, and
  - (e) must advise where copies of the preliminary roll or rolls will be exhibited, and
  - (f) must specify the qualifications that qualify a grower to vote, and
  - (g) must advise where applications for enrolment and objections against enrolment may be lodged.
- (4) The close of exhibition of the rolls must be not earlier than 14 days after the calling of the ballot.
- (5) The close of the ballot must be not earlier than 28 days after the calling of the ballot.
- (6) The close of enrolments must be not earlier than the close of exhibition of the rolls and not later than 14 days before the close of the ballot.

#### **24 Postponement of closes**

- (1) The returning officer may postpone (for a period not exceeding 14 days) the close of exhibition of the rolls, the close of enrolments or the close of the ballot by a notice published in the same way as the notice stating that a ballot is to be held.
- (2) The power conferred on the returning officer by this clause may be exercised more than once in respect of an election.

Clause 25 Poultry Meat Industry Regulation 2003

Part 3 Elections

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## **Division 5 Preparation of final rolls**

### **25 Qualifications for voting**

- (1) A person is qualified to vote in an election for an independent grower member if the person is an independent grower and has grown designated poultry (under an agreement with an independent processor) during the calendar year in which the close of nominations occurred or during the previous calendar year.
- (2) A person is qualified to vote in an election for an Association grower member if the person is an Association grower and has grown designated poultry (under an agreement with an Association processor) during the calendar year in which the close of nominations occurred or during the previous calendar year.

### **26 Enrolment of representatives of growers**

- (1) If, in the opinion of the returning officer, designated poultry is grown under an agreement with a processor:
  - (a) on behalf of a corporation—the corporation is taken to be enrolled, or to apply for enrolment, in the relevant final roll for an election if, and only if, a nominee of the corporation is so enrolled, or so applies for enrolment, in that roll as the representative of the corporation, or
  - (b) on behalf of a partnership—the partnership is taken to be enrolled, or to apply for enrolment, in the relevant final roll for an election if, and only if, a nominee of the partnership is so enrolled, or so applies for enrolment, in that roll as the representative of the partnership, or
  - (c) by trustees or by legal personal representatives (whether as agents, administrators, executors or otherwise) on behalf of a person or the estate of a person—the person or estate is taken to be enrolled, or to apply for enrolment, in the relevant final roll for an election if, and only if, a nominee of those trustees or representatives is so enrolled, or so applies for enrolment, in that roll as the representative of the person or estate.
- (2) A nominee must be a natural person who is not already enrolled in the relevant final roll for the election in some other capacity.

Poultry Meat Industry Regulation 2003

Clause 27

Elections

Part 3

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- (3) A representative of a corporation, partnership, person or estate is taken to be a grower for the purposes of enrolment and of any election in which the corporation, partnership, person or estate is qualified to vote.
  - (4) In this clause, a reference to a partnership includes a reference to any group of persons who, in the opinion of the returning officer, are engaged in a single enterprise in the growing of designated poultry.
  - (5) In forming such an opinion in respect of a group of persons, the returning officer may ignore the existence of any legal entity that consists of or includes persons who form part of the group.

#### **27 Applications for enrolment**

- (1) A person whose name does not appear on the preliminary roll for an election may apply for enrolment in the final roll for the election.
- (2) The application must be in Form 5 and must be lodged with the returning officer before the close of enrolments.
- (3) On receipt of the application, the returning officer:
  - (a) if satisfied that the applicant is qualified to vote, must accept the application and enter the name and address of the applicant in the relevant final roll, or
  - (b) if not so satisfied, must reject the application and inform the applicant in writing that the application has been rejected, or
  - (c) if the application is not in the proper form or is incomplete, must return the application for correction or completion and consider the duly corrected or completed application in accordance with this clause.

#### **28 Objections to enrolment**

- (1) Before the close of enrolments, the returning officer and any person who is qualified to vote in an election may object to the inclusion of the name of any person in the relevant final roll.
- (2) An objection:
  - (a) must be in Form 6, and
  - (b) must state the grounds on which the objection is made, and
  - (c) must be signed by the objector, and
  - (d) must be lodged with the returning officer.

Clause 29 Poultry Meat Industry Regulation 2003

Part 3 Elections

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- (3) The returning officer must send particulars of an objection to the person to whom the objection relates.
- (4) The person to whom an objection relates may lodge a written reply with the returning officer within 14 days after the date on which particulars of the objection were sent to that person.
- (5) The returning officer must consider each objection, and any reply received within that 14-day period, and may make such inquiries as the returning officer thinks fit.
- (6) The returning officer may accept or refuse to accept an objection.
- (7) If the returning officer accepts an objection, the returning officer must exclude from the relevant final roll for the election the name of the person to whom the objection relates and must inform that person and the objector, in writing, that the name is so excluded.
- (8) If the returning officer rejects an objection, the returning officer must notify the person to whom the objection relates and the objector, in writing, that the returning officer has rejected the objection.
- (9) The returning officer may require a person who lodges an objection, or who replies to an objection, to verify the objection or reply by statutory declaration.

#### **29 Postponement of ballot not to affect final roll**

The validity of the final roll for an election is not affected by the postponement of the close of the ballot by a notice published after the close of the roll, and, in such a case, the roll remains the final roll for the election.

### **Division 6 The ballot**

#### **30 Printing of ballot-papers**

- (1) As soon as practicable after the close of enrolments in an election, 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



Poultry Meat Industry Regulation 2003

Clause 31

Elections

Part 3

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- (b) must cause sufficient ballot-papers to be printed to enable a ballot-paper to be sent to each person included in each of the rolls, and
  - (c) if a candidate information sheet has been drawn up, must cause sufficient copies to be printed so that a copy may be sent to each person included in that roll.
- (2) A ballot-paper for an election must contain:
- (a) the names of the candidates arranged in the order determined in accordance with subclause (1) (a), with a small square set opposite each name, and
  - (b) if the returning officer considers that the names of 2 or more of the candidates are so similar as to cause confusion, such other matter as the returning officer considers will distinguish between the candidates, and
  - (c) such directions as to the manner in which a vote is to be recorded and returned to the returning officer as the returning officer considers appropriate.
- (3) The directions to voters must include a direction that:
- (a) the voter must record a vote for at least the number of candidates to be elected by placing consecutive numbers (beginning with the number “1” and ending with the number equal to the number of candidates to be elected) in the squares set opposite their names in the order of the voter’s preferences for them, and
  - (b) the voter may, but is not required to, vote for additional candidates by placing consecutive numbers (beginning with the number next higher than the number of candidates to be elected) in the square set opposite their names in the order of the voter’s preferences for them.

### 31 Distribution of ballot-papers

As soon as practicable after the printing of the ballot-papers for an election, the returning officer must send to each person included in a final roll for the election:

- (a) a ballot-paper initialled by the returning officer (or by a person authorised by the returning officer) or that bears a mark prescribed for the purposes of section 122A (3) of the *Parliamentary Electorates and Elections Act 1912*, and

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Part 3 Elections

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- (b) an unsealed reply-paid envelope addressed to the returning officer and bearing on the back the words "NAME AND ADDRESS OF VOTER" and "SIGNATURE OF VOTER", together with appropriate spaces for the insertion of a name, address and signature, and
- (c) if applicable, a candidate information sheet.

### **32 Duplicate ballot-papers**

- (1) At any time before the close of the ballot, the returning officer may issue to a voter a duplicate ballot-paper and envelope if the voter satisfies the returning officer by statutory declaration:
  - (a) that the original ballot-paper has been spoilt, lost or destroyed, and
  - (b) that the voter has not already voted in the election to which the ballot-paper relates.
- (2) The returning officer must maintain a record of all duplicate ballot-papers issued under this clause.

### **33 Recording of votes**

In order to vote in an election, a person:

- (a) must record a vote on the ballot-paper in accordance with the directions shown on it, and
- (b) must place the completed ballot-paper (folded so that the vote cannot be seen) in the envelope addressed to the returning officer, and
- (c) must seal the envelope, and
- (d) must complete the person's full name and address on, and must sign, the back of the envelope, and
- (e) must return the envelope to the returning officer so as to be received before the close of the ballot.

## **Division 7 The scrutiny**

### **34 Receipt of ballot-papers**

- (1) The returning officer must reject (without opening it) any envelope purporting to contain a ballot-paper if the envelope is not received before the close of the ballot or is received unsealed.

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Elections

Part 3

- 
- (2) The returning officer must examine the name on the back of the envelope and, without opening the envelope:
- (a) must accept the ballot-paper in the envelope and draw a line through the name on the roll that corresponds to the name on the back of the envelope, if satisfied that a person of that name is included in the relevant final roll for the election, or
  - (b) must reject the ballot-paper in the envelope, if not so satisfied or if a name, address or signature does not appear on the back of the envelope.
- (3) The returning officer may reject a ballot-paper in an envelope without opening the envelope if, after making such inquiries as the returning officer thinks fit:
- (a) the returning officer is unable to identify the signature on the back of the envelope, or
  - (b) it appears to the returning officer that the signature on the back of the envelope is not the signature of the person whose name and address appear on the back of the envelope.

**35 Ascertaining result of ballot**

The result of a ballot must be ascertained by the returning officer as soon as practicable after the close of the ballot.

**36 Scrutineers**

Each candidate in a ballot is entitled to appoint, by notice in writing, a scrutineer to represent the candidate at all stages of the scrutiny.

**37 Scrutiny of votes**

- (1) The scrutiny of votes in a ballot is to be conducted as follows:
- (a) the returning officer must produce unopened the envelopes containing the ballot-papers accepted for scrutiny,
  - (b) the returning officer must then open each such envelope, extract the ballot-paper and (without unfolding it) place it in a locked ballot-box,
  - (c) when the ballot-papers from all the envelopes so opened have been placed in the ballot-box, the returning officer must then unlock the ballot-box and remove the ballot-papers,

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Part 3 Elections

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- (d) the returning officer must then examine each ballot-paper and reject those which are informal,
  - (e) the returning officer must then proceed to count the votes and ascertain the result of the election.
- (2) At the scrutiny of votes in a ballot, a ballot-paper must be rejected as informal:
- (a) if it is neither initialled by the returning officer (or by a person authorised by the returning officer in that behalf) 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
  - (b) if it has on it any mark or writing which the returning officer considers could enable any person to identify the voter who completed it, or
  - (c) if it has not been completed in accordance with the directions shown on it.
- (3) A ballot-paper must not be rejected as informal:
- (a) merely because there is any mark or writing on it that is not authorised or required by this Regulation (not being a mark or writing referred to in subclause (2) (b)) if, in the opinion of the returning officer, the voter's intention is clearly indicated on the ballot-paper, or
  - (b) if the voter has recorded a vote by placing in one square the number "1":
    - (i) merely because the same preference (other than a first preference) has been recorded on the ballot-paper for more than one candidate, or
    - (ii) merely because there is a break in the order of preferences recorded on the ballot-paper.

### **38 Counting of votes**

- (1) If there is only one person to be elected in any election:
- (a) the method of counting the votes so as to ascertain the result of the election is as provided in Part 2 of the Seventh Schedule to the *Constitution Act 1902*, and

Poultry Meat Industry Regulation 2003

Clause 39

Elections

Part 3

- 
- (b) for the purpose of applying the provisions of that Part to any such election, a reference in those provisions to the returning officer is to be read as a reference to the returning officer under this Regulation.
- (2) If there are 2 or more persons to be elected in any election:
- (a) the method of counting the votes so as to ascertain the result of the election is as provided in Part 2 of the Sixth Schedule to the *Constitution Act 1902*, and
- (b) for the purpose of applying the provisions of that Part to any such election:
- (i) a reference in those provisions to the Council returning officer is to be read as a reference to the returning officer under this Regulation, and
- (ii) the quota referred to in those provisions is to be determined by dividing the number of first preference votes for all candidates by one more than the number of persons to be elected and by increasing the quotient so obtained (disregarding any remainder) by one.

### **39 Notice of result of election**

As soon as practicable after a candidate in an election has been elected, the returning officer must notify the Minister and the secretary, in writing, of the name of the candidate elected.

## **Division 8 General**

### **40 Decisions of returning officer final**

If the returning officer is permitted or required by the Act or this Regulation to make a decision on any matter relating to the taking of a ballot in an election, the decision of the returning officer on that matter is final.

### **41 Death of a candidate**

If a candidate dies after the close of nominations and before the close of the ballot:

- (a) the returning officer is to cause notice of the death to be published in the Gazette, and

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Part 3 Elections

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- (b) all proceedings taken after the Minister notified the returning officer that the election was required to be held are of no effect and must be taken again.

#### **42 Offences**

A person must not:

- (a) vote, or attempt to vote, more than once in any election, or
- (b) vote, or attempt to vote, in an election in which the person is not entitled to vote, or
- (c) make a false or wilfully misleading statement (not being a statement verified by statutory declaration):
  - (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
- (d) apply for enrolment in respect of an election in respect of which the person is already enrolled.

Maximum penalty: 5 penalty units.

Poultry Meat Industry Regulation 2003

Clause 43

Miscellaneous

Part 4

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## **Part 4      Miscellaneous**

### **43    Application fee**

For the purposes of section 8 (2) of the Act, the prescribed fee to accompany an application for approval of a form of written agreement between a processor and a grower is an amount calculated at the rate of \$200 for each agreement for which approval is sought for each 12 months or part of 12 months during which the agreement is expressed to operate.

### **44    Notification fee**

For the purposes of section 9 (3) of the Act, the prescribed fee to accompany a notice that an agreement between a processor and a grower has been entered into or terminated is \$10.

### **45    Savings provision**

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

Poultry Meat Industry Regulation 2003

Schedule 1 Forms

**Schedule 1 Forms**

**Form 1**

(Clause 10)

**NOMINATION OF CANDIDATE FOR APPOINTMENT AS A PROCESSOR MEMBER**

(POULTRY MEAT INDUSTRY ACT 1986)

We nominate .....

*(name in full)*

of .....

*(postal address)*

as a candidate for appointment to the Poultry Meat Industry Committee as an independent\*/ Association\* processor member.

We declare that we are each qualified to make this nomination.

**Name in full**

**Address**

**Signature**

.....  
.....  
.....  
.....

I, ....., consent to being a candidate for appointment to the Poultry Meat Industry Committee.

Postal address .....

Postcode ..... Telephone No .....

Date of birth .....

Dated ..... Signed .....

**NOTE:** This nomination must be completed by 1 or more persons (other than the candidate), each of whom is qualified to nominate a candidate in accordance with clause 8 of the *Poultry Meat Industry Regulation 2003*.

*\*(strike out whichever does not apply)*

**Form 2**

(Clause 18)

**NOMINATION OF CANDIDATE FOR ELECTION AS A GROWER MEMBER**

(POULTRY MEAT INDUSTRY ACT 1986)

We nominate .....

*(name in full)*



Poultry Meat Industry Regulation 2003

Forms

Schedule 1

of .....  
(postal address)

as a candidate for election to the Poultry Meat Industry Committee as an independent\*/  
Association\* grower member.

We declare that we are each qualified to make this nomination.

<b>Name in full</b>	<b>Address</b>	<b>Signature</b>
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....

I, ..... , consent to being a candidate for election to  
the Poultry Meat Industry Committee.

Postal address .....

Postcode ..... Telephone No .....

Date of birth .....

Dated ..... Signed .....

**NOTE:** This nomination must be completed by 5 or more persons (other than the  
candidate), each of whom is qualified to nominate a candidate in accordance with  
clause 16 of the *Poultry Meat Industry Regulation 2003*.

\*(strike out whichever does not apply)

**Form 3** (Clause 21)  
**STATUTORY DECLARATION**  
(Poultry Meat Industry Act 1986)

I, ..... , of ..... ,  
do solemnly and sincerely declare that:

1. My full name is .....
2. My residential address is .....  
.....
3. My date of birth is .....
4. I am self-employed\*/employed by\* .....  
as .....  
(specify nature of employment)
5. I hold the following qualifications (academic/trade/professional): .....

Poultry Meat Industry Regulation 2003

Schedule 1 Forms

- 
- 6. I am a member of the following organisations: .....
  - 7. (See note) .....

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 at ..... this ..... day of ..... 20..... ,

(Signature)

Before me

.....

*Justice of the Peace*

\* (Strike out whichever does not apply)

**NOTE:** A candidate may include further information relating to the candidacy. The information should not exceed 100 words.

**Form 4** (Clause 22)  
**CERTIFICATE**

(POULTRY MEAT INDUSTRY ACT 1986)

I certify that this roll contains the names (consecutively numbered and listed in alphabetical order) and addresses of those persons who in my opinion are entitled to vote in the election for which this roll has been prepared.

The first and last entries in the roll are as follows:

First entry No ..... Name .....  
Address .....  
Last entry No ..... Name .....  
Address .....  
Dated ..... Signed .....

**Form 5** (Clause 27)  
**APPLICATION FOR ENROLMENT**  
(POULTRY MEAT INDUSTRY ACT 1986)

Surname .....  
Given names .....

Poultry Meat Industry Regulation 2003

Schedule 1 Forms

Postal address .....

Postcode ..... Telephone No .....

I apply to be enrolled as an independent\*/Association\* grower:

- (a) \* as the occupier of land, or
- (b) \* as a nominee of the occupier of land.

Particulars of person or persons for whom I am a nominee are as follows:

Name .....

Postal address .....

.....

I declare that I am\*/the person I represent is\* entitled to enrolment in accordance with clause 25 of the *Poultry Meat Industry Regulation 2003*.

I further declare that, to the best of my knowledge, the information contained in this application is true.

Dated ..... Signed .....

\* (Strike out whichever does not apply)

**Form 6**

(Clause 28)

**OBJECTION TO ENROLMENT**

(POULTRY MEAT INDUSTRY ACT 1986)

I object to the inclusion in the final roll for the following election:

.....

*(specify the election to which the objection relates)*

of the name of .....

*(name in full)*

of .....

*(address)*

This objection is based on the following grounds:

.....

.....

*(specify the grounds of the objection)*

Name of objector .....

Postal address .....

Postcode ..... Telephone No .....

Dated ..... Signed .....



## Radiation Control Regulation 2003

under the

Radiation Control Act 1990

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Radiation Control Act 1990*.

BOB DEBUS, M.P.,  
Minister for the Environment

### Explanatory note

This Regulation replaces, with only minor changes in substance but with the addition of new matter (specified in paragraph (i) below), the *Radiation Control Regulation 1993*. That Regulation will be repealed on 1 September 2003 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation deals with matters relating to the following:

- (a) the licensing of persons to use certain radioactive substances and radiation apparatus,
- (b) prescribing activities that may be carried out only by an accredited radiation expert,
- (c) regulating the use of radiation apparatus and radioactive substances in the workplace and requiring employers to supply certain information to persons who are, or are likely to be, exposed to radiation in the course of their employment,
- (d) requiring the radiation doses received by persons in the course of their employment to be monitored,
- (e) regulating the disposal and transport of radiation apparatus and radioactive substances and the discharge of radioactive substances,
- (f) requiring employers to take certain action in the event of a radiation accident,
- (g) enabling the Director-General of the Environment Protection Authority (*the Authority*) to direct an employer to appoint a radiation safety officer or radiation safety committee, or both, for a workplace,

## Radiation Control Regulation 2003

## Explanatory note

- 
- (h) exemptions from certain provisions of the Act and this Regulation,
  - (i) prescribing certain offences under the *Radiation Control Act 1990* and this Regulation as offences in respect of which penalty notices may be issued.

This Regulation adopts or refers to the following documents:

- (a) *Administration of Ionizing Radiation to Human Subjects in Medical Research* published by the Australian Radiation Protection and Nuclear Safety Agency (*ARPANSA*),
- (b) Australian Standard 2243.4—1998, *Safety in laboratories—Ionizing radiations* published by Standards Australia,
- (c) *Code of practice for protection against ionizing radiation emitted from X-ray analysis equipment* published by the National Health and Medical Research Council,
- (d) *Code of Practice for the Safe Transport of Radioactive Material* published by ARPANSA,
- (e) *Guideline: Preparation of Radiation Safety Manuals*, a copy of which is deposited in the offices of the Authority,
- (f) *Guideline: Monitoring Devices*, a copy of which is deposited in the offices of the Authority,
- (g) *Radiation Guideline 6: Registration requirements & industry best practice for ionising radiation apparatus used in diagnostic imaging—Part 1—Mammography* published by the Authority,
- (h) *Radiation Guideline 6: Registration requirements & industry best practice for ionising radiation apparatus used in diagnostic imaging—Part 2—Fluoroscopy & Radiography* published by the Authority,
- (i) *Radiation Guideline 6: Registration requirements & industry best practice for ionising radiation apparatus used in diagnostic imaging—Part 3—Dentistry (Including maxillofacial)* published by the Authority,
- (j) *Radiation Guideline 6: Registration requirements & industry best practice for ionising radiation apparatus used in diagnostic imaging—Part 4—Veterinary Science* published by the Authority,
- (k) *Radiation Guideline 6: Registration requirements & industry best practice for ionising radiation apparatus used in diagnostic imaging—Part 5—Computed Tomography and Bone Mineral Densitometry* published by the Authority,
- (l) *1990 Recommendations of the International Commission on Radiological Protection* adopted by the International Commission on Radiological Protection in November 1990.

This Regulation is made under the *Radiation Control Act 1990*, including sections 39 (Exemptions) and 40 (the general regulation-making power) and various other sections mentioned in this Regulation.

Radiation Control Regulation 2003

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Radiation Control Regulation 2003

Clause 1

Preliminary

Part 1

## Radiation Control Regulation 2003

under the

Radiation Control Act 1990

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Radiation Control Regulation 2003*.

#### 2 Commencement

- (1) This Regulation commences on 1 September 2003, except as provided by this clause.
- (2) Clause 10 (b) commences on 1 February 2004.

**Note.** This Regulation replaces the *Radiation Control Regulation 1993* which is repealed on 1 September 2003 by section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3 Definitions

- (1) In this Regulation:

*approved* means approved for the time being by the Director-General.

*Computed Tomography and Bone Mineral Densitometry Radiation Guideline* means the document published by the Authority entitled *Radiation Guideline 6: Registration requirements & industry best practice for ionising radiation apparatus used in diagnostic imaging—Part 5—Computed Tomography and Bone Mineral Densitometry* as in force from time to time.

*Dentistry Radiation Guideline* means the document published by the Authority entitled *Radiation Guideline 6: Registration requirements & industry best practice for ionising radiation apparatus used in diagnostic imaging—Part 3—Dentistry (Including maxillofacial)* as in force from time to time.

*Director-General* means the Director-General of the Authority.



Clause 3	Radiation Control Regulation 2003
Part 1	Preliminary

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*effective dose* has the same meaning as it has in the 1990 ICRP recommendations.

*equivalent dose* has the same meaning as it has in the 1990 ICRP recommendations.

*Fluoroscopy and Radiography Radiation Guideline* means the document published by the Authority entitled *Radiation Guideline 6: Registration requirements & industry best practice for ionising radiation apparatus used in diagnostic imaging—Part 2—Fluoroscopy & Radiography* as in force from time to time.

*Mammography Radiation Guideline* means the document published by the Authority entitled *Radiation Guideline 6: Registration requirements & industry best practice for ionising radiation apparatus used in diagnostic imaging—Part 1—Mammography* as in force from time to time.

*occupationally exposed person* means a person who is exposed to ionising or non-ionising radiation directly arising out of, or in the course of, the person's employment.

*radiation accident* is defined in clause 26.

*the Act* means the *Radiation Control Act 1990*.

*the 1990 ICRP recommendations* means the document entitled *1990 Recommendations of the International Commission on Radiological Protection* and numbered ICRP Publication 60, as adopted by the International Commission on Radiological Protection in November 1990, a copy of which is deposited in the offices of the Authority.

*Veterinary Radiation Guideline* means the document published by the Authority entitled *Radiation Guideline 6: Registration requirements & industry best practice for ionising radiation apparatus used in diagnostic imaging—Part 4—Veterinary Science* as in force from time to time.

- (2) In this Regulation, a reference to a radioactive substance of a particular Group is a reference to a radioactive substance referred to in the corresponding Group in Schedule 1.
- (3) Notes in the text of this Regulation, other than in Schedules 2 and 5, do not form part of this Regulation.

Radiation Control Regulation 2003

Clause 4

Preliminary

Part 1

**4 Definition of “radioactive ore”: section 4**

(1) For the purposes of the definition of *radioactive ore* in section 4 (1) of the Act, the prescribed concentrations of uranium and thorium are:

- (a) in the case of an ore that contains uranium but not thorium, 0.02 per cent by weight of uranium, or
- (b) in the case of an ore that contains thorium but not uranium, 0.05 per cent by weight of thorium, or
- (c) in the case of an ore that contains both uranium and thorium, a percentage by weight of uranium and thorium such that the expression:

$$\frac{U}{0.02} + \frac{Th}{0.05}$$

is equal to, or greater than, one.

(2) In the expression referred to in subclause (1) (c):

*U* represents the percentage by weight of uranium.

*Th* represents the percentage by weight of thorium.

**5 Definition of “radioactive substance”: section 4**

(1) For the purposes of the definition of *radioactive substance* in section 4 (1) of the Act:

- (a) the prescribed amount is 100 becquerels per gram, and
- (b) a substance has the prescribed activity if the expression:

$$\frac{A_1}{40} + \frac{A_2}{400} + \frac{A_3}{4000} + \frac{A_4}{40000}$$

is equal to, or greater than, one.

(2) In the expression referred to in subclause (1) (b):

*A<sub>1</sub>* represents the total activity, in kilobecquerels, of the Group 1 radionuclides contained in the substance.

*A<sub>2</sub>* represents the total activity, in kilobecquerels, of the Group 2 radionuclides contained in the substance.

*A<sub>3</sub>* represents the total activity, in kilobecquerels, of the Group 3 radionuclides contained in the substance.

*A<sub>4</sub>* represents the total activity, in kilobecquerels, of the Group 4 radionuclides contained in the substance.

Clause 6            Radiation Control Regulation 2003

Part 1             Preliminary

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**6 Dose limits to be taken into account by the Authority**

When making a decision under the Act, the Authority is to take into account, where relevant, the dose limits for exposure to ionising radiation, and the notes for assessing those limits, set out in Schedule 2.

Radiation Control Regulation 2003

Clause 7

Licensing, registration and accreditation

Part 2

---

## **Part 2      Licensing, registration and accreditation**

### **7      Exemptions from section 6 licensing requirements for certain radioactive substances and radiation apparatus**

A person is exempt from the requirement to be licensed under section 6 of the Act in relation to the following:

- (a) the use of the kinds of radioactive substances specified in Part 1 of Schedule 3,
- (b) the possession, use or sale of the kinds of radioactive substances specified in Part 2 of Schedule 3,
- (c) the use of the kinds of ionising radiation apparatus specified in Part 3 of Schedule 3,
- (d) the possession, use or sale of the kinds of ionising radiation apparatus specified in Part 4 of Schedule 3.

### **8      Exemptions from section 6 licensing requirements for certain persons**

- (1) The following persons are exempt from the licensing requirements of section 6 of the Act in relation to the use of radioactive substances and ionising radiation apparatus:
  - (a) a person who is a medical registrar at a hospital and is training in nuclear medicine, diagnostic radiology, radiation oncology, ophthalmology, dermatology, rheumatology or in a medical discipline which uses fluoroscopy,
  - (b) a person who is a student in medical radiation technology and is a trainee technologist in nuclear medicine, diagnostic radiology or radiation oncology,
  - (c) a person who is an assistant to an industrial radiographer,
  - (d) an undergraduate student in a university or other educational institution who is undertaking course work or research that involves the use of such substances or apparatus,
  - (e) a postgraduate student in a university or other educational institution who is undertaking research or higher studies that involve the use of such substances or apparatus,
  - (f) a person who is a registered nurse at a hospital or a medical officer at a hospital and is required to inject radiopharmaceuticals by that hospital (but only if a person who is the holder of a licence and who is able to inject the radiopharmaceuticals is not readily available at the hospital).

Clause 8	Radiation Control Regulation 2003
Part 2	Licensing, registration and accreditation

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- (2) This exemption does not have effect with respect to a person unless the person:
- (a) is the subject of an approval under this clause, and
  - (b) is complying with the conditions to which the approval is subject.
- (3) A person who holds a licence may give approvals, for the purposes of this clause, for activities authorised by the licence, but only if the conditions of the licence so allow.
- (4) An approval must:
- (a) be in writing, and
  - (b) specify the radioactive substances or radiation apparatus to which it relates, and
  - (c) set out any conditions to which it is subject, and
  - (d) identify each person, or class of persons, to whom it relates, and
  - (e) identify the person or persons, or class or classes of persons, who are to supervise each person, or class of persons, to whom it relates.
- (5) A person who gives an approval for the purposes of this clause must ensure that a copy of the approval:
- (a) is given to each person to whom it relates, or
  - (b) is conspicuously displayed at each place in which the radioactive substances or ionising radiation apparatus to which the approval relates are proposed to be used.
- Maximum penalty: 25 penalty units.
- (6) A person who grants an approval must ensure that each person so approved is supervised by a qualified person as follows:
- (a) a person referred to in subclause (1) (a) must be subject to:
    - (i) immediate supervision at all times during the first 6 months of the person's training, and
    - (ii) general supervision after that period,
  - (b) a person referred to in subclause (1) (b) must be subject to:
    - (i) immediate supervision at all times while the person is using the radioactive substances or radiation apparatus to which the approval relates during clinical experience in the course of training, and

Radiation Control Regulation 2003

Clause 9

Licensing, registration and accreditation

Part 2

- (ii) general supervision at all other times,
- (c) a person referred to in subclause (1) (c) must be subject to immediate supervision at all times,
- (d) a person referred to in subclause (1) (d) must be subject to:
  - (i) immediate supervision at all times while the person is using the radioactive substances or radiation apparatus to which the approval relates in any clinical situation, and
  - (ii) general supervision at all other times,
- (e) a person referred in subclause (1) (e) or (f) must be subject to general supervision at all times.

Maximum penalty: 25 penalty units.

- (7) In this clause:

**general supervision** means supervision by a qualified person who oversees the person being supervised and ensures that the person follows safe radiation work practices in relation to the use of radioactive substances or radiation apparatus.

**immediate supervision** means supervision by a qualified person who is present at all times during, and is observing and directing, the use by the person being supervised of radioactive substances or radiation apparatus.

**qualified person**, in relation to supervision for a particular radioactive substance or item of radiation apparatus, means a person who is the holder of a licence which allows the person to provide supervision with respect to that substance or item.

## 9 Registration of certain sealed radioactive sources

- (1) All sealed radioactive sources, other than fixed radiation gauges, are exempt from the application of section 7 of the Act.
- (2) This clause ceases to have effect on 1 July 2004.

## 10 Registration of certain radiation apparatus

For the purposes of section 7 (1) (b) of the Act, the following kinds of radiation apparatus are prescribed as apparatus to which section 7 applies:

- (a) any ionising radiation apparatus used or intended to be used for any medical diagnostic, veterinary diagnostic or dental diagnostic purpose,

Clause 11	Radiation Control Regulation 2003
Part 2	Licensing, registration and accreditation

- 
- (b) any ionising radiation apparatus used or intended to be used for radiotherapy or radiotherapy planning purposes,
  - (c) any cyclotron.

### 11 Requirements for registration of radiation apparatus

For the purposes of section 7 (5) of the Act, the applicable requirements for registration of ionising radiation apparatus of a type specified in Column 1 of the table to this clause are the requirements specified opposite that type in Column 2 of the table.

Column 1	Column 2
Type of ionising radiation apparatus	Requirements for registration
Apparatus for computed tomography or bone mineral densitometry	The requirements specified in Schedule 1 to the <i>Computed Tomography and Bone Mineral Densitometry Radiation Guideline</i>
Apparatus for dental diagnostic purposes	The requirements specified in Schedule 1 to the <i>Dentistry Radiation Guideline</i>
Apparatus for fluoroscopy or radiography	The requirements specified in Schedule 1 to the <i>Fluoroscopy and Radiography Radiation Guideline</i>
Apparatus for mammography	The requirements specified in Schedule 1 to the <i>Mammography Radiation Guideline</i>
Apparatus for veterinary diagnostic purposes	The requirements specified in Schedule 1 to the <i>Veterinary Radiation Guideline</i>

**Note.** The Guidelines referred to in this clause, and defined in clause 3 (1), are available from the Environment Protection Authority.

### 12 Consulting radiation experts

- (1) For the purposes of section 9 (1) of the Act, the following activities are prescribed as the activities of a consulting radiation expert:

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Licensing, registration and accreditation

Part 2

- 
- (a) advising on the design of premises to be registered under section 8 of the Act in relation to radiation safety requirements,
  - (b) assessing plans for premises to be registered under section 8 of the Act in relation to radiation safety requirements for the purpose of certifying compliance with the requirements necessary for registration,
  - (c) calibrating ionising radiation apparatus used for medical therapy,
  - (d) calibrating ionising radiation apparatus used for diagnostic purposes,
  - (e) advising on the design of premises, in relation to radiation safety requirements, in which sealed radioactive sources or radiation apparatus prescribed under section 7 (1) of the Act are kept or used,
  - (f) assessing plans for premises in which sealed radioactive sources or radiation apparatus prescribed under section 7 (1) of the Act are kept or used, for the purpose of certifying compliance with any requirements for registration under section 7 (5) of the Act,
  - (g) assessing radiation apparatus, sealed radioactive sources and premises that are required to be registered under section 7 or 8 of the Act for the purpose of certifying compliance with the requirements for registration,
  - (h) assessing the integrity of any shielding of premises in which sealed radioactive sources or radiation apparatus prescribed under section 7 (1) of the Act are kept or used for purposes of certifying compliance with the requirements for registration.
- (2) Authorised officers are exempt from the provisions of section 9 (1) of the Act.



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### 13 Fees

- (1) The following fees are prescribed for the purposes of the Act and this Regulation:

#### Table of fees

Licence under section 6 of the Act	\$117
Registration under section 7 of the Act (other than for cyclotrons)	\$155
Registration of cyclotron under section 7 of the Act	\$1,000
Registration under section 8 of the Act	\$155
Accreditation under section 9 of the Act	\$128
Variation of licence under section 10A of the Act	\$83
Variation of accreditation under section 10A of the Act	\$91
Renewal of licence under section 11 of the Act	\$67
Renewal of registration under section 11 of the Act (other than for cyclotrons)	\$105
Renewal of registration of cyclotron under section 11 of the Act	\$800
Renewal of accreditation under section 11 of the Act	\$103
Transfer of registration under section 12 of the Act	\$38
Approval of personal monitoring devices required by clause 17	\$525
Approval of area monitoring devices required by clause 19	\$525

- (2) The Authority may waive the whole or such part of the fees as the Authority may in a particular case think proper.

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Clause 14

Radiation safety

Part 3

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## **Part 3 Radiation safety**

### **Division 1 Radiation safety in the workplace**

#### **14 Duty to comply with dose limits**

An employer must ensure that each occupationally exposed person in his or her employ is not exposed to ionising radiation that exceeds the dose limits set out in Schedule 2.

Maximum penalty: 100 penalty units.

#### **15 Duty to inform occupationally exposed persons**

An employer must ensure that each occupationally exposed person in his or her employ is made aware of, and kept informed of any changes in, the following particulars:

- (a) the hazards that can arise in connection with the use of radioactive substances and radiation apparatus,
- (b) the safety arrangements that exist to protect persons from such hazards and of the steps that the person must take in order to minimise the likelihood that such a hazard will arise,
- (c) the name of the radiation safety officer or other person to whom the person should refer in connection with any matters relating to the use of radioactive substances and radiation apparatus.

Maximum penalty: 25 penalty units.

#### **16 Radiation safety manual**

- (1) The Director-General may, by notice in writing served on an employer, direct the employer:
  - (a) to prepare or adopt a radiation safety manual, and
  - (b) to submit a copy of the manual to the Authority for approval, within such time as is specified in the direction.
- (2) An employer must not fail to comply with such a direction.

Maximum penalty: 25 penalty units.
- (3) An employer whose radiation safety manual has been approved by the Authority:

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Part 3          Radiation safety

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- (a) must ensure that a copy of the manual is available to all occupationally exposed persons employed by the employer, and
- (b) must take all reasonable steps to ensure that the procedures set out in the manual with respect to the use of radioactive substances and radiation apparatus are followed by all persons in his or her employ.

Maximum penalty: 25 penalty units.

- (4) A radiation safety manual is not to be approved by the Authority unless it conforms to the document adopted by the Authority and entitled *Guideline: Preparation of Radiation Safety Manuals*, a copy of which is deposited in the offices of the Authority.

## **Division 2      Radiation monitoring**

### **17    Personal monitoring devices**

- (1) An employer must ensure that all occupationally exposed persons in his or her employ who are involved in the use of ionising radiation for any one or more of the following purposes are issued with appropriate approved personal monitoring devices for detecting and measuring cumulative exposure to ionising radiation:
  - (a) radiotherapy,
  - (b) industrial radiography,
  - (c) nuclear medicine,
  - (d) scientific research in laboratories classified as medium or high level laboratories (within the meaning of Part 4 of AS 2243.4—1998, *Safety in laboratories—Ionizing radiations*, published by Standards Australia, as in force from time to time) where unsealed radioactive sources are used,
  - (e) diagnostic radiology (other than dentistry, veterinary and chiropractic applications),
  - (f) neutron based detection, analysis and gauging (but only when used in bore-hole logging).

Maximum penalty: 50 penalty units.

Radiation Control Regulation 2003

Clause 18

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- (2) An occupationally exposed person to whom an approved monitoring device has been issued in accordance with this clause must wear the device while involved in the use of ionising radiation in the course of the person's employment.

Maximum penalty: 25 penalty units.

- (3) The Director-General may impose conditions on the approval of a personal monitoring device referred to in this clause.

### **18 Personal radiation exposure record**

- (1) An employer must ensure that, for each occupationally exposed person to whom a personal monitoring device is issued, a record is kept, in accordance with this clause and on an appropriate periodic basis:

- (a) of the amount of radiation to which the person has been exposed, as measured by the device, and
- (b) of the results of any tests carried out or caused to be carried out by the employer in relation to the person for the purpose of determining the amount of radiation to which the person has been exposed.

Maximum penalty: 25 penalty units.

- (2) Such a record must contain the following particulars:

- (a) the full name, sex and date of birth of the occupationally exposed person,
- (b) the current home address of the occupationally exposed person or, if the person is no longer employed by the employer, the person's last known home address,
- (c) the date of commencement of employment (and, if applicable, the date of cessation of employment) as an occupationally exposed person,
- (d) the kind of work performed by the occupationally exposed person,
- (e) details of the types of ionising radiation to which the occupationally exposed person may have been exposed in the course of employment with the employer, including information about radioactive substances in unsealed form (if any) to which the occupationally exposed person may have been exposed,

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Part 3 Radiation safety

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- (f) details of any radiation accidents in which the person has been involved or by which the person may have been affected,
  - (g) details of the personal monitoring device worn by the occupationally exposed person,
  - (h) the results of monitoring the levels of radiation exposure of the occupationally exposed person.
- (3) When an employee leaves an employer's employment, the employer:
- (a) must cause a copy of the radiation exposure records relating to the employee to be given to the employee, and
  - (b) if the employee is taking up employment as an occupationally exposed person with another employer and if the employee requests, must cause a further copy of those records to be given to the other employer.

Maximum penalty: 25 penalty units.

- (4) An employer must ensure that a warning in the following terms accompanies a copy of the radiation exposure records given to an employee by the employer in accordance with subclause (3):

THESE RECORDS SHOULD BE KEPT SAFELY AND PERMANENTLY AND BE GIVEN TO ANY FUTURE EMPLOYER EMPLOYING YOU AS A RADIATION WORKER.

Maximum penalty: 25 penalty units.

- (5) An employer by whom records are required to be kept must ensure that the records are available for inspection by the person to whom they relate at reasonable times during normal working hours.

Maximum penalty: 25 penalty units.

#### **19 Area monitoring devices**

- (1) The Director-General may, by notice in writing served on an employer, direct the employer to take specified action with respect to the monitoring of radiation on specified premises.
- (2) In particular, such a direction may require the employer to ensure that specified premises are equipped with approved monitoring devices for the purpose of monitoring the presence and level of radiation on the premises.
- (3) The Director-General may impose conditions on the approval of a monitoring device referred to in this clause.

Radiation Control Regulation 2003

Clause 20

Radiation safety

Part 3

- 
- (4) An employer must not contravene a direction in force under this clause.

Maximum penalty: 25 penalty units.

## **20 Maintenance of monitoring devices**

An employer must ensure that all monitoring devices that are issued or installed by the employer in accordance with the requirements of this Division are checked, maintained and calibrated in accordance with the document entitled *Guideline: Monitoring Devices*, a copy of which is deposited in the offices of the Authority.

Maximum penalty: 50 penalty units.

## **21 Records to be kept of monitoring devices**

An employer must ensure that, for each monitoring device issued or installed by the employer in accordance with this Division, a record is kept of the following particulars:

- (a) the date on which the device was acquired,
- (b) the date of each occasion on which the device was repaired and the details of the repairs,
- (c) the date on which the device was last calibrated.

Maximum penalty: 25 penalty units.

## **Division 3 Voluntary exposure to radiation for scientific or research purposes**

### **22 Voluntary exposure to radiation for scientific or research purposes**

A person must not expose any other person to ionising radiation for scientific or research purposes except in accordance with the document published by the Australian Radiation Protection and Nuclear Safety Agency entitled *Administration of Ionizing Radiation to Human Subjects in Medical Research*, as in force from time to time.

Maximum penalty: 50 penalty units.

Clause 23      Radiation Control Regulation 2003

Part 3          Radiation safety

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#### **Division 4      Disposal and transport of radioactive substances and radiation apparatus**

##### **23      Disposal of radioactive substances and radiation apparatus**

- (1) A person must not dispose of any radioactive substance or any radiation apparatus except with the consent of the Director-General.  
Maximum penalty: 100 penalty units.
- (2) A person must not dispose of any radiation apparatus unless the apparatus has been rendered permanently inoperable.  
Maximum penalty: 100 penalty units.
- (3) The consent of the Director-General may be given generally or in a particular case and may be subject to such conditions as the Director-General thinks fit to impose.

##### **24      Records to be kept of discharge of radioactive substances**

- (1) The occupier of any premises on which radioactive substances are kept must maintain a record, in accordance with this clause, of all radioactive substances discharged from the premises.  
Maximum penalty: 100 penalty units.
- (2) The record must include the following information:
  - (a) the type of radioactive substances discharged,
  - (b) an estimate of the total activity of the radioactive substances discharged,
  - (c) the manner in which the radioactive substances were discharged,
  - (d) the date on which the radioactive substances were discharged.

##### **25      Transport of radioactive substances**

A person must not cause any radioactive substance to be transported otherwise than in accordance with the requirements of the document published by the Australian Radiation Protection and Nuclear Safety Agency entitled *Code of Practice for the Safe Transport of Radioactive Material*, as in force from time to time.

Maximum penalty: 100 penalty units.

Radiation Control Regulation 2003

Clause 26

Radiation safety

Part 3

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## Division 5 Radiation accidents

### 26 Certain occurrences are taken to be radiation accidents

- (1) For the purposes of this Regulation, a *radiation accident* is to be treated as having occurred if there is an occurrence that involves the unplanned or unexpected emission of radiation (such as spillage or leakage of a radioactive substance or damage to radiation apparatus) and that is of such a nature or extent that it is likely:
  - (a) that one or more persons have, or could have, received a dose of radiation equal to or in excess of:
    - (i) 5 millisieverts, in the case of an occupationally exposed person, or
    - (ii) 1 millisievert, in any other case, or
  - (b) that premises or the environment may have become contaminated within the meaning of section 21 of the Act.
- (2) For the purposes of this Regulation, a radiation accident is to be treated as having occurred if there is an occurrence that involves the misuse of radiation apparatus or maladministration of a radioactive substance used for medical purposes, including any of the following:
  - (a) the administration of a radioactive substance for diagnostic purposes in a quantity of more than 50 per cent more than that prescribed,
  - (b) the administration of a radioactive substance for therapeutic purposes at an activity differing by more than 15 per cent from that prescribed,
  - (c) administration of a therapeutic dose of radiation from radiation apparatus or a sealed radioactive source which differs from the total prescribed treatment dose by more than 10 per cent,
  - (d) the unintended administration of radiation as a result of a malfunction of radiation apparatus,
  - (e) administration of a radiopharmaceutical otherwise than as prescribed.

### 27 Duty to report and investigate apparent radiation accidents

- (1) An employer must give written notice to the Director-General of the particulars:



Clause 28      Radiation Control Regulation 2003

Part 3          Radiation safety

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- (a) specified in subclause (2) (a)–(d) within 48 hours of becoming aware of an apparent radiation accident, and
- (b) specified in subclause (2) (e) within 10 days of becoming aware of an apparent radiation accident.

Maximum penalty: 25 penalty units.

- (2) The notice must contain the following particulars:
  - (a) particulars of the accident indicating, as far as is possible, the place where it occurred and the period during which emission of radiation was uncontrolled,
  - (b) particulars of the area over which any radioactive substances may have been dispersed,
  - (c) particulars of any steps taken to rectify the accident,
  - (d) particulars of any personal injury or exposure that may have resulted,
  - (e) particulars of any assessment of the radiation dose to which any person may have been exposed as a result of the accident.

## **28 Record of accidents**

- (1) An employer must maintain a record, in accordance with this clause, of all radiation accidents.

Maximum penalty: 25 penalty units.

- (2) Such a record must, for each radiation accident that is reported to the employer, contain the following particulars:
  - (a) particulars of the accident indicating, as far as is possible, the place where it occurred and the period during which emission of radiation was uncontrolled,
  - (b) the name of any occupationally exposed person or other person who was there during that period,
  - (c) an estimate of the radiation dose to which any person may have been exposed,
  - (d) details and results of any medical examinations undertaken as a result of the accident,
  - (e) particulars of the area over which any radioactive substances may have been dispersed,
  - (f) particulars of any steps taken to rectify the accident,
  - (g) the time at which the accident was reported to the employer,

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Clause 29

Radiation safety

Part 3

- 
- (h) the probable cause of the accident,
  - (i) particulars of any investigations conducted into the accident, together with the results of the investigations,
  - (j) details of any steps taken to reduce the risk of a similar accident occurring in the future.

## **29 Faults or defects**

- (1) An employer, on becoming aware that a fault may exist in any radiation apparatus:
  - (a) must investigate the apparent fault and, if necessary, cause the apparatus to be removed, replaced or repaired, and
  - (b) must inform all persons who may have been exposed to radiation in quantities in excess of those that would normally be received from the apparatus in faultless condition that they may have been so exposed.

Maximum penalty: 50 penalty units.

- (2) An employer, on becoming aware that a fault or defect may exist in any sealed radioactive source:
  - (a) must investigate the apparent fault or defect and, if necessary, cause the sealed radioactive source to be removed, replaced or repaired, and
  - (b) must inform all persons who may have been exposed to radiation in quantities in excess of those that would normally be received from the sealed radioactive source in faultless condition that they may have been so exposed.

Maximum penalty: 50 penalty units.

Clause 30      Radiation Control Regulation 2003

Part 4          Radiation safety officers and committees

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## **Part 4      Radiation safety officers and committees**

### **30    Appointment of radiation safety officers and committees**

- (1) The Director-General may, by notice in writing served on an employer:
  - (a) direct the employer to appoint a radiation safety officer or a radiation safety committee, or both, for a workplace, and
  - (b) in the case of a direction to appoint a radiation safety officer, determine the qualifications to be held by a person so appointed, and
  - (c) direct what functions are to be exercised by a radiation safety officer or radiation safety committee so appointed.
- (2) An employer:
  - (a) must not fail to appoint a radiation safety officer or a radiation safety committee, or both, in accordance with a direction under this clause, and
  - (b) must not allow the functions of the radiation safety officer or radiation safety committee to be exercised otherwise than by the officer or the committee, as the case requires.

Maximum penalty: 25 penalty units.

Radiation Control Regulation 2003

Clause 31

Miscellaneous

Part 5

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## Part 5 Miscellaneous

### 31 Destruction or disposal of records

- (1) An employer must not destroy or otherwise dispose of any records required to be kept under this Regulation otherwise than in accordance with this clause.

Maximum penalty: 25 penalty units.

- (2) An employer may, with the consent of the Director-General, destroy or otherwise dispose of any records that the employer is required by this Regulation to keep.
- (3) The Director-General is not to give consent to the destruction of any records kept under clause 18 by an employer until at least 5 years after the cessation of employment with the employer of the employee concerned.
- (4) An employer may forward to the Director-General the records kept under this Regulation by the employer if the employer ceases to carry on business in New South Wales.
- (5) The Director-General may dispose of any records forwarded to or kept by the Director-General in accordance with this Regulation.

### 32 Contamination of premises by radioactivity: section 21

- (1) For the purposes of section 21 (4) of the Act, the prescribed level of activity for premises inside a building is:
  - (a) 0.04 becquerels per square centimetre for any Group 1 or Group 2 radioactive substance that emits alpha radiation, or
  - (b) 0.4 becquerels per square centimetre for any Group 3 or Group 4 radioactive substance that emits alpha radiation, or
  - (c) 0.4 becquerels per square centimetre for any radioactive substance that emits beta or gamma radiation.
- (2) For the purposes of section 21 (4) of the Act, the prescribed level of activity for premises outside a building is:
  - (a) 0.01 becquerels per square centimetre for any Group 1 radioactive substance, or
  - (b) 0.1 becquerels per square centimetre for any Group 2 radioactive substance, or
  - (c) 1.0 becquerels per square centimetre for any Group 3 radioactive substance, or

Clause 33      Radiation Control Regulation 2003

Part 5          Miscellaneous

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- (d) 10.0 becquerels per square centimetre for any Group 4 radioactive substance.

**33 Loss or theft of radioactive substance or radiation apparatus**

- (1) If any radioactive substance, or any radiation apparatus registered under section 7 of the Act, is lost or stolen:
- (a) the person who is the owner of the substance or apparatus, and
  - (b) any other person who is the holder of a licence and is employed to use, or to supervise the use of, the substance or apparatus,

must cause notice of the loss or theft to be given to the Director-General as soon as possible (but in any event, no later than 3 days) after the person becomes aware of the loss or theft.

Maximum penalty: 100 penalty units.

- (2) Notice does not have to be given by any one of those persons if notice has already been given by any other of those persons.

**34 Penalty notice offences**

For the purposes of section 25A of the Act:

- (a) each offence created by a provision specified in Column 1 of Schedule 4 is declared to be a penalty notice offence, and
- (b) the prescribed penalty for such an offence is the amount specified in Column 2 of Schedule 4.

**35 Forfeiture of property: sections 26 and 27**

- (1) An application made by or on behalf of the Authority for the purposes of section 26 (2) of the Act is to be in writing.
- (2) A notice referred to in section 27 (1) (b) of the Act is to be in writing addressed to the owner of the substance or thing concerned at that person's address last known to the Authority.

Radiation Control Regulation 2003

Clause 36

Miscellaneous

Part 5

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### **36 Warning signs**

The occupier of any premises in or on which any radiation apparatus or radioactive substance, not specified in Schedule 3, is kept must ensure that a warning sign in or to the effect of the form set out in Schedule 5 (with colouring as indicated in the note to that Schedule) is conspicuously displayed in the immediate vicinity of the apparatus or substance.

Maximum penalty: 25 penalty units.

### **37 Savings provision**

Any act, matter or thing that, immediately before the repeal of the *Radiation Control Regulation 1993*, had effect under that Regulation continues to have effect under this Regulation.

## Radiation Control Regulation 2003

Schedule 1 Prescribed activity of a radioactive substance

**Schedule 1 Prescribed activity of a radioactive substance**

(Clause 3 (2))

Column 1	Column 2
<b>Group 1</b>	
Ac227	Am241 Am243 Cf249 Cf250 Cf252 Cm242 Cm243 40 kilo- becquerels
Cm244	Cm245 Cm246 Np237 Pa231 Pb210 Po210 Pu238
Pu239	Pu240 Pu241 Pu242 Ra223 Ra226 Ra228 Th227
Th228	Th230 U230 U232 U233 U234
Any alpha emitting radionuclide that is not included in any other Group in this Schedule	

Column 1	Column 2
<b>Group 2</b>	
Ac228	Ag110m At211 Ba140 Bi207 Bi210 Bk249 Ca45 400 kilo- becquerels
Cd115m	Ce144 C136 Co56 Co60 Cs134 Cs137 Eu152
Eu154	Ge68 Hf181 I124 I125 I126 I131 I133
In114m	Ir192 Mn54 Na22 Pa230 Pb212 Ra224 Ru106
Sb124	Sb125 Sc46 Sr89 Sr90 Ta182 Tb160 Te127m
Te129m	Th234 T1204 Tm170 U236 Y91 Zr95
Any radionuclide that is not alpha emitting and is not included in any other Group in this Schedule	

## Radiation Control Regulation 2003

Prescribed activity of a radioactive substance

Schedule 1

Column 1								Column 2
Group 3								
Ag105	Ag111	Ar41	As73	As74	As76	As77	Au196	4 mega- becquerels
Au198	Au199	Ba131	Ba133	Be7	Bi206	Bi212	Br75	
Br76	Br82	C14	Ca47	Cd109	Cd115	Ce141	Ce143	
Cl38	Co57	Co58	Cr51	Cs129	Cs131	Cs136	Cu64	
Cu67	Dy165	Dy166	Er161	Er169	Er171	Eu152m	Eu155	
F18	Fe52	Fe55	Fe59	Ga67	Ga68	Ga72	Gd153	
Gd159	Hf175	Hg195m	Hg197	Hg197m	Hg203	Ho166	I123	
I130	I132	I134	I135	In111	In115	In115m	Ir190	
Ir194	K42	K43	Kr85m	Kr87	La140	Lu177	Mg28	
Mn52	Mn56	Mo99	Na24	Nb93m	Nb95	Nd147	Nd149	
Ni63	Ni65	Np239	Os185	Os191	Os193	P32	Pa233	
Pb203	Pd103	Pd109	Pm147	Pm149	Pr142	Pr143	Pt191	
Pt193	Pt197	Rb81	Rb86	Re183	Re186	Re188	Rh105	
Rn220	Rn222	Ru103	Ru105	Ru97	S35	Sb122	Sc47	
Sc48	Se75	Si31	Sm151	Sm153	Sn113	Sn121	Sn125	
Sr85	Sr91	Sr92	Tc96	Tc97	Tc97m	Tc99	Te125m	
Te127	Te129	Te131m	Te132	Th231	Tl200	Tl201	Tl202	
Tm171	U239	V48	W181	W185	W187	Xe135	Y87	
Y90	Y92	Y93	Yb175	Zn62	Zn65	Zn69m	Zr97	



## Radiation Control Regulation 2003

## Schedule 1 Prescribed activity of a radioactive substance

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Column 1								Column 2
<b>Group 4</b>								
Ar37	C11	Co58m	Cs134m	Cs135	Cu62	Ga68	Ge71	40 mega- becquerels
H3	I129	In113m	Kr81m	Kr85	N13	Nb97	Ni59	
O15	Os191m	Pt193m	Pt197m	Rb87	Re187	Rh103m	Se73	
Sm147	Sr85m	Sr87m	Tc96m	Tc99m	Th nat	Th232	U nat	
U235	U238	Xe131m	Xe133	Y91m	Zn69	Zr93		

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Radiation Control Regulation 2003

Dose limits for exposure to ionising radiation

Schedule 2

## Schedule 2 Dose limits for exposure to ionising radiation

(Clauses 6 and 14)

Application	Dose limit Occupationally exposed person	Dose limit Member of public (other than patient)
Effective dose	20 mSv per year averaged over a period of 5 consecutive calendar years <sup>4, 5, 6</sup>	1 mSv in a year <sup>7</sup>
Equivalent dose to: (a) lens of the eye	150 mSv in a year	15 mSv in a year
(b) skin <sup>8</sup>	500 mSv in a year	50 mSv in a year
(c) the hands and feet	500 mSv in a year	No limit specified

**Note 1.** The limits apply to the sum of the relevant doses from external exposure in the specified period and the committed dose from intakes in the same period. In this Note, **committed dose** means the dose of radiation, arising from the intake of radioactive material, accumulated by the body over 50 years following the intake (except in the case of intakes by children, where it is the dose accumulated until the age of 70).

**Note 2.** Any dose resulting from medical diagnosis or treatment should not be taken into account.

**Note 3.** Any dose attributable to normal naturally occurring background levels of radiation should not be taken into account.

**Note 4.** With the further provision that the effective dose must not exceed 50mSv in any single year.

**Note 5.** When a female employee declares a pregnancy, the embryo or foetus should be afforded the same level of protection as required for members of the public.

**Note 6.** When, in exceptional circumstances, a temporary change in the dose limitation requirements is approved by the Authority, one only of the following conditions applies:

- (a) the effective dose limit must not exceed 50mSv per year for the period, that must not exceed 5 years, for which the temporary change is approved,

## Radiation Control Regulation 2003

## Schedule 2 Dose limits for exposure to ionising radiation

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- (b) the period for which the 20mSv per year average applies must not exceed 10 consecutive years and the effective dose must not exceed 50mSv in any single year.

**Note 7.** In special circumstances, a higher value of effective dose could be allowed in a single year, provided that the average over 5 years does not exceed 1mSv per year.

**Note 8.** The equivalent dose limit for the skin applies to the dose averaged over any 1 square centimetre of skin, regardless of the total area exposed.

Radiation Control Regulation 2003

Exemptions from licensing

Schedule 3

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## **Schedule 3 Exemptions from licensing**

(Clause 7)

### **Part 1 Exemptions from licensing for use of radioactive substances**

- 1 Radioactive substances used for gas chromatography detectors
- 2 Sealed radioactive sources used for radiation gauging installed in fixed positions
- 3 Industrial smoke detectors that contain Am-241, if they do not contain any other radioactive substance
- 4 Self-shielded irradiators (that is, gamma irradiators in which the radioactive substance is completely enclosed in a dry container constructed of solid material that shields the radioactive substance to 0.5  $\mu$ Sv per hour at 1 metre from the accessible surfaces of the irradiator at all times)

### **Part 2 Exemptions from licensing for possession, use or sale of radioactive substances**

- 1 Clocks, watches and other devices that have luminous dials
- 2 Gaseous tritium luminous devices (including self luminous "EXIT" signs)
- 3 Radioactive substances used in nuclear medicine for checking gamma cameras and dose calibrators and having a level of activity of less than 40 megabecquerels
- 4 Radioactive substances used as laboratory reference sources and having a level of activity of less than 40 megabecquerels
- 5 Radioactive substances for demonstration, teaching and training having a level of activity of less than 40 megabecquerels
- 6 Uranium metal of natural isotopic composition, or depleted in uranium 235, which is used as radiation shielding in transport packages for radioactive substances or in any other manner

## Radiation Control Regulation 2003

## Schedule 3 Exemptions from licensing

---

**Part 3 Exemptions from licensing for use of ionising radiation apparatus**

- 1 X-ray baggage inspection apparatus
- 2 Cabinet x-ray inspection apparatus installed in a fixed position
- 3 Enclosed x-ray diffraction, absorption and fluorescence analysers that comply with the requirements for enclosed units as defined in the document published by the National Health and Medical Research Council entitled *Code of practice for protection against ionizing radiation emitted from X-ray analysis equipment* (or as defined in any document replacing that document that is published by the Australian Radiation Protection and Nuclear Safety Agency)

**Part 4 Exemptions from licensing for possession, use or sale of ionising radiation apparatus**

- 1 Television receivers
- 2 Visual display units
- 3 Cold cathode gas discharge tubes
- 4 Electron microscopes

Radiation Control Regulation 2003

Penalty notice offences

Schedule 4

**Schedule 4 Penalty notice offences**

(Clause 34)

<b>Column 1</b>	<b>Column 2</b>
<b>Provision</b>	<b>Penalty</b>
<b>Offences under the Act</b>	
Section 6 (2)	\$1500 for a corporation \$750 for an individual
Section 6 (3)	\$1500 for a corporation \$750 for an individual
Section 7 (2)	\$1500 for a corporation \$750 for an individual
Section 7 (3)	\$1500 for a corporation \$750 for an individual
Section 8 (1)	\$1500 for a corporation \$750 for an individual
Section 8 (2)	\$1500 for a corporation \$750 for an individual
Section 9 (1)	\$500
Section 13 (6)	\$100
Section 18 (4)	\$1000
<b>Offences under this Regulation</b>	
Clause 8 (5)	\$250
Clause 8 (6)	\$250
Clause 14	\$1000
Clause 15	\$250

## Radiation Control Regulation 2003

## Schedule 4 Penalty notice offences

---

<b>Column 1</b>	<b>Column 2</b>
<b>Provision</b>	<b>Penalty</b>
Clause 16 (2)	\$250
Clause 16 (3) (a)	\$250
Clause 16 (3) (b)	\$250
Clause 17 (1)	\$500
Clause 17 (2)	\$250
Clause 18 (1)	\$250
Clause 18 (3) (a)	\$250
Clause 18 (3) (b)	\$250
Clause 18 (4)	\$250
Clause 18 (5)	\$250
Clause 19 (4)	\$250
Clause 20	\$500
Clause 21	\$250
Clause 22	\$500
Clause 23 (1)	\$1000
Clause 23 (2)	\$1000
Clause 24 (1)	\$1000
Clause 25	\$1000
Clause 27 (1)	\$250
Clause 28 (1)	\$250

Radiation Control Regulation 2003

Penalty notice offences

Schedule 4

---

<b>Column 1</b>	<b>Column 2</b>
<b>Provision</b>	<b>Penalty</b>
Clause 29 (1) (a)	\$500
Clause 29 (1) (b)	\$500
Clause 29 (2) (a)	\$500
Clause 29 (2) (b)	\$500
Clause 30 (2) (a)	\$250
Clause 30 (2) (b)	\$250
Clause 31 (1)	\$250
Clause 33 (1)	\$1000
Clause 36	\$250

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Radiation Control Regulation 2003

Schedule 5 Prescribed warning sign

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## Schedule 5 Prescribed warning sign

(Clause 36)

**CAUTION RADIATION**



**Note.** The sign is to have a yellow background with the distinctive symbol in black and the lettering "CAUTION RADIATION" in black.



New South Wales

# Rail Safety (General) Amendment (Penalties and Train Safety Recordings) Regulation 2003

under the

Rail Safety Act 2002

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Rail Safety Act 2002*.

MICHAEL COSTA, M.L.C.,  
Minister for Transport Services

## Explanatory note

The objects of this Regulation are as follows:

- (a) to increase the penalties (including on-the-spot fines) for certain offences under the *Rail Safety (General) Regulation 2003* relating to tickets and payment of fares, conduct on trains or railway land, littering, crossing or placing objects on railway tracks, throwing things at or from trains, stations or railways, and trespassing on stations, railways or railway land,
- (b) to enable publication and communication of train safety recordings (such as data logger information) between accredited persons and their employees and contractors for monitoring and analysis purposes and to the Director-General of the Ministry of Transport.

This Regulation is made under the *Rail Safety Act 2002*, including sections 73, 95 and 117 (the general power to make regulations).

Clause 1 Rail Safety (General) Amendment (Penalties and Train Safety Recordings)  
Regulation 2003

---

## **Rail Safety (General) Amendment (Penalties and Train Safety Recordings) Regulation 2003**

under the

Rail Safety Act 2002

### **1 Name of Regulation**

This Regulation is the *Rail Safety (General) Amendment (Penalties and Train Safety Recordings) Regulation 2003*.

### **2 Amendment of Rail Safety (General) Regulation 2003**

The *Rail Safety (General) Regulation 2003* is amended as set out in Schedule 1.

Rail Safety (General) Amendment (Penalties and Train Safety Recordings)  
Regulation 2003

Amendments

Schedule 1

---

## Schedule 1 Amendments

(Clause 2)

### [1] Clause 13 Conduct generally

Omit clause 13 (c).

### [2] Clause 13

Omit "5 penalty units". Insert instead "10 penalty units".

### [3] Clause 13 (2)

Insert at the end of clause 13:

- (2) A person must not on any train, on any railway land or on any part of monorail works wilfully put his or her feet, or either of them, on a seat.

Maximum penalty: 5 penalty units.

### [4] Clauses 15 (1), 17 (1), 18 (2), 28, 29 (1), 32 (1), 35 (1), 36 (2), 37 (1), 38, 39 (2), 41 (1), 42, 43 (1) and 44

Omit "Maximum penalty: 5 penalty units." wherever occurring.

Insert instead "Maximum penalty: 10 penalty units."

### [5] Clauses 31 (1), 55 (1) and 56 (1)

Omit "Maximum penalty: 5 penalty units." wherever occurring.

Insert instead "Maximum penalty: 50 penalty units."

### [6] Clauses 36 (1) and 54

Omit "Maximum penalty: 5 penalty units." wherever occurring.

Insert instead "Maximum penalty: 20 penalty units."

Rail Safety (General) Amendment (Penalties and Train Safety Recordings)  
Regulation 2003

Schedule 1 Amendments

---

**[7] Clause 62B**

Insert after clause 62A:

**62B Disclosure of train safety records for monitoring and other purposes**

- (1) For the purposes of section 73 (e) of the Act, a train safety recording may be published or communicated by and to the persons set out in subclause (2), but only if the publication or communication is made for any of the following purposes:
  - (a) the analysis or monitoring of railway operations or rail safety or related matters,
  - (b) without limiting paragraph (a), the auditing of compliance by railway employees with any systems, procedures, instructions or orders relating to the carrying out of railway operations.
- (2) A train safety recording may be published or communicated:
  - (a) by an accredited person or an employee or contractor of the accredited person to another accredited person or an employee or contractor of another accredited person, or
  - (b) by an employee or contractor of an accredited person to the accredited person or another employee or contractor of the accredited person, or
  - (c) by an accredited person to an employee or contractor of the accredited person.
- (3) For the purposes of section 73 (e) of the Act, a train safety recording may be published or communicated by or on behalf of an accredited person to the Director-General.

Rail Safety (General) Amendment (Penalties and Train Safety Recordings)  
Regulation 2003

Amendments

Schedule 1

**[8] Schedule 1 Penalty notice offences**

Omit all matter under the heading to Part 2. Insert instead:

<b>Column 1</b>	<b>Column 2</b>
<b>Offence</b>	<b>Penalty</b>
Clause 5 (1)	\$200
Clause 6 (1) (a)	\$200
Clause 6 (1) (b)	\$200
Clause 8 (1)	\$200
Clause 9 (1)	\$200
Clause 9 (3)	\$200
Clause 9 (4) (a)	\$200
Clause 9 (4) (b)	\$200
Clause 10	\$200
Clause 11 (1)	\$200
Clause 12 (1)	\$200
Clause 13 (1) (a)	\$400
Clause 13 (1) (b)	\$400
Clause 13 (1) (d)	\$400
Clause 13 (2)	\$100
Clause 14 (2)	\$100
Clause 15 (1)	\$400
Clause 16 (1)	\$100

Rail Safety (General) Amendment (Penalties and Train Safety Recordings)  
Regulation 2003

Schedule 1 Amendments

<b>Column 1</b>	<b>Column 2</b>
<b>Offence</b>	<b>Penalty</b>
Clause 17 (1)	\$400
Clause 18 (2)	\$400
Clause 19 (1)	\$100
Clause 20	\$100
Clause 21 (a)	\$200
Clause 21 (b)	\$200
Clause 21 (c)	\$200
Clause 21 (d)	\$200
Clause 22 (a)	\$200
Clause 22 (b)	\$200
Clause 23 (1)	\$100
Clause 23 (2)	\$100
Clause 24 (1)	\$100
Clause 25 (3)	\$100
Clause 26 (1) (a)	\$100
Clause 26 (1) (b)	\$100
Clause 26 (3)	\$100
Clause 27 (2)	\$100
Clause 28 (a)	\$400
Clause 28 (b)	\$400

Rail Safety (General) Amendment (Penalties and Train Safety Recordings)  
Regulation 2003

Amendments

Schedule 1

<b>Column 1</b>	<b>Column 2</b>
<b>Offence</b>	<b>Penalty</b>
Clause 28 (c)	\$400
Clause 28 (d)	\$400
Clause 29 (1) (a)	\$400
Clause 29 (1) (b)	\$400
Clause 30 (1)	\$200
Clause 31 (1) (a)	\$400
Clause 31 (1) (b)	\$400
Clause 31 (1) (c)	\$400
Clause 31 (1) (d)	\$400
Clause 31 (1) (e)	\$400
Clause 31 (1) (f)	\$400
Clause 32 (1) (a)	\$200
Clause 32 (1) (b)	\$200
Clause 33	\$200
Clause 34 (1) (a)	\$200
Clause 34 (1) (b)	\$200
Clause 34 (1) (c)	\$100
Clause 34 (1) (d)	\$100
Clause 35 (1)	\$200
Clause 36 (1) (a)	\$400



Rail Safety (General) Amendment (Penalties and Train Safety Recordings)  
Regulation 2003

Schedule 1 Amendments

<b>Column 1</b>	<b>Column 2</b>
<b>Offence</b>	<b>Penalty</b>
Clause 36 (1) (b)	\$400
Clause 36 (2)	\$200
Clause 37 (1) (a)	\$200
Clause 37 (1) (b)	\$400
Clause 37 (2)	\$200
Clause 38 (a)	\$400
Clause 38 (b)	\$400
Clause 38 (c)	\$400
Clause 39 (2)	\$400
Clause 41 (1)	\$400
Clause 42 (1)	\$400
Clause 42 (2) (a)	\$400
Clause 42 (2) (b)	\$400
Clause 42 (3) (a)	\$400
Clause 42 (3) (b)	\$400
Clause 43 (1) (a)	\$400
Clause 43 (1) (b)	\$400
Clause 43 (1) (c)	\$400
Clause 44 (a)	\$400
Clause 44 (b)	\$400

Rail Safety (General) Amendment (Penalties and Train Safety Recordings)  
Regulation 2003

Amendments

Schedule 1

---

<b>Column 1</b>	<b>Column 2</b>
<b>Offence</b>	<b>Penalty</b>
Clause 44 (c)	\$400
Clause 45	\$100
Clause 46 (1)	\$100
Clause 46 (2)	\$100
Clause 47 (1) (a)	\$100
Clause 47 (1) (b)	\$100
Clause 47 (1) (c)	\$100
Clause 48 (2) (a)	\$200
Clause 48 (2) (b)	\$200
Clause 49	\$100
Clause 53	\$200
Clause 54	\$400
Clause 55 (1) (a)	\$400
Clause 55 (1) (b)	\$400
Clause 55 (1) (c)	\$400
Clause 55 (1) (d)	\$400
Clause 55 (1) (e)	\$400
Clause 55 (4)	\$200
Clause 56 (1)	\$400
Clause 59 (1)	\$100

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Rail Safety (General) Amendment (Penalties and Train Safety Recordings)  
Regulation 2003

Schedule 1 Amendments

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<b>Column 1</b>	<b>Column 2</b>
<b>Offence</b>	<b>Penalty</b>
Clause 60 (1)	\$100

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New South Wales

## Real Property Regulation 2003

under the

Real Property Act 1900

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Real Property Act 1900*.

ANTHONY KELLY, M.L.C.,  
Minister Assisting the Minister for Natural Resources (Lands)

### Explanatory note

The object of this Regulation is to remake, with various modifications, the *Real Property Regulation 1998* which will be repealed on 1 September 2003 under section 10 (2) of the *Subordinate Legislation Act 1989*. The new regulation contains provisions with respect to the following matters:

- (a) the lodgment of dealings and caveats, including requirements relating to the form and content of certain documents,
- (b) the manner in which a requisition for an official search of the Register kept under the *Real Property Act 1900* is to be made,
- (c) the times at which information in the Register is to be made available to the public for searches and the manner in which such information is to be provided to an applicant,
- (d) the payment of fees,
- (e) prescribing the period during which the Registrar-General may require production in electronic format or hard copy of certain documents lodged in electronic form,
- (f) the particulars to be included in certain notices given to the Public Trustee relating to applications for foreclosures,
- (g) the service of certain documents,

Real Property Regulation 2003

Explanatory note

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- (h) prescribing the maximum amount that the Registrar-General may pay in settlement of claims against the Torrens Assurance Fund without further authorisation from the Minister,
- (i) savings and transitional matters.

This Regulation is made under the *Real Property Act 1900*, including section 144 (the general regulation-making power).

This Regulation (other than the provisions dealing with fees) relates to matters of a machinery nature.

Real Property Regulation 2003

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Clause 1            Real Property Regulation 2003

Part 1             Preliminary

---

## Real Property Regulation 2003

under the

Real Property Act 1900

### Part 1            Preliminary

#### 1    Name of Regulation

This Regulation is the *Real Property Regulation 2003*.

**Note.** This Regulation replaces the *Real Property Regulation 1998* which is repealed on 1 September 2003 under section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 2    Commencement

This Regulation commences on 1 September 2003.

#### 3    Definitions

In this Regulation:

*approved* means approved for the time being by the Registrar-General.

*the Act* means the *Real Property Act 1900*.

Real Property Regulation 2003

Clause 4

Dealings and caveats

Part 2

---

## Part 2 Dealings and caveats

### 4 Lodgment of dealings and caveats

- (1) A dealing or caveat that is intended to be lodged at the office of the Registrar-General must be lodged in the approved manner.
- (2) The dealing or caveat must be accompanied by the relevant fee set out in Schedule 1.

### 5 Certain instruments to comply with Schedule 2 requirements

- (1) This clause applies to the following instruments:
  - (a) an application or dealing that is required by the Act or any other Act to be in an approved form,
  - (b) a caveat referred to in section 74B or 74F of the Act,
  - (c) a declaration of trust (or a duplicate or an attested copy) lodged in accordance with section 82 of the Act.
- (2) An instrument to which this clause applies (being an instrument that is intended to be lodged at the office of the Registrar-General) must comply with the requirements set out in Schedule 2.

### 6 Joint tenancy or tenancy in common to be stated

- (1) The following applications and dealings must state whether the persons concerned take as joint tenants or as tenants in common:
  - (a) an application by 2 or more persons to be registered as proprietors of land,
  - (b) a transfer, mortgage, charge or lease in favour of 2 or more persons,and, if they take as tenants in common, the shares in which they take.
- (2) If the persons take as tenants in common, and if the shares in which they take are expressed as fractions, the shares must be stated by means of fractions having a common denominator and each numerator or denominator of the fraction must be an integer (for example: "A takes as to five-tenths, B takes as to three-tenths and C takes as to two-tenths").



Clause 7            Real Property Regulation 2003

Part 2             Dealings and caveats

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## **7 Caveats: particulars of estate or interest claimed**

- (1) This clause applies to the following caveats:
  - (a) a caveat lodged under section 74B of the Act against a primary application,
  - (b) a caveat lodged under section 74F of the Act against a dealing, possessory application or delimitation plan, or against an application for cancellation of an easement or extinguishment of a restrictive covenant.
- (2) A caveat to which this clause applies must specify the particulars set out in Schedule 3 in relation to the estate or interest to which a caveator claims to be entitled.

## **8 Caveats applying to part of land only: description of part**

- (1) This clause applies to a caveat lodged under section 74F of the Act against a dealing, possessory application or delimitation plan, or against an application for cancellation of an easement or extinguishment of a restrictive covenant.
- (2) A caveat to which this clause applies that relates to part only of the land described in a folio of the Register or a current lease must describe the part in accordance with the requirements of Schedule 4.

## **9 Relodgment of dealings**

For the purposes of section 36 (6) (a) of the Act, a dealing must be relodged in the approved manner.

## **10 Annexure of plans to dealings or caveats**

- (1) A plan must not be annexed to or endorsed on a dealing or caveat lodged in the office of the Registrar-General unless the Registrar-General so approves.
- (2) A plan that is annexed to or endorsed on a dealing (other than a lease of premises) or caveat must comply with the requirements of Schedule 5.
- (3) A plan that is annexed to or endorsed on a lease of premises must comply with the requirements of Schedule 6.
- (4) Unless the Registrar-General otherwise approves, a lease of premises for a term of more than 25 years must show the leased premises in a plan annexed to or endorsed on the lease that complies with Schedule 6.

Real Property Regulation 2003

Clause 11

Searches

Part 3

---

## Part 3 Searches

### 11 Official searches

- (1) A requisition for an official search of the Register must be made in the approved form.
- (2) A requisition is to be limited to parcels of land held by one proprietor or jointly held by 2 or more proprietors.
- (3) A requisition may be lodged personally, by post, by facsimile or by other approved means.
- (4) The relevant fee set out in Schedule 1 must, if required by the Registrar-General, be paid before delivery of the office copy of a certificate of the result of a search.
- (5) If a requisition is withdrawn after the commencement but before completion of a search, such fees as the Registrar-General determines having regard to the work done up to the time of withdrawal must be paid.
- (6) The Registrar-General may require an interim payment of fees before completion of a search.

### 12 Public searches

For the purposes of section 96B of the Act:

- (a) the prescribed times at which information in the Register is to be made available are 8.30 am to 4.30 pm each day (other than a Saturday, Sunday or public holiday), and
- (b) the prescribed manner in which information in the Register is to be made available to an applicant is:
  - (i) by providing a copy of the information to the applicant in printed, electronic or other approved form, or
  - (ii) in the case of information contained in a computer folio of the Register, by furnishing a certificate to the applicant in accordance with section 96D or 96G of the Act, or
  - (iii) in the case of information contained in a bound volume to which the public has access, by permitting the applicant to inspect the bound volume, and
- (c) the prescribed fee is the relevant fee set out in Schedule 1.

Clause 13 Real Property Regulation 2003

Part 4 Miscellaneous

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## **Part 4 Miscellaneous**

### **13 Fees payable to the Registrar-General**

- (1) The fees specified opposite the matters listed in Schedule 1 are payable to the Registrar-General in respect of those matters.
- (2) A fee is payable before the service to which the fee relates is provided or at such time and in accordance with such conditions as the Registrar-General may agree with the person paying the fee.

### **14 Period for retention of documents**

For the purposes of section 12AA (2) (b) and (c) of the Act, the period prescribed:

- (a) for a plan or other document that has been lodged otherwise than for the purpose of its being registered or recorded, is the period of 12 months commencing with the day on which it was lodged, or
- (b) for a plan or other document that has been registered or recorded, is the period of 12 months commencing with the day on which it was registered or recorded.

### **15 Statement to accompany notice to Public Trustee of intention to apply for foreclosure order**

A statement accompanying a notice given to the Public Trustee under section 61 (2A) of the Act must contain the following particulars:

- (a) a statement that the notice is given pursuant to section 61 (2A) of the Act,
- (b) the full name and last known address of the mortgagor concerned and the date and place of his or her death,
- (c) the amount due and owing under the mortgage at the date the notice is given, or at such other date as may be specified in the notice.

### **16 Service of notices on caveator: prescribed person**

For the purposes of section 74N (1) (d) of the Act, Toll Transport Pty Ltd is a prescribed person.

Real Property Regulation 2003

Clause 17

Miscellaneous

Part 4

---

**17 Service of notices relating to lease where proprietor of lease is bankrupt**

For the purposes of section 91 (2) and (5) of the Act, the prescribed manner of serving a notice is by serving it in the manner provided in section 170 of the *Conveyancing Act 1919*.

**18 Settlement of claims**

For the purposes of section 135 (3) (b) of the Act, the amount that may be paid by the Registrar-General in settlement of a claim must not exceed \$250,000.

**Note.** Section 135 (3) (b) of the Act provides that a higher amount than the amount prescribed by this clause may be paid in a particular settlement if the Minister has approved of the settlement.

**19 Savings and transitional provisions**

Any act, matter or thing that, immediately before the commencement of this Regulation, had effect under the *Real Property Regulation 1998* is taken to have effect under this Regulation.

## Real Property Regulation 2003

## Schedule 1 Fees

**Schedule 1 Fees**

(Clauses 4 (2), 11 (4), 12 (c) and 13)

\$

**Copies**

- |   |  |       |
|---|--|-------|
| 1 | On lodgment of an application for a certified copy of a registered instrument or part of it affecting land under the provisions of the Act—for each copy | 64.00 |
| 2 | For supplying a copy of a document or part of a document available from the Document Copy Service  | 4.00  |

**Advertisements**

- |   |  |   |
|---|--|---|
| 3 | On advertisement, pursuant to section 12 (1) (h1) of the Act, of the intended exercise or performance of any power, authority, duty or function conferred or imposed on the Registrar-General by the Act | Such fee as the Registrar-General determines having regard to the cost of the advertisement |
|---|--|---|

**Production of documents**

- |   |  |       |
|---|--|-------|
| 4 | For each Crown grant, certificate of title or other document produced for the purpose of any application, request, dealing or plan to be subsequently lodged | 16.50 |
|---|--|-------|

**Applications, requests and dealings**

- |   |   |        |
|---|---|--------|
| 5 | On lodgment of an application to bring land under the Act   | 128.00 |
| 6 | On lodgment of an application under section 45D of the Act by a person in possession of land to be recorded as proprietor of an estate or interest in that land | 64.00  |
|   | In addition, for each hour or part of an hour occupied in examining the application   | 106.00 |
| 7 | On lodgment of an application, request or dealing for which no fee is otherwise provided  | 64.00  |

## Real Property Regulation 2003

## Fees

## Schedule 1

		\$
8	On lodgment of an application or request for amendment of a folio of the Register, Crown grant or certificate of title	64.00
9	On lodgment of an application under section 81A of the Act for the extinguishment of a restrictive covenant	64.00
In addition:		
(a)	for each hour or part of an hour occupied in examining the application	106.00
(b)	for the Registrar-General's costs of serving notice under section 81D of the Act by way of registered post	Such fee as the Registrar-General determines having regard to the cost of posting the notice
10	On lodgment of an application under section 49 of the Act for the cancellation of an easement that has been abandoned	64.00
In addition, for each hour or part of an hour occupied in examining the application		
11	On lodgment of an application for the determination under Part 14A of the Act of the position of the common boundary of adjoining lands	64.00
12	On lodgment of a building management statement (within the meaning of the <i>Conveyancing Act 1919</i> )	64.00
13	For every plan, sketch or diagram accompanying a dealing, application, request or instrument	64.00
<b>Caveats</b>		
14	On lodgment or recording of a caveat	64.00
15	On withdrawal or partial withdrawal of a caveat pursuant to section 74M (1) of the Act	64.00

## Real Property Regulation 2003

## Schedule 1 Fees

	\$
16 On lodgment of a request for withdrawal or partial withdrawal of a Registrar-General's caveat (no fee is payable for withdrawal or partial withdrawal of a Registrar-General's caveat consequent on lodgment and registration of a dealing)	64.00
17 On lodgment of a request for the Registrar-General to direct the manner of service of a notice on a caveator pursuant to section 74N (1) (e) of the Act	64.00
18 On lodgment of an application for preparation of a notice for service on a caveator pursuant to section 74C (3), 74I (1) or (2), 74J (1) or 74JA (2) of the Act	64.00
19 On lodgment of a notice of a change of name of a caveator or of the address for service of a notice on a caveator	64.00
<b>Authentication of forms</b>	
20 For examination and authentication of any dealing, application, request or caveat that is required by any Act to be in an approved form which contains departures from the approved form and which is not a form licensed by the Registrar-General, an additional	64.00
<b>Official searches</b>	
21 On requisition for an official search of a manual folio of the Register (whether or not requiring the continuation of a search from the date of a previous search of that folio or the date of a prior certificate of result of a search)	64.00
In addition, for each half-hour or part of a half-hour occupied in the search after the first hour	32.00
<b>Computer folios</b>	
22 On the lodgment of a requisition for a computer folio certificate or search of a historical record	4.00

## Real Property Regulation 2003

## Fees

## Schedule 1

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**Public searches**

- |     |   |       |
|-----|---|-------|
| 23  | On the lodgment of a requisition requiring dispatch of information by post, facsimile or other approved means:  |       |
| (a) | for an initial search of a folio of the Register, including investigation as to title reference, a copy of the relevant folio and the transmission fee              | 35.20 |
|     | In addition, for each half-hour or part of a half-hour occupied in the search after the first half-hour   | 35.20 |
|     | In addition, for inclusion in the initial search of any additional document forming part of the Register (per document)   | 4.00  |
| (b) | for providing copies of a folio or dealing if no investigation as to title reference is required, including a copy of the folio or dealing and the transmission fee | 22.00 |
|     | In addition, for inclusion of each additional document required   | 4.00  |
| (c) | for a historical search of a folio of the Register, including a copy of the search and the transmission fee   | 22.00 |
| (d) | for providing copies of an instrument or a plan only, including a copy of the document and the transmission fee   | 22.00 |
|     | In addition, for inclusion of each additional document required   | 4.00  |



## Real Property Regulation 2003

## Schedule 1 Fees

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**Searches generally**

- |    |   |  |
|----|---|--|
| 24 | In the case of a requisition for an official search of a manual folio, a computer folio certificate or a search of a historical record that, in the opinion of the Registrar-General, is a search for which the above schedule of fees is not appropriate | Such reasonable fee (determined by the Registrar-General in negotiation with the requesting party) as is warranted by the cost incurred in carrying out the search |
|----|---|--|

**Certificates of title**

- |    |   |       |
|----|---|-------|
| 25 | For the issue of a certificate of title on any request or application | 64.00 |
|----|---|-------|

**Miscellaneous**

- |    |   |       |
|----|---|-------|
| 26 | On depositing an instrument declaratory of trusts or other instrument not specified   | 64.00 |
| 27 | On lodgment of an application for a statement of reasons under section 121 of the Act   | 64.00 |
| 28 | On lodgment of a request for the issue of a summons under section 12 of the Act   | 64.00 |
| 29 | On lodgment of a request for the issue of a notice under section 136 of the Act   | 64.00 |
| 30 | For recording of any memorial or notification not otherwise provided for  | 64.00 |
| 31 | On lodgment of a request for delivery of a document or documents pursuant to section 23A (3) (c) of the Act (no fee is payable if the request is made during the currency of the primary application) | 15.00 |

## Real Property Regulation 2003

## Fees

## Schedule 1

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32 For furnishing a certificate of ownership ( <i>Local Government Act 1993</i> —section 700 (2) or <i>Environmental Planning and Assessment Act 1979</i> —section 151 (2)) and incorporating in it any information as to subsisting encumbrances or interests	32.00
In addition, for supplying each additional document forming part of the Register	4.00
33 For supplying information in response to a written inquiry as to the manner in which a proposed dealing or plan should be drawn, or as to whether a proposed dealing or plan is entitled to registration, or in response to a written inquiry that necessitates any searching or investigation	Such reasonable fee (determined by the Registrar-General) as is warranted by the cost incurred in supplying the information, searching or investigating
34 For production of documents at the Office of State Revenue	20.00
35 For supplying details of lots created on the registration of a deposited plan or strata plan (within the meaning of the <i>Conveyancing (General) Regulation 2003</i> )	2.00
36 In addition, for any dealing, application, request or caveat that refers to more than 20 folios of the Register	64.00 for each group of 20 folio references or part of that number

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Real Property Regulation 2003

Schedule 2 Requirements for certain instruments

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## Schedule 2 Requirements for certain instruments

(Clause 5)

- 1 The text must be clearly printed or written across the width of each sheet of paper used.
- 2 Unless the Registrar-General otherwise approves, all text must be in the English language.
- 3 The text must be printed or written on only one side of each sheet.
- 4 The sheets used must have clear margins:
  - (a) on the first sheet—of not less than 25mm at the top and 10mm on each side and at the bottom, and
  - (b) on each subsequent sheet—of not less than 10mm on each side and at the top and bottom.
- 5 The paper used must be:
  - (a) white and free from discolouration and blemishes, and
  - (b) of not less substance than 80 grams per square metre, and
  - (c) 297mm in length by 210mm in width (standard A4),or such other paper as is approved.
- 6 All text must be at least 10 point (1.8mm) in size and be clear and legible and in dense black ink or dense dark blue ink. The lines must not overlap. A carbon copy, or a copy in which the typewritten characters blur or spread or are liable to mark or damage an adjacent sheet, will not be accepted.
- 7 Handwriting and any imprint of a seal must be clear and legible and in dense black ink or dense dark blue ink.
- 8 All typewriting, printing, handwriting and any imprint of a seal must be to a standard that will enable it to be clearly reproduced by the imaging processes employed by the Registrar-General.
- 9 Typewriting, printing, writing or seals must not extend into the margin.
- 10 Typewriting, printing, writing or signatures must not extend into any seal.

Real Property Regulation 2003

Requirements for certain instruments

Schedule 2

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- 11** Alterations must be made by striking through the matter intended to be altered or by the use of typewriter automatic correcting devices and not by rubbing, scraping or cutting the surface of the paper or by using correction fluid. An alteration must be initialled or verified by the parties to the dealing.
- 12** Signatures or initials verifying alterations by interlineation or the striking through of matter must be placed in the left-hand margin as near as practicable to the alteration.
- 13** The pages of an annexure to a dealing must be numbered sequentially in the centre of the foot of each page as “Page ..... of ..... pages” and the annexure:
- (a) must be identified (on the annexure itself) as an annexure to the dealing, and
  - (b) must be signed, on the first and last pages, by the parties to the dealing (or, if a party is a body corporate, by a person who has attested the affixing of the seal of the body corporate or who has otherwise signed on its behalf) and attested, and
  - (c) must be referred to in the body of the dealing.
- 14** An additional or inserted sheet intended to form part of a dealing:
- (a) must be attached to the dealing in a manner acceptable to the Registrar-General, and
  - (b) if it contains matter that would normally be inserted in an approved form, must be signed by the parties to the dealing (or, if a party is a body corporate, signed by a person who has attested the affixing of the seal of the body corporate or who has otherwise signed on its behalf) and attested.
- 15** If, apart from any matter contained in an additional or inserted sheet, it is not readily apparent from the body of a dealing that the additional or inserted matter is intended to form part of the dealing:
- (a) a note referring to the additional or inserted matter (or covenants by number where appropriate) must be added to the body of the dealing, and
  - (b) a note identifying the additional or inserted matter must be added to the additional or inserted sheet containing that matter.

## Real Property Regulation 2003

Schedule 2 Requirements for certain instruments

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- 16** Dimensions referred to in a dealing:
- (a) in the case of dimensions of length, must be expressed in metres and not in any other unit of measurement of length (whether or not related to the metre), and
  - (b) in the case of dimensions of area, must be expressed in square metres, hectares or square kilometres and not in any other unit of measurement of area (whether or not related to the square metre, hectare or square kilometre).
- 17** Annexures, additional sheets or inserted sheets may be prepared by means of a photographic or similar approved process and, if so prepared:
- (a) must comply with paragraphs 1–16, and
  - (b) must contain only printing that is permanent and legible with a dense black image free from excessive background, and
  - (c) must be so prepared that the process does not affect the quality of the paper, and
  - (d) must be authenticated by original signatures.

Real Property Regulation 2003

Particulars of estate or interest to be specified in caveats

Schedule 3

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### **Schedule 3 Particulars of estate or interest to be specified in caveats**

(Clause 7)

- 1** Particulars of the nature of the estate or interest in land claimed by the caveator.
- 2** The facts on which the claim is founded, including (if appropriate) a statement as to the manner in which the estate or interest claimed is derived from the registered proprietor of the estate or interest or the primary or possessory applicant against which the caveat is to operate.
- 3** If the caveator's claim is based (wholly or in part) on the terms of a written agreement or other instrument, particulars of the nature and date of that agreement or instrument and the parties to it.
- 4** If the caveator claims as mortgagee, chargee or covenant chargee, a statement of the amount (if readily ascertainable) of the debt or other sum of money charged on the land (or, if the amount is not readily ascertainable, the nature of the debt, annuity, rent-charge or other charge secured on the land).
- 5** If the caveator claims as lessee for a term or for a renewal or extension of a term, particulars of the duration of the term or renewed or extended term and its commencing date (and, if the agreement for the term, renewal or extension includes an option for the renewal or extension of the term or to purchase the reversion, a statement to the appropriate effect).
- 6** If the caveator claims an easement, particulars of the land or authority that has or is intended to have the benefit of the easement.
- 7** If the caveator claims a profit à prendre, particulars of the land or authority intended to have the benefit of the profit à prendre.
- 8** If the caveator claims a right to the benefit of a restriction on the use of land, particulars of the land or authority intended to have the benefit of the restriction.
- 9** If the caveator claims a right to the benefit of a positive covenant, particulars of the land or authority intended to have the benefit of the covenant.

## Real Property Regulation 2003

Schedule 3 Particulars of estate or interest to be specified in caveats

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- 10** It is not necessary to specify:
- (a) whether the estate or interest claimed is legal or equitable, or
  - (b) the quantum of the estate or interest claimed (except as provided in paragraphs 4 and 5), or
  - (c) how the estate or interest claimed ranks in priority with other estates and interests in the land.

Real Property Regulation 2003

Description in caveats of part of land

Schedule 4

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## Schedule 4 Description in caveats of part of land

(Clause 8)

- 1** Except where paragraph 2, 3 or 5 applies, the description of the part must refer to the part:
- (a) as a lot or portion in a current plan within the meaning of the *Conveyancing Act 1919*, or
  - (b) as a proposed lot in a plan lodged for registration or recording:
    - (i) under Division 3 of Part 23 of the *Conveyancing Act 1919*, or
    - (ii) under the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986*,  
but only if the plan has not been so registered or recorded at the time of lodgment of the caveat, or
  - (c) if the Registrar-General so approves, as the land shown in a plan annexed to or endorsed on the caveat, which plan must contain sufficient information to establish, to the satisfaction of the Registrar-General, the relationship of the plan to the boundaries of the land comprised in the folio of the Register or the current lease to which the caveat relates.
- 2** If the claim of the caveator is in respect of:
- (a) premises within an existing building, or
  - (b) a proposed lot in a proposed strata plan or other proposed plan of subdivision which, at the time of lodgment of the caveat, has not been lodged with the Registrar-General for registration or recording, or
  - (c) a parcel for which description in accordance with paragraph 1 is inappropriate,
- the description of the part must be in such other form or manner as will enable the Registrar-General to identify the part to which the claim relates.
- 3** If the claim of the caveator is in respect of an unregistered easement over part of the land comprised in a folio of the Register or a current lease, the description must identify the site of the easement:
- (a) if the Registrar-General approves, as the land shown in a plan annexed to or endorsed on the caveat, or



## Real Property Regulation 2003

## Schedule 4 Description in caveats of part of land

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(b) as the land shown in a plan which defines the site of the easement and which is registered or recorded in the office of the Registrar-General.

- 4** It is not necessary for a plan referred to in paragraph 3 to define precisely the site of an easement intended to be created in respect of an existing tunnel, pipe, conduit, wire or other similar object which is underground, or is within or beneath an existing building, so long as the plan shows the approximate position of the easement.
- 5** If mines or minerals constitute the part of the land comprised in the folio of the Register or current lease to which the claim of the caveator relates, it is sufficient to specify or describe the mines or minerals concerned.

Real Property Regulation 2003

Requirements for plans annexed to or endorsed on dealings (other than leases of premises) or caveats

Schedule 5

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## **Schedule 5 Requirements for plans annexed to or endorsed on dealings (other than leases of premises) or caveats**

(Clause 10)

- 1 A plan must identify the land to which it relates.
- 2 A plan must be drawn in a manner and to a scale that allows all details and notations to be clearly reproduced by the imaging processes used by the Registrar-General.
- 3 A plan must contain the following particulars:
  - (a) a statement of the reduction ratio at which the plan is drawn,
  - (b) the north point (which must be directed upwards) and the meridian to which it relates,
  - (c) complete dimensions (including area) of every parcel comprised in the plan,
  - (d) sufficient information to define any proposed easement, or any proposed variation of an existing easement, and its relationship to the boundaries of any affected parcel,
  - (e) if prepared by a registered land surveyor within the meaning of the *Surveying Act 2002*, the signature of the surveyor,
  - (f) the date of preparation of the plan,
  - (g) the signature of each person who has signed the dealing or caveat to which the plan is annexed.
- 4 The description of the part of the land shown in the plan must agree with the description of that part shown in the dealing or caveat.
- 5 The lengths shown on a plan must be expressed in metres and not in any other unit of measurement of length (whether or not related to the metre), without the use of any symbol or abbreviation to represent the metre as the unit of measurement employed.
- 6 Area measurements shown on a plan must be expressed in the following units of measurement:
  - (a) areas of less than one hectare must be expressed in square metres accompanied by the symbol "m<sup>2</sup>",

## Real Property Regulation 2003

Schedule 5 Requirements for plans annexed to or endorsed on dealings (other than leases of premises) or caveats

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- (b) areas of one hectare or more but less than 10,000 hectares must be expressed in hectares (using not more than 4 significant figures) accompanied by the symbol “ha”,
  - (c) areas of 10,000 hectares or more must be expressed in square kilometres accompanied by the symbol “km<sup>2</sup>”.
- 7** There must be a statement on each sheet of the reduction ratio at which the plan is drawn.
- 8** Unless the Registrar-General otherwise approves, all words, letters, figures and symbols appearing on a plan:
- (a) must be shown in capital letters (except as provided by paragraph 6), and
  - (b) must be open in formation and construction, and
  - (c) must be drawn in an upright style, and
  - (d) must be in the English language.
- 9** A plan may be altered only by striking through the matter to be altered. In particular, a plan may not be altered by the use of correction fluid or by rubbing, scraping or cutting the surface of the sheet on which the plan is drawn. The Registrar-General may require a sheet on which a plan is drawn to be replaced if, in the opinion of the Registrar-General any alteration on the sheet will render it unsuitable for imaging.
- 10** If lodged as an annexure, a plan must be neatly and clearly drawn without colour or edging.
- 11** Each plan sheet must consist of paper, or some other approved medium.
- 12** A plan must be drawn on only one side of a plan sheet and must be drawn on a matt surface.
- 13** Each plan sheet must be free from blemishes and creases.
- 14** Each plan sheet must be 297mm in length by 210mm in width (standard A4) and have clear margins of at least 10mm on each side and at the top and bottom.

## Real Property Regulation 2003

Requirements for plans annexed to or endorsed on dealings (other than leases of premises) or caveats Schedule 5

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- 15** If a plan is endorsed on a dealing or caveat, it must be drawn in such a manner that the lines and notation of the plan do not obscure or interfere with any writing or printing on the dealing or caveat.
- 16** Where the original plan is not available, an annexed plan may be a reproduction prepared by means of a photographic or similar approved process and, if so prepared:
- (a) must comply with paragraphs 1–15, and
  - (b) must contain only printing that is permanent and legible with a dense black image free from excessive background, and
  - (c) must be so prepared that the process does not affect the quality of the paper, and
  - (d) must be authenticated by original signatures.
- 17** Plans annexed to or endorsed on dealings or caveats must be compiled plans and not plans of survey except with the consent of the Registrar-General.

Real Property Regulation 2003

Schedule 6 Requirements for plans annexed to or endorsed on leases of premises

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## **Schedule 6 Requirements for plans annexed to or endorsed on leases of premises**

(Clause 10)

- 1** For the purposes of this Schedule, premises means a building or part of a building, unless the Registrar-General approves otherwise.
- 2** A plan must identify the premises to which it relates.
- 3** Premises that comprise the whole of a building may be defined by measurements in a plan.
- 4** Premises that comprise part of a building may be identified in a plan by showing the outer walls of the building and defining the leased area by reference to:
  - (a) internal walls and fixtures, or
  - (b) dimensions.
- 5** The description of any premises shown in a plan must agree with the description of those premises shown in the lease.
- 6** A plan must be drawn in a manner and to a scale that allows all details and notations to be clearly reproduced by the imaging processes used by the Registrar-General.
- 7** A plan must be neatly and clearly drawn without colour or edging.
- 8** A plan must contain the following particulars:
  - (a) the north point (which must be directed upwards),
  - (b) if the Registrar-General so requires, dimensional connections of the leased premises to the title boundaries,
  - (c) a statement as to the floor level on which the premises are located, where appropriate,
  - (d) sufficient information to define any proposed easement and its relationship to the boundaries of the affected parcel,
  - (e) the signature of each person who has signed the lease to which the plan is annexed.

## Real Property Regulation 2003

Requirements for plans annexed to or endorsed on leases of premises

Schedule 6

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- 9** The lengths shown on a plan must be expressed in metres and not in any other unit of measurement of length (whether or not related to the metre), without the use of any symbol or abbreviation to represent the metre as the unit of measurement employed.
- 10** Area measurements shown on a plan must be expressed in square metres accompanied by the symbol “m<sup>2</sup>”.
- 11** Unless the Registrar-General otherwise approves, all words, letters, figures and symbols appearing on a plan:
- (a) must be shown in capital letters (except as provided by paragraph 10), and
  - (b) must be open in formation and construction, and
  - (c) must be drawn in an upright style, and
  - (d) must be in the English language.
- 12** A plan may be altered only by striking through the matter to be altered. In particular, a plan may not be altered by the use of correction fluid or by rubbing, scraping or cutting the surface of the sheet on which the plan is drawn. The Registrar-General may require a sheet on which a plan is drawn to be replaced if, in the opinion of the Registrar-General, any alteration on the sheet will render it unsuitable for imaging.
- 13** Each plan sheet must consist of paper, or some other approved medium.
- 14** A plan must be drawn on only one side of a plan sheet and must be drawn on a matt surface.
- 15** Each plan sheet must be free from blemishes and creases.
- 16** Each plan sheet must be 297mm in length by 210mm in width (standard A4) and have clear margins of at least 10mm on each side and at the top and bottom.
- 17** If a plan is endorsed on a lease, it must be drawn in such a manner that the lines and notation of the plan do not obscure or interfere with any writing or printing on the lease.

## Real Property Regulation 2003

Schedule 6 Requirements for plans annexed to or endorsed on leases of premises

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- 18** Where the original plan is not available, an annexed plan may be a reproduction prepared by means of a photographic or similar approved process and, if so prepared:
- (a) must comply with paragraphs 1–17, and
  - (b) must contain only printing that is permanent and legible with a dense black image free from excessive background, and
  - (c) must be so prepared that the process does not affect the quality of the paper, and
  - (d) must be authenticated by original signatures.
- 19** Plans annexed to or endorsed on leases must be compiled plans and not plans of survey except with the consent of the Registrar-General.



New South Wales

## Road Transport (Driver Licensing) Amendment (Interlock Devices) Regulation 2003

under the

Road Transport (Driver Licensing) Act 1998

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Road Transport (Driver Licensing) Act 1998*.

CARL SCULLY, M.P.,  
Minister for Roads

### Explanatory note

The object of this Regulation is to amend the *Road Transport (Driver Licensing) Regulation 1999* to facilitate the issue of interlock driver licences and the use of approved interlock devices by giving effect to the provisions of the *Road Transport Legislation Amendment (Interlock Devices) Act 2002*.

This Regulation is made under the *Road Transport (Driver Licensing) Act 1998*, including sections 20, 21C and 19 (the general regulation-making power).



Clause 1            Road Transport (Driver Licensing) Amendment (Interlock Devices)  
                         Regulation 2003

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## **Road Transport (Driver Licensing) Amendment (Interlock Devices) Regulation 2003**

under the

Road Transport (Driver Licensing) Act 1998

### **1 Name of Regulation**

This Regulation is the *Road Transport (Driver Licensing) Amendment (Interlock Devices) Regulation 2003*.

### **2 Commencement**

This Regulation commences on 8 September 2003.

### **3 Amendment of Road Transport (Driver Licensing) Regulation 1999**

The *Road Transport (Driver Licensing) Regulation 1999* is amended as set out in Schedule 1.

Road Transport (Driver Licensing) Amendment (Interlock Devices)  
Regulation 2003

Amendments

Schedule 1

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## Schedule 1 Amendments

(Clause 3)

### [1] Clause 9 Suspended or disqualified persons not eligible

Insert at the end of the clause:

- (3) This clause does not apply to an application for renewal of an interlock driver licence by a person whose interlock driver licence is suspended (unless the licence is suspended under Division 3 of Part 4 of the *Fines Act 1996*).

### [2] Clause 16 Procedure to obtain or vary driver licences

Insert at the end of the clause:

- (6) In addition to any other requirement of this clause, an applicant for issue of an interlock driver licence who is a person referred to in section 25E (1) of the *Road Transport (General) Act 1999* must:
  - (a) undergo, at the applicant's own cost, a consultation with a medical practitioner nominated by the Authority for the purpose of discussing and giving brief advice to the applicant about the risks of alcohol consumption (a ***drink less brief alcohol intervention consultation***), and
  - (b) provide to the Authority a certificate from that medical practitioner confirming that the applicant has undergone the drink less brief alcohol intervention consultation, and
  - (c) provide to the Authority a certificate, in a form approved by the Authority, from an approved interlock installer certifying that, at the request of the applicant, the installer has installed an approved interlock device (identified in the certificate) in a vehicle (identified in the certificate), and
  - (d) give authority in writing for the collection, use and disclosure by an approved interlock installer, approved interlock service provider, the Authority or any person on behalf of the Authority of information obtained as a result of the applicant's participation in the alcohol interlock program.

Road Transport (Driver Licensing) Amendment (Interlock Devices)  
Regulation 2003

Schedule 1 Amendments

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**[3] Clauses 19A and 19B**

Insert after clause 19:

**19A Interlock driver licences**

- (1) Without limiting clause 19, the Authority may approve an application for, and issue, a conditional licence (an *interlock driver licence*) that authorises the holder of the licence to drive a motor vehicle on a road or road related area subject to the condition that the vehicle must be fitted with an approved interlock device that has been installed by an approved interlock installer in accordance with this Regulation.

**Note.** Section 25E of the *Road Transport (General) Act 1999* entitles a person in respect of whom an order suspending a disqualification to hold a licence is made to participate in an interlock program if the person is issued with an interlock driver licence and the relevant disqualification compliance period has expired.

- (2) An interlock driver licence is subject to the following additional conditions:
- (a) the holder of the licence must not drive a motor vehicle with a blood alcohol concentration of 0.02 or more grams of alcohol per 100 mls of blood,
  - (b) the holder of the licence may drive only a motor vehicle with a GVM that is not greater than 4.5 tonnes and that is constructed or equipped to seat not more than 12 adults (including the driver),
  - (c) the holder of the licence must not drive a public passenger vehicle (as defined in the *Passenger Transport Act 1990*) or a motor vehicle loaded or partly loaded with any dangerous goods (within the meaning of the *Dangerous Goods Act 1975* or the *Road and Rail Transport (Dangerous Goods) Act 1997*) and that is required by the *Road Transport Reform (Dangerous Goods) (New South Wales) Regulations* to have signs exhibited on it,
  - (d) for the purpose of counselling the holder of the licence with respect to the consumption of alcohol, the holder must (at his or her own cost) undergo such medical consultations, with such medical practitioners and at such times, as may be required by the Authority,

Road Transport (Driver Licensing) Amendment (Interlock Devices)  
Regulation 2003

Amendments

Schedule 1

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- (e) the holder of the licence must ensure that maintenance is carried out as and when required by the Authority (at the holder's own cost) on the interlock device identified in the certificate the holder provided to the Authority under clause 16 (6) (c),
  - (f) the holder of the licence must not, without the approval of the Authority, remove or cause or permit to be removed the approved interlock device from the motor vehicle specified in that certificate or from any other motor vehicle in which it is subsequently installed,
  - (g) the holder of the licence must not drive any motor vehicle in which the approved interlock device is installed if the holder knows, or could reasonably be expected to know, that the approved interlock device installed is not functioning properly,
  - (h) the holder of the licence must use the approved interlock device in accordance with the instructions (if any) for the proper use of the device supplied to the holder by its manufacturer and the Authority,
  - (i) the holder of the licence must not interfere, or cause or permit any person (other than an approved interlock installer or approved interlock service provider installing, maintaining or removing the approved interlock device) to interfere with the proper operation of the device,
  - (j) the holder of the licence must, if required to do so by the Authority, authorise the Authority in writing (or any persons nominated by the Authority) to provide any data or other information collected by the approved interlock device to persons carrying out functions for the purposes of the alcohol interlock program during the period the licence is in force,
  - (k) the holder of the licence must permit a police officer to inspect the approved interlock device if the police officer asks to inspect the device.
- (3) The Authority may, by notice in writing given to the holder of an interlock driver licence, impose such other conditions relating to the use of an interlock device installed in a motor vehicle driven by the holder as the Authority considers appropriate.

Road Transport (Driver Licensing) Amendment (Interlock Devices)  
Regulation 2003

Schedule 1 Amendments

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- (4) The Authority may, by notice in writing to the holder of the licence, vary or revoke any condition imposed by it under subclause (3).
- (5) The holder of a *converted interlock driver licence* (within the meaning of clause 19B) is not required to observe any of the conditions to which the interlock driver licence was subject under this clause.

**Note.** Under clause 56, the holder of an interlock driver licence who fails to comply with a condition of the licence is guilty of an offence.

**19B Conversion of interlock driver licences**

- (1) An interlock driver licence is deemed, at the end of the day on which its holder ceases to participate in the alcohol interlock program because the holder has completed the interlock participation period applicable to the holder under section 25C of the *Road Transport (General) Act 1999*, to be a car licence other than an interlock driver licence (in this clause referred to as a *converted interlock driver licence*).

**Note.** This provision will enable a person who has been issued with an interlock driver licence for a period that is longer than the period the person is required to participate in an alcohol interlock program under section 25C of the *Road Transport (General) Act 1999* to continue to drive under the authority of the licence for the duration of the licence. The person will be able to drive any vehicle that the holder of a car licence other than an interlock driver licence may drive under clause 26 (3) of this Regulation. The conditions applicable to the interlock driver licence will no longer apply (see clause 19A (5)). The provision does not apply to a person referred to in section 25G (2) of that Act (early cessation of participation).

- (2) The converted interlock driver licence expires on the day recorded in the driver licence register as the licence expiry date for the interlock driver licence.

**[4] Clause 25B**

Insert after clause 25A:

**25B Release of information relating to alcohol interlock program**

The Authority may disclose to any person data or information recorded in the driver licence register for the purpose of enabling the Authority to perform functions conferred or imposed on the Authority by or under the Act in relation to the alcohol interlock program.

Road Transport (Driver Licensing) Amendment (Interlock Devices)  
Regulation 2003

Amendments

Schedule 1

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**[5] Clause 26 Licence classes**

Omit “car licence,” from clause 26 (1).

Insert instead “car licence (being a car licence other than an interlock driver licence or a car licence that is an interlock driver licence),”.

**[6] Clause 26 (3) and (3A)**

Insert “(other than an interlock driver licence)” after “car licence” wherever occurring.

**[7] Clause 26 (3B)**

Insert after clause 26 (3A):

- (3B) The holder of a car licence that is an interlock driver licence may drive a motor vehicle with a GVM that is not greater than 4.5 tonnes and that is constructed or equipped to seat not more than 12 adults (including the driver).

**[8] Clause 28 Conditional licences**

Omit “a breath alcohol interlock device” from the Table to clause 28 (5).  
Insert instead “an approved interlock device within the meaning of Part 2A of the Act”.

**[9] Clause 33 Licence expiry date**

Insert at the end of the clause:

**Note.** See also clause 19B.

**[10] Part 7**

Insert after Part 6:

**Part 7 Interlock devices**

**Division 1 Definitions**

**50 Definitions**

In this Part:

***approval*** means an approval as an approved interlock installer or approved interlock service provider under section 21B of the Act.

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*labelled approved interlock device* means an approved interlock device labelled with the words “NSW approved interlock device”.

## Division 2 Approvals

### 51 Eligibility for approval as an approved interlock installer

- (1) A person is eligible to apply to be approved as a person who may install and remove approved interlock devices in motor vehicles for the purposes of Part 2A of the Act (an *approved interlock installer*) if the person:
  - (a) is at least 18 years of age, and
  - (b) is a fit and proper person to be an approved interlock installer, and  
**Note.** See clause 53.
  - (c) is suitably qualified to perform the functions of an approved interlock installer, and
  - (d) is capable of performing the functions of an approved interlock installer, and
  - (e) has access to equipment and facilities necessary to enable the person to install and remove approved interlock devices in motor vehicles.
- (2) A person is not eligible to apply to be approved as an approved interlock installer if:
  - (a) in the opinion of the Authority, the person is unable to perform the functions of an approved interlock installer because of illness or mental or physical disability, or
  - (b) the person has at any time had an approval as an approved interlock installer revoked, or
  - (c) in the opinion of the Authority, the person has failed to properly perform the functions of an approved interlock installer under the Act or this Regulation, or to properly perform functions under a program that is similar to the alcohol interlock program established under the law of another jurisdiction, in a significant respect.

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**52 Eligibility for approval as an approved interlock service provider**

- (1) A person is eligible to apply to be approved as a person who may carry out maintenance to ensure the proper operation of approved interlock devices, or conduct inspections of such devices, for the purposes of Part 2A of the Act (an *approved interlock service provider*) if the person:
- (a) is at least 18 years of age, and
  - (b) is a fit and proper person to be an approved interlock service provider, and  
**Note.** See clause 53.
  - (c) is suitably qualified to perform the functions of an approved interlock service provider, and
  - (d) is capable of performing the functions of an approved interlock service provider, and
  - (e) has access to equipment and facilities necessary to enable the person to carry out maintenance to ensure the proper operation of approved interlock devices or to conduct inspections of such devices.
- (2) A person is not eligible to apply to be approved as an approved interlock service provider if:
- (a) in the opinion of the Authority, the person is unable to perform the functions of an approved interlock service provider because of illness or mental or physical disability, or
  - (b) the person has at any time had an approval as an approved interlock service provider revoked, or
  - (c) in the opinion of the Authority, has failed to properly perform the functions of an approved interlock service provider under the Act or this Regulation, or failed to properly perform functions under a program that is similar to the alcohol interlock program established under the law of another jurisdiction, in a significant respect.

**53 Fit and proper persons**

- (1) For the purposes of this Part, a person is not a fit and proper person to be an approved interlock installer or an approved interlock service provider if:



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- (a) a court in this State or elsewhere has convicted the person of a relevant offence within the period of 5 years immediately before the person applies for the approval, or
  - (b) the person is an undischarged bankrupt, or
  - (c) the person has at any time had an interlock driver licence suspended or cancelled under the Act or this Regulation or has had his or her participation in a program that is similar to the alcohol interlock program that is established under the law of another jurisdiction suspended or cancelled.
- (2) In this clause:
- relevant offence* means any of the following offences committed after the commencement of this clause:
- (a) an offence involving dishonesty,
  - (b) a major offence within the meaning of the *Road Transport (General) Act 1999*,
  - (c) an offence in another jurisdiction that would have been an offence referred to in paragraph (a) or (b) if committed in this State.

**53A Application for approval as interlock installer or service provider**

- (1) An application for approval is to be made to the Authority in the form approved by the Authority and is to be accompanied by the applicable fee (if any) fixed under section 10 of the Act.
- (2) The Authority may require an applicant for approval to submit evidence, in a form approved by the Authority:
  - (a) that he or she is eligible for approval, or
  - (b) verifying any particulars set out in an application.
- (3) The Authority may require an applicant for approval to provide to the Authority information about any other matter relevant to the decision whether to approve the application.

**53B Determination of applications for approval**

- (1) The Authority may determine an application for approval by granting or refusing the application.

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- (2) Without limiting subclause (1), the Authority may refuse an application for approval as an approved interlock installer if, in the opinion of the Authority, the applicant does not meet any of the eligibility requirements set out in clause 51.
  - (3) Without limiting subclause (1), the Authority may refuse an application for approval as an approved interlock service provider if, in the opinion of the Authority, the applicant does not meet any of the eligibility requirements set out in clause 52.

**53C Conditions of approvals**

- (1) An approval may be granted unconditionally or subject to conditions specified in the approval.
- (2) After granting an approval, the Authority may, by notice in writing to the holder of the approval:
  - (a) impose conditions or further conditions on the approval, or
  - (b) vary or revoke any of the conditions to which the approval is subject.

**Note.** A notice under this subclause may be given to the holder of an approval by means of an electronic communication in the circumstances set out in the *Electronic Transactions Act 2000*.
- (3) Conditions may include (but are not limited to) conditions of the following kind:
  - (a) conditions relating to the installation, removal, inspection or carrying out of maintenance on approved interlock devices,

**Note.** *Maintenance* is defined in section 21 of the Act to include the retrieval of any information that is stored electronically by or with an interlock device and any work that improves or augments the functionality of an interlock device.
  - (b) conditions relating to the compiling and furnishing to the Authority, persons nominated by the Authority and to the holders of interlock driver licences of information obtained by the holder of the approval in carrying out functions for the purposes of Part 2A of the Act.

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**53D Duration of approvals**

An approval takes effect on the date on which it is granted or on such later date as may be specified in it and (unless it is sooner revoked) remains in force for the period (not exceeding 3 years) specified in it.

**53E Subsequent approvals**

- (1) An approval may be renewed by making an application in accordance with this Part for a new approval (referred to in this clause as a *subsequent approval*).
- (2) If a person applies for a subsequent approval before the term of the person's current approval expires (referred to in this clause as the *old approval*) and the application has not been dealt with by the time the old approval expires the authority conferred by the old approval continues until such time as the person is notified of the grant, or refusal of, the subsequent approval.

**53F Show cause notice**

- (1) The Authority may serve a show cause notice on the holder of an approval if the Authority is of the opinion that there is reasonable cause to believe that there are grounds for revoking the approval under section 21B (4) of the Act.
- (2) A show cause notice is a notice requiring the holder of the approval to show cause why it should not be revoked on the grounds specified in the notice.
- (3) Without limiting the grounds that may be specified, grounds include the following:
  - (a) that the holder of the approval has failed to comply with the Act, this Regulation or a condition of the approval,
  - (b) that the holder of the approval does not satisfy any of the eligibility requirements for the approval set out in clause 51 or 52.
- (4) A show cause notice is to be in writing and is to specify a period of not less than 21 days after service of the notice as the period that the holder has to show cause as required by the notice.

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- (5) The holder on whom a show cause notice is served may within the period allowed by the notice make written submissions to the Authority in respect of the matters to which the notice relates.
  - (6) The Authority may conduct such enquiries and make such investigations in relation to the matters to which a show cause notice relates and the submissions, if any, made by or on behalf of the holder of the approval concerned as the Authority thinks fit.
  - (7) This clause does not apply to a revocation of the approval of a holder if the Authority has reasonable grounds to believe that the holder has wilfully failed to comply with the Act, this Regulation or the conditions of the approval and is likely to continue to do so.

**53G Notice of revocation of approval**

- (1) The Authority is to include a statement of the reasons for its decision to revoke an approval in, or with, written notice of the revocation of an approval given under section 21B (4) of the Act.
- (2) Revocation of an approval by written notice under section 21B (4) of the Act takes effect on the day the notice is given to the holder of the approval or on a later day specified in the notice.

**Division 3 Miscellaneous**

**53H Police may seize motor vehicle or device**

- (1) A police officer may stop and inspect a motor vehicle driven on a road or road related area if the officer reasonably suspects that the motor vehicle may be fitted with an interlock device.
- (2) A police officer may seize a motor vehicle driven by the holder of an interlock driver licence in which an interlock device is installed if the officer reasonably suspects that the device has been used in contravention of the Act or the regulations.

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**53I Agreements relating to interlock devices**

The Authority may enter into an agreement with a person (not being inconsistent with the Act or this Regulation) with respect to the supply, or provision of services relating to the installation, removal, maintenance and inspection of, interlock devices for the purposes of the alcohol interlock program.

**[11] Clauses 59–59I**

Insert after clause 58:

**59 Failure to comply with condition of approval**

The holder of an approval within the meaning of Part 7 who fails to comply with a condition of the approval is guilty of an offence.

Maximum penalty: 20 penalty units.

**59A False or misleading information**

A person must not, in purported compliance with any requirement imposed by or under this Part to provide data or information relating to the operation of the alcohol interlock program, provide data or information that the person knows is false or misleading in a material particular.

Maximum penalty: 20 penalty units.

**59B Installation or removal of approved interlock devices without approval**

A person must not install an approved interlock device in, or remove an approved interlock device from, a motor vehicle for the purposes of Part 2A of the Act unless the person is the holder of an approval as an approved interlock installer that is in force.

Maximum penalty: 20 penalty units.

**59C Installation or removal of unlabelled approved interlock devices**

An approved interlock installer must not install an approved interlock device in, or remove an approved interlock device from, a motor vehicle for the purposes of Part 2A of the Act

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unless the device is clearly labelled in a form approved by the Authority with the words “NSW approved interlock device”.

Maximum penalty: 20 penalty units.

**59D Maintenance or inspection of interlock devices without approval**

A person must not carry out maintenance on, or conduct an inspection of, an approved interlock device for the purposes of Part 2A of the Act unless the person is the holder of an approval as an approved interlock service provider that is in force.

Maximum penalty: 20 penalty units.

**59E Maintenance or inspection of unlabelled approved interlock devices**

An approved interlock service provider must not carry out maintenance on, or conduct an inspection of, an approved interlock device in a motor vehicle for the purposes of Part 2A of the Act unless the device is clearly labelled in a form approved by the Authority with the words “NSW approved interlock device”.

Maximum penalty: 20 penalty units.

**59F Labelling approved interlock devices**

- (1) A person must not label an interlock device with the words “NSW approved interlock device” unless:
- (a) the device is an approved interlock device, and
  - (b) the person is an approved interlock installer or an approved interlock service provider.

Maximum penalty: 20 penalty units.

- (2) A person must not remove a label bearing the words “NSW approved interlock device” from an interlock device unless:
- (a) the person is an approved interlock installer or approved interlock service provider, and
  - (b) the person for whom the interlock device was installed has ceased to participate in the alcohol interlock

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program in respect of which it was installed or the label is to be immediately replaced with another such label.

Maximum penalty: 20 penalty units.

**59G Notification of removal of approved interlock devices**

An approved interlock installer who removes a labelled approved interlock device from a motor vehicle must give the Authority written notice of the removal not later than at the end of the day of the removal.

Maximum penalty: 20 penalty units.

**Note.** Notice under this clause may be given to the Authority electronically in the circumstances set out in the *Electronic Transactions Act 2000*.

**59H Tampering or otherwise interfering with labelled approved interlock device**

- (1) A person who, without reasonable excuse, tampers or otherwise interferes with a labelled approved interlock device installed in a motor vehicle is guilty of an offence.

Maximum penalty: 20 penalty units.

- (2) A person who aids, abets or causes or permits the commission of an offence referred to in subclause (1) is guilty of an offence.

Maximum penalty: 20 penalty units.

**59I Notification of suspected tampering or otherwise interfering with labelled approved interlock devices**

An approved interlock installer or approved interlock service provider who becomes aware that a labelled approved interlock device has been tampered or otherwise interfered with must give the Authority written notice of that interference or tampering not later than at the end of the day on which he or she became aware of the interference or tampering.

Maximum penalty: 20 penalty units.

**Note.** Notice under this clause may be given to the Authority electronically in the circumstances set out in the *Electronic Transactions Act 2000*.

Road Transport (Driver Licensing) Amendment (Interlock Devices)  
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**[12] Dictionary**

Insert in alphabetical order:

*alcohol interlock program*, in relation to a person, means an interlock program referred to in Part 3 of the *Road Transport (General) Act 1999* the participants in which are holders of interlock driver licences under Part 2A of the *Road Transport (Driver Licensing) Act 1998*.

**[13] Dictionary**

Omit the definition of *breath alcohol interlock device*.





## Road Transport (General) Amendment (Interlock Devices) Regulation 2003

under the

Road Transport (General) Act 1999

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Road Transport (General) Act 1999*.

CARL SCULLY, M.P.,  
Minister for Roads

### Explanatory note

Under Subdivision 2 of Division 3 of Part 3 of the *Road Transport (General) Act 1999*, a court may order that the disqualification of a person convicted of certain alcohol-related driving offences be suspended if the person participates in an alcohol interlock program. A person may participate in such a program only if issued with an interlock driver licence. Under section 25G (2) (b) of the Act, a person automatically ceases to participate in such a program if the interlock driver licence is cancelled. The object of this Regulation is to amend the *Road Transport (General) Regulation 1999* to remove any right of appeal for the holder of an interlock driver licence whose licence is cancelled by the Roads and Traffic Authority under the *Road Transport (Driver Licensing) Regulation 1999*.

The Regulation also provides a right of appeal for the holder of an approval as an approved interlock installer or approved interlock service provider whose approval is revoked by the Authority.

This Regulation is made under the *Road Transport (General) Act 1999*, including clause 24 of Schedule 2 and section 71 (the general regulation-making power).

Clause 1 Road Transport (General) Amendment (Interlock Devices) Regulation 2003

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## **Road Transport (General) Amendment (Interlock Devices) Regulation 2003**

under the

Road Transport (General) Act 1999

### **1 Name of Regulation**

This Regulation is the *Road Transport (General) Amendment (Interlock Devices) Regulation 2003*.

### **2 Commencement**

This Regulation commences on 8 September 2003.

### **3 Amendment of Road Transport (General) Regulation 1999**

The *Road Transport (General) Regulation 1999* is amended as set out in Schedule 1.

Road Transport (General) Amendment (Interlock Devices) Regulation 2003

Amendments

Schedule 1

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## Schedule 1 Amendments

(Clause 3)

### [1] Schedule 2 Savings and transitional provisions

Insert after clause 6 (1):

- (1A) Despite subclause (1) (c), an affected person may not appeal to a Local Court against a decision of the Authority to cancel the person's interlock driver licence under the *Road Transport (Driver Licensing) Regulation 1999*.

### [2] Schedule 2, clause 9 Appeals against driver fatigue and revocation of certain approvals

Insert after clause 9 (1):

- (1A) A person dissatisfied with a decision of the Authority to revoke an approval within the meaning of Part 7 (Interlock devices) of the *Road Transport (Driver Licensing) Regulation 1999* may appeal against the decision to a Local Court constituted by a Magistrate sitting alone by lodging a notice of appeal with the registrar of any such Court not later than 28 days after receiving notice of the revocation.

### [3] Schedule 2, clause 9

Omit "subclause (1)" wherever occurring.

Insert instead "subclause (1) or (1A)".



# Road Transport (General) (Penalty Notice Offences) Amendment (Interlock Devices) Regulation 2003

under the

Road Transport (General) Act 1999

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Road Transport (General) Act 1999*.

CARL SCULLY, M.P.,  
Minister for Roads

## Explanatory note

The object of this Regulation is to amend the *Road Transport (General) (Penalty Notice Offences) Regulation 2002* so that a penalty notice will not be able to be served on the holder of an interlock driver licence who is alleged to have failed to comply with a condition of the licence. As a result, the offence concerned will be determined by a court.

This Regulation is made under the *Road Transport (General) Act 1999*, including sections 15 and 71 (the general regulation-making power).

Clause 1            Road Transport (General) (Penalty Notice Offences) Amendment (Interlock Devices) Regulation 2003

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## **Road Transport (General) (Penalty Notice Offences) Amendment (Interlock Devices) Regulation 2003**

under the

Road Transport (General) Act 1999

### **1 Name of Regulation**

This Regulation is the *Road Transport (General) (Penalty Notice Offences) Amendment (Interlock Devices) Regulation 2003*.

### **2 Commencement**

This Regulation commences on 8 September 2003.

### **3 Amendment of Road Transport (General) (Penalty Notice Offences) Regulation 2002**

The *Road Transport (General) (Penalty Notice Offences) Regulation 2002* is amended as set out in Schedule 1.

Road Transport (General) (Penalty Notice Offences) Amendment (Interlock Devices) Regulation 2003

Amendment

Schedule 1

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## **Schedule 1 Amendment**

(Clause 3)

### **Schedule 2 Penalty notice offences**

Omit “otherwise than where the licence concerned is” from the matter relating to clause 56 of the *Road Transport (Driver Licensing) Regulation 1999* in Column 1.

Insert instead “otherwise than where the licence concerned is an interlock driver licence or where the licence is”.



# Totalizator Agency Board Privatisation Regulation 2003

under the

Totalizator Agency Board Privatisation Act 1997

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Totalizator Agency Board Privatisation Act 1997*.

MICHAEL EGAN, M.L.C.,  
Treasurer

## Explanatory note

The object of this Regulation is to replace the *Totalizator Agency Board Privatisation Regulation 1998*, which is repealed on 1 September 2003 under section 10 (2) of the *Subordinate Legislation Act 1989*. The only major change in substance is the omission of a redundant provision. The new Regulation deals with the following matters:

- (a) an exemption from the shareholding limit under section 38 of the *Totalizator Agency Board Privatisation Act 1997* of a stockbroker who purchases (or agrees to purchase) TAB shares in accordance with certain purchase and resale arrangements,
- (b) an exemption from the same shareholding limit of an authorised trustee corporation, the responsible entity for a registered scheme and related bodies corporate of such a corporation or scheme, if certain conditions are met.

This Regulation is made under the *Totalizator Agency Board Privatisation Act 1997*, including sections 36 (7) and 62.

This Regulation comprises or relates to matters of a machinery nature.

Totalizator Agency Board Privatisation Regulation 2003

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Totalizator Agency Board Privatisation Regulation 2003

Clause 1

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## Totalizator Agency Board Privatisation Regulation 2003

under the

Totalizator Agency Board Privatisation Act 1997

### 1 Name of Regulation

This Regulation is the *Totalizator Agency Board Privatisation Regulation 2003*.

### 2 Commencement

This Regulation commences on 1 September 2003.

**Note.** This Regulation replaces the *Totalizator Agency Board Privatisation Regulation 1998* which is repealed on 1 September 2003 under section 10 (2) of the *Subordinate Legislation Act 1989*.

### 3 Definitions

In this Regulation:

*approved* means approved by the Treasurer.

*purchase and resale arrangement* means an arrangement comprising:

- (a) the purchase by an approved stockbroker of TAB shares held by the State, and
- (b) the resale of those TAB shares to an approved overseas buyer.

*TAB shares* means shares in TAB Limited.

*the Act* means the *Totalizator Agency Board Privatisation Act 1997*.

### 4 Notes

Notes included in this Regulation do not form part of this Regulation.

Clause 5 Totalizator Agency Board Privatisation Regulation 2003

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**5 Exemption from prohibited shareholding interest provisions—  
broker with overseas buyer: section 36 (7)**

In accordance with section 36 (7) of the Act, if an approved stockbroker purchases (or agrees to purchase) TAB shares from the State in accordance with an approved purchase and resale arrangement, the stockbroker's interest in the TAB shares is to be disregarded for the purpose of determining whether the stockbroker has a prohibited shareholding interest (as referred to in section 38 of the Act) in TAB Limited.

**6 Exemption from prohibited shareholding interest provisions—  
trustee corporations and registered schemes: section 36 (7)**

- (1) The relevant interest that a relevant body has in shares of TAB Limited is to be disregarded for the purpose of determining whether the body has a prohibited shareholding interest (as referred to in section 38 of the Act) in TAB Limited if:
  - (a) in the case of an authorised trustee corporation:
    - (i) the shares are held by the authorised trustee corporation in its capacity as trustee of a trust, undertaking or scheme or by a custodian on behalf of the authorised trustee corporation in that capacity, and
    - (ii) the trust, undertaking or scheme is governed by an approved deed, and
  - (b) in the case of a registered scheme—the shares are held on trust by the responsible entity for the scheme, and
  - (c) neither the authorised trustee corporation, responsible entity or the custodian (if any), nor any related body corporate of the corporation, scheme or custodian determines the manner in which voting rights attached to the shares are exercised.
- (2) The Minister may, by notice in writing given to a relevant body, direct that this clause is not to apply to:
  - (a) the relevant body, or
  - (b) a specified shareholding of the relevant body.
- (3) This clause does not apply to a relevant body, or a specified shareholding of a relevant body, that is the subject of a direction given in accordance with subclause (2).

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(4) In this clause:

**approved deed** means a deed that is an approved deed for the purposes of Division 5 of Part 7.12 of the *Corporations Law* (as it continues to apply pursuant to section 1454 of that Law and section 1408 of the *Corporations Act 2001* of the Commonwealth).

**Note.** Division 5 of Part 7.12 of the *Corporations Law*, although repealed by the *Managed Investments Act 1998* of the Commonwealth, continues to apply to certain interests, undertakings and trustees pursuant to section 1454 of that Law (as continued in force by section 1408 of the *Corporations Act 2001* of the Commonwealth).

**authorised trustee corporation** has the meaning it had in the *Corporations Law* immediately before the commencement of the *Managed Investments Act 1998* of the Commonwealth.

**registered scheme** has the same meaning as in the *Corporations Act 2001* of the Commonwealth.

**related body corporate** has the same meaning as in the *Corporations Act 2001* of the Commonwealth.

**relevant body** means any of the following:

- (a) an authorised trustee corporation,
- (b) the responsible entity for a registered scheme,
- (c) a related body corporate of such a corporation or scheme.

**responsible entity** of a registered scheme has the same meaning as in the *Corporations Act 2001* of the Commonwealth.

## 7 Savings provision

Any act, matter or thing that, immediately before the repeal of the *Totalizator Agency Board Privatisation Regulation 1998*, had effect under that Regulation continues to have effect under this Regulation.



New South Wales

## Veterinary Surgeons Amendment (Fees) Regulation 2003

under the

Veterinary Surgeons Act 1986

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

IAN MACDONALD, M.L.C.,  
Minister for Agriculture and Fisheries

### Explanatory note

The object of this Regulation is to decrease (from \$260 to \$235):

- (a) the annual roll fee payable under the *Veterinary Surgeons Act 1986* for full registration as a veterinary surgeon under that Act, and
- (b) the fee payable under that Act for restoring a person's name to the register of veterinary surgeons or the register of specialists kept under that Act.

This Regulation is made under the *Veterinary Surgeons Act 1986*, including sections 19 (1) and (3), 35 (5) and 71 (the general regulation-making power).

Clause 1      Veterinary Surgeons Amendment (Fees) Regulation 2003

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## **Veterinary Surgeons Amendment (Fees) Regulation 2003**

under the

Veterinary Surgeons Act 1986

### **1 Name of Regulation**

This Regulation is the *Veterinary Surgeons Amendment (Fees) Regulation 2003*.

### **2 Amendment of Veterinary Surgeons Regulation 1995**

The *Veterinary Surgeons Regulation 1995* is amended by omitting “260” wherever occurring in the second column of Part 1 of Schedule 3 (Fees relating to veterinary surgeons) and inserting instead “235”.

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**LEGISLATION – continued****Regulations****Country Industries (Pay-roll Tax Rebates) Regulation 2003**

under the

Country Industries (Pay-roll Tax Rebates) Act 1977

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Country Industries (Pay-roll Tax Rebates) Act 1977*.

DAVID ANDREW CAMPBELL, M.P.,  
Minister for Regional Development

**Explanatory note**

The object of this Regulation is to remake, without any changes in substance, the *Country Industries (Pay-roll Tax Rebates) Regulation 1994*. That Regulation is repealed on 1 September 2003 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation prescribes the kinds of industry that are eligible for rebates of pay-roll tax under the *Country Industries (Pay-roll Tax Rebates) Act 1977*.

This Regulation is made under the *Country Industries (Pay-roll Tax Rebates) Act 1977*, including section 4 (Definitions) and section 17 (the general regulation-making power).

## Country Industries (Pay-roll Tax Rebates) Regulation 2003

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Country Industries (Pay-roll Tax Rebates) Regulation 2003

Clause 1

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## Country Industries (Pay-roll Tax Rebates) Regulation 2003

under the

Country Industries (Pay-roll Tax Rebates) Act 1977

### 1 Name of Regulation

This Regulation is the *Country Industries (Pay-roll Tax Rebates) Regulation 2003*.

### 2 Commencement

This Regulation commences on 1 September 2003.

**Note.** This Regulation replaces the *Country Industries (Pay-roll Tax Rebates) Regulation 1994* which is repealed on 1 September 2003 by section 10 (2) of the *Subordinate Legislation Act 1989*.

### 3 Definitions

In this Regulation:

*ASIC* means the *Australian Standard Industrial Classification* (1969 edition), published by the Australian Bureau of Statistics, a copy of which is deposited in the offices of the Department of State and Regional Development.

*the Act* means the *Country Industries (Pay-roll Tax Rebates) Act 1977*.

### 4 Eligible industries (section 4)

- (1) The objects of this clause are to prescribe classes of industries in connection with the definition of *eligible industry* in section 4 of the Act and so to indicate those industries in respect of which an employer may become entitled to a rebate of pay-roll tax under the Act.
- (2) The classes of industry specified in Column 2 of Schedule 1 (being the ASIC classes referred to in Column 1 of that Schedule) are prescribed for the purposes of the definition of *eligible industry* in section 4 of the Act.

Clause 5            Country Industries (Pay-roll Tax Rebates) Regulation 2003

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- (3) In Schedule 1, a reference to an industry that is described by reference to a product is a reference to an industry that involves the manufacturing or processing of that product.

**5 Saving**

Any act, matter or thing that, immediately before the repeal of the *Country Industries (Pay-roll Tax Rebates) Regulation 1994*, had effect under that Regulation continues to have effect under this Regulation.

Country Industries (Pay-roll Tax Rebates) Regulation 2003

Industries

Schedule 1

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## Schedule 1 Industries

(Clause 4)

Column 1	Column 2
ASIC No	Industry
2111	Canned meat, meat extract or essences and corned meat within the ASIC class "Fresh, preserved and canned meat (including tallow, meals and fertilisers of animal origin)"
2113	Bacon, ham and smallgoods
2114	Collagen sausage casings within the ASIC class "Casings of animal origin"
2123	Cheese
2124	Ice cream and other frozen confections
2125	Milk products within the ASIC Class No 2125
2131	Canned and preserved fruit products, excluding: <ul style="list-style-type: none"> <li>(a) bulk fruit juice products, and</li> <li>(b) other fruit juice products, except canned fruit juice products</li> </ul>
2132	Canned and preserved vegetable products
2152	Starch, gluten and starch sugars
2153	Cereal foods, prepared flour and baking mixes, excluding milled rice, rice meal, polished or unpolished rice, soya bean flour, self-raising flour and oats hulled or shelled
2162	Cakes and pastries supplied to State-wide markets
2163	Biscuits
2172	Refined sugar
2181	Confectionery, chocolate and cocoa products

## Country Industries (Pay-roll Tax Rebates) Regulation 2003

Schedule 1 Industries

<b>Column 1</b>	<b>Column 2</b>
<b>ASIC No</b>	<b>Industry</b>
2182	Canned fish, fish paste and other canned seafoods within the ASIC class "Preserved and canned fish and other seafoods"
2183	Dog biscuits, cat biscuits and canned animal and pet foods within the ASIC class "Prepared animal and bird foods"
2184	Food products within the ASIC Class No 2184, excluding bean sprout germination, honey blending, ice, salt, pepper, ginger, apricot stone cracking and peanut roasting or salting
2193	Malt
2210	Tobacco products
2313	Wool and man-made fibre tops
2314	Man-made fibres and yarns
2315	Man-made fibre broadwoven fabrics
2316	Cotton, silk and flax yarns and broadwoven fabrics
2317	Worsted yarns and broadwoven fabrics
2318	Woollen yarns and broadwoven fabrics
2319	Narrow woven fabrics (including broadwoven elastic or elastomeric fabrics)
2321	Textile finishing
2322	Household textiles (except floor coverings)
2331	Textile floor coverings
2332	Felt and felt products
2333	Canvas products and associated textile products within the ASIC Class No 2333

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## Country Industries (Pay-roll Tax Rebates) Regulation 2003

Industries

Schedule 1

<b>Column 1</b>	<b>Column 2</b>
<b>ASIC No</b>	<b>Industry</b>
2334	Rope, cordage and twine
2335	Textile products
2411	Hosiery
2412	Cardigans and pullovers
2413	Knitted goods
2421	Women's and girls' blouses and frocks
2422	Women's and girls' outerwear
2423	Men's and boys' trousers, shorts and work clothing
2424	Men's and boys' suits, coats and waterproof clothing
2425	Underwear, nightwear, men's and boys'
2426	Foundation garments
2427	Headwear
2428	Clothing within the ASIC Class No 2428, excluding basque knitting, buttonholing, hemstitching, custom monogramming and embroidery services
2431	Rubber footwear
2432	Footwear
2513	Plywood, veneers and manufactured boards of wood, excluding veneer peeling and slicing
2514	Joinery and wooden structural fittings
2515	Wooden containers, excluding rough sawn containers and pallets

## Country Industries (Pay-roll Tax Rebates) Regulation 2003

Schedule 1 Industries

<b>Column 1</b>	<b>Column 2</b>
<b>ASIC No</b>	<b>Industry</b>
2516	Wood, cork, bamboo and cane products within the ASIC Class No 2516, excluding sawn firewood, sawdust, wood chips, wood flour, wood wool, picture framing and tanning bark
2521	Furniture (except sheet metal), excluding french polishing of furniture
2522	Mattresses (except rubber or wire)
2611	Pulp, paper and paperboard
2612	Paper bags (including textile bags)
2613	Solid fibreboard containers
2614	Corrugated fibreboard containers
2615	Paper products
2622	Commercial and job printing (including stationery and bookbinding), excluding local newspaper and local magazine printing
2711	Chemical fertilisers
2712	Industrial gases
2713	Plastics materials, synthetic resins and synthetic rubber
2714	Organic industrial chemicals
2715	Inorganic industrial chemicals
2721	Ammunition, explosives and fireworks
2722	Paints, varnishes and lacquers
2723	Pharmaceutical and veterinary products
2724	Pest control and agricultural chemical products

## Country Industries (Pay-roll Tax Rebates) Regulation 2003

Industries

Schedule 1

<b>Column 1</b>	<b>Column 2</b>
<b>ASIC No</b>	<b>Industry</b>
2725	Soap and other detergents
2726	Cosmetics and toilet preparations
2727	Inks
2728	Chemical products
2730	Petroleum refining
2740	Petroleum and coal products
2811	Plate and sheet glass
2812	Glass bottles and jars
2813	Glass products
2821	Clay, face and texture bricks within the ASIC Class "Clay bricks and clay refractories"
2822	Dry pressed glazed ceramic wall and floor tiles within the ASIC Class "Ceramic construction goods (except vitreous china or porcelain)"
2823	China and other ceramic goods
2835	Asbestos cement products
2841	Plaster products
2843	Non-metallic mineral products, excluding ground minerals and mineral earths
2912	Iron and steel basic products, excluding metallurgical coke and basic iron and steel
2913	Iron and steel castings and forgings
2914	Steel pipes and tubes

## Country Industries (Pay-roll Tax Rebates) Regulation 2003

Schedule 1 Industries

<b>Column 1</b>	<b>Column 2</b>
<b>ASIC No</b>	<b>Industry</b>
2927	Rolling, drawing and extruding of aluminium
2928	Rolling, drawing and extruding of non-ferrous metals
2929	Non-ferrous metal castings
2931	Secondary recovery and alloying of non-ferrous metals, excluding recovery of non-ferrous metals from scrap, resmelting of non-ferrous metal scrap, and detinning of tin plate scrap
3111	Fabricated structural steel
3112	Architectural aluminium products
3113	Architectural metal products
3114	Boiler and plate work, excluding boilermaking and drum reconditioning
3121	Metal cans, canisters and containers
3122	Sheet metal furniture and storage equipment
3123	Sheet metal products, excluding copper-smithing
3131	Cutlery, industrial knives and hand tools (except power operated)
3132	Springs and wire products
3133	Nuts, bolts, screws and rivets
3134	Metal coating and finishing
3135	Steam, gas and water fittings (non-ferrous metal)
3136	Blinds and awnings (except textile, bamboo or cane)
3137	Fabricated metal products, excluding welding



## Country Industries (Pay-roll Tax Rebates) Regulation 2003

Industries

Schedule 1

<b>Column 1</b>	<b>Column 2</b>
<b>ASIC No</b>	<b>Industry</b>
3211	Motor vehicles
3212	Truck and bus bodies, trailers and caravans, excluding caravan repairs
3213	Motor vehicle instruments, heaters and electrical equipment (except batteries)
3214	Motor vehicle parts and accessories, excluding rebuilding of automatic transmissions and motor vehicle engine reconditioning
3221	Ship building, excluding repair work
3222	Boat building, excluding repair work
3223	Railway locomotives and rolling stock manufacture, excluding overhaul of railway locomotives or railway or tramway rolling stock
3224	Aircraft building, excluding repair or overhaul
3225	Transport equipment
3311	Photographic equipment and supplies and optical instruments, excluding photographic and motion picture film processing
3312	Measuring apparatus and professional and scientific equipment and supplies
3321	Television sets, radios, communication and other electronic equipment, excluding repair of two-way and communication radios
3322	Refrigerators and household appliances
3323	Water heating systems
3324	Electric and telephone cable, wire and strip
3325	Batteries

## Country Industries (Pay-roll Tax Rebates) Regulation 2003

Schedule 1 Industries

<b>Column 1</b>	<b>Column 2</b>
<b>ASIC No</b>	<b>Industry</b>
3326	Electrical machinery, equipment and supplies, excluding repair or maintenance of industrial electric motors or turbo alternator installation
3331	Agricultural machinery and equipment
3332	Construction and earthmoving machinery and equipment
3333	Materials handling equipment
3334	Woodworking and metal-working machinery and equipment
3335	Pumps, pumping equipment and air and gas compressors, excluding petrol bowsers installation and maintenance
3336	Commercial and industrial space heating and air conditioning equipment
3337	Dies, saw blades and machine tool accessories
3338	Food processing machinery
3339	Industrial machinery and equipment, excluding repair work and elevator or escalator installation
3411	Leather tanning and finishing, fur dressing and dyeing
3412	Leather and leather substitute products
3421	Rubber tyres, tubes, belting, hose and sheeting, excluding repair and retreading of tyres
3422	Rubber products, excluding rubber reclaiming
3431	Flexible packaging and packaging materials (except paper), adhesive tapes and abrasive coated papers
3432	Rigid plastic sheeting
3433	Hard surface floor coverings

## Country Industries (Pay-roll Tax Rebates) Regulation 2003

Industries

Schedule 1

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<b>Column 1</b>	<b>Column 2</b>
<b>ASIC No</b>	<b>Industry</b>
3434	Plastic products
3441	Ophthalmic articles
3442	Jewellery and silverware
3443	Brooms and brushes
3444	Signs and advertising displays, excluding advertising sign painting, signwriting and ticket writing
3445	Sporting equipment
3446	Writing and marking equipment
3447	Architectural model making, beach umbrellas, umbrella or parasol frames, guitars, umbrella or parasol handles, hobby equipment, manures or fertilisers, mouth organs, musical instrument strings (from animal gut), musical instruments, novelties (except rubber, plastic or paper), organs, ornaments, painting of manufactured products, parasols, piano accordions, pianos, straw plaits, surgical gut or sutures (except textile), toys or games, umbrellas, violins, walking sticks, wigs, and vacuum flasks

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# Education (School Administrative and Support Staff) Regulation 2003

under the

Education (School Administrative and Support Staff) Act 1987

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Education (School Administrative and Support Staff) Act 1987*.

ANDREW REFSHAUGE, M.P.,  
Minister for Education and Training

## Explanatory note

The object of this Regulation is to remake, without substantial changes, the *Education (School Administrative and Support Staff) Regulation 1998*. That Regulation will be repealed on 1 September 2003 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation:

- (a) specifies the manner of dealing with alleged breaches of discipline by school administrative and support staff who are employed on a permanent basis (clause 5), and
- (b) provides for the suspension of temporary employees charged with committing certain offences (clauses 6 and 7), and
- (c) specifies when a person satisfies a medical assessment of the person's health (clause 8), and
- (d) provides for the Director-General to prohibit a temporary employee from holding other jobs (clause 9), and
- (e) makes other provisions of a formal or ancillary nature (clauses 1–4 and 10).

This Regulation is made under the *Education (School Administrative and Support Staff) Act 1987*, including section 38 (the general regulation-making power) and the sections referred to in this Regulation.

Education (School Administrative and Support Staff) Regulation 2003

Explanatory note

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This Regulation comprises or relates to matters of a machinery nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

Education (School Administrative and Support Staff) Regulation 2003

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Clause 1 Education (School Administrative and Support Staff) Regulation 2003

Part 1 Preliminary

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## Education (School Administrative and Support Staff) Regulation 2003

under the

Education (School Administrative and Support Staff) Act 1987

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Education (School Administrative and Support Staff) Regulation 2003*.

#### 2 Commencement

This Regulation commences on 1 September 2003.

**Note.** This Regulation replaces the *Education (School Administrative and Support Staff) Regulation 1998* which is repealed on 1 September 2003 by section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3 Definition

In this Regulation:

*the Act* means the *Education (School Administrative and Support Staff) Act 1987*.

#### 4 Notes

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

Education (School Administrative and Support Staff) Regulation 2003

Clause 5

Discipline

Part 2

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## Part 2 Discipline

### 5 Procedure: breaches of discipline by permanent employees

For the purposes of section 28 of the Act, alleged breaches of discipline by permanent employees are to be dealt with by the Director-General in the same way as alleged breaches of discipline by officers and temporary employees of the Education Teaching Service are dealt with under the *Teaching Services Act 1980*.

### 6 Suspension of temporary employees

- (1) It is a condition of employment of a temporary employee that, if the employee is charged with having committed an offence referred to in section 30 (1) of the Act, the Director-General may suspend the employee from duty until the charge has been dealt with.
- (2) The Director-General may lift the suspension of a temporary employee at any time.

### 7 Remuneration of temporary employees during suspension

- (1) It is a condition of employment of a temporary employee that, if the employee is suspended, any remuneration payable to the employee is to be withheld during the period of suspension unless the Director-General otherwise directs.
- (2) It is a further condition of employment that any remuneration payable to a suspended temporary employee is, unless the Director-General otherwise directs, to be forfeited if the employee is convicted of the offence, unless it was due before the employee was suspended or was paid in accordance with a direction under subclause (1).
- (3) This clause has effect subject to the *Government and Related Employees Appeal Tribunal Act 1980*.



Clause 8	Education (School Administrative and Support Staff) Regulation 2003
Part 3	Miscellaneous

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## Part 3      Miscellaneous

### 8      Health assessments

- (1) For the purposes of section 10 of the Act, a person satisfies a medical assessment of the person's health if the person is found to be fit to carry out the duties of the position after a health assessment under this clause.
- (2) Fitness to carry out duties includes the ability to carry out those duties without endangering the health and safety of the public, of other persons employed within the Department and of the person concerned.
- (3) The health assessment is to be in the form considered necessary by the Director-General.
- (4) That form may include (but is not limited to) any one or more of the following:
  - (a) a declaration (which may be a statutory declaration if required) provided by the person concerning any illness, disability or condition of which the person is aware that might make the person unfit to carry out the duties of the position,
  - (b) a medical examination by a medical practitioner approved by the Director-General,
  - (c) an examination by a medical practitioner, an optometrist or other appropriately qualified health care professional, approved by the Director-General, of a particular aspect of the person's health likely to detrimentally affect the person's capacity to carry out the duties of the position.
- (5) The Director-General is to give the health care professional providing an assessment referred to in subclause (4) (c) any requested information about the duties of the position concerned that is reasonably required for the purpose of providing the assessment.

### 9      Other employment: temporary employees

- (1) It is a condition of employment of a temporary employee that the employee must obey any written direction given to the employee by the Director-General:
  - (a) forbidding the employee from engaging in, or restricting the employee's engagement in, any trade, business, profession or other remunerative employment, or

Education (School Administrative and Support Staff) Regulation 2003

Clause 10

Miscellaneous

Part 3

- 
- (b) requiring the employee to resign from a specified office not connected with the duties of his or her position as a temporary employee.
  - (2) The direction may apply to specified matters or may apply generally.
  - (3) The direction does not apply to a temporary employee whose employment under the Act is part-time (whether for less than the whole of a working day or for less than 5 working days each week):
    - (a) during those times when the employee is not required to be engaged in that employment, and
    - (b) if the discharge of the duties of the employee under the Act is not adversely affected and if no conflict of interests arises.

#### **10 Savings**

Any act, matter or thing that, immediately before the repeal of the *Education (School Administrative and Support Staff) Regulation 1998*, had effect under that Regulation continues to have effect under this Regulation.



New South Wales

# Electricity Safety (Corrosion Protection) Regulation 2003

under the

Electricity Safety Act 1945

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Electricity Safety Act 1945*.

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

## Explanatory note

The object of this Regulation is to remake, with modifications, the provisions of the *Electricity Safety (Corrosion Protection) Regulation 1998*, which is to be repealed by section 10 of the *Subordinate Legislation Act 1989* on 1 September 2003.

This Regulation provides for a new scheme of approvals for the operation of cathodic protection systems. Under the new scheme, it is the responsibility of each owner of such a system to arrange for interference tests to be made on the system and to ensure that the owners of structures in the vicinity do not object to the operation of the system. The Ministry of Energy and Utilities will not in future conduct these interference tests (as it currently does) and also will not have a direct role in resolving disputes between owners of other structures and owners of cathodic protection systems regarding the operation of those systems.

The new Regulation makes provision for the following matters:

- (a) prohibiting the operation of certain kinds of cathodic protection systems otherwise than in accordance with an approval granted under the Regulation (clause 5),
- (b) prescribing the procedure for the granting of approvals (clause 6),
- (c) providing for the addition, variation and revocation of conditions to which an approval is subject (clause 7),
- (d) prescribing the procedure for suspending and cancelling approvals (clause 8),

Electricity Safety (Corrosion Protection) Regulation 2003

Explanatory note

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- (e) requiring the owner of a cathodic protection system to give notice of the occurrence of certain events in connection with the system (clause 9),
- (f) providing that the Director-General of the Ministry of Energy and Utilities may cause cathodic protection systems to be examined or tested or both (clause 10),
- (g) providing that the Director-General of the Ministry of Energy and Utilities may determine fees for approval and for examinations and tests of cathodic protection systems (clause 11),
- (h) providing for the approval by the Director-General of certain guidelines (clause 13),
- (i) providing for the keeping of a register containing information relating to applications and approvals of cathodic protection systems (clause 14),
- (j) other matters of a minor, consequential or ancillary nature (clauses 1–4, 12, 15 and 16).

This Regulation is made under the *Electricity Safety Act 1945*, including section 37 (the general regulation-making power).

## Electricity Safety (Corrosion Protection) Regulation 2003

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Clause 1	Electricity Safety (Corrosion Protection) Regulation 2003
Part 1	Preliminary

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## Electricity Safety (Corrosion Protection) Regulation 2003

under the

Electricity Safety Act 1945

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Electricity Safety (Corrosion Protection) Regulation 2003*.

#### 2 Commencement

This Regulation commences on 1 September 2003.

**Note.** This Regulation replaces the *Electricity Safety (Corrosion Protection) Regulation 1998* which is repealed on 1 September 2003 by section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3 Definitions

(1) In this Regulation:

**approval** means an approval in force under Part 2.

**approved system** means a cathodic protection system the subject of an approval.

**cathodic protection system** has the same meaning as in the Act.

**compact structure** means a structure (such as a storage tank) whose greatest dimension, being a dimension of height, length or breadth, is no greater than 5 times the size of the smallest of those dimensions.

**Director-General** means the Director-General of the Ministry.

**Director-General's guidelines** means the guidelines for the time being approved by the Director-General under clause 13.

**foreign structure**, in relation to a cathodic protection system, means any metallic structure (other than the primary structure that the system is installed to protect) that is situated in the vicinity of the system, whether in or on the ground or in or on water.

Electricity Safety (Corrosion Protection) Regulation 2003

Clause 4

Preliminary

Part 1

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**galvanic anode system** means a cathodic protection system that operates by means of galvanic anodes within the meaning of AS/NZS 2832.1:1998, *Cathodic Protection of Metals—Pipes and Cables*, as in force for the time being and published by Standards Australia.

**interference test** means an electrical test that indicates the risk of corrosion to a foreign structure by a cathodic protection system.

**Ministry** means the Ministry of Energy and Utilities.

**primary structure**, in relation to a cathodic protection system, means the structure that the cathodic protection system is installed to protect.

**the Act** means the *Electricity Safety Act 1945*.

- (2) A person is taken to operate a cathodic protection system for the purposes of this Regulation if:
- (a) the person has control over a cathodic protection system that has been installed to protect a structure, and
  - (b) current flows between the system and the structure.
- (3) Notes in the text of this Regulation do not form part of this Regulation.

#### 4 Application of Regulation

- (1) This Regulation does not apply to:
- (a) a galvanic anode system that has been installed to protect:
    - (i) a compact structure, but only so long as the maximum current flowing through the system does not exceed 150 milliamperes, or
    - (ii) any other primary structure, but only so long as the maximum current flowing through the system does not exceed 150 milliamperes for each 500 metres of the length of the structure along its greatest dimension, or
  - (b) any cathodic protection system that has been installed to protect:
    - (i) the internal surface of a water storage tank, reservoir or other similar structure for storing water where the structure isolates the system current from the external environment, or
    - (ii) marine vessels that are not permanently moored.

Clause 4        Electricity Safety (Corrosion Protection) Regulation 2003  
Part 1         Preliminary

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- (2) This Regulation applies to all other cathodic protection systems.



Electricity Safety (Corrosion Protection) Regulation 2003

Clause 5

Approvals

Part 2

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## Part 2 Approvals

### 5 Operation of cathodic protection systems requires approval

- (1) A person must not operate a cathodic protection system to which this Regulation applies unless the system is the subject of an approval.

Maximum penalty: 200 penalty units, in the case of a body corporate, or 50 penalty units in any other case.

- (2) A person must not operate a cathodic protection system to which this Regulation applies otherwise than in accordance with the conditions of an approval to which the system is subject.

Maximum penalty: 200 penalty units, in the case of a body corporate, or 50 penalty units in any other case.

- (3) This clause does not apply to a person operating a cathodic protection system:

- (a) for the purpose of testing it, but only for not more than a total of 24 hours after completion of:
- (i) the installation or extension of the system, or
  - (ii) any maintenance or repairs carried out on the system, or
- (b) with the written consent of the Director-General.

### 6 Approvals for cathodic protection systems

- (1) An application for an approval must:
- (a) be in the form approved by the Director-General, and
  - (b) be accompanied by the fee determined by the Director-General with respect to the application, and
  - (c) indicate any conditions that the applicant proposes be imposed on the operation of the cathodic protection system, and
  - (d) be accompanied by the results of interference tests that have been conducted by a tester appointed by the owner of the cathodic protection system concerned for the purpose of the application, and
  - (e) be accompanied by a certificate from the applicant stating that there are no foreign structures in the vicinity of the system concerned, or a certificate from the applicant identifying, as far as is reasonably practicable, all foreign structures that

Clause 6	Electricity Safety (Corrosion Protection) Regulation 2003
Part 2	Approvals

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appear to be in the vicinity of the system concerned together with:

- (i) statements from the owners of each foreign structure identified in the certificate to the effect that they do not object to the operation of the system, or
  - (ii) a declaration by the applicant that each owner of a foreign structure identified in the certificate was given an opportunity to object to the operation of the system and no such objection was made, and
- (f) be accompanied by such other documentation as the approved form requires, and
  - (g) be lodged at the head office of the Ministry.
- (2) The Director-General:
- (a) may require an applicant to provide additional information within a specified time if of the opinion that the additional information would be relevant to consideration of the application, and
  - (b) may delay consideration of the application until the information is provided and, if the information is not provided within the time specified, may refuse to consider the application, and
  - (c) may require the applicant to further examine or test the system and to provide the results of the examination or test.
- (3) After considering an application for an approval and the results of any examination and test of the system, the Director-General is to determine the application:
- (a) by granting the approval, either unconditionally or subject to conditions determined by the Director-General, or
  - (b) by refusing the application.
- (4) An approval remains in force (unless sooner cancelled) for the period (not exceeding 7 years) specified in the approval. An approval is not in force during any period it is suspended.
- Note.** When an approval for a cathodic protection system expires, a new approval must be applied for and obtained to operate the cathodic protection system.
- (5) If the Director-General refuses the application, the Director-General must cause notice of the refusal, and of the reasons for the refusal, to be given to the applicant.

Electricity Safety (Corrosion Protection) Regulation 2003

Clause 7

Approvals

Part 2

- 
- (6) An approval is to be in the form approved by the Director-General and is to be subject to such conditions as are prescribed by this Regulation and to such other conditions as the Director-General imposes on the approval at the time it is granted.

#### **7 Addition, variation and revocation of conditions**

- (1) The Director-General may vary or revoke any condition imposed by the Director-General on an approval or may impose further conditions on an approval.
- (2) Before taking action under this clause, the Director-General must ensure that:
- (a) notice of the proposed action is given to the holder of the approval, and
  - (b) the holder of the approval is given a reasonable opportunity to make submissions to the Director-General with respect to the proposed action, and
  - (c) any representations duly made by the holder of the approval are taken into consideration.

#### **8 Suspension and cancellation of approvals**

- (1) The Director-General may suspend or cancel an approval for a cathodic protection system on any one or more of the following grounds:
- (a) that the cathodic protection system has been operated otherwise than in accordance with the approval or any condition to which the approval is subject,
  - (b) that the system has permanently ceased to operate,
  - (c) that the Director-General is of the opinion that the system is, or has been, causing unreasonable interference to a foreign structure,
  - (d) that the holder of the approval:
    - (i) has failed to provide access to the system or any supporting equipment, or
    - (ii) has failed to assist in the testing of the system as reasonably required,
  - (e) that any amount due and payable under this Regulation by the holder of the approval has not been paid.

Clause 9	Electricity Safety (Corrosion Protection) Regulation 2003
Part 2	Approvals

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- (2) Before taking action under this clause, the Director-General must ensure that:
  - (a) notice of the proposed action is given to the holder of the approval, and
  - (b) the holder of the approval is given a reasonable opportunity to make submissions to the Director-General with respect to the proposed action, and
  - (c) any representations duly made by the holder of the approval are taken into consideration.
- (3) Subclause (2) does not apply to the cancellation of an approval as a result of the system concerned having ceased to operate.

#### **9 Notice of certain occurrences**

- (1) The owner of an approved system must cause written notice to be given to the Director-General within 28 days after:
  - (a) the system is sold or disposed of to any other person, or
  - (b) the system permanently ceases to operate.

Maximum penalty: 25 penalty units.

- (2) In the case of a system that is sold or disposed of to some other person, the notice must indicate the name and address of that other person and the date on which it was sold or disposed of.

#### **10 Examination and testing of cathodic protection systems**

- (1) The Director-General may cause an authorised officer to undertake or arrange for the undertaking of the examination or testing, or both, of a cathodic protection system.
- (2) The examination or test may be carried out for the purpose of determining whether the cathodic protection system is operating in accordance with its approval and any conditions of its approval, whether the operation of the system is causing any unreasonable interference with any foreign structures and for any other purpose determined by the Director-General.
- (3) An authorised officer may require the holder of an approval for a cathodic protection system to carry out an examination or test on the system for the purposes of this clause or assist in the carrying out of such an examination or test.
- (4) An authorised officer may oversee the examination or testing of a cathodic protection system under this clause.

Electricity Safety (Corrosion Protection) Regulation 2003

Clause 11

Approvals

Part 2

- 
- (5) It is a condition of an approval that the holder of the approval for a cathodic protection system:
- (a) must provide access to the system and to any supporting equipment for the purposes of enabling the system to be examined or tested under this clause, and
  - (b) must comply with any requirement of an authorised officer under subclause (3) to carry out an examination or test under this clause or assist in the carrying out of such an examination or test, and
  - (c) must cause to be installed in the system equipment that would enable an interference test of that system to be conducted.
- (6) In this clause, *authorised officer* means a member of staff of the Ministry appointed by the Director-General as an authorised officer for the purposes of this Regulation. An authorisation of such a person as an authorised officer may be given generally or subject to conditions and restrictions or only for limited purposes.

## 11 Fees

- (1) The Director-General may determine the following fees that are payable to the Director-General:
- (a) an application fee for an approval,
  - (b) an annual fee for an approval,
  - (c) a fee for the examination or testing, or the examination and testing, of a cathodic protection system by an authorised officer in accordance with clause 10.
- (2) The fee referred to in subclause (1) (c) is payable by the holder of the approval for the cathodic protection system that is examined or tested.
- (3) The Director-General may determine different fees for different classes of systems and different fees for different examinations or tests.
- (4) The Director-General may, in any case, waive or remit the whole or part of a fee.

Clause 12 Electricity Safety (Corrosion Protection) Regulation 2003

Part 3 Miscellaneous

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## **Part 3 Miscellaneous**

### **12 Regulation binds Crown**

- (1) This Regulation binds the Crown.
- (2) Nothing in this Regulation renders the Crown liable to be prosecuted for an offence against this Regulation.

### **13 Director-General's guidelines**

- (1) The Director-General may from time to time approve guidelines in relation to the following:
  - (a) the carrying out of an interference test,
  - (b) the form in which the results of an interference test are to be presented,
  - (c) the form of a certificate referred to in clause 6 (1) (e),
  - (d) the qualifications, training and competency of testers appointed to carry out tests for the purposes of this Regulation.
- (2) A copy of the Director-General's guidelines (if any) is to be available for inspection by members of the public, free of charge, and for purchase, at the head office of the Ministry during its ordinary hours of business.
- (3) If relevant guidelines are approved under this clause:
  - (a) any interference test carried out for the purposes of this Regulation is to be carried out in accordance with the guidelines, and
  - (b) the results of any such interference test are to be presented in a form set out in the guidelines, and
  - (c) any certificate given for the purposes of clause 6 (1) (e) is to be in the form set out in the guidelines, and
  - (d) a person is not to be appointed as a tester to carry out tests for the purposes of this Regulation unless the person has the qualifications, training and competency set out in the guidelines.

Electricity Safety (Corrosion Protection) Regulation 2003

Clause 14

Miscellaneous

Part 3

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#### **14 Register**

- (1) The Ministry is to keep a register containing the following particulars:
  - (a) particulars of each application for an approval received by the Director-General, including the determination of the application, particulars of the owner of the cathodic protection system concerned and a description of the system and its location,
  - (b) particulars of each approval granted by the Director-General, including any subsequent suspension or cancellation of the approval,
  - (c) the particulars of any condition imposed on an approval, including any subsequent variation or revocation of those conditions.
- (2) The register may be inspected by members of the public, free of charge, at the head office of the Ministry during its ordinary hours of business.

#### **15 Delegation**

The Director-General may delegate to any person the exercise of all or any of the Director-General's functions under this Regulation other than this power of delegation and the determination of fees.

#### **16 Savings**

Any act, matter or thing that had effect under the *Electricity Safety (Corrosion Protection) Regulation 1998* immediately before the repeal of that Regulation is taken to have effect under this Regulation.



# Fire Brigades (General) Regulation 2003

under the

Fire Brigades Act 1989

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

ANTHONY KELLY, M.L.C.,  
Minister for Emergency Services

## Explanatory note

The object of this Regulation is to remake the *Fire Brigades (General) Regulation 1997*. That Regulation will be repealed on 1 September 2003 under section 10 (2) of the *Subordinate Legislation Act 1989*. The new Regulation makes provision for the following matters:

- (a) preliminary matters, including provision for the issuing of instructions (Commissioner's Orders) with respect to the efficiency, discipline and good conduct of firefighters and the assigning, by the Commissioner, of areas of operations for fire brigades (Part 1),
- (b) the appointment and conditions of service of members of permanent and volunteer fire brigades (members of volunteer fire brigades are referred to as "retained firefighters") (Part 2),
- (c) the functions of members of permanent and volunteer fire brigades (Part 3),
- (d) misconduct by, and complaints of misconduct against, members of permanent and volunteer fire brigades (Division 1 of Part 4),
- (e) the suspension of members of permanent and volunteer fire brigades (Division 2 of Part 4),
- (f) inquiries into complaints of misconduct against members of permanent and volunteer fire brigades (Division 3 of Part 4),
- (g) disciplinary proceedings against members of permanent and volunteer fire brigades (Division 4 of Part 4),



Fire Brigades (General) Regulation 2003

Explanatory note

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- (h) the awarding of bravery and service awards by the Commissioner and the placing of names on an honorary list (Part 5).

This Regulation is made under the *Fire Brigades Act 1989*, including section 74 (regulations relating to members of fire brigades) and section 85 (the general regulation-making power).

This Regulation relates to matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

## Fire Brigades (General) Regulation 2003

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## Fire Brigades (General) Regulation 2003

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Fire Brigades (General) Regulation 2003

Clause 1

Preliminary

Part 1

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## Fire Brigades (General) Regulation 2003

under the

Fire Brigades Act 1989

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Fire Brigades (General) Regulation 2003*.

#### 2 Commencement

This Regulation commences on 1 September 2003.

**Note.** This Regulation replaces the *Fire Brigades (General) Regulation 1997* which is repealed on 1 September 2003 under section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3 Definitions

In this Regulation:

***approved*** means approved by the Commissioner.

***Commissioner's Orders*** means the written instructions in force under clause 4.

***corrupt conduct*** has the same meaning as it has in Part 3 of the *Independent Commission Against Corruption Act 1988*.

***departmental premises*** means a fire station or other premises leased or operated by NSW Fire Brigades.

***departmental property*** includes property that is used by or for the purposes of NSW Fire Brigades.

***fire appliance*** means any vehicle that forms part of the equipment of NSW Fire Brigades and that is equipped with an audible warning device and flashing lights.

***firefighter*** means a permanent firefighter or a retained firefighter.

***NSW Fire Brigades*** means New South Wales Fire Brigades established by the Act as a Department of the Government.

Clause 4	Fire Brigades (General) Regulation 2003
Part 1	Preliminary

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*officer* means a firefighter of a rank that, by operation of clause 7 (2), is an officer rank for the purposes of this Regulation.

*officer in charge* has the meaning given by section 3 (1) of the Act.

*permanent firefighter* means a member of the permanent fire brigade.

*record* means any document or other source of information compiled, recorded or stored in written form, on film, by electronic process or in any other manner or by any other means.

*retained firefighter* means a person who is classified by NSW Fire Brigades as a retained firefighter and who is a member of a volunteer fire brigade.

*the Act* means the *Fire Brigades Act 1989*.

#### **4 Commissioner's Orders**

- (1) The Commissioner may, by order in writing, issue instructions with respect to the efficiency, discipline and good conduct of firefighters.
- (2) The instructions may be published under the title of "In Orders" or "Standing Orders".
- (3) The Commissioner must take steps to ensure that all current In Orders and Standing Orders are brought to the attention of all firefighters.

#### **5 Areas of operation**

- (1) The Commissioner is to assign to each fire brigade a fire district or part of a fire district within which the brigade is responsible for preventing and extinguishing fires.
- (2) A brigade may operate beyond the area assigned to it, and must do so in accordance with the Commissioner's Orders.

#### **6 Notes**

Notes included in this Regulation do not form part of this Regulation.

Fire Brigades (General) Regulation 2003

Clause 7

Appointments and conditions of service

Part 2

---

## **Part 2 Appointments and conditions of service**

### **7 Ranks of firefighter**

- (1) The Commissioner may establish such ranks of firefighters as the Commissioner considers appropriate.
- (2) Any rank declared by the Commissioner to be an officer rank is an officer rank for the purposes of this Regulation.

### **8 Firefighters' positions**

The Commissioner may create, abolish or otherwise deal with any firefighter's position.

### **9 Appointments to the permanent fire brigade**

- (1) An application for appointment as a permanent firefighter must be in the approved form.
- (2) Before appointing an applicant as a permanent firefighter, the Commissioner must be satisfied that the applicant:
  - (a) is medically and psychologically fit to exercise the functions of a firefighter, and
  - (b) has passed examinations and assessments set or nominated by the Commissioner for appointment as a permanent firefighter, and
  - (c) holds a current driver licence under the *Road Transport (Driver Licensing) Act 1998*, and
  - (d) is of good character, and
  - (e) is an Australian citizen or a person resident in Australia whose continued presence in Australia is not subject to any limitation as to time imposed by or in accordance with law, and
  - (f) is otherwise suitable for employment as a permanent firefighter.
- (3) An applicant for appointment as a permanent firefighter must produce any evidence with respect to the applicant's driving qualifications, citizenship or entitlement to reside in Australia that the Commissioner requires.

Clause 10 Fire Brigades (General) Regulation 2003

Part 2 Appointments and conditions of service

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- (4) A successful applicant is to be appointed:
- (a) except in the case of a former permanent firefighter—as a recruit firefighter, or
  - (b) in the case of a former permanent firefighter—to the rank that the Commissioner considers appropriate to the applicant's skill and experience.

#### **10 Appointments to volunteer fire brigades**

- (1) An application for appointment as a retained firefighter must be in the approved form.
- (2) Before appointing an applicant as a retained firefighter, the Commissioner must be satisfied that the applicant:
  - (a) is medically and psychologically fit to exercise the functions of a firefighter, and
  - (b) has passed examinations and assessments set or nominated by the Commissioner for appointment as a retained firefighter, and
  - (c) holds a current driver licence under the *Road Transport (Driver Licensing) Act 1998*, and
  - (d) is of good character, and
  - (e) is an Australian citizen or a person resident in Australia whose continued presence in Australia is not subject to any limitation as to time imposed by or in accordance with law, and
  - (f) is otherwise suitable to be a retained firefighter.
- (3) An applicant for appointment as a retained firefighter must produce any evidence with respect to the applicant's driving qualifications, citizenship or entitlement to reside in Australia that the Commissioner requires.

#### **11 Examinations and assessments**

The Commissioner may set or nominate any examinations or assessments that the Commissioner considers appropriate as a requirement for promotion, transfer or appointment to a position.

Fire Brigades (General) Regulation 2003

Clause 12

Appointments and conditions of service

Part 2

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## 12 Termination of appointments

- (1) The Commissioner may terminate a firefighter's appointment as a firefighter:
  - (a) if the firefighter is no longer medically or psychologically fit to exercise the functions of a firefighter, or
  - (b) if the firefighter is no longer a suitable person to exercise the functions of a firefighter.
- (2) The Commissioner may, without limiting subclause (1), terminate a firefighter's appointment as a firefighter of a particular rank:
  - (a) if the firefighter is no longer medically or psychologically fit to exercise the functions of a firefighter of that rank, or
  - (b) if the firefighter is no longer a suitable person to exercise the functions of a firefighter of that rank, or
  - (c) at the firefighter's own request.
- (3) The Commissioner may, without limiting subclause (1), terminate a firefighter's appointment as a firefighter of a particular position:
  - (a) if the firefighter is no longer medically or psychologically fit to exercise the functions of a firefighter of that position, or
  - (b) if the firefighter is no longer a suitable person to exercise the functions of a firefighter of that position, or
  - (c) at the firefighter's own request.
- (4) The Commissioner may also terminate the services of any retained firefighter who, except when on approved leave or other authorised absence:
  - (a) for 3 consecutive months fails to attend drills appointed by the Commissioner or the officer in charge of the firefighter, or
  - (b) fails to attend the approved number or proportion of drills, fires or other incidents in any period of 6 months.
- (5) On and from 1 September 2004, the Commissioner must terminate the appointment of a firefighter who is not an Australian citizen or who ceases to satisfy or does not satisfy the requirements of clause 9 (2) (e) or 10 (2) (e).
- (6) The termination of a firefighter's appointment to a particular rank operates to demote the firefighter to a rank determined by the Commissioner.



Clause 13 Fire Brigades (General) Regulation 2003

Part 2 Appointments and conditions of service

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- (7) The Commissioner must cause notice of a proposed termination of appointment:
- (a) as a firefighter, or
  - (b) to a particular rank, or
  - (c) to a particular position,
- to be given to the firefighter. That notice must specify the reasons for the proposed termination.
- (8) The Commissioner must:
- (a) allow the firefighter to respond to the reasons for the proposed termination within a reasonable time specified in the notice of proposed termination, and
  - (b) consider any response by the firefighter before determining whether to terminate any appointment.
- (9) The Commissioner must cause notice of the final reasons for a termination of appointment:
- (a) as a firefighter, or
  - (b) to a particular rank, or
  - (c) to a particular position,
- to be given to the firefighter.

### **13 Leave**

The granting of all leave is subject to the approval of the Commissioner.

Fire Brigades (General) Regulation 2003

Clause 14

Functions of firefighters

Part 3

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## **Part 3 Functions of firefighters**

### **14 Contraventions of Part 3**

A contravention of this Part does not give rise to an offence but may be the subject of disciplinary proceedings under Part 4.

### **15 Firefighters to acquire and maintain knowledge of legislation, orders and functions**

- (1) A firefighter must acquire and maintain a thorough knowledge of, and must comply with the requirements of, the Act, this Regulation and the Commissioner's Orders.
- (2) A firefighter must acquire and maintain the knowledge and skills that are relevant to the performance of the firefighter's functions.

### **16 Honesty and truthfulness**

- (1) A firefighter must act honestly and truthfully in the performance of the firefighter's functions.
- (2) In particular, a firefighter must not in the capacity of a firefighter:
  - (a) wilfully or negligently make a false or misleading statement to a person, or
  - (b) knowingly make a false or misleading statement in any official record, or
  - (c) without good or sufficient cause, destroy or mutilate any official record or alter or erase any entry in it, or
  - (d) fail to account promptly for any money or property that comes into the firefighter's possession during the course of the firefighter's functions, or
  - (e) otherwise be concerned, whether directly or indirectly, in corrupt conduct.

### **17 Duty to obey orders and act fairly and responsibly**

A firefighter must not:

- (a) disobey or disregard any lawful order made or given by a person having the authority to make or give the order, or
- (b) be disrespectful or insolent to a person in authority over the firefighter, or
- (c) abuse the firefighter's authority by acting oppressively towards a subordinate, or

Clause 18 Fire Brigades (General) Regulation 2003

Part 3 Functions of firefighters

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- (d) without good or sufficient reason, be absent from duty or be late for any parade, drill or other required attendance, or
- (e) through negligence, carelessness or malice, allow any loss, damage or injury to occur to any person or property, or
- (f) fail to report any matter, or make an entry in an official record, that it is the firefighter's duty to report or make.

### 18 Unacceptable behaviour

- (1) A firefighter must not:
  - (a) come on duty while under the influence of alcohol or a drug, or
  - (b) while on duty, consume, use or possess any alcohol or drug, or
  - (c) while on duty, gamble in circumstances that adversely affect the discipline or efficiency of NSW Fire Brigades, or
  - (d) smoke at a fire or drill, in any departmental premises or in any departmental vehicle, or
  - (e) smoke in any public place while in uniform, or
  - (f) while off duty, enter or remain on departmental premises without authority, or
  - (g) by words or action, behave in a manner that is subversive of discipline or calculated to bring discredit on NSW Fire Brigades, or
  - (h) while on duty, by words or action, harass or discriminate against any person on the grounds of sex, marital status, pregnancy, age, ethnic or national origin, physical or intellectual impairment, sexual preference, transgender status, carer's responsibilities or any other ground in respect of which discrimination is prohibited by the *Anti-Discrimination Act 1977*.
- (2) The officer in charge of any departmental premises must refuse to permit a firefighter to come on duty if of the opinion that the firefighter is under the influence of alcohol or a drug to the extent that the firefighter is unable to exercise the functions of a firefighter.
- (3) In this clause:

**drug** has the same meaning as in the *Road Transport (Safety and Traffic Management) Act 1999* (paragraph (a) of the definition of **drug** in the Dictionary of that Act excepted).

Fire Brigades (General) Regulation 2003

Clause 19

Functions of firefighters

Part 3

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## **19 Damage or misuse of departmental property**

- (1) A firefighter must not wilfully or negligently damage any departmental property or fail to report promptly any such damage, however caused.
- (2) A firefighter must not use a fire appliance or other departmental property for an unauthorised purpose or be concerned, whether directly or indirectly, in its unauthorised use.

## **20 Uniforms**

Uniform may be worn by a firefighter only in accordance with the Commissioner's Orders.

## **21 Loss or damage to uniform or personal equipment**

- (1) A firefighter:
  - (a) must take care of all articles of uniform and personal equipment issued to the firefighter, and
  - (b) may be required to meet the replacement cost of any article of uniform or equipment damaged or lost through the firefighter's negligence.
- (2) Before a firefighter leaves his or her employment or service, the firefighter must return all departmental property, uniform and equipment that is in the firefighter's possession, other than any article of uniform or equipment that the Commissioner permits the firefighter to retain.
- (3) The Commissioner may require a firefighter who fails to return any such property or who returns it in a damaged condition (other than damage due to fair wear and tear) to pay compensation for the loss or damage.
- (4) The amount of any such loss or damage may be offset from any money due to the firefighter with respect to the firefighter's service.

## **22 Solicitation, acceptance or retention of rewards or other benefits**

A firefighter must not:

- (a) directly or indirectly solicit or accept a reward (whether the reward involves pecuniary gain, material gain, the provision of services, the provision of training or any other benefit) in connection with the exercise of the firefighter's functions, or

Clause 23 Fire Brigades (General) Regulation 2003

Part 3 Functions of firefighters

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- (b) retain any money received as a gratuity or payment from any person, or accept any address, presentation or testimonial, in connection with the firefighter's official position,

without the prior written permission of the Commissioner.

### **23 Disclosure of information**

A firefighter must not disclose any information obtained in the firefighter's capacity as a firefighter unless the disclosure is made:

- (a) in the exercise of the firefighter's functions, or
- (b) about factual matters that are generally available to the public, or
- (c) by an approved firefighter to media representatives concerning operations at a fire or other incident, or
- (d) at the direction or with the permission of the Commissioner, or
- (e) with other lawful excuse.

### **24 Public comment on administration**

A firefighter must not comment publicly on the administration of NSW Fire Brigades, except with the approval of the Commissioner.

### **25 Incompatible activities**

A firefighter must not engage in any activity outside the firefighter's functions as a firefighter if to do so would be incompatible with the performance of those functions.

### **26 Functions of firefighters**

The functions of each rank and position of firefighters are those determined for the time being by the Commissioner.

### **27 Performance of functions**

- (1) A firefighter must attend such drills as may be appointed by the Commissioner or the officer in charge of the firefighter.
- (2) A firefighter must perform all firefighting or other functions that the firefighter is lawfully directed to perform.
- (3) A firefighter must serve wherever the firefighter is directed by the Commissioner.

Fire Brigades (General) Regulation 2003

Clause 28

Functions of firefighters

Part 3

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## **28 Recall of off-duty firefighters**

- (1) A firefighter who is off duty (including a firefighter who is on leave) may be recalled to duty in an emergency unless the firefighter is on sick leave, in court or subject to a subpoena to appear in court.
- (2) A firefighter must ensure that the Commissioner is kept aware of where and how the firefighter may be contacted in an emergency.

## **29 Calls to fires, hazardous material incidents or other emergencies**

A firefighter receiving a call to a fire, hazardous material incident or other emergency is responsible for recording the details and must make every effort to ensure an immediate response in accordance with the Commissioner's Orders.

## **30 Occurrence book**

The officer in charge of a fire station must ensure that:

- (a) all events of significance relating to the operation of the fire station, and
- (b) all other matters required by this Regulation or the Commissioner's Orders to be so recorded,

are recorded in an occurrence book maintained at the fire station.

## **31 Absence of firefighter from fire station**

- (1) A firefighter who is on duty at a fire station must not leave the fire station without the permission of the officer in charge of the fire station or, if the firefighter is an officer, a more senior officer.
- (2) A firefighter who leaves a fire station must record in the occurrence book the fact of the absence, the reason for the absence and the name of the person giving permission to leave the fire station.
- (3) This clause does not apply to a firefighter who leaves the fire station to attend to a fire call or other incident or to engage in official functions away from the fire station.

## **32 Response of fire appliances**

When responding to a call to a fire, hazardous material incident or other emergency the driver of a fire appliance must ensure that the appliance's lights and audible warning devices are operated to give the best practicable warning to the public.

Clause 33 Fire Brigades (General) Regulation 2003

Part 3 Functions of firefighters

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### **33 Security on fire duty and watch duty**

A firefighter on fire duty or watch duty at the site of a fire, hazardous material incident or other emergency must:

- (a) ensure that:
  - (i) any premises at the site are not entered, and
  - (ii) goods are not interfered with or removed from any such premises,  
otherwise than by persons who can establish their identity and authority to do so, and
- (b) report any breach of security to the officer in charge at the site.

Fire Brigades (General) Regulation 2003

Clause 34

Disciplinary provisions

Part 4

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## **Part 4      Disciplinary provisions**

### **Division 1      Misconduct**

#### **34      Definition**

In this Part:

*nominated officer* means an officer nominated by the Commissioner for the purposes of this Part.

#### **35      Misconduct**

- (1) A firefighter is guilty of misconduct if the firefighter:
  - (a) contravenes a provision of Part 3, or
  - (b) 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 it were committed in New South Wales, would be an offence so punishable.
- (2) A reference in subclause (1) (b) to the conviction of a firefighter for an offence punishable by imprisonment for 12 months or more includes a reference to the firefighter having been found guilty by a court of such an offence but where no conviction is recorded.

#### **36      Complaints of misconduct**

- (1) A firefighter may make a complaint in writing to the Commissioner that another firefighter is guilty of misconduct.
- (2) A complaint that does not concern corrupt conduct must be lodged:
  - (a) through the chain of command, or
  - (b) if the complaint relates to the officer in charge of the firefighter, with the officer in charge's immediate superior.
- (3) If the nominated officer decides to act on a complaint, the firefighter against whom the complaint is made must be given a copy of it.
- (4) Any firefighter dealing with a complaint:
  - (a) must treat the information as strictly confidential, and



Clause 37 Fire Brigades (General) Regulation 2003

Part 4 Disciplinary provisions

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- (b) must deal with any personal information within the meaning of the *Privacy and Personal Information Protection Act 1998* in relation to that complaint in accordance with that Act,

unless this Part authorises the information to be dealt with in another way or unless the Commissioner authorises the information to be dealt with in another way.

## **Division 2 Suspension of firefighters**

### **37 Suspension of firefighter**

- (1) An officer authorised by the Commissioner for the purposes of this clause may suspend a firefighter from duty if:
  - (a) the officer is of the opinion that the firefighter is guilty of misconduct, or
  - (b) the firefighter has been taken into police custody or is in prison on remand.
- (2) A firefighter may be suspended under subclause (1) whether or not a complaint of misconduct has been made against the firefighter.
- (3) A firefighter may not be suspended unless all reasonable steps have been taken to ensure that the firefighter has been informed of the reason for the suspension and has been given an opportunity to respond.
- (4) A suspension under this clause has effect for the period (not exceeding 14 days) specified by the authorised officer and may be terminated at any time by the Commissioner.
- (5) If a suspension relates to the absence from duty of a firefighter without authority, the suspension is taken to have commenced when the unauthorised absence began, unless the Commissioner determines otherwise.
- (6) An officer who suspends a firefighter must, as soon as practicable, report the suspension and the reason for it to the Commissioner.

### **38 Commissioner to deal with suspension**

- (1) After considering the report submitted by an officer who has suspended a firefighter and any submission made by or on behalf of the firefighter, the Commissioner may, by order, confirm or terminate the suspension.

Fire Brigades (General) Regulation 2003

Clause 39

Disciplinary provisions

Part 4

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- (2) The Commissioner may not confirm a suspension unless proceedings have been initiated (whether under this Part or otherwise) in respect of the matters giving rise to the suspension.
  - (3) Any suspension confirmed under this clause has effect for the period specified in the relevant order and may be terminated at any time by the Commissioner.

#### **39 Payment during suspension under clause 37 (1) (a)**

- (1) Payment of a firefighter is not to be stopped during a suspension under clause 37 (1) (a) that has not been confirmed, but is to be stopped during such a suspension that has been confirmed, unless otherwise determined by the Commissioner.
- (2) If satisfied that the circumstances so warrant, the Commissioner may approve a maintenance payment to a firefighter under a suspension that has been confirmed of such amount and for such period as the Commissioner may direct.
- (3) A firefighter in respect of whom a complaint of misconduct is dismissed is to be reimbursed for any pay (including any retainer) lost during any period of suspension less any maintenance paid during that period.
- (4) If a firefighter under suspension is found guilty of misconduct, the Commissioner may approve the reimbursement of such part of any pay (including any retainer) lost during the suspension as the Commissioner may direct.

#### **40 Payment of firefighter in custody or on remand**

A firefighter held in police custody or in prison on remand is not eligible for payment while suspended unless otherwise determined by the Commissioner.

### **Division 3 Inquiries into complaints of misconduct against firefighters**

#### **41 Preliminary inquiry into conduct of firefighter**

- (1) The nominated officer may conduct, or may direct another officer to conduct, a preliminary inquiry into a complaint of misconduct against a firefighter.

Clause 42 Fire Brigades (General) Regulation 2003

Part 4 Disciplinary provisions

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- (2) A preliminary inquiry may not be conducted by the officer in charge of the firefighter against whom a complaint of misconduct has been made.
- (3) A preliminary inquiry is to be conducted in accordance with the Commissioner's Orders or, with respect to any matter for which those Orders do not provide, in such manner as the nominated officer may direct or, subject to any such direction, as the officer conducting the inquiry thinks fit.
- (4) A formal hearing is not to be held and witnesses are not to be called for examination.
- (5) The firefighter to whom the complaint relates may make written representations or, if the officer conducting the inquiry so permits, oral representations on any matter relevant to the inquiry.
- (6) A firefighter who is permitted to make oral representations is entitled to be accompanied by an observer, chosen by the firefighter, while the representations are made.
- (7) An officer conducting a preliminary inquiry at the direction of the nominated officer must report the result of the inquiry to the nominated officer in writing within the time set by the nominated officer.

#### **42 Charges against firefighter**

- (1) If the nominated officer considers (as a result of a preliminary inquiry or otherwise) that action should be taken against a firefighter in respect of a complaint of misconduct, the nominated officer may charge the firefighter with the alleged misconduct.
- (2) Any such charge is to be prepared in writing setting out the grounds of the alleged misconduct and a copy is to be served on the firefighter against whom the charge is made.
- (3) The firefighter, or a duly authorised representative of the firefighter, is to be allowed to read, and to take copies or extracts of, the relevant portions of the departmental file or preliminary inquiry report and any other papers held by NSW Fire Brigades in relation to the charge.
- (4) The firefighter must, within 10 calendar days after being served with a copy of the charge, report to the nominated officer in writing whether the firefighter admits or denies the charge.

Fire Brigades (General) Regulation 2003

Clause 43

Disciplinary provisions

Part 4

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- (5) If the charge is admitted by the firefighter, submissions may be made to the nominated officer by or on behalf of the firefighter (either orally or in writing) in mitigation of penalty.
  - (6) The nominated officer must send any such submissions to the Commissioner.

#### **43 Formal inquiry**

- (1) If the firefighter denies the charge or does not admit or deny the charge within 10 calendar days after being served with a copy of it, the nominated officer is to conduct, or direct another officer to conduct, a formal inquiry under this clause.
- (2) The defendant may appear at the inquiry in person or be represented by a barrister, solicitor or agent.
- (3) The inquiry may be conducted in the absence of the defendant if the defendant fails to attend the inquiry and if the officer conducting the inquiry is satisfied that the defendant has been served with reasonable notice of the time and place for the inquiry.
- (4) Service of any such notice may be proved by the oath of the person who served the notice or by affidavit.
- (5) The officer conducting the inquiry:
  - (a) is to conduct the inquiry in accordance with the Commissioner's Orders or, with respect to any matter for which those Orders do not provide, in such manner as the nominated officer may direct or, subject to any such direction, as the officer conducting the inquiry thinks fit, and
  - (b) is not bound by any law, rules or practice of evidence, and
  - (c) may be informed of any matter in such manner as he or she thinks fit, and
  - (d) must cause a transcript to be prepared of the proceedings of the inquiry.
- (6) The officer conducting the inquiry:
  - (a) may require any firefighter or member of staff of NSW Fire Brigades to appear before the officer and to give evidence, and
  - (b) may require any firefighter or member of staff of NSW Fire Brigades to produce to the officer any document or thing relevant to the inquiry.

Clause 44 Fire Brigades (General) Regulation 2003

Part 4 Disciplinary provisions

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(7) A person who fails to comply with a requirement under subclause (6) without reasonable excuse is guilty of an offence.

Maximum penalty: 5 penalty units.

(8) The defendant is entitled to inspect any document or thing furnished under this clause.

#### **44 Formal inquiry report**

(1) An officer conducting an inquiry at the direction of the nominated officer must cause a report of the officer's findings and recommendations, together with the transcript of the proceedings and any document or thing admitted in evidence, to be sent to the nominated officer.

(2) The nominated officer may make further recommendations concerning the findings of the inquiry and must inform the defendant of all recommendations made.

(3) The nominated officer must cause the report of the findings of a formal inquiry, together with any associated recommendations, transcripts or evidence, to be sent to the Commissioner.

(4) Written submissions (including submissions in mitigation of penalty) may be made to the Commissioner, by or on behalf of the defendant, within such time as the Commissioner allows.

(5) If the defendant is found not guilty of misconduct, the nominated officer must terminate any suspension of the defendant immediately.

### **Division 4 Disciplinary action against firefighter**

#### **45 Disciplinary action by Commissioner**

(1) The Commissioner, after considering a report in which a firefighter is found guilty of misconduct and any submission made by or on behalf of the firefighter, may deal with the matter in any one or more of the following ways:

- (a) by giving the firefighter a caution or reprimand,
- (b) by imposing on the firefighter a fine not exceeding 10 penalty units,
- (c) by revoking the firefighter's appointment to a position,
- (d) by demoting the firefighter,
- (e) by terminating the employment or service of the firefighter.

Fire Brigades (General) Regulation 2003

Clause 46

Disciplinary provisions

Part 4

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- (2) The Commissioner must remove any record of disciplinary action taken under subclause (1) (a) or (b) from a firefighter's personal record if the firefighter has been of good behaviour for at least 2 years since the taking of the action.
  - (3) The Commissioner may suspend disciplinary action taken against a firefighter under subclause (1) (a), (b), (c) or (d) for a period not exceeding 2 years on condition that the firefighter is of good behaviour during that period.
  - (4) The Commissioner may permit a firefighter to resign instead of taking disciplinary action under subclause (1) (e).

#### **46 Fines**

- (1) The amount of any fine imposed on a firefighter under this Division may, subject to this clause, be deducted from any money (including wages) due to the firefighter with respect to the firefighter's service.
- (2) A fine is not to be deducted from the firefighter's pay until after 30 days from when the Commissioner's determination has been made known to the firefighter.
- (3) Any application made after that period for time to pay is to be considered and, if an appeal is lodged with the Government and Related Employees Appeal Tribunal against the imposition of a fine, deductions from the firefighter's pay or retainer towards payment of the fine are not to be made pending determination of the appeal.

#### **47 Action following court appearance**

If a firefighter is found guilty of an offence referred to in clause 35 (1) (b), the Commissioner may take action against the firefighter as if the firefighter had been found guilty of misconduct by an inquiry under this Part.

Clause 48 Fire Brigades (General) Regulation 2003

Part 5 General

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## Part 5 General

### 48 Medal for Conspicuous Bravery

- (1) The Commissioner may award the New South Wales Fire Brigades Medal for Conspicuous Bravery to any firefighter who, while performing firefighting or emergency duty, exhibits exceptional bravery.
- (2) A firefighter who has previously been awarded the Medal may, for each additional act of exceptional bravery, be awarded a Bar to be attached to the ribbon from which the Medal is hung.
- (3) An award of the Medal or Bar may be made only on the recommendation of a committee appointed by the Commissioner to consider the merit of any such action.
- (4) The names of firefighters who receive awards, and details of the awards, are to be published in the In Orders publication and a record of awards is to be kept by the Commissioner.

### 49 Commendations

- (1) The Commissioner may award commendations for courageous action or for meritorious or long service.
- (2) The names of firefighters who receive awards, and details of the awards, are to be published in the In Orders publication and a record of awards is to be kept by the Commissioner.

### 50 Honorary list

The Commissioner may place on an honorary list the names of former firefighters who have had long and meritorious service.

### 51 Saving

- (1) Any act, matter or thing that, immediately before the repeal of the *Fire Brigades (General) Regulation 1997*, had effect under that Regulation continues to have effect under this Regulation.
- (2) Without limiting subclause (1), any In Orders or Standing Orders in force under clause 4 of the *Fire Brigades (General) Regulation 1997* immediately before its repeal continue to have effect as Commissioner's Orders under this Regulation.



New South Wales

# Pawnbrokers and Second-hand Dealers Regulation 2003

under the

Pawnbrokers and Second-hand Dealers Act 1996

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Pawnbrokers and Second-hand Dealers Act 1996*.

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

## Explanatory note

The object of this Regulation is to replace the *Pawnbrokers and Second-hand Dealers Regulation 1997* which will be repealed on 1 September 2003 under section 10 (2) of the *Subordinate Legislation Act 1989*. The new Regulation is substantially in the same terms as the repealed Regulation, but contains a Schedule of amendments to the new Regulation that replicate the uncommenced amendments to the repealed Regulation set out in Schedule 2 to the *Pawnbrokers and Second-hand Dealers Amendment Act 2002*. The Schedule of amendments to the new Regulation also contains a number of amendments that are consequential on the uncommenced amendments to the *Pawnbrokers and Second-hand Dealers Act 1996* made by Schedule 1 to the 2002 amending Act. The commencement of the Schedule of amendments to the new Regulation will be delayed until 1 November 2003.

This Regulation is made under the *Pawnbrokers and Second-hand Dealers Act 1996*, including section 43 (the general regulation-making power).



## Pawnbrokers and Second-hand Dealers Regulation 2003

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Clause 1	Pawnbrokers and Second-hand Dealers Regulation 2003
Part 1	Preliminary

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## Pawnbrokers and Second-hand Dealers Regulation 2003

under the

Pawnbrokers and Second-hand Dealers Act 1996

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Pawnbrokers and Second-hand Dealers Regulation 2003*.

**Note.** This Regulation replaces the *Pawnbrokers and Second-hand Dealers Regulation 1997* which is repealed on 1 September 2003 under section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 2 Commencement

- (1) This Regulation commences on 1 September 2003, except as provided by subclause (2).
- (2) Clause 30 and Schedule 4 commence on 1 November 2003.

#### 3 Definition

- (1) In this Regulation:  
*the Act* means the *Pawnbrokers and Second-hand Dealers Act 1996*.
- (2) Notes in the text of this Regulation (other than notes included in a form) do not form part of this Regulation.

#### 4 Meaning of “market”

For the purposes of the definition of *market* in section 3 of the Act, a *market* does not include:

- (a) an activity:
  - (i) conducted in the course of or for the purposes of a fundraising appeal within the meaning of the *Charitable Fundraising Act 1991*, and

Pawnbrokers and Second-hand Dealers Regulation 2003

Clause 5

Preliminary

Part 1

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- (ii) promoted by a person who is or is taken to be the holder of an authority under that Act in respect of such an appeal,  
unless, for the purposes of the activity concerned, space is allocated for a consideration to stallholders or marketeers who are not members of a charitable organisation or other body connected with the promotion of the fundraising appeal, or
  - (b) an assembly of stallholders or marketeers:
    - (i) none of whom is selling any second-hand goods (within the meaning of the Act), or
    - (ii) at which every person selling any such goods is selling them in household quantities only and has provided the promoter of the assembly with a signed declaration that the person has not traded in such goods on more than 12 days in the period of 12 months ending with the date on which the assembly is held.

## 5 Meaning of “second-hand goods”

- (1) For the purposes of the definition of *second-hand goods* in section 3 of the Act, the following classes of goods are prescribed:
  - (a) items of jewellery (including watches) that include gemstones or precious metals,
  - (b) gemstones and precious metals,
  - (c) sporting and recreational goods,
  - (d) musical instruments (other than pianos),
  - (e) photographic equipment,
  - (f) portable engine-powered, motorised or air-powered tools and equipment,
  - (g) microwave cookers and other electric or electronic goods (other than refrigerators, washing machines or other “whitegoods”),
  - (h) computer hardware and software,
    - (i) compact (laser-read) discs,
    - (j) watercraft and parts of watercraft,
    - (k) tool kits,
    - (l) car accessories,
    - (m) mobile phones.

Clause 6 Pawnbrokers and Second-hand Dealers Regulation 2003

Part 1 Preliminary

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- (2) Despite subclause (1), the following classes of goods are not prescribed for the purposes of the definition of *second-hand goods* in section 3 of the Act:
- (a) motorised wheelchairs, wheeled lounges, spinal carriages and other similar goods designed to carry a person with a disability,
  - (b) industrial machinery, or farming machinery, that cannot be driven or is not portable.
- (3) The fact, however, that a person, in the course of or as a matter ancillary to the carrying on of a business that does not require a licence under the Act:
- (a) sells any goods pursuant to a power conferred by the *Uncollected Goods Act 1995*, or
  - (b) takes goods as a trade-in or sells any goods so taken,
- does not, for the purposes of the Act, constitute carrying on a business of buying or selling second-hand goods.
- (4) In this clause:
- trade-in*, in relation to goods, means the taking of the goods as part payment for any new or used goods.

#### **6 Act does not apply to local government recycling programs**

For the purposes of section 4 (2) (c) of the Act, the Act does not apply in relation to any act or omission by a local government council or any employee of a local government council in:

- (a) conducting a recycling program, or
- (b) selling any goods collected in a recycling program, or
- (c) contracting with another person to give that person ownership of goods collected in a recycling program.

#### **7 Exclusion of certain institutions from operation of section 5 of Act**

Section 5 of the Act (Buy-back contracts regarded as pledge and loan) does not apply to goods received by an authorised deposit-taking institution or a bank.

#### **8 Fees**

- (1) The fees payable for the purposes of the Act are listed in Column 1 of Schedule 3.

Pawnbrokers and Second-hand Dealers Regulation 2003

Clause 8

Preliminary

Part 1

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- (2) The amount of each fee is to be calculated by adding together the various components set out in Columns 2 and 3 of Schedule 3 in relation that fee.
- (3) An amount specified in relation to an application in Column 2 of Schedule 3 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*.

Clause 9	Pawnbrokers and Second-hand Dealers Regulation 2003
Part 2	Licensing of pawnbrokers and second-hand dealers

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## **Part 2      Licensing of pawnbrokers and second-hand dealers**

### **9      Unique identifier for combined licence**

Despite section 20 (3) (b) (i) of the *Licensing and Registration (Uniform Procedures) Act 2002*, the same unique identifier may relate to a pawnbroker's licence and second-hand dealer's licence that are both contained in the same document, as referred to in section 20 (5) of that Act.

### **10     Display of licence details**

- (1) For the purposes of section 14 of the Act, the required particulars are:
  - (a) the name of the licensee, and
  - (b) the licence number, and
  - (c) the business authorised by the licence to be carried on by the licensee, and
  - (d) if the licensee is a pawnbroker, a statement to the effect that any information provided to the licensee by or about a customer in relation to the trading of second-hand goods may be furnished to the police.

**Note.** The obligation to furnish information to the Commissioner of Police is imposed by clause 16.
- (2) The particulars must be written in legible capital letters in the English language using letters and figures each not less than 5 centimetres in height.

Pawnbrokers and Second-hand Dealers Regulation 2003

Clause 11

Records

Part 3

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## Part 3 Records

### 11 Records generally

- (1) Records maintained for the purposes of the Act may be kept electronically or in a bound (not loose-leaf) book.
- (2) The records must have consecutively numbered pages.
- (3) The records must permanently record the date on which each record was first compiled and the date on which each entry was made.
- (4) The Director-General is to require the licensee, by way of a condition of the licence, to use electronic means of creation and storage of records kept for the purposes of section 16 or 28 of the Act using software specified, or of a kind specified, in the condition.
- (5) The records must include the contract number referred to in clause 13 (1) (b) and (2) (b) for each item taken in trade or pawn, and that number must be reproduced on a tag, label or other attachment to the item.
- (6) Despite subclauses (1) and (4):
  - (a) any hard copy of any written statement as to the ownership of goods obtained from a customer under clause 18 (3) may be kept in loose-leaf form, and
  - (b) any hard copy of the record of any agreement by which goods were pawned under section 28 of the Act may be kept in loose-leaf form.

### 12 Special provisions relating to keeping of records by certain licensees

- (1) A person who held a second-hand dealer's licence under the *Second-hand Dealers and Collectors Act 1906* immediately before the repeal of that Act on 30 April 1997 and who has never held a licence issued with a condition requiring the use of electronic means of creation and storage of records, may, when applying for the issue or renewal of a licence (being a licence authorising the person to carry on the business of a second-hand dealer, but not the business of a pawnbroker), apply to have the licence issued or renewed without such a condition.



Clause 12 Pawnbrokers and Second-hand Dealers Regulation 2003

Part 3 Records

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- (2) Despite clause 11 (4), if a person makes such an application, the Director-General must not impose such a condition if:
  - (a) the Director-General is satisfied that the person was entitled to make such an application, and
  - (b) the Director-General is satisfied, after having regard to both of the relevant documents in relation to the person's business, that the gross receipts of the business relating to used goods totalled \$150,000 or less in the previous financial year or (if appropriate) the financial year before that.
- (3) For this purpose, the relevant documents in relation to the person's business are:
  - (a) the person's income tax return or audited financial statement for the previous financial year, and
  - (b) a statutory declaration by the person declaring that the gross receipts of the business relating to used goods totalled \$150,000 or less in the previous financial year.
- (4) If the Director-General considers it appropriate, the Director-General may accept the following as relevant documents in relation to a person's business:
  - (a) the person's income tax return or audited financial statement for the year before the previous financial year,
  - (b) a statutory declaration relating to the gross receipts of the business for the year before the previous financial year.
- (5) If the Director-General accepts the person's income tax return or audited financial statement for the year before the previous financial year as the relevant documents for the purposes of this clause, the Director-General may impose a condition on the licence granted or renewed requiring the licensee to forward to the Director-General the licensee's income tax return or financial statement for the previous financial year within 14 days of the licensee receiving or finalising that document.
- (6) If at any time after the issue or renewal of a licence that does not contain a condition requiring the use of electronic means of creation and storage of records the Director-General is satisfied that the gross receipts for the licensee's business relating to used goods totalled more than \$150,000 in the previous financial year, the Director-General may impose a condition of that kind on the licence.
- (7) Any condition imposed under subclause (6) takes effect 90 days after written notice of the condition is given to the licensee.

Pawnbrokers and Second-hand Dealers Regulation 2003

Clause 13

Records

Part 3

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- (8) If, on such evidence as the Director-General may require, the Director-General is satisfied that:
- (a) a second-hand dealer's licence under the *Second-hand Dealers and Collectors Act 1906* was held by a person for the purposes of a business carried on by a corporation or partnership, and
  - (b) in the case of a partnership, there has not been any change in the membership of the partnership since the licence was held on its behalf (except for any person ceasing to be a partner or any spouse of an existing partner becoming a partner),
- the Director-General may determine that the corporation or each of those partners is to be regarded, for the purposes of this clause, as the holder of the licence. The determination has effect accordingly.
- (9) For the purposes of subclause (8), *spouse* includes the other party to a de facto relationship within the meaning of the *Property (Relationships) Act 1984*.
- (10) A reference in subclause (1) to a licence issued under the *Second-hand Dealers and Collectors Act 1906* includes a reference to a licence issued after 30 April 1997 pursuant to an application that was made but not dealt with before that date.
- (11) In this clause:
- used goods* means goods that have been used or that are represented by a vendor of the goods to be goods purchased (otherwise than by the vendor) previously but unused, and includes second-hand goods.

### 13 Records of goods pawned, purchased or sold

- (1) The following particulars are prescribed for the purposes of section 16 (1) of the Act in so far as the licensee carries on the business of a pawnbroker:
- (a) the name, address, date of birth and signature of the pledgor or his or her agent,
  - (b) a contract number for each transaction in which goods are pawned (that is, a number uniquely assigned by the licensee to distinguish it from any other pledge arising in the course of the licensee's business),
  - (c) the date on which any pledge was taken, forfeited, sold or otherwise dealt with,
  - (d) the sale price of any forfeited item sold,

Clause 13 Pawnbrokers and Second-hand Dealers Regulation 2003

Part 3 Records

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- (e) the location of any goods concerned in the business that are not kept at the notified business or storage premises of the licensee.
- (2) The following particulars are prescribed for the purposes of section 16 (1) of the Act in so far as the licensee carries on the business of a second-hand dealer:
- (a) the name, address, date of birth and signature of the vendor or consignor or his or her agent,
  - (b) a contract number for each transaction in which goods are bought or sold (that is, a number uniquely assigned by the licensee to distinguish it from any other sale or purchase arising in the course of the licensee's business),
  - (c) the date on which any goods were purchased, taken on consignment, sold or otherwise dealt with,
  - (d) the name and address of the purchaser of goods sold by the licensee (otherwise than at a market), except in cases where the value of the goods does not exceed \$50,
  - (e) a description of the goods that includes any characteristics specified in section 28 (2) (a) of the Act that appear on or in connection with the goods,
  - (f) the price paid for any goods purchased,
  - (g) the location of any goods concerned in the business that are not kept at the notified business or storage premises of the licensee.
- (3) The following particulars are also prescribed for the purposes of section 16 (1) of the Act in relation to all licensed businesses:
- (a) evidence of any search in public registers such as REVS for encumbrances in respect of goods,
  - (b) features peculiar to any card or document relied on for the purposes of clause 18 (1), such as:
    - (i) in the case of a passport or driver licence—the number of the passport or licence, or
    - (ii) in the case of a credit card—the account number displayed on the card, or
    - (iii) in the case of a bill addressed to the customer from a public utility—the customer's account number shown on the bill,

Pawnbrokers and Second-hand Dealers Regulation 2003

Clause 14

Records

Part 3

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- (c) in relation to jewellery, such particulars as the Commissioner of Police, by one or more notices served on the licensee, may specify.

#### **14 Records of persons employed in licensed businesses**

For the purposes of section 16 (2) of the Act, the prescribed particulars are the name, date of birth and residential address of each person employed in the licensed business.

#### **15 Records relating to markets**

For the purposes of section 16 (3) of the Act, the prescribed particulars are as follows:

- (a) the date on which the market is held,
- (b) the location of the market,
- (c) the name, residential address and vehicle registration number of any unlicensed stallholder offering second-hand goods (within the meaning of the Act) for sale,
- (d) a general description of the goods offered for sale by any such stallholder,
- (e) details of any identification documents produced by any such stallholder.

#### **16 Furnishing of records to Commissioner of Police**

- (1) For the purposes of section 16 (5A) of the Act, particulars of a record that is required, by way of a condition of a licence, to be created and stored in electronic form by a licensee must be furnished to the Commissioner of Police by transmission in electronic form within 3 working days of the record being made, or in accordance with other arrangements made by the Commissioner of Police with the licensee.
- (2) For the purposes of section 16 (5A) of the Act, particulars of a record that is required by or under the Act to be kept by a licensee, but that is not required to be created and stored in electronic form, must be furnished to the Commissioner of Police, if so directed by the Commissioner, in the manner and within the time directed by the Commissioner.

Clause 17      Pawnbrokers and Second-hand Dealers Regulation 2003

Part 3          Records

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**17    Production of records at offices of Department**

For the purposes of section 17 (4) of the Act, the prescribed distance is 100 kilometres.

Pawnbrokers and Second-hand Dealers Regulation 2003

Clause 18

Regulation of licensed businesses

Part 4

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## Part 4 Regulation of licensed businesses

### 18 Evidence of identity and title of supplier of goods

- (1) For the purposes of section 15 (1A) of the Act, the identity of the person (the *customer*) offering to sell or pawn any goods to a licensee must be verified by the licensee by means of either:
  - (a) a card or document that:
    - (i) bears the customer's photograph, and
    - (ii) appears to be issued by the government or a statutory authority of New South Wales or the Commonwealth or a State or Territory, and
    - (iii) includes the name of the person who the customer claims to be and the address at which the customer claims to reside, and a signature, purporting to be the signature of that person that matches the signature of the customer, and
    - (iv) does not bear any indications of forgery or tampering, or
  - (b) a combination of cards or documents:
    - (i) that appear to be issued by organisations or persons other than the customer and that include the information and features described in paragraph (a) (iii), and
    - (ii) one of which appears to be issued by the government or a statutory authority of New South Wales or the Commonwealth or a State or Territory, and
    - (iii) none of which bears any indications of forgery or tampering.
- (2) For the purposes of section 15 (1B) of the Act, the person's date of birth is prescribed as a particular relating to the identity of the person. Evidence of the person's date of birth may be given in oral or documentary form.
- (3) For the purposes of section 15 (3) of the Act, the licensee must obtain from the customer a written statement as to the ownership of goods to the effect of the form set out in Form 2 in Schedule 1.

Clause 19 Pawnbrokers and Second-hand Dealers Regulation 2003

Part 4 Regulation of licensed businesses

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**19 Retention of goods by licensee**

- (1) Section 21 (1) of the Act does not apply to:
  - (a) goods that are on consignment with the licensee for sale, or
  - (b) goods purchased by the licensee at auction, or
  - (c) pawned goods.
- (2) For the purposes of section 21 (1) (a) of the Act, motor vehicles, watercraft and other goods of substantial size may be kept at any convenient place.

**20 Goods alleged to be stolen in possession of licensee**

For the purposes of section 22 (1) (a) of the Act, the licensee's statement is to be given using Form 1 in Schedule 1.

**21 Penalty notice offences and demerit points**

- (1) Each offence created by a provision specified in Column 1 of Schedule 2 is a prescribed offence for the purposes of sections 26 and 27 of the Act.
- (2) The penalty specified in Column 2 of Schedule 2 opposite any such provision specified in Column 1 of that Schedule is the amount of penalty prescribed for the offence concerned if dealt with under section 26 of the Act.
- (3) The number of demerit points specified in Column 3 of Schedule 2 opposite any such provision specified in Column 1 of that Schedule is the number of demerit points prescribed for the purposes of section 27 (2) of the Act in respect of the offence concerned.

Pawnbrokers and Second-hand Dealers Regulation 2003

Clause 22

Special provisions relating to pawnbrokers

Part 5

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## Part 5 Special provisions relating to pawnbrokers

### 22 Equivalent annual interest rate

- (1) In this clause:

*equivalent annual interest rate* means the rate mentioned in section 28 (2) (c) of the Act (expressed as a percentage) calculated as prescribed by this clause.

*interest period*, in relation to a loan made by a pawnbroker, means a period of time in respect of which interest is charged on any outstanding balance.

*outstanding balance*, in relation to such a loan, means the portion of the amount advanced that remains unpaid.

*periodic interest rate*, in relation to such a loan, means the rate (expressed as a percentage) per interest period at which interest is chargeable on any outstanding balance.

- (2) The equivalent annual interest rate, in relation to a loan made by a pawnbroker, is the rate that bears to a year the same proportion as the periodic interest rate bears to the interest period. For example:
- (a) if the interest period is one month, the equivalent annual interest rate is 12 times the periodic interest rate, and
  - (b) if the interest period is one week, the equivalent annual interest rate is 52 times the periodic interest rate.

### 23 Pawnbroker's record of pledges

For the purposes of section 28 (2) (f) of the Act, particulars of the date of birth of the owner of the goods and of any agent through whom they are pawned are prescribed as particulars required to be included in the record of an agreement by which goods are pawned.

### 24 Redemption of pawned goods

- (1) For the purposes of section 29 (6) of the Act, the identity of the person (the *customer*) attempting to redeem any pawned goods from a licensee's premises is ascertained by production of the pawn ticket and reproduction, in the presence of the licensee or an employee of the licensee, of the signature shown on that ticket. If the customer does this, there are no other requirements for the purposes of that subsection.



Clause 25 Pawnbrokers and Second-hand Dealers Regulation 2003

Part 5 Special provisions relating to pawnbrokers

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- (2) The identity of a customer who cannot produce the pawn ticket must be ascertained by the licensee by means of:
- (a) a card or document that:
    - (i) bears the customer's photograph, and
    - (ii) appears to be issued by the government or a statutory authority of New South Wales or the Commonwealth or a State or Territory, and
    - (iii) includes the name of the person who the customer claims to be and the address at which the customer claims to reside, and a signature, purporting to be the signature of that person that matches the signature of the customer, and
    - (iv) does not bear any indications of forgery or tampering, or
  - (b) a combination of cards or documents:
    - (i) that appear to be issued by organisations or persons other than the customer and that include the information and features described in paragraph (a) (iii), and
    - (ii) one of which appears to be issued by the government or a statutory authority of New South Wales or the Commonwealth or a State or Territory, and
    - (iii) none of which bears any indications of forgery or tampering.
- (3) A customer who cannot produce the pawn ticket must:
- (a) complete a declaration in writing stating that he or she is the owner of the goods, or
  - (b) produce:
    - (i) an authority in writing specifying the name and address of the owner of the goods and signed by the owner, authorising the goods to be collected by that customer, or
    - (ii) such evidence as may, in the circumstances, be reasonably sufficient to prove the death or incapacity of the owner or the owner's inability to sign such an authority.

## 25 Sale of unredeemed goods

For the purposes of section 30 (1) of the Act, the prescribed amount is \$50.

Pawnbrokers and Second-hand Dealers Regulation 2003

Clause 26

Miscellaneous

Part 6

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## **Part 6      Miscellaneous**

### **26    Lending or parting with licence**

- (1) A licensee must not purport to transfer, and must not lend, the licence to another person or allow the use of the licence by another person.
- (2) A person must not purport to obtain a transfer of, or borrow or use, another person's licence.

Maximum penalty: 20 penalty units.

### **27    Carrying on of business in partnership**

- (1) The prescribed fees under the first 4 items of Schedule 3 are the total amount of the fees payable by all applicants who carry on business in partnership. Accordingly, no amount is payable in connection with an application for a licence or the renewal of a licence by any such applicant if, at that time or during the 12 months before the application, the requisite amount has been paid by any other partner in the partnership (whether the payment is for an application for a licence or for the renewal of a licence).
- (2) The Director-General may, for the purposes of clause 12 (6), treat the gross receipts of a business partnership as the gross receipts of the business of each licensee in the partnership.

### **28    Carrying on of business by legal personal representatives and trustees**

- (1) If the holder of a licence dies or becomes mentally incapacitated, or is by the order of any court declared to be bankrupt, the legal personal representative or trustee of the estate of the licensee may in person or by a designated agent carry on the business authorised by the licence for a period of 3 months after the death, incapacity or order, unless sooner notified by the Director-General under subclause (5).
- (2) A person carrying on a business in accordance with this clause must immediately notify the Director-General that he or she is doing so.
- (3) For the purposes of the Act, this Regulation and any powers of the Director-General with respect to licences, a person carrying on a business in accordance with this clause is taken, while so doing, to be the licensee, and any agent through whom the person acts for the purposes of the business is taken to be an employee of the business.

Clause 29 Pawnbrokers and Second-hand Dealers Regulation 2003

Part 6 Miscellaneous

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- (4) If the licence concerned expires during the period of 3 months referred to in subclause (1), the provisions of sections 6 and 7 of the Act do not apply so as to render the person carrying on business in accordance with this clause guilty of an offence by reason of doing so.
- (5) For any reason that appears to the Director-General to be sufficient cause to do so, the Director-General may at any time, by notice in writing to a person carrying on a business in accordance with this clause, revoke the authority conferred by this clause so far as the relevant business is concerned.

### **29 Savings provision**

Any act, matter or thing that, immediately before the repeal of the *Pawnbrokers and Second-hand Dealers Regulation 1997*, was done for the purposes of, or had effect under, that Regulation is taken to be done for the purposes of, and continues to have effect under, this Regulation.

### **30 Amendment of Regulation**

This Regulation is amended as set out in Schedule 4.

Pawnbrokers and Second-hand Dealers Regulation 2003

Forms

Schedule 1

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## Schedule 1 Forms

### Form 1 Pawnbrokers and Second-hand Dealers Act 1996

(Clause 20 of Pawnbrokers and Second-hand Dealers Regulation 2003)

#### Statement by licensee as to goods claimed

\*Name of claimant: .....

\*Address of claimant: .....

Date: .....

Name of licensee: .....

Business address: .....

Licence number: .....

Description of goods claimed: .....

.....

.....

.....

.....

.....

Signed by licensee.....

\* These particulars to be supplied by the claimant

**Note.** This statement must be completed by the licensee in duplicate (at least). A copy is to be given to the person claiming the goods. Another copy must be given to the officer in charge of the nearest police station within 24 hours. The goods concerned must not be altered, sold, redeemed or removed from the premises except with the consent of the person claiming the goods or in accordance with the order of a court. If the parties are unable to resolve the matter simply, staff at the Local Court are available for help in commencing a court action under the *Local Courts (Civil Claims) Act 1970* or as to other means of resolving the matter.

Pawnbrokers and Second-hand Dealers Regulation 2003

Schedule 1 Forms

**Form 2 Pawnbrokers and Second-hand Dealers Act 1996**

(Clause 18 of Pawnbrokers and Second-hand Dealers Regulation 2003)

**Statement by customer as to who is the owner of goods sold or pawned**

I ..... of .....

..... am the owner of the goods described below.

Signed: .....

Dated: .....

OR

I ..... of .....

..... am not the owner of the goods described below. The owner of the goods is ..... of .....

..... and I am authorised by the owner to sell/pawn the goods. (*You should cross out either "sell" or "pawn" if you are not authorised to do that thing.*)

Signed: .....

Dated: .....

Description of goods: .....

.....  
.....  
.....  
.....  
.....

**Important information**

**If you are pawning goods:**

You must fill out this form and sign it so that the pawnbroker can be sure that you are the owner of the goods or that you have the authority of the owner to pawn the goods.

Any information that you provide to the pawnbroker will be passed on to the Commissioner of Police.

Pawnbrokers and Second-hand Dealers Regulation 2003

Forms

Schedule 1

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**If you are offering any second-hand goods for sale by a second-hand dealer:**

You must fill out this form and sign it so that the dealer can be sure that you are the owner of the goods or that you have the authority of the owner to sell the goods.

Any information that you provide to the dealer may be passed on to the Commissioner of Police.

**Warning: It is a crime to give false information or make a false statement in this form.**

**Maximum penalty: 50 penalty units (currently \$5,500).**

## Pawnbrokers and Second-hand Dealers Regulation 2003

## Schedule 2 Penalty notice offences and demerit points

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**Schedule 2 Penalty notice offences and demerit points**  
 (Clause 21)

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision of Act</b>	<b>Penalty if dealt with by penalty notice (in dollars)</b>	<b>Number of demerit points</b>
Section 12 (2)	300	2
Section 12A (2)	300	2
Section 14	300	1
Section 16 (1)–(5A)	500	2
Section 16 (6)	300	2
Section 17	300	2
Section 19	500	2
Section 20	300	2
Section 21	500	2
Section 24	300	2
Section 25	300	2
Section 28	500	2
Section 29	300	2
Section 30 (2)	300	2
Section 31	300	2
Section 32	300	2
Section 37	100	Nil

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Pawnbrokers and Second-hand Dealers Regulation 2003

Fees

Schedule 3

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### Schedule 3 Fees

(Clause 8)

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Nature of fee payable</b>	<b>Processing component</b>	<b>Fixed component</b>
Application fee for granting of licence	\$134	\$237
Application fee for renewal of licence	\$31	\$237
Application fee for restoration of licence	\$134	\$237
Application fee for replacement of licence	\$21	nil
Application fee for extract of register (per entry)	nil	\$12

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## Pawnbrokers and Second-hand Dealers Regulation 2003

## Schedule 4 Amendment of this Regulation

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**Schedule 4 Amendment of this Regulation**

(Clause 30)

**[1] Clause 4 Meaning of “market”**

Omit “12 days” from clause 4 (b) (ii). Insert instead “6 days”.

**[2] Clause 5 Meaning of “second-hand goods”**

Omit clause 5 (1) (d). Insert instead:

- (d) musical instruments (but not including pianos other than electric or electronic pianos),

**[3] Clause 5 (1) (h) and (h1)**

Omit clause 5 (1) (h). Insert instead:

- (h) computer hardware and interactive game consoles,
- (h1) computer software and interactive game software,

**[4] Clause 5 (1) (i)**

Omit the paragraph. Insert instead:

- (i) compact (laser-read) discs (including compact discs, digital video discs and mini discs), and similar items that are used or designed for use with electric or electronic audio, visual or audio-visual systems,

**[5] Clause 5 (4)**

Insert in alphabetical order:

*interactive game console* means equipment for the playing of a game:

- (a) that involves a display on a computer monitor, television screen, liquid crystal display or similar medium, and
- (b) where the way in which the game proceeds and the result achieved at various stages of the game is determined in response to the decisions, inputs and direct involvement of the player.

*interactive game software* includes software (whether in a disc or cartridge or otherwise) that comprises a game and that is used or designed for use with an interactive game console.

Pawnbrokers and Second-hand Dealers Regulation 2003

Amendment of this Regulation

Schedule 4

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**[6] Clause 6 Application of Act**

Omit “a local government council or any employee of a local government council”.

Insert instead “an approved person”.

**[7] Clause 6 (2) and (3)**

Insert at the end of clause 6:

- (2) For the purposes of section 4 (2) (c) of the Act, the Act does not apply in relation to a person to the extent that the person:
  - (a) buys second-hand goods only from a government department or public authority, or
  - (b) deals only in second-hand goods that have been bought from manufacturers as factory seconds.
- (3) A person is an *approved person* for the purposes of subclause (1) if the person is:
  - (a) a local government council or an employee of a local government council, or
  - (b) a contractor, or an employee of a contractor, when acting on behalf of a local government council under a contract relating to the recycling program concerned (but only if tenders were invited for the contract and the contractor was the successful tenderer).

**[8] Clause 11**

Omit the clause. Insert instead:

**11 Records generally**

- (1) Records that are required to be kept for the purposes of the Act:
  - (a) must be kept electronically or in a bound (not loose-leaf) book, and
  - (b) must be in the English language, and
  - (c) must have consecutively numbered pages, and
  - (d) must permanently record the date on which each record was first compiled and the date on which each entry was made, and

## Pawnbrokers and Second-hand Dealers Regulation 2003

## Schedule 4 Amendment of this Regulation

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- (e) must include the contract number referred to in clause 13 (1) (c) and (2) (c) for each item taken in trade or pawn.
  - (2) The Director-General is to require the licensee, by way of a condition of the licence, to use electronic means of creation and storage of records kept for the purposes of section 16, 28 or 29A of the Act using software specified, or of a kind specified, in the condition.
  - (3) Despite subclauses (1) (a) and (2):
    - (a) any hard copy of any written statement as to the ownership of goods obtained from a customer under clause 18 (4) may be kept in loose-leaf form, and
    - (b) any hard copy of the record of any agreement by which goods were pawned under section 28 of the Act may be kept in loose-leaf form so long as the record includes the contract number referred to in clause 13 (1) (c) and (2) (c) for each item taken in pawn and is kept in order of contract number.

**[9] Clause 12 Special provisions relating to keeping of records by certain licensees**

Omit “clause 11 (4)” from clause 12 (2). Insert instead “clause 11 (2)”.

**[10] Clause 13**

Omit the clause. Insert instead:

**13 Records of goods pawned, purchased or sold**

- (1) The following particulars are prescribed for the purposes of section 16 (1) of the Act in so far as the licensee carries on the business of a pawnbroker:
  - (a) if the pledgor is:
    - (i) an individual—the name, residential address and date of birth of the individual, or
    - (ii) a corporation—the name, business address and Australian Business Number of the corporation,
  - (b) if the transaction is conducted by an individual acting as agent of the pledgor—the name, residential address and date of birth of the agent,

## Pawnbrokers and Second-hand Dealers Regulation 2003

## Amendment of this Regulation

## Schedule 4

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- (c) a contract number for each transaction in which goods are pawned (that is, a number uniquely assigned by the licensee to distinguish it from any other pledge arising in the course of the licensee's business),
  - (d) the date on which any pledge was taken, forfeited, sold or otherwise dealt with,
  - (e) the sale price of any forfeited item sold,
  - (f) the name and address of the purchaser of any forfeited item sold, except in cases where:
    - (i) the principal lent on the goods did not exceed \$50, or
    - (ii) the goods were sold by auction conducted away from business premises of the pawnbroker.
- (2) The following particulars are prescribed for the purposes of section 16 (1) of the Act in so far as the licensee carries on the business of a second-hand dealer:
- (a) if the vendor or consignor is:
    - (i) an individual—the name, residential address and date of birth of the individual, or
    - (ii) a corporation—the name, business address and Australian Business Number of the corporation,
  - (b) if the transaction is conducted by an individual acting as agent of the vendor or consignor—the name, residential address and date of birth of the agent,
  - (c) a contract number for each transaction in which goods are bought or sold (that is, a number uniquely assigned by the licensee to distinguish it from any other sale or purchase arising in the course of the licensee's business),
  - (d) the date on which any goods were purchased, taken on consignment, sold or otherwise dealt with,
  - (e) the name and address of the purchaser of goods sold by the licensee along with the sale price, except in cases where the sale price does not exceed \$50,
  - (f) a description of the goods that includes any characteristics specified in section 28 (2) (a) of the Act that appear on or in connection with the goods,

## Pawnbrokers and Second-hand Dealers Regulation 2003

## Schedule 4 Amendment of this Regulation

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- (g) the price paid by the licensee for any goods purchased by the licensee,
  - (h) the location of any goods concerned in the business that are not kept at the notified business or storage premises of the licensee.
- (3) The following particulars are also prescribed for the purposes of section 16 (1) of the Act in relation to all licensed businesses:
- (a) evidence of any search in public registers such as REVS for encumbrances in respect of goods,
  - (b) features peculiar to any card or document relied on for the purposes of clause 18 (1), such as:
    - (i) in the case of a passport or driver licence—the number of the passport or licence, or
    - (ii) in the case of a credit card—the account number displayed on the card, or
    - (iii) in the case of a bill addressed to the customer from a public utility—the customer's account number shown on the bill,
  - (c) in relation to jewellery, such particulars as the Commissioner of Police, by one or more notices served on the licensee, may specify.
- (4) For the purposes of section 16 (1) of the Act, a record required to be kept regarding the acquisition of second-hand goods by the holder of a licence to carry on the business of a second-hand dealer must be made:
- (a) by close of business on the day on which the goods were acquired by the licensee, or
  - (b) as soon as possible after the acquisition of the goods, if they were received by the licensee at premises other than those nominated in the licensee's application for a licence or afterwards notified to the Director-General.
- (5) For the purposes of section 16 (1) of the Act, a record required to be kept regarding the disposal of second-hand goods by the holder of a licence to carry on the business of a second-hand dealer must be made by close of business on the day on which the goods were disposed of by the licensee.
- (6) Nothing in subclause (4) or (5) affects any other obligation imposed on a licensee.

Pawnbrokers and Second-hand Dealers Regulation 2003

Amendment of this Regulation

Schedule 4

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(7) In this clause:

*business address* of a corporation means the address of the corporation's registered office.

**[11] Clause 18**

Omit the clause. Insert instead:

**18 Evidence of identity and title of supplier of goods**

- (1) For the purposes of section 15 (1A) of the Act, the identity of the person (the *customer*) offering to sell or pawn any goods to a licensee must be verified by the licensee by means of:
- (a) a card or document that:
    - (i) bears the customer's photograph, and
    - (ii) appears to be issued by the government or a statutory authority of New South Wales or the Commonwealth or a State or Territory, and
    - (iii) includes the name of the person who the customer claims to be and the address at which the customer claims to reside, and a signature, purporting to be the signature of that person that matches the signature of the customer, and
    - (iv) does not bear any indications of forgery or tampering, or
  - (b) a combination of cards or documents:
    - (i) that appear to be issued by organisations or persons other than the customer and that include the information and features described in paragraph (a) (iii), and
    - (ii) one of which appears to be issued by the government or a statutory authority of New South Wales or the Commonwealth or a State or Territory, and
    - (iii) none of which bears any indications of forgery or tampering, or
  - (c) a card or document (including, for example, a foreign passport) that:
    - (i) appears to be issued by the government or a government authority of a foreign country, and includes the information and features described

## Pawnbrokers and Second-hand Dealers Regulation 2003

## Schedule 4 Amendment of this Regulation

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- in paragraph (a) (i) and (iii) (including the customer's permanent or temporary residential address in Australia), and
- (ii) does not bear any indications of forgery or tampering, or
- (d) a combination of cards or documents (including, for example, a foreign passport):
- (i) one of which appears to be issued by the government or a government authority of a foreign country, and includes the information and features described in paragraph (a) (i) and (iii) (but not including the customer's permanent or temporary residential address in Australia), and
- (ii) one of which is in the form of a document (such as a letter from a landlord or proprietor of a hotel or similar premises) that includes the customer's permanent or temporary residential address in Australia, and
- (iii) none of which bears any indications of forgery or tampering.
- (2) For the purposes of section 15 (1B) of the Act, if the person is an individual, the person's date of birth is prescribed as a particular relating to the identity of the person. Evidence of the person's date of birth must be given in a documentary form (such as a driver licence, passport, birth certificate or proof of age card) issued by the government or a statutory authority of New South Wales or the Commonwealth or a State or Territory or the government or a government authority of a foreign country.
- (3) For the purposes of section 15 (1B) of the Act, if the person is a corporation, the corporation's Australian Business Number is prescribed as a particular relating to the identity of the person. Evidence of the Australian Business Number must be given in a documentary form issued by the government or statutory authority of New South Wales, the Commonwealth or a State or Territory.
- (4) For the purposes of section 15 (3) of the Act, the licensee must obtain from the customer a written statement as to the ownership of goods that:
- (a) is in the form set out in Form 2 in Schedule 1, and

Pawnbrokers and Second-hand Dealers Regulation 2003

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(b) is set out in 10 point Arial type on A4 double-sided paper.

(5) In this clause:

*foreign country* means a country other than Australia, and includes a state, province or other part of such a country.

**[12] Clause 18A**

Insert after clause 18:

**18A Contract or stock number to be reproduced on tag, label or other attachment**

(1) A licensee must ensure that:

- (a) the contract number, or
- (b) a stock number,

for each item taken in trade or pawn during the course of the licensee's business is reproduced on a tag, label or other attachment to the item.

Maximum penalty: 20 penalty units.

(2) In this clause:

*contract number* for an item is the number referred to in clause 13 (1) (c) or (2) (c) in relation to the item.

*stock number* for an item is a number that:

- (a) is uniquely assigned by the licensee to distinguish the item from any other item held by the licensee in the course of the licensee's business, and
- (b) is the same as or different from the contract number for the item, and
- (c) is recorded electronically and in paper form, and
- (d) is linked to the contract number for the item in the electronic and paper record.

**[13] Clause 19 Retention of goods by licensee**

Insert at the end of clause 19 (1) (c):

, or

- (d) goods purchased by tender or auction from:



## Pawnbrokers and Second-hand Dealers Regulation 2003

## Schedule 4 Amendment of this Regulation

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- (i) a Government Department, or
  - (ii) a State owned corporation, or
  - (iii) a statutory authority constituted by or under an Act for a public purpose.

**[14] Clause 19 (2)**

Insert “so long as the licensee notifies the Director-General in writing of the address of that place” after “place”.

**[15] Clause 20 Goods alleged to be stolen in possession of licensee**

Omit the clause.

**[16] Clauses 23–23B**

Omit clause 23. Insert instead:

**23 Pawnbroker’s record of pledges**

- (1) For the purposes of section 28 (2) (a) of the Act:
  - (a) a fair and reasonable description of a compact (laser-read) disc or similar item (as referred to in clause 5 (1) (i)) must include:
    - (i) the title of the disc or item or of any film recorded on it, and
    - (ii) except in the case of an interactive game disc or a DVD movie disc—the name of any one or more of any artists or groups whose performance is or performances are recorded on it, and
  - (b) a fair and reasonable description of a mobile phone must include its International Mobile Equipment Identity (IMEI) number.
- (2) For the purposes of section 28 (2) (f) of the Act:
  - (a) particulars of:
    - (i) the date of birth of the owner of the goods, if the owner is an individual, or
    - (ii) the Australian Business Number of the owner of the goods, if the owner is a corporation, and
  - (b) if the goods are pawned by an individual as agent of the owner of the goods—particulars of the date of birth of the agent, and

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- (c) the printed name and signature of the person who took the pawn on behalf of the pawnbroker,

are prescribed as particulars required to be included in the record of an agreement by which goods are pawned.

- (3) For the purposes of subclause (2):
  - (a) evidence of an individual's date of birth must be given in a documentary form (such as a driver licence, passport, birth certificate or proof of age card) issued by the government or a statutory authority of New South Wales or the Commonwealth or a State or Territory or the government or a government authority of a foreign country, and
  - (b) evidence of a corporation's Australian Business Number must be given in a documentary form issued by the government or a statutory authority of New South Wales, the Commonwealth or a State or Territory.

**23A Notice of rights and obligations of person pawning goods**

- (1) For the purposes of section 28 (5A) (a) of the Act, the form set out as Form 3 in Schedule 1 is prescribed.
- (2) The prescribed form must:
  - (a) be set out in 10 point Arial type on A4 size double-sided paper, and
  - (b) not include any information other than the wording set out in Form 3 in Schedule 1.

**23B Additional particulars or information to be disclosed in or to accompany pawn ticket**

For the purposes of section 28 (5A) (d) of the Act, the following particulars or information are to be disclosed in a notice incorporated in or accompanying a pawn ticket:

- (a) a statement of the frequency with which interest charges are to be debited and of the times at which interest charges are payable,
- (b) a statement to the effect that, if provision is made for interest charges to be payable at intervals of greater than one month, the interest charges may instead be paid at monthly intervals at the option of the person who pawned the goods,

## Pawnbrokers and Second-hand Dealers Regulation 2003

## Schedule 4 Amendment of this Regulation

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- (c) particulars of the address of the premises where the goods will be located during the redemption period,
  - (d) if the goods consist of more than one item—a statement as to whether or not the goods may be separately redeemed,
  - (e) the date on which the redemption period ends.

**[17] Clause 24 Redemption of pawned goods**

Insert at the end of clause 24 (2) (b):

- , or
- (c) a card or document (including, for example, a foreign passport) that:
  - (i) appears to be issued by the government or a government authority of a foreign country, and includes the information and features described in paragraph (a) (i) and (iii) (including the customer's permanent or temporary residential address in Australia), and
  - (ii) does not bear any indications of forgery or tampering, or
- (d) a combination of cards or documents (including, for example, a foreign passport):
  - (i) one of which appears to be issued by the government or a government authority of a foreign country, and includes the information and features described in paragraph (a) (i) and (iii) (but not including the customer's permanent or temporary residential address in Australia), and
  - (ii) one of which is in the form of a document (such as a letter from a landlord or proprietor of a hotel or similar premises) that includes the customer's permanent or temporary residential address in Australia, and
  - (iii) none of which bears any indications of forgery or tampering.

Pawnbrokers and Second-hand Dealers Regulation 2003

Amendment of this Regulation

Schedule 4

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**[18] Clause 24 (4)**

Insert after clause 24 (3):

(4) In this clause:

*foreign country* means a country other than Australia, and includes a state, province or other part of such a country.

**[19] Clause 24A**

Insert after clause 24:

**24A Notice specifying interest rates and other fees and charges**

For the purposes of section 32C of the Act, a notice specifying the rate or rates of interest charged by a licensee and any other fees and charges:

- (a) must be written in legible capital letters in the English language using letters and figures each not less than 5cm in height, and
- (b) must use Arial text, and
- (c) must appear as black writing against a white background.

**[20] Part 5A**

Insert after Part 5:

**Part 5A Disputes as to ownership of goods and restoration of goods**

**25A Restoration notices under Part 4A of Act**

- (1) For the purposes of section 32F (3) of the Act, a restoration notice must contain the following particulars and information:
  - (a) the name of the claimant (including, if the claimant is a corporation, the name of the person acting on behalf of the corporation),
  - (b) the claimant's address (including the registered business address if a corporation),
  - (c) the date of birth of the claimant (or ABN if a corporation),

## Pawnbrokers and Second-hand Dealers Regulation 2003

## Schedule 4 Amendment of this Regulation

- 
- (d) the signature of the claimant or the person acting on behalf of the claimant if a corporation,
  - (e) if the claimant is a corporation, a signed statement by an executive officer of the corporation authorising a named person to act on behalf of the corporation,
  - (f) the connection between the claimant and the goods concerned,
  - (g) evidence supporting the claimant's title to the goods,
  - (h) the present location of the goods,
  - (i) a description of the goods (including any serial number),
  - (j) any alternative means of identifying the goods (eg any engraving or permanent markings),
  - (k) the COPS event number (in the case of a theft report),
  - (l) the date the matter was first reported to a police officer,
  - (m) the police description of the goods on inspection and the licensee's contract number for the goods,
  - (n) the name, contact details and signature of police officer issuing the notice,
  - (o) the name and licence number of the licensee (including the name of the directors if the licensee is a corporation),
  - (p) the registered business address of the licensee,
  - (q) the address of the licensee's approved premises.
- (2) For the purposes of section 32F (7) of the Act, a restoration notice ceases to be operative if the claimant withdraws his or her allegation under section 32F (1) of the Act.

**25B Jurisdiction of Local Courts**

In accordance with section 32I (1) (a) of the Act, a Local Court has jurisdiction to determine an action referred to in section 28A of the *Local Courts (Civil Claims) Act 1970* that is brought by a claimant in connection with goods that are in the possession of a licensee and to which a restoration notice relates if the licensee does not make an application under section 32G in relation to the goods within 28 days of being served with the notice.

Pawnbrokers and Second-hand Dealers Regulation 2003

Amendment of this Regulation

Schedule 4

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**25C Notice relating to operation of Part 4A of Act**

For the purposes of section 32L of the Act, a notice relating to the operation of Part 4A of the Act must:

- (a) be in the form set out in Form 4 in Schedule 1, and
- (b) be written in legible capital letters in the English language using letters and figures each not less than 5cm in height, and
- (c) use Arial text, and
- (d) appear as black writing against a white background.

**[21] Schedule 1 Forms**

Omit Form 1.

**[22] Schedule 1, Form 2**

Insert under the heading “**Important information**”:

**If you are acting on behalf of a corporation:**

You must attach a statement signed by an executive officer of the corporation consenting to the transaction.

**[23] Schedule 1, Forms 3 and 4**

Insert after Form 2:

**Form 3 Pawnbrokers and Second-hand Dealers Act 1996**

(Clause 23A of Pawnbrokers and Second-hand Dealers Regulation 2003)

**Notice to person pawning goods**

**Note.** The information contained in this notice is to be treated only as a guide to your rights and obligations. In order to fully ascertain your legal rights and obligations you should refer to the relevant legislation.

**Pawn ticket**

- (1) You must sign an original record of your pawn agreement that contains all the required information.
- (2) You must be given a copy of this record (a pawn ticket) and this ticket must include the following information:
  - (a) The total amount lent on the goods.
  - (b) The date the pawn was made and the agreement signed.
  - (c) The date that the redemption period ends.

## Pawnbrokers and Second-hand Dealers Regulation 2003

## Schedule 4 Amendment of this Regulation

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- (d) If the goods consist of more than one item, whether or not the items can be separately redeemed.
  - (e) The interest that you will be charged and the fees and charges that you will or may have to pay including any that may be deducted from the sale of your goods and how those fees and charges are calculated. Note that the interest rate and the fees and charges must not be more than those that are displayed on a sign in the pawnbroking shop.
  - (f) The equivalent annual interest rate.
  - (g) How often interest will be charged with an option to pay interest monthly if you want to.
  - (h) The address of where the goods will be kept during the redemption period.
  - (i) A fair and reasonable description of your goods, including serial numbers or other identifying numbers of every component.
  - (j) The name and address of the owner and any agent.
  - (k) By what method your goods may be sold if you were not to redeem them, for example, sold on the shelf or by auction at the pawnbroking shop or sold by auction at other premises (the address must be given).

**Redemption of goods**

- (1) You may reclaim the goods that you have pawned by paying the outstanding amount of the loan, and any interest due and any fees and charges payable, as stated on your pawn ticket. You must also produce your pawn ticket to the pawnbroker and reproduce the signature on the ticket. If you have lost your ticket, you can provide evidence of your identity and a statutory declaration that you are the owner of the goods instead. If you wish an agent to collect the goods on your behalf they will need an authorisation from you or evidence that you are unable to collect the goods yourself or provide an authorisation.
- (2) You may reclaim the goods at any time before the pawnbroker sells or disposes of them, even if the period of the loan has passed. The pawnbroker cannot charge interest after the end of the loan period but may charge you a safekeeping fee (this must be on your pawn ticket). This safekeeping fee cannot be more than that stated on the pawn ticket and the sign in the pawnbroking shop.

**Period of loan and payments**

- (1) The pawnbroker must provide you with a minimum 3-month loan period. The period of the loan commences on the day the goods are pawned.
- (2) You have a right to pay your interest charges on a monthly basis, the interest does not all have to be paid at the end of the loan period and you can make an interest payment to the pawnbroker at any time during business hours.

**Lost or stolen pawn ticket**

If your pawn ticket is lost or stolen and you give the pawnbroker a statutory declaration stating that you are the owner of the goods, or an authority from the owner to collect the goods and you also produce proof of your identity, you have a right to redeem the goods.

Pawnbrokers and Second-hand Dealers Regulation 2003

Amendment of this Regulation

Schedule 4

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### **Sale of unredeemed goods and payment of surplus**

The following provisions apply if the period of the loan expires and you have not reclaimed the pawned goods:

- (a) The pawnbroker must, if the loan is greater than \$50, offer the goods for sale as soon as possible in a way that will get the best price possible.
- (b) The only fees and charges that may be taken off the price paid for the goods are those that are stated on your pawn agreement (these must also be shown on a sign in the pawnbroking shop).
- (c) If the goods are sold for more than the loan and any interest or charges payable, then that excess money (or surplus) is payable to you. It is your right to collect that money within 12 months of the sale.
- (d) If there is a surplus which is greater than \$50, then not more than 21 days after the goods are sold the pawnbroker must send you a notice (unless you have requested the pawnbroker not to send you a notice) stating that the goods have been sold and there is a surplus due to you and that you have 12 months to collect it.
- (e) The pawnbroker, an employee of the pawnbroker or a person acting on behalf of a pawnbroker cannot buy the goods. If they do so they will not have legal ownership of the goods.

### **Pawn agreement cannot be varied other than to extend**

- (1) You and the pawnbroker cannot vary the original agreement to pawn your goods other than to extend the loan period (this can be done even if the original loan period has already finished).
- (2) You must sign the agreement to extend and be provided with a copy of that agreement. The copy must:
  - (a) include a reference to the original agreement and state the date the extension agreement is made and what the new redemption period is, and
  - (b) state any new fees, charges or interest payable as a result of the extension agreement and include the date on which the extension agreement was entered into.

### **What happens if the pawnbroking shop closes or the pawnbroker sells the business?**

- (1) If the pawnbroker sells the pawnbroking shop, the pawnbroker must write to you within 14 days of the sale, at the address that you have supplied, and notify you as to who has bought the business and will be in charge of the pawn.
- (2) If a pawnbroker surrenders the pawnbroker's licence, the Office of Fair Trading may require the pawnbroker to advise you as to where you can redeem your goods.



## Pawnbrokers and Second-hand Dealers Regulation 2003

Schedule 4 Amendment of this Regulation

**Form 4 Pawnbrokers and Second-hand Dealers Act 1996**

(Clause 25C of Pawnbrokers and Second-hand Dealers Regulation 2003)

**Disputes about ownership and restoration of goods**

You have a legal right to claim goods from these premises that you have good reason to believe are yours. Go to any Police Station and a police officer will advise you of your rights and what you will need to do.

**[24] Schedule 2 Penalty notice offences and demerit points**

Insert after the matter relating to section 32:

Section 32F (4)	500	2
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**[25] Schedule 2**

Insert at the end of the Schedule:

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision of this Regulation</b>	<b>Penalty if dealt with by penalty notice (in dollars)</b>	<b>Number of demerit points</b>
Clause 18A	300	2



New South Wales

# Workers Compensation Regulation 2003

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 replace, without any major changes in substance and as a consolidated Regulation, the provisions of the *Workers Compensation (General) Regulation 1995* and the *Workers Compensation (Insurance Premiums) Regulation 1995* (which are repealed on 1 September 2003 under section 10 (2) of the *Subordinate Legislation Act 1989*) and the *Workers Compensation Transitional Regulation 1997* (which is repealed by the new Regulation). The new Regulation deals with the following matters:

- (a) the deeming of certain diseases to be work related,
- (b) prescribing current weekly wage rates for compensation calculation purposes,
- (c) indexation of amounts of benefits,
- (d) procedures for discontinuation of weekly payments of compensation,
- (e) occupational rehabilitation services,
- (f) notice of injury and claims procedures,
- (g) medical examinations and medical disputes,
- (h) restrictions on obtaining medical reports,
- (i) workers compensation insurance policies,
- (j) deemed employment of ministers of religion,
- (k) the Insurers' Contribution Fund, WorkCover Authority Fund, Premiums Adjustment Fund and Insurers' Guarantee Fund,

Workers Compensation Regulation 2003

Explanatory note

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- (l) penalty notices,
- (m) advertising of workers compensation services,
- (n) costs in workers compensation matters and related common law claims,
- (o) insurance premiums,
- (p) the Premium Discount Scheme,
- (q) savings and transitional provisions.

This Regulation is made under the *Workers Compensation Act 1987*, including sections 19, 27, 38A, 42, 54, 59, 63A, 79, 148, 159, 160, 168–175A, 175B, 208, 220, 228 and 280 (the general regulation-making power) and Schedule 6, and under the *Workplace Injury Management and Workers Compensation Act 1998*, including sections 4, 37, 39, 44, 62, 63, 73, 74, 119, 122, 130, 142, 230A, 231, 246, 248 (the general regulation-making power), 294A, 297, 330 and 332–348.

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Clause 1	Workers Compensation Regulation 2003
Part 1	Preliminary

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## Workers Compensation Regulation 2003

under the

Workers Compensation Act 1987

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Workers Compensation Regulation 2003*.

#### 2 Commencement

This Regulation commences on 1 September 2003.

**Note.** This Regulation replaces the *Workers Compensation (General) Regulation 1995* and the *Workers Compensation (Insurance Premiums) Regulation 1995* (which are repealed under section 10 (2) of the *Subordinate Legislation Act 1989*) and the *Workers Compensation Transitional Regulation 1997* (which is repealed by this Regulation).

#### 3 Definitions

(1) In this Regulation:

*approved* means approved by the Authority.

*the Act* or *the 1987 Act* means the *Workers Compensation Act 1987*.

*the 1998 Act* means the *Workplace Injury Management and Workers Compensation Act 1998*.

(2) Notes included in this Regulation (other than notes included in a form) do not form part of this Regulation.

#### 4 Forms

A reference to a form in this Regulation is a reference to a form in Schedule 1.

Workers Compensation Regulation 2003

Clause 5

Work related diseases

Part 2

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## **Part 2      Work related diseases**

### **5      Diseases deemed work related**

Employments of the kinds set out in Column 2 of Schedule 2 are prescribed as employments to which section 19 (1) of the Act applies. A disease set out in Column 1 of Schedule 2 is prescribed as a disease that is related to the employment or, as the case may require, each of the employments, set out in Column 2 of that Schedule opposite the description of that disease.

### **6      Brucellosis, Q fever and leptospirosis—medical tests and results to determine whether work related**

For the purposes of section 19 (2) of the Act, any one of the results set out in Column 3 of Schedule 3, if obtained by means of the medical test the requirements of which are set out opposite that result in Column 2 of that Schedule, is a result prescribed in respect of the disease, the name of which appears opposite that result in Column 1 of that Schedule.



Clause 7            Workers Compensation Regulation 2003

Part 3             Funeral expenses

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### **Part 3            Funeral expenses**

#### **7    Sec 27 (b): maximum amount for funeral expenses**

- (1) For the purposes of section 27 (b) of the Act, the maximum amount for which an employer is liable in respect of reasonable funeral expenses, if death results from an injury and the worker leaves no dependants, is:
  - (a) in the case of a funeral held before 1 February 1992—\$2,700, or
  - (b) in the case of a funeral held on or after 1 February 1992 but before 1 July 2000—\$4,000, or
  - (c) in any other case—\$4,400.
- (2) This clause applies regardless of when the injury that caused the death of the worker concerned was received.

Workers Compensation Regulation 2003

Clause 8

Current weekly wage rate

Part 4

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## Part 4 Current weekly wage rate

### 8 Definitions

- (1) In this Part:

*Federal Act* means the *Workplace Relations Act 1996* of the Commonwealth.

*State Act* means the *Industrial Relations Act 1996*.

- (2) A reference in this Part to an amount of money specified in an award or to an amount of a rate per 5 days or week or a minimum weekly rate fixed by an award or a Part or Division of an award is a reference to the amount or minimum weekly rate that is for the time being specified in, or fixed by, the award, Part, Division or industrial agreement, as the case may be, as in force from time to time.

### 9 Sec 42 (1) (c), (5) (b): prescribed classes of workers by order

- (1) The Authority may by order published in the Gazette:
- declare a specified class or classes of workers to be a class of workers to which this clause applies, and
  - specify the manner in which the current weekly wage rate of a worker of each such class is to be calculated for the purposes of section 42 (1) (c) of the Act.
- (2) Each class of workers to which this clause applies by virtue of an order of the Authority under this clause is prescribed for the purposes of section 42 (1) (c) and (5) (b) of the Act.
- (3) The manner specified in the order as the manner of calculating the current weekly wage rate of a class of workers is prescribed for the purposes of section 42 (1) (c) of the Act in respect of that class of workers.
- (4) While an order of the Authority in force under this clause applies to a class of workers, clauses 10 and 11 do not apply to that class of workers.

### 10 Sec 42 (1) (c), (5) (b): prescribed classes of workers etc—shearers

- (1) For the purposes of section 42 (1) (c) and (5) (b) of the Act, the following classes of workers are prescribed:
- shearers bound by the Pastoral Employees (State) Award under the State Act,

Clause 11 Workers Compensation Regulation 2003

Part 4 Current weekly wage rate

(b) shearers bound by the Pastoral Industry Award 1965 under the Federal Act.

- (2) For the purposes of section 42 (1) (c) of the Act, the formula prescribed in respect of each class of workers prescribed by subclause (1) is  $A \times 5$  per week, where “A” is the amount of money specified in clause 14 (a) (i) of the award referred to in subclause (1) (b).

**11 Sec 42 (1) (c), (5) (b): prescribed classes of workers etc—certain meat industry workers**

- (1) Workers engaged in the meat processing industry whose employment is subject to an industrial instrument that provides for the payment of “overs” or a production loading under a tally, piecework or incentive system in respect of work performed in that industry are prescribed as a class of workers for the purposes of section 42 (1) (c) and (5) (b) of the Act.

- (2) In this clause:

*industrial instrument* means a State industrial instrument or an instrument of a similar nature under the law of another State, a Territory or the Commonwealth, and includes any agreement or other arrangement in force under such an instrument.

- (3) For the purposes of section 42 (1) (c) of the Act, the formula prescribed for each worker of the class prescribed by subclause (1) is whichever of the following formulae is appropriate:

- (a) except as provided by paragraphs (b), (c) and (d), the formula is:

$$\frac{A1 + A2 + A3 + A4 + A5}{B} \times 5 \text{ per week}$$

- (b) where the formula prescribed by paragraph (a) provides a greater rate for a particular week for the worker (being a worker whose employment is subject to an industrial instrument that provides for the payment of “overs” to the worker) than the rate of  $C \times 21/16$  per week, the formula is  $C \times 21/16$  per week for that week for that worker,

- (c) where the formula prescribed by paragraph (a) provides a smaller rate for a particular week for the worker than the rate of  $C \times 1$  per week, the formula is  $C \times 1$  per week for that week for that worker,

Workers Compensation Regulation 2003

Clause 11

Current weekly wage rate

Part 4

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- (d) where the formula prescribed by whichever of paragraphs (a), (b) and (c) is appropriate provides a smaller rate for a particular week for the worker than any special rate (as referred to in subclause (4)) applicable to the worker for that week—the special rate applicable to the worker for that week.
- (4) A reference in subclause (3) (d) to a *special rate* applicable to a worker for a particular week is a reference to a special weekly wage rate that is applicable to the worker under an industrial instrument for any period for which the worker is absent from work because of sickness or injury.
- (5) In the application of the formulae prescribed by subclause (3) for the purpose of determining compensation payable in respect of a period of incapacity (consisting of a week or any part thereof) of a worker of the class prescribed by subclause (1):

**A1** equals:

- (a) where that period consists of, or includes, Monday of that week and any other worker who is a co-worker of the injured worker worked on that Monday—the prescribed amount payable to that other worker for that Monday, or
- (b) in any other case—0.

**A2** equals:

- (a) where that period consists of, or includes, Tuesday of that week and any other worker who is a co-worker of the injured worker worked on that Tuesday—the prescribed amount payable to that other worker for that Tuesday, or
- (b) in any other case—0.

**A3** equals:

- (a) where that period consists of, or includes, Wednesday of that week and any other worker who is a co-worker of the injured worker worked on that Wednesday—the prescribed amount payable to that other worker for that Wednesday, or
- (b) in any other case—0.

**A4** equals:

- (a) where that period consists of, or includes, Thursday of that week and any other worker who is a co-worker of the injured worker worked on that Thursday—the prescribed amount payable to that other worker for that Thursday, or
- (b) in any other case—0.

Clause 11 Workers Compensation Regulation 2003

Part 4 Current weekly wage rate

**A5** equals:

- (a) where that period consists of, or includes, Friday of that week and any other worker who is a co-worker of the injured worker worked on that Friday—the prescribed amount payable to that other worker for that Friday, or
- (b) in any other case—0.

**B** equals:

- (a) the total number of days of that period on which other co-workers of the injured worker worked, or
- (b) where there are no such days—0.

**C** equals the weekly rate applicable under any relevant industrial instrument to co-workers of the injured worker.

**weekly rate** (in relation to what **C** equals) is the amount of the rate fixed or set under an industrial instrument in respect of co-workers of the injured worker as the tally rate per 5 days, ordinary rate per 5 days, ordinary weekly rate or minimum weekly rate of pay.

- (6) For the purposes of subclause (5), a worker is a **co-worker** of an injured worker if the worker is normally employed with the injured worker at a common place of employment and under the same classification as the injured worker.
- (7) A reference in subclause (5) to the prescribed amount payable to a worker for a day on which the worker worked is a reference to the amount of money that the worker is entitled, under the industrial instrument by which the worker is bound, to be paid for that day's work:
  - (a) exclusive of any amount that the worker is so entitled to be paid in respect of shift work or overtime or otherwise at penalty rates, and
  - (b) inclusive of any amount that the worker is so entitled to be paid in respect of "overs" or (subject to subclause (8)) in respect of production loading.
- (8) For the purposes only of subclause (7) (b), an amount a worker is entitled to be paid in respect of production loading for a day's work is taken not to include:
  - (a) in the case of a worker for whom production loading is calculated by reference to weekly production, any amount in excess of one-fifth of the production loading that would be payable to the worker in respect of the week in which that day

Workers Compensation Regulation 2003

Clause 12

Current weekly wage rate

Part 4

occurs if the workers (in relation to whose “overs” that production loading is calculated) completed during that week a number of “overs” that provided each of those workers with pay for that week that is equivalent to the amount of money calculated in accordance with the formula  $C \times 21/16$ , or

- (b) in the case of a worker for whom production loading is calculated by reference to daily production, any amount in excess of the production loading that would be payable to the worker in respect of that day if the workers (in relation to whose “overs” that production loading is calculated) completed during that day a number of “overs” that provided each of those workers with pay for that day that is equivalent to the amount of money calculated in accordance with the formula  $C/5 \times 21/16$ ,

in each case with  $C$  having the value ascribed to it in subclause (5).

## 12 Sec 42 (1) (d): prescribed rate

- (1) For the purposes of section 42 (1) (d) of the Act, and clause 7 (2) (b) of Part 4 of Schedule 6 to the Act, the prescribed rate in respect of a period specified in Column 1 of the Table to this clause is the rate specified in Column 2 of that Table opposite that period.
- (2) This clause applies only to workers who, before 1 February 1992, became entitled to receive weekly payments in respect of incapacity for work.

### Table

Column 1	Column 2
Period	Amount per week
1 On and after 1 October 1987 and before 1 April 1988	\$284.70
2 On and after 1 April 1988 and before 1 October 1988	\$288.60
3 On and after 1 October 1988 and before 1 April 1989	\$294.80
4 On and after 1 April 1989 and before 1 October 1989	\$302.20
5 On and after 1 October 1989 and before 1 April 1990	\$313.20

Clause 12 Workers Compensation Regulation 2003

Part 4 Current weekly wage rate

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<b>Column 1</b>	<b>Column 2</b>
<b>Period</b>	<b>Amount per week</b>
6 On and after 1 April 1990 and before 1 October 1990	\$319.80
7 On and after 1 October 1990 and before 1 April 1991	\$334.60
8 On and after 1 April 1991 and before 1 October 1991	\$339.00
9 On and after 1 October 1991 and before 1 April 1992	\$341.30
10 On and after 1 April 1992 and before 1 October 1992	\$351.50
11 On and after 1 October 1992 and before 1 April 1993	\$355.90
12 On and after 1 April 1993 and before 1 October 1993	\$357.20
13 On and after 1 October 1993 and before 1 April 1994	\$359.00
14 On and after 1 April 1994	\$360.60

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Workers Compensation Regulation 2003

Clause 13

Indexation of amounts of benefits

Part 5

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## Part 5 Indexation of amounts of benefits

### 13 Sec 79: definition of "latest index number"

For the purposes of paragraph (b) of the definition of *latest index number* in section 79 of the Act, the latest index number in respect of an adjustment date specified in Column 1 of the Table to this clause is the number specified in Column 2 of that Table opposite that date.

#### Table

Column 1	Column 2
Adjustment date	Latest index number
1 April 1988	229.3
1 October 1988	234.2
1 April 1989	240.1
1 October 1989	248.8
1 April 1990	254.1
1 April 1998	146.4
1 October 1998	149.0
1 April 1999	151.6
1 October 1999	154.1
1 April 2000	156.6
1 October 2000	158.3
1 April 2001	161.9
1 October 2001	164.7
1 April 2002	167.6



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Part 5          Indexation of amounts of benefits

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<b>Column 1</b>	<b>Column 2</b>
<b>Adjustment date</b>	<b>Latest index number</b>
1 October 2002	170.0
1 April 2003	172.9
1 October 2003	176.4

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Workers Compensation Regulation 2003

Clause 14

Weekly compensation

Part 6

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## Part 6 Weekly compensation

### 14 Notice of requirement to obtain suitable employment from other person

- (1) A notice under section 38A (3) of the Act:
  - (a) may be based on the model form (if any) set out in the claims procedures referred to in section 38A (3) (d) of the Act, and
  - (b) may include additional information and explanatory matter to assist in the understanding of the notice, and
  - (c) may be varied or replaced by a further notice given to the worker in accordance with section 38A (3) of the Act.
- (2) Reminder copies of a notice under section 38A (3) of the Act may be given to the worker concerned from time to time.
- (3) A notice given to a worker in accordance with section 38A (3) of the Act is sufficient notice for any further period of unemployment in respect of the same injury.
- (4) In the case of any worker:
  - (a) who, before the commencement of Schedule 1 to the *Workers Compensation Legislation (Amendment) Act 1994*, was at the same time both partially incapacitated for work as the result of an injury and unemployed, and
  - (b) who is, as at or at any time after that commencement, both partially incapacitated for work as the result of that injury and unemployed,

the requirement under section 38A (2) (d) of the Act applies regardless of whether the worker has been notified in accordance with section 38A (3) of the Act.

### 15 Notice of intention to discontinue or reduce weekly payments

- (1) The notice referred to in section 54 of the 1987 Act must:
  - (a) include a statement of the reason for the decision to discontinue payment, or reduce the amount, of weekly payments of compensation, and
  - (b) include a statement of the particulars that support the reason for the decision, including the required details for each report (if any) that is relied on to support that reason, and

Clause 15 Workers Compensation Regulation 2003

Part 6 Weekly compensation

- 
- (c) include a statement advising that the worker may request a copy of a report specified in the statement of particulars from the person paying compensation, and
  - (d) include a statement advising that the worker may request the person paying the compensation to review the decision and advising of the procedure for making such a request, and
  - (e) include a statement advising that if the worker disputes the discontinuation or reduction of weekly payments:
    - (i) in the case of a dispute about a claim that is an existing claim within the meaning of Chapter 7 of the 1998 Act, the worker may apply to the Compensation Court for determination of the dispute, or
    - (ii) in the case of a dispute about a claim that is a new claim within the meaning of Chapter 7 of the 1998 Act, the worker may refer the dispute to the Registrar for determination by the Commission, and
  - (f) include the address and fax number for the registrar of the Compensation Court or the Registrar of the Commission, as appropriate.
- (2) If:
- (a) the notice referred to in section 54 of the 1987 Act relates to a reduction in the amount of weekly payments of compensation as a result of the application of section 40 of the 1987 Act, and
  - (b) the worker is not in receipt of earnings (or the compensation is otherwise calculated on the basis of the worker's ability to earn after the injury, rather than on the worker's actual earnings after the injury),

the notice must also include a statement of how the compensation (to be so reduced) has been calculated.

- (3) In this clause:

***required details***, in relation to a report, means the subject matter of the report, the name and relevant professional qualifications of the person who wrote the report and the date of the report.

Workers Compensation Regulation 2003

Clause 16

Occupational rehabilitation services

Part 7

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## **Part 7 Occupational rehabilitation services**

### **16 Definition**

In this Part, *approved guidelines* means guidelines that are approved by the Authority and issued to insurers.

### **17 Occupational rehabilitation service—additional services**

For the purposes of the definition of *occupational rehabilitation service* in section 59 of the Act, the following additional services are prescribed:

- (a) functional education,
- (b) monitoring a return to work program,
- (c) work conditioning.

### **18 Occupational rehabilitation services—maximum amount for which employer liable**

- (1) For the purposes of section 63A (3) (b) of the Act, the prescribed amount is \$1,500, adjusted in accordance with Division 6 of Part 3 of the Act as if it were an adjustable amount for the purposes of that Division.
- (2) The prescribed amount applies in relation to occupational rehabilitation services in respect of injuries received before the commencement of this clause (or before any adjustment of that amount as referred to in subclause (1)) in the same way as it applies in relation to services in respect of injuries received after that commencement.

### **19 Directions to employers under sec 63A (4)—insurers authorised**

For the purposes of section 63A (4) of the Act, an insurer who is liable to indemnify an employer for any occupational rehabilitation service provided to or for the benefit of a worker is prescribed (in addition to the Authority) as a person who may direct that the employer is liable for a further amount to that prescribed by section 63A (3) of the Act.

### **20 Applications under sec 63A—generally**

- (1) An application under section 63A (4) of the Act:
  - (a) is to be in the form of a rehabilitation plan or in such other form (if any) as the Authority may approve, and

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Part 7 Occupational rehabilitation services

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(b) is to contain such particulars as the Authority may determine.

- (2) An accredited provider is required to make an application under section 63A (4) as soon as practicable after the accredited provider becomes aware that the total cost of occupational rehabilitation services provided to or for the benefit of a worker in respect of an injury will, or is likely to, exceed the maximum amount prescribed by section 63A (3).

**21 Applications under sec 63A (4)—services provided by more than one provider etc**

- (1) An accredited provider may, for the purpose of determining whether an application under section 63A (4) of the Act is necessary, request the relevant insurer (in writing) to supply details of any costs that have been claimed from the insurer in respect of occupational rehabilitation services previously provided by another provider in respect of the same injury.
- (2) If the insurer does not, within 14 days or such longer period as the Authority may determine, supply the accredited provider with those details, the provider need only make an application under section 63A (4) of the Act if the total cost of services provided by that provider to or for the benefit of the worker concerned will, or is likely to, exceed the maximum amount prescribed by section 63A (3) of the Act.

**22 Directions by insurers—special provisions**

- (1) If an application under section 63A (4) of the Act is made to an insurer:
- (a) the insurer may request further information from the applicant, and
  - (b) the insurer is, as far as practicable, to deal with the application within 7 days after receiving it or the further information (whichever is the later).
- (2) A direction by an insurer under section 63A (4) of the Act must be in accordance with the approved guidelines (if any) relating to such directions.
- (3) Any such direction may, subject to those approved guidelines:
- (a) specify that an employer's liability for a further amount to that prescribed by section 63A (3) of the Act is limited by reference to a maximum further amount for which the employer is liable for the proposed services (including, if

Workers Compensation Regulation 2003

Clause 23

Occupational rehabilitation services

Part 7

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appropriate, particular services) or to the nature, number or duration of those services, or both, or

- (b) specify that the employer is liable for such amount as is reasonably appropriate, having regard to the reasonable necessity for the provision of the services concerned.

### **23 Conditions etc—directions under sec 63A (4)**

- (1) If a direction is given under section 63A (4) of the Act and the accredited provider concerned becomes aware that, because of a change of circumstances or otherwise, it is no longer necessary for the occupational rehabilitation service covered by the direction to be provided to or for the benefit of the worker, the provider is to cease providing the service and notify the Authority or the relevant insurer.
- (2) The Authority or an insurer may, subject to any approved guidelines, give a direction under section 63A (4) of the Act:
- (a) that is subject to such conditions as may be specified in the direction, and
- (b) by notice in writing given to the provider concerned, amend or revoke the conditions specified in any such direction or add to those conditions,
- and any such amendment, revocation or addition takes effect on and from the time the notice is served on the provider concerned or from a later time specified in the notice.
- (3) The Authority or the insurer is to ensure that the employer concerned also receives a copy of the notice as soon as practicable after it takes effect.

### **24 Review by Authority**

- (1) If an insurer, after an application under section 63A (4) of the Act has been made to it:
- (a) refuses to give a direction under section 63A (4) of the Act, or
- (b) gives only part of any such direction applied for by or on behalf of the worker or the accredited provider concerned,
- the insurer must refer the matter as soon as practicable to the Authority in such form and in such manner as the Authority may determine.

Clause 25 Workers Compensation Regulation 2003

Part 7 Occupational rehabilitation services

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- (2) If an insurer gives a direction under section 63A (4) of the Act, the worker or accredited provider concerned may apply to the Authority for a review of the direction:
  - (a) if the worker or provider objects to a condition (or an amendment or revocation of a condition) that the insurer has attached or added to the direction, or
  - (b) if the insurer declines further liability on behalf of the relevant employer for any occupational rehabilitation service covered by a direction previously given by the insurer.
- (3) An application for review is required to be:
  - (a) made in such form, and
  - (b) accompanied by such information, and
  - (c) made in such manner,as the Authority may determine.
- (4) The Authority may, in relation to a matter that has been referred to it or in relation to an application for a review under this clause:
  - (a) confirm the decision of the insurer, or
  - (b) confirm the decision with such modification as the Authority considers to be appropriate, or
  - (c) give a direction under section 63A (4) of the Act that the Authority considers to be appropriate.
- (5) The Authority is to notify in writing the relevant insurer, employer, accredited provider and worker of the outcome of its review.

**25 Revocation by Authority of direction under sec 63A (4)**

- (1) The Authority may, after giving a direction under section 63A (4) of the Act, revoke (in whole or in part) the direction if it considers it appropriate to do so in the circumstances.
- (2) The Authority may suspend any such direction pending its decision on whether to revoke the direction.
- (3) The Authority is to give notice in writing to all parties of any such suspension or revocation (but may, in the case of suspension, give oral notice and confirm the notice later in writing).
- (4) If the Authority suspends or revokes a direction under section 63A (4) of the Act, the employer concerned ceases to be liable (subject to any order of the Compensation Court or the Commission) for any occupational rehabilitation services or class of service specified in

Workers Compensation Regulation 2003

Clause 26

Occupational rehabilitation services

Part 7

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the notice of suspension or revocation and to which the direction relates.

- (5) The suspension or revocation has effect in respect of services provided after the accredited provider concerned receives notice of the suspension or revocation or after such later time as may be specified in the notice.

## **26 Submissions to Authority**

The Authority must, before making a decision on:

- (a) an application for a direction under section 63A (4) of the Act or a review of an insurer's decision in respect of such an application, or
- (b) whether to amend, revoke or add to the conditions to which any such direction is subject, or
- (c) whether to suspend or revoke any such direction,

give any person who may be adversely affected by the decision a reasonable opportunity to make submissions to the Authority on the matter.

## **27 Payment under direction by Authority not admission of liability**

The payment of any amount in accordance with a direction by the Authority under section 63A (4) of the Act is not to be taken as an admission of liability.

## **28 Claims under Uninsured Liability and Indemnity Scheme**

In the case of a claim under the Uninsured Liability and Indemnity Scheme involving the provision of occupational rehabilitation services to or for the benefit of the worker concerned:

- (a) any application for a direction under section 63A (4) of the Act may only be made to the Authority, and
- (b) for the purpose of the definition of *occupational rehabilitation service* in section 59 of the Act, services may be provided to or for the benefit of the worker by any person determined by the Authority to be suitable (as well as by a provider accredited under section 152 of the Act) and, in that case, references in this Part to an accredited provider are to be read as references to such a person.



Clause 29	Workers Compensation Regulation 2003
Part 7	Occupational rehabilitation services

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## **29 Application of Part to self-insurers**

If, in respect of an application under section 63A (4) of the Act, a self-insurer decides or refuses to pay a further amount to that prescribed by section 63A (3) of the Act:

- (a) the decision is, for the purposes of this Part, taken to be a direction that the employer concerned is liable for that further amount, or
- (b) the refusal is, for the purposes of this Part, taken to be a refusal to give a direction under section 63A (4) of the Act,

and for any such purposes, a reference in this Part to an insurer includes a reference to a self-insurer.

## **30 Application of Part to proceedings pending in Compensation Court or Commission**

If proceedings are pending in the Compensation Court or the Commission, the Authority may, in relation to an application or a reference for review received by it under this Part that is connected with the proceedings:

- (a) give a direction under section 63A (4) of the Act (unless the Court or the Commission otherwise orders), or
- (b) decline to deal with the matter.

## **31 Authority not prevented from giving opinion on rehabilitation liability**

Nothing in this Part (for example clause 24 (Review by the Authority)) prevents the Authority from giving its opinion on matters relating to the liability of an employer under the Act for particular occupational rehabilitation services.

Workers Compensation Regulation 2003

Clause 32

Notices and claims procedure

Part 8

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## Part 8 Notices and claims procedure

### 32 Notification of workplace injury

- (1) For the purposes of section 44 (2) of the 1998 Act, notification to an insurer or the Authority by an employer that a worker has received a workplace injury must be given in any of the following ways:
  - (a) by electronic communication (using a mode of electronic communication approved by the insurer or the Authority) providing the information requested by the insurer or the Authority,
  - (b) in writing by completing a notification form approved for the purpose by the insurer or the Authority and sending the completed form to the insurer or the Authority by post or facsimile transmission at the address or facsimile number indicated on the form, or by completing and lodging the form in person at an office of the insurer or the Authority,
  - (c) by telephone to the insurer or the Authority, giving such information as may be requested of the caller.
- (2) For the purposes of section 44 (3) of the 1998 Act, an insurer who has been given notice by an employer under section 44 (2) of that Act that a worker has received a workplace injury must forward that notice to the Authority using a mode of electronic communication approved by the Authority.
- (3) An employer who gives a notification under section 44 (2) of the 1998 Act must make and keep for at least 5 years after the notification is given:
  - (a) a record of the date, time, place and nature of the injury to which the notification relates, and
  - (b) a record of the date on which and the way in which the notification was given, and
  - (c) a record of any acknowledgement (such as a receipt number) given to the employer by the insurer or the Authority as evidence of receipt of the notification.

**Note.** An entry in the register of injuries kept under section 63 of the 1998 Act is a sufficient record of an injury for the purposes of this clause. The record of an acknowledgement of the notification can also be made and kept as part of the register of injuries.
- (4) An employer must make the records kept under subclause (3) available for inspection by an authorised officer or authorised employee representative in accordance with a request by the

Clause 33	Workers Compensation Regulation 2003
Part 8	Notices and claims procedure

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authorised officer or authorised employee representative, and in any event no later than 7 days after the date of the request.

(5) In this clause:

*authorised employee representative* means an officer of an industrial organisation of employees (including any person who is concerned in, or takes part in, the management of that organisation) who is authorised under Part 7 of Chapter 5 of the *Industrial Relations Act 1996*.

*authorised officer* means an authorised officer under section 238 of the 1998 Act.

Maximum penalty: 20 penalty units.

### 33 Notice of injury involving loss of hearing

- (1) If an injury is a loss, or further loss, of hearing that is of such a nature as to be caused by a gradual process (including boilermaker's deafness and any deafness of a similar origin):
  - (a) notice of injury is to be given by the worker under section 62 of the 1998 Act:
    - (i) if the worker is employed by an employer in an employment to the nature of which the injury is due to that employer, or
    - (ii) if the worker is not so employed to the last employer by whom the employer was employed in an employment to the nature of which the injury is due, and
  - (b) the notice must be in writing and be:
    - (i) in the form set out in Form 1, or
    - (ii) in any other form that contains at least the particulars required by Form 1 (though not necessarily in the same format as that Form).
- (2) Any forms issued by insurers and self-insurers for the giving of notice by workers of an injury referred to in subclause (1) must also contain such information (if any) as the Authority may from time to time approve and notify to insurers and self-insurers.

Workers Compensation Regulation 2003

Clause 34

Notices and claims procedure

Part 8

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### 34 Notice of dispute about liability

- (1) The notice given to a claimant under section 74 of the 1998 Act must:
- (a) include a statement of the particulars that support the reason for the decision, including the required details for each report (if any) on which the insurer relies to support that reason, and
  - (b) include a statement advising that the claimant may request a copy of a report specified in the statement of particulars from the insurer, and
  - (c) include a statement advising that the claimant may request the insurer to review the decision, and advising of the procedure for making such a request, and
  - (d) include a statement to the effect that:
    - (i) in the case of a dispute about a claim that is an existing claim within the meaning of Chapter 7 of the 1998 Act, the claimant may apply to the Compensation Court for determination of the dispute, or
    - (ii) in the case of a dispute about a claim that is a new claim within the meaning of Chapter 7 of the 1998 Act, the claimant may refer the dispute to the Registrar for determination by the Commission, and
  - (e) include the address and fax number for the registrar of the Court or the Registrar of the Commission, as appropriate.
- Note.** Section 74 of the 1998 Act also requires the notice to include a statement of the reason the insurer disputes liability.
- (2) A person who fails to comply with section 74 of the 1998 Act in respect of a claim for compensation is guilty of an offence.
- Maximum penalty: 20 penalty units.
- (3) It is a defence to a prosecution for an offence of failing to comply with section 74 (2B) of the 1998 Act if it is established that the notice complied with guidelines issued by the Authority as to how the notice concerned was to be expressed.
- (4) In this clause:

*required details*, in relation to a report, means the subject matter of the report, the name and relevant professional qualifications of the person who wrote the report and the date of the report.

Clause 35	Workers Compensation Regulation 2003
Part 8	Notices and claims procedure

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### **35 Form of notice to be posted up at workplace**

- (1) For the purposes of section 231 (1) of the 1998 Act:
  - (a) the summary of the requirements of that Act with regard to the giving of notice of injuries and the making of claims is to be in the form of an approved form, and
  - (b) the other information required to be posted up in accordance with that section is the other information contained in the approved form.
- (2) Any form approved for the time being by the Authority is an *approved form* for the purposes of this clause.
- (3) An approved form that ceases to be an approved form (as a result of the amendment or substitution of a form approved by the Authority) continues to be an approved form for the purposes of a notice posted up under section 231 of the 1998 Act that was in that form immediately before it ceased to be an approved form, but only until the earlier of:
  - (a) the renewal or replacement of the notice, or
  - (b) 12 months after the form ceases to be an approved form.

### **36 Form of register of injuries to be kept at mine etc**

- (1) The register of injuries required to be kept under section 63 of the 1998 Act is to be a book with entries in the form set out in Form 2.
- (2) The particulars to be entered in the register of injuries are the particulars required to complete Form 2.

### **37 Access to certain reports obtained by insurer: sec 73 of 1998 Act**

- (1) A worker may request an insurer to supply the worker with a copy of a report obtained by the insurer and specified in a notice to the worker under section 54 (Notice required before termination or reduction of payment of weekly compensation) of the 1987 Act or a notice under section 74 (Insurers to give notice and reasons when liability disputed) of the 1998 Act.

Workers Compensation Regulation 2003

Clause 38

Notices and claims procedure

Part 8

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- (2) An insurer who receives a request for a copy of such a report must, within 10 days after receiving the request, supply the worker (or a legal practitioner or agent acting on behalf of the worker) with a copy of the report.

**Note.** A worker may also request from the employer or insurer under clause 40 a copy of a medical opinion or report obtained by the employer, or a medical report relating to treatment of the worker on a disputed claim under section 126 of the 1998 Act.

- (3) If the insurer is of the opinion that supplying the worker with a copy of a medical report would pose a serious threat to the life or health of the worker or any other person, the insurer may instead supply the medical report to a medical practitioner nominated by the worker for that purpose.

**38 Interim payment direction not presumed to be warranted: sec 297 of 1998 Act**

For the purposes of section 297 (3) (e) of the 1998 Act, it is not to be presumed that an interim payment direction for weekly payments of compensation is warranted in circumstances where the insurer has given the worker notice under section 74 of the 1998 Act (Insurers to give notice and reasons when liability disputed).

Clause 39 Workers Compensation Regulation 2003

Part 9 Medical examinations and disputes

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## **Part 9 Medical examinations and disputes**

### **39 Medical examination of worker at direction of employer**

- (1) A worker must not, under section 119 of the 1998 Act, be required to submit himself or herself for examination by a medical practitioner otherwise than at reasonable hours.
- (2) After a period of 1 month has elapsed from the date on which the first payment of compensation was made to a worker who is receiving weekly payments of compensation or, if the first payment was made pursuant to an award, from the date of the award, the worker must not, under section 119 of the 1998 Act, be required to submit himself or herself for examination by a medical practitioner except at the following intervals:
  - (a) once a week during the second month, and
  - (b) once a month during the third, fourth, fifth and sixth months, and
  - (c) thereafter once in every 2 months.
- (3) Where, after the second month, an application has been made for review of the weekly payment of compensation, the worker may be required, pending and for the purposes of the determination of the application, to submit himself or herself for 1 additional examination.
- (4) Subclauses (2) and (3) do not apply to any examination by a medical practitioner made for the purposes of the determination of a claim for compensation under section 66 or 67 of the Act for 12 weeks after the claim is duly made or during an adjournment of court proceedings in respect of the claim under section 106E (3) or 106FC (5) of the Act or section 102 (6) of the 1998 Act.

### **40 Access to medical opinion or report obtained by employer: sec 119 of 1998 Act**

- (1) A worker may request the employer or insurer to supply the worker with a copy of a medical opinion or report furnished to the employer or insurer under section 119 (Medical examination of workers at direction of employer) of the 1998 Act and specified in a notice to the worker under section 54 (Notice required before termination or reduction of payment of weekly compensation) of the 1987 Act or a notice under section 74 (Insurers to give notice and reasons when liability disputed) of the 1998 Act.

Workers Compensation Regulation 2003

Clause 41

Medical examinations and disputes

Part 9

- 
- (2) An employer or insurer who receives a request for a copy of such a report must, within 10 days after receiving the request, supply the worker (or a legal practitioner or agent acting on behalf of the worker) with a copy of the report.

**Note.** A worker may also request from the insurer under clause 37 a copy of other reports obtained by the insurer, or a medical report relating to treatment of the worker on a disputed claim under section 126 of the 1998 Act.

- (3) If the employer or insurer is of the opinion that supplying the worker with a copy of a medical opinion or report would pose a serious threat to the life or health of the worker or any other person, the employer or insurer may instead supply the medical report to a medical practitioner nominated by the worker for that purpose.

**41 Application to refer matter to medical referee or panel etc**

- (1) In the application of section 122 of the 1998 Act for the purposes of section 122 (12) of the 1998 Act, section 122 (2) of the 1998 Act is to be construed as requiring any applications to be made jointly by the worker and the employer.
- (2) This clause applies only in respect of existing claims and existing claim matters within the meaning of Chapter 7 of the 1998 Act.



Clause 42	Workers Compensation Regulation 2003
Part 10	Restrictions on obtaining medical reports

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## Part 10 Restrictions on obtaining medical reports

### 42 Definitions

In this Part:

*claim* means a claim for compensation payable or claimed to be payable under the 1987 Act.

*proceedings* means proceedings before the Commission or the Compensation Court.

### 43 Restrictions on number of medical reports that can be admitted

- (1) In any proceedings on a claim:
  - (a) only one medical report in any particular specialty may be admitted on behalf of a party to the proceedings, and
  - (b) a medical report in a specialty may not be admitted on behalf of a party to the proceedings if another medical report in that specialty has already been admitted on behalf of the party in any other proceedings on the claim or in proceedings on a related claim.
- (2) Despite subclause (1) (b), a medical report in a specialty may be admitted in proceedings even if another medical report in that specialty has already been admitted in other proceedings on the claim or a related claim if:
  - (a) the medical report to be admitted is a permissible update (under clause 44) of the medical report already admitted in the other proceedings, or
  - (b) the proceedings are lump sum compensation proceedings and the other proceedings were not lump sum compensation proceedings, but only so as to allow the admission of a medical report provided by the same medical practitioner who provided the medical report already admitted in the other proceedings.
- (3) The medical report allowed to be admitted under subclause (2) (b) can however be provided by another medical practitioner if the medical practitioner who provided the medical report already admitted in the other proceedings has ceased (permanently or temporarily) to practise in the specialty concerned.

Workers Compensation Regulation 2003

Clause 44

Restrictions on obtaining medical reports

Part 10

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- (4) Subclause (2) operates only as an exception to subclause (1) (b) and does not affect the requirement under subclause (1) (a) that only one medical report in a particular specialty may be admitted in proceedings on behalf of a party.
- (5) For the purposes of this clause, a medical report in more than one specialty is to be regarded as a medical report in each of those specialties.
- (6) In this clause:
- lump sum compensation proceedings* means proceedings on a claim for compensation under Division 4 of Part 3 of the 1987 Act (whether or not the proceedings are also proceedings on a claim for any other compensation).
- related claims* are claims or further claims for compensation in respect of the same injury, whether or not the claims are in respect of the same kind of compensation.

#### 44 Permissible updates of medical reports

- (1) A medical report (*the update report*) is a permissible update of another medical report (*the original report*) if the update report is provided for the purpose of updating the original report and is provided:
- more than 6 months after the original report was provided, or
  - because there has been a further material change in the worker's condition.
- (2) The update report must have been provided by the medical practitioner who provided the original report except when that medical practitioner has ceased (permanently or temporarily) to practise in the specialty concerned, in which case the update report can be provided by another medical practitioner.
- (3) The update report can be provided as an addendum to the original report and in such a case the original report together with that addendum constitute the permissible update.

#### 45 Restrictions on recovery of cost of medical reports

- (1) A party to proceedings on a claim is not entitled to be paid for or recover the cost of obtaining a medical report in connection with the claim unless the report:

Clause 46      Workers Compensation Regulation 2003  
 Part 10        Restrictions on obtaining medical reports

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- (a) has been admitted in those proceedings on behalf of the party, or
  - (b) is a claims management phase report (as provided by subclause (2)).
- (2) The following medical reports are *claims management phase reports*:
- (a) a medical certificate that accompanies a claim for weekly payments of compensation,
  - (b) a medical certificate that accompanies an initial notification of injury,
  - (c) any medical report provided by a medical practitioner as part of and in the course of treatment of the injured worker by the medical practitioner,
  - (d) any medical report provided by a medical practitioner in respect of an examination of the injured worker pursuant to a requirement of the employer in accordance with section 119 of the 1998 Act.
- (3) In this clause:
- (a) a reference to a claim includes an initial notification of injury (as defined in Part 3 of Chapter 7 of the 1998 Act), and
  - (b) a reference to proceedings on a claim includes proceedings in respect of the payment of provisional weekly payments of compensation under that Part.

**46 Medical treatment not affected**

This Part does not affect any entitlement of an injured worker to be paid for or recover the cost of obtaining medical treatment.

**47 Reports of medical panels and referees not affected**

- (1) This Part does not apply in respect of:
- (a) a medical report provided in respect of the examination of an injured worker by a medical panel or medical referee in connection with an existing claim, or
  - (b) a medical report provided for the purposes of section 121 of the 1998 Act in connection with an existing claim by an approved medical specialist under that section, or

Workers Compensation Regulation 2003

Clause 48

Restrictions on obtaining medical reports

Part 10

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(c) a medical report provided by an approved medical specialist under Part 7 of Chapter 7 (Medical assessment) of the 1998 Act in respect of the assessment of a new claim.

(2) In this clause:

*existing claim* and *new claim* have the same meaning as in Chapter 7 of the 1998 Act.

#### 48 Transitional

- (1) This Part applies only in respect of proceedings commenced on or after 23 February 2001. In its application in respect of those proceedings, this Part extends to medical reports obtained before that date (subject to subclause (2)).
- (2) Clause 45 (Restrictions on recovery of cost of medical reports) does not apply in respect of a medical report that was obtained before 23 February 2001, or that was obtained on or after that date as a result of an appointment made before that date.
- (3) Clauses 43 and 44 extend to proceedings on a new claim or new claim matter commenced before 28 February 2003, but:
  - (a) do not affect the use of a report in evidence in proceedings if the report was admitted in the proceedings before that date, and
  - (b) do not prevent the recovery of costs under Schedule 6 for more than one report in a specialty that was obtained before that date, or as a result of an appointment made before that date.
- (4) In this clause, *new claim* has the same meaning as in Chapter 7 of the 1998 Act.

Clause 49 Workers Compensation Regulation 2003

Part 11 Insurance policies

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## Part 11 Insurance policies

### 49 Provisions of policies of insurance

- (1) For the purposes of section 159 of the Act, a policy of insurance (except one to which subclause (2) applies):
  - (a) must contain the provisions specified in Form 3, and
  - (b) may contain any other provisions, but only if those provisions have been agreed on by the insurer and employer concerned and approved by the Authority.
- (2) A policy of insurance issued or renewed before 31 December 1995 must contain the provisions that were specified in Form 7 in the *Workers Compensation (General) Regulation 1987* immediately before its repeal, except that:
  - (a) the words “independently of this Act (being a liability under a law of New South Wales)” in the third paragraph of the Form are to be deleted and the words “independently of this Act (but not including a liability for compensation in the nature of workers compensation arising under any Act or other law of another State, a Territory or the Commonwealth or a liability arising under the law of another country)” are to be inserted instead, and
  - (b) such a policy may contain other provisions, but only if those provisions have been agreed on by the insurer and employer concerned and approved by the Authority.

### 50 Trainees under Australian Traineeship System

- (1) A policy of insurance deemed to be held by an employer under section 158 of the Act must contain the provisions specified in Form 3 in respect of domestic or similar workers, subject to the omission of any reference to the payment of premiums for the policy and the making of a proposal in relation to the policy.
- (2) Pursuant to section 158 (7) of the Act, the definition of *wages* in section 174 (9) of the Act is modified by excluding from that definition wages paid or payable to a trainee within the meaning of section 158 of the Act in respect of a period of employment as a trainee.

Workers Compensation Regulation 2003

Clause 51

Insurance policies

Part 11

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**51 Prescriptions for purposes of \$500 excess recoverable from employer**

- (1) For the purposes of section 160 of the Act, a small business employer, in relation to a policy of insurance, is an employer who is liable under the policy to pay premiums not exceeding \$3,000.
- (2) The amount of premiums payable is to be determined by reference to the amount of the basic tariff premium (within the meaning of the relevant insurance premiums order) at the time the insurer first demands a premium for the policy, assuming the period of insurance to which the premium relates to be 12 months (whether or not that period of insurance is in fact 12 months).
- (3) A weekly compensation claim made in respect of a worker who receives an injury in the circumstances referred to in section 11 (Recess claims) of the Act is prescribed for the purposes of section 160 (8) of the Act.

**52 Information to be provided for certificate of currency**

- (1) An employer who requests an insurer to provide a certificate of currency with respect to a policy of insurance must provide the insurer with a statement in a form approved by the Authority that contains a reasonable estimate of the wages that will be payable during the current period of insurance to workers employed by the employer.
- (2) An insurer may refuse to issue the requested certificate of currency until the employer complies with this clause.

**53 Liability for subcontractor premiums—exemption for farming operations**

- (1) A contract for the carrying out of work on a farm on which a farmer engages in a farming operation is exempt from the operation of section 175B of the 1987 Act if the farmer is the principal contractor and the work is an aspect of the work of the farming operation (and is not an aspect of the work of any other business undertaking of the farmer).
- (2) In this clause:  
*farmer* means a person who is engaged in a farming operation and includes a person who owns land cultivated under a share-farming agreement.

Clause 53      Workers Compensation Regulation 2003

Part 11        Insurance policies

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*farming operation* means a farming (including dairy farming, poultry farming, bee farming and aquaculture), pastoral, horticultural or grazing operation.

Workers Compensation Regulation 2003

Clause 54

Insurers' Contribution Fund

Part 12

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## **Part 12 Insurers' Contribution Fund**

### **54 Definition of "financial year"**

(1) In this Part:

*financial year* means a year commencing 1 July.

(2) For the purposes of this Part, a financial year:

- (a) includes the period after 4 pm on the day preceding the first day of the financial year, and
- (b) does not include the period after 4 pm on the last day of the financial year.

### **55 Definition of "premium income"**

For the purposes of the contribution payable by an insurer under section 220 of the Act for a financial year, premium income (as defined in section 3 (1) of the Act) does not include any part of such a premium which is attributable to:

- (a) the application of an excess surcharge factor (as defined in the insurance premiums order in force in respect of that financial year), or
- (b) a dust diseases contribution (as so defined), or
- (c) a premiums adjustment contribution (as so defined).

### **56 Prescribed contribution payable by insurer**

For the purposes of section 220 (2) of the Act, the prescribed percentage of the premium income of an insurer for a financial year specified in Column 1 of the Table to this clause is the percentage specified in Column 2 of that Table opposite that year.



Clause 57      Workers Compensation Regulation 2003  
 Part 12        Insurers' Contribution Fund

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**Table**

<b>Column 1</b>	<b>Column 2</b>
<b>Financial Year</b>	<b>Percentage of premium income</b>
1    Financial year commencing 1 July 1987	8.5 per cent
2    Financial year commencing 1 July 1988	10.5 per cent
3    Financial year commencing 1 July 1989	5 per cent
4    Financial year commencing 1 July 1990:	
(a)    in the case of a specialised insurer	5 per cent
(b)    in the case of an insurer other than a specialised insurer	NIL
5    Financial years commencing 1 July 1991 and 1 July 1992	7 per cent
6    Financial years commencing 1 July 1993 and 1 July 1994	4 per cent
7    Financial year commencing 1 July 1995 and any subsequent financial year	NIL

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**57    Time for payment of insurer's contribution**

The prescribed contribution payable by an insurer under section 220 of the Act in relation to a financial year is to be paid:

- (a) except as provided by paragraph (b)—in respect of premium income received during any quarter of a financial year (whether during or after the financial year in relation to which the contribution is payable), within 15 days after the end of that quarter, or
- (b) at such other times as may be determined by the Authority and notified to insurers.

Workers Compensation Regulation 2003

Clause 58

WorkCover Authority Fund

Part 13

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## Part 13 WorkCover Authority Fund

### 58 Definitions

In this Part:

*basic tariff premium*, *excess surcharge factor*, *experience adjustment factor* and *dust diseases contribution* have the same meanings respectively as they have in the insurance premiums order in force in respect of the relevant financial year.

### 59 Definition of “premium income” for purposes of insurers’ contributions

For the purposes of the contribution payable by an insurer under section 39 of the 1998 Act for a financial year, premium income (as defined in section 4 (1) of the 1998 Act) does not include any part of such a premium that is attributable to the application of an excess surcharge factor or a dust diseases contribution in the calculation of the premium.

### 60 Definition of “deemed premium income” for purposes of self-insurers’ contributions

- (1) The prescribed circumstances referred to in the definition of *deemed premium income* in section 37 of the 1998 Act are the circumstances in which the amount payable as premiums referred to in that definition is calculated in the manner fixed by the insurance premiums order in force in respect of the relevant financial year.
- (2) The amount defined as deemed premium income in section 37 of the 1998 Act in relation to the contribution payable by a self-insurer for any period during a financial year does not include:
  - (a) any amount attributable to the application of any factor other than the basic tariff premium that would have been payable as referred to in that definition in respect of that period, and
  - (b) any amount attributable to any GST that would have been payable in relation to the premiums on policies of insurance that the self-insurer would otherwise have been required to obtain under the Act had the self-insurer not been a self-insurer.
- (3) Subclause (2) does not apply to any financial year to which clause 61 applies.

Clause 61      Workers Compensation Regulation 2003

Part 13        WorkCover Authority Fund

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**61    Alternative contribution by self-insurers**

- (1) This clause applies to any financial year determined by the Authority and notified in the Gazette before the commencement of that financial year as a financial year to which this clause applies.
- (2) When this clause applies to a financial year, the amount defined as deemed premium income in section 37 of the 1998 Act in relation to the contribution payable by a self-insurer for any period during that financial year:
  - (a) does not include any amount attributable to the application of an excess surcharge factor or a dust diseases contribution, and
  - (b) includes any amount attributable to the application of the experience adjustment factor, but only if the self-insurer has been a self-insurer (or insured with an insurer) for at least 2 years immediately before the commencement of that period.

Workers Compensation Regulation 2003

Clause 62

Deemed employment

Part 14

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## **Part 14 Deemed employment**

### **62 Ministers of religion**

For the purposes of clause 17 of Schedule 1 to the 1998 Act, it is declared that persons within a class specified in Column 2 of Schedule 4 to this Regulation are ministers of religion of the religious body or organisation specified opposite the class in Column 1 of Schedule 4 and the employer of those persons is the person specified opposite the class in Column 3 of Schedule 4.

Clause 63	Workers Compensation Regulation 2003
Part 15	Premiums Adjustment Fund

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## Part 15 Premiums Adjustment Fund

### 63 Definitions of “financial year” and “Fund”

- (1) In this Part:

*financial year* means a year commencing 1 July and includes the period after 4 pm on the day preceding the first day of the financial year but does not include the period after 4 pm on the last day of the financial year.

*Fund* means the Premiums Adjustment Fund established under section 203 of the Act.

- (2) Expressions used in this Part have the same meanings as in Division 4 of Part 7 of the Act.

### 64 Definition of “premium income”

For the purposes of the contributions payable by an insurer into the Fund for a financial year, premium income (as defined in section 4 (1) of the 1998 Act) does not include any part of such a premium that is attributable to:

- (a) the application of an excess surcharge factor (as defined in the insurance premiums order in force in respect of that financial year), or
- (b) a dust diseases contribution (as so defined), or
- (c) a premiums adjustment contribution (as so defined).

### 65 Amount of contribution payable by insurer into Fund

- (1) For the purposes of section 208 (2) of the Act, the percentage of the premium income of a licensed insurer for a financial year specified in Column 1 of the Table to this subclause (being the contribution payable into the Fund) is the percentage specified in Column 2 of that Table opposite that year.

Workers Compensation Regulation 2003

Clause 66

Premiums Adjustment Fund

Part 15

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**Table**

<b>Column 1</b>	<b>Column 2</b>
<b>Financial year</b>	<b>Percentage of premium income</b>
Financial year commencing 1 July 1989	NIL
Financial year commencing 1 July 1990 and any subsequent financial year	NIL

- (2) If a percentage is prescribed by this clause during a financial year, the new percentage does not apply to premium income received in respect of policies of insurance issued or renewed to take effect before the new percentage is so prescribed.

**66 Time for payment of contribution by insurer into Fund**

The contribution payable by an insurer into the Fund under section 208 of the Act must, in respect of premium income received in any calendar month, be paid within 15 working days after the end of that month.

Clause 67 Workers Compensation Regulation 2003

Part 16 Insurers' Guarantee Fund

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## **Part 16 Insurers' Guarantee Fund**

### **67 Definitions**

Expressions used in this Part have the same meanings as in Division 7 of Part 7 of the Act.

### **68 Financial years for contributions to Insurers' Guarantee Fund**

For the purposes of section 228 (1) of the Act, the financial year commencing 1 July 1989 and any subsequent financial year are prescribed.

### **69 Time etc for payment of insurer's contribution**

The contribution payable by an insurer under section 228 of the Act in respect of any financial year is payable:

- (a) except as provided by paragraph (b), in quarterly instalments (each being equal to one-fourth of the contribution payable) due on the last day of each quarter of the financial year, or
- (b) in such other instalments and within such other time as may be determined by the Authority and specified in a notice to the insurer.

### **70 Further contributions payable by insurers**

- (1) If the Authority has determined an amount under section 228 (1) of the Act in respect of a financial year, it may subsequently determine under that provision a further amount to be contributed to the Guarantee Fund in respect of that year, being an amount that it considers is necessary:
  - (a) to satisfy, during that financial year, claims, judgments and awards arising from or relating to policies of insurance issued by insolvent insurers, and
  - (b) to provide for the payment of any other amounts to be paid under Division 7 of Part 7 of the Act from the Guarantee Fund during that financial year.
- (2) Section 228 of the Act applies to and in respect of the payment of any such further contribution.

Workers Compensation Regulation 2003

Clause 71

Insurers' Guarantee Fund

Part 16

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**71 Rebates for insurers who contributed to an advance from the Premiums Adjustment Fund**

- (1) The Authority is to determine the amount under section 228 (1) of the Act on the basis that money advanced to the Guarantee Fund from the Premiums Adjustment Fund under section 224D of the Act is to be repaid during the financial year in which the money was advanced to the Guarantee Fund.
- (2) However, if the Authority:
  - (a) under section 224D (4) of the Act dispenses with the repayment of money so advanced, or
  - (b) determines that it is not to be repaid during that financial year, it may reduce the contributions of eligible insurers to the Guarantee Fund by such proportion as it considers appropriate.
- (3) In this clause, *eligible insurer*, in relation to an advance made to the Guarantee Fund, means an insurer who contributed money to the Premiums Adjustment Fund that the Authority determines was used to make the advance.

**72 Determination of contributions and further contributions**

- (1) For the purpose of determining the amount of any contribution (or further contribution) to the Guarantee Fund, the Authority is entitled to rely on an estimate determined by it of the amount required to be contributed by insurers to the WorkCover Authority Fund.
- (2) If the Authority determines that any change in that estimate is appropriate, it is to re-determine the contributions (or further contributions) of insurers to the Guarantee Fund, and the relevant amounts become payable by, or repayable to, insurers.



Clause 73 Workers Compensation Regulation 2003

Part 17 Penalty notice offences

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## Part 17 Penalty notice offences

### 73 Penalty notice offences

For the purposes of section 246 of the 1998 Act:

- (a) each of the following offences is declared to be a penalty notice offence:
  - (i) an offence created by a provision of the 1987 Act specified in Column 1 of Part 1 of Schedule 5,
  - (ii) an offence created by a provision of the 1998 Act specified in Column 1 of Part 2 of Schedule 5,
  - (iii) an offence created by a provision of this Regulation specified in Column 1 of Part 3 of Schedule 5, and
- (b) the prescribed penalty for such an offence is the amount specified opposite it in Column 2 of Schedule 5, and
- (c) the following persons are declared to be authorised officers:
  - (i) each officer of the Authority authorised by the Authority for the purposes of section 246 of the 1998 Act,
  - (ii) each inspector appointed under the *Occupational Health and Safety Act 2000*,
  - (iii) each officer of the Authority authorised by the Authority for the purposes of section 238 of the 1998 Act.

Workers Compensation Regulation 2003

Clause 74

Advertising of workers compensation services

Part 18

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## Part 18 Advertising of workers compensation services

### Note.

Expressions used in this Part have the same meaning as in Division 8 of Part 2 of Chapter 4 of the 1998 Act. An **agent** is a person who acts, or holds himself or herself out as willing to act, as agent for a person for fee or reward in connection with a claim, but does not include a legal practitioner. **Lawyer** means a legal practitioner and, as provided below, includes solicitor corporations and incorporated legal practices.

Each of the following activities is considered to constitute acting as agent for a person in relation to a claim:

- (a) advising the person with respect to the making of a claim,
- (b) assisting the person to complete or prepare, or completing or preparing on behalf of the person, any form, correspondence or other document concerning a claim,
- (c) making arrangements for any test or medical examination to determine the person's entitlement to compensation,
- (d) arranging referral of the person to a lawyer for the performance of legal work in connection with a claim.

A reference to a claim includes a reference to a prospective claim (whether or not the claim is ever actually made).

## 74 Definitions

In this Part:

**advertisement** means any communication of information (whether by means of writing, or any still or moving visual image or message or audible message, or any combination of them) that advertises or otherwise promotes the availability or use of a lawyer to provide legal services or an agent to provide agent services, whether or not that is its purpose or only purpose and whether or not that is its only effect.

**lawyer** means a legal practitioner and includes a firm of legal practitioners, solicitor corporation and incorporated legal practice.

**publish** means:

- (a) publish in a newspaper, magazine, journal, periodical, directory or other printed publication, or
- (b) disseminate by means of the exhibition or broadcast of a photograph, slide, film, video recording, audio recording or other recording of images or sound, either as a public exhibition or broadcast or as an exhibition or broadcast to persons attending a place for the purpose of receiving professional advice, treatment or assistance, or

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- (c) broadcast by radio or television, or
  - (d) display on an Internet website or otherwise publicly disseminate by means of the Internet, or
  - (e) publicly exhibit in, on, over or under any building, vehicle or place or in the air in view of persons in or on any street or public place, or
  - (f) display on any document (including a business card or letterhead) gratuitously sent or gratuitously delivered to any person or thrown or left on any premises or on any vehicle, or
  - (g) display on any document provided to a person as a receipt or record in respect of a transaction or bet.

*work injury* has the same meaning as in the 1998 Act.

#### 75 Restriction on advertising work injury services

A lawyer or agent must not publish or cause or permit to be published an advertisement that includes any reference to or depiction of any of the following:

- (a) work injury,
- (b) any circumstance in which work injury might occur, or any activity, event or circumstance that suggests or could suggest the possibility of work injury, or any connection to or association with work injury or a cause of work injury,
- (c) a *work injury service* (that is, any service provided by a lawyer or agent that relates to recovery of money, or any entitlement to recover money, in respect of work injury).

Maximum penalty: 200 penalty units.

**Note.** A contravention of this clause can also be a contravention of Part 14 of the *Legal Profession Regulation 2002*. A contravention of that Part by a lawyer constitutes professional misconduct.

#### 76 Exception for advertising speciality

- (1) This Part does not prevent the publication of an advertisement that advertises a lawyer or agent as being a specialist or offering specialist services, but only if the advertisement is published by means of:
  - (a) an entry in a practitioner directory that states only the name and contact details of the lawyer or agent and any area of practice or speciality of the lawyer or agent, or

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- (b) a sign displayed at a place of business of the lawyer or agent that states only the name and contact details of the lawyer or agent and any specialty of the lawyer or agent, or
  - (c) an advertisement on an Internet website operated by the lawyer or agent the publication of which would be prevented under this Part solely because it refers to work injury or work injury services in a statement of specialty of the lawyer or agent.
- (2) In this clause:

***practitioner directory*** means a printed publication, directory or database that is published by a person in the ordinary course of the person's business (and not by the lawyer or agent concerned or a partner, employee or member of the practice of the lawyer or agent).

***specialty*** of a lawyer is limited to a specialty in which the lawyer is accredited under an accreditation scheme conducted or approved by the Bar Council or Law Society.

## 77 Other exceptions

This Part does not prevent the publication of any advertisement:

- (a) to any person who is already a client of the lawyer or agent (and to no other person), or
- (b) to any person on the premises of a place of business of the lawyer or agent, but only if the advertisement cannot be seen from outside those premises, or
- (c) in accordance with any order by a court, or
- (d) pursuant to a disclosure made by a lawyer under Division 2 of Part 11 of the *Legal Profession Act 1987*, or
- (e) to the extent that it relates only to the provision of legal aid or other assistance by an agency of the Crown and is published by or on behalf of that agency, or
- (f) to the extent that it relates only to legal education and is published to members of the legal profession by a person in the ordinary course of the person's business or functions as a provider of legal education, or
- (g) by an industrial organisation (within the meaning of the *Industrial Relations Act 1996*) if the advertisement (or so much of it as would otherwise contravene clause 75) relates only to the provision of advice or services by that organisation and states only the name and contact details of the industrial

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organisation along with a description of the services that it provides, or

- (h) that is required to be published by or under a written law of the State.

### **78 Responsibility for employees and others**

For the purposes of this Part, evidence that a person who is an employee of a lawyer or agent, or a person otherwise exercising functions in the lawyer's or agent's practice, published or caused to be published an advertisement is evidence (in the absence of evidence to the contrary) that the lawyer or agent caused or permitted the publication of the advertisement.

### **79 Double jeopardy**

A person who has been convicted of an offence under Part 14 of the *Legal Profession Regulation 2002* is not, if that offence would constitute an offence under this Part in respect of the publication of an advertisement, liable to be convicted of an offence under this Part in respect of that publication.

### **80 Transitional—finalised publications**

This Part does not prevent the publication of an advertisement in a printed publication the contents of which were finalised (by the publisher of that publication) before the date of publication in the Gazette of the *Workers Compensation (General) Amendment (Work Injury Advertising) Regulation 2003*.

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## Part 19 Costs

### Division 1 Preliminary

#### 81 Definition

In this Part, and in Schedules 6 and 7:

*insurer* includes an employer.

**Note.** Section 332 (2) of the 1998 Act provides that expressions in Division 1 of Part 8 (Costs) of Chapter 7 of that Act (and consequently expressions used in this Part) have the same meaning as in Part 11 (Legal fees and other costs) of the *Legal Profession Act 1987*, except where otherwise provided. Under the *Legal Profession Act 1987*, **costs** includes barristers' and solicitors' fees as well as other items that may be charged by barristers and solicitors (such as expenses and disbursements).

#### 82 Costs not regulated by this Part

Costs referred to in this Part do not include any of the following:

- (a) costs for legal services provided for an appeal under section 353 (Appeal against decision of Commission constituted by Presidential member) of the 1998 Act,
- (b) fees for investigators' reports or for other material produced or obtained by investigators (such as witness statements or other evidence),
- (c) fees for accident reconstruction reports,
- (d) fees for accountants' reports,
- (e) fees for reports from health service providers,
- (f) fees for other professional reports relating to treatment or rehabilitation (for example, architects' reports concerning house modifications),
- (g) fees for interpreter or translation services,
- (h) fees imposed by a court or the Commission,
- (i) travel costs and expenses of the claimant in the matter for attendance at medical examinations, a court or the Commission,
- (j) witness expenses at a court or the Commission.

**Note.** Under section 339 of the 1998 Act, the WorkCover Authority may fix maximum fees for the provision of reports, or appearance before the Commission, by health service providers.

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## **Division 2      Costs recoverable in compensation matters**

### **Subdivision 1      Preliminary**

#### **83      Application of Division**

This Division is made under section 337 of the 1998 Act and applies to the following costs payable on a party and party basis, on a practitioner or agent and client basis or on any other basis:

- (a) costs for legal services or agent services provided in or in relation to a claim for compensation, and
- (b) costs for matters that are not legal or agent services but are related to a claim for compensation.

**Note.** Section 337 (3) and (4) of the 1998 Act provide that a legal practitioner or an agent is not entitled to be paid or recover for a legal service or agent service or other matter an amount that exceeds any maximum costs fixed for the service or matter by regulations under section 337.

### **Subdivision 2      Maximum costs recoverable by legal practitioners and agents in compensation matters**

#### **84      Fixing of maximum costs recoverable by legal practitioners and agents**

- (1) The costs that are recoverable, and the maximum costs that are recoverable, for:
  - (a) legal services or agent services provided in or in relation to a claim for compensation, and
  - (b) matters that are not legal or agent services but are related to a claim for compensation,

are the costs set out in Schedule 6, except as otherwise provided by this Part.

**Note.** The effect of this clause is that a legal practitioner or agent cannot recover any costs in relation to a claim for compensation unless those costs are set out in Schedule 6, except as otherwise provided in this Part.

- (2) If there is a change in the legal practitioner or agent retained by a party in or in relation to a claim made or to be made for compensation, the relevant costs are to be apportioned between the legal practitioners or agents concerned.
- (3) If there is a dispute as to such an apportionment, either legal practitioner or agent concerned (or the client) may refer the dispute to the Commission for determination.

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- (4) A legal practitioner or agent has the same right of appeal against a determination made under subclause (3) as the legal practitioner or agent would have under clause 119 if the determination were a determination made by the Registrar in relation to a bill of costs.

**Note.** Division 2 of Part 11 of the *Legal Profession Act 1987* requires barristers and solicitors, before providing any legal services to a client, to provide the client with a written disclosure of the basis of the costs (or an estimate of the likely costs) of legal services concerned.

### **85 Special provisions for costs where worker elects to transfer claim to Commission**

If a claim becomes a new claim as a result of an election by the worker under clause 225, the following provisions apply in respect of the recovery of costs in connection with the claim:

- (a) the recovery of costs in respect of legal services provided up to the time when the claimant makes the election is to be in accordance with provisions made by or under the Workers Compensation Acts or the *Legal Profession Act 1987* (as applicable), and
- (b) the recovery of costs in respect of legal services provided on and from the election is to be in accordance with this Part.

## **Division 3 Costs recoverable in work injury damages matters**

### **Subdivision 1 Maximum costs recoverable by legal practitioners in work injury damages matters**

#### **86 Application of Division**

This Division is made under section 337 of the 1998 Act and applies to the following costs payable on a party and party basis, on a solicitor and client basis or on any other basis:

- (a) costs for legal services or agent services provided in or in relation to a claim for work injury damages, and
- (b) costs for matters that are not legal or agent services but are related to a claim for work injury damages.

**Note.** Section 337 (3) of the 1998 Act provides that a legal practitioner is not entitled to be paid or recover for a legal service or other matter an amount that exceeds any maximum costs fixed for the service or matter by regulations under section 337.



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### 87 Fixing of maximum costs recoverable by legal practitioners

- (1) The maximum costs for:
  - (a) legal services provided in or in relation to a claim for work injury damages, and
  - (b) matters that are not legal services but are related to a claim for work injury damages,

are the costs set out in Schedule 7, except as otherwise provided by this Part.

**Note.** The effect of this clause is that a legal practitioner or agent cannot recover any costs in relation to a claim for work injury damages unless those costs are set out in Schedule 7, except as otherwise provided in this Part.

- (2) If there is a change in the legal practitioner retained by a party in or in relation to a claim for work injury damages, the relevant costs are to be apportioned between the legal practitioners concerned.
- (3) If there is a dispute as to such an apportionment, either legal practitioner concerned (or the client concerned) may refer the dispute to the Commission for determination.
- (4) A legal practitioner has the same right of appeal against a determination made under subclause (3) as the practitioner would have under clause 119 if the determination were a determination made by the Registrar in relation to a bill of costs.

**Note.** Division 2 of Part 11 of the *Legal Profession Act 1987* requires barristers and solicitors, before providing any legal services to a client, to provide the client with a written disclosure of the basis of the costs (or an estimate of the likely costs) of legal services concerned.

### 88 Contracting out—practitioner/client costs

- (1) This clause applies in respect of costs in or in relation to a claim for work injury damages if a legal practitioner:
  - (a) makes a disclosure under Division 2 of Part 11 of the *Legal Profession Act 1987* (sections 180 and 181 excepted) to a party to the matter with respect to the costs, and
  - (b) enters into a costs agreement (other than a conditional costs agreement, within the meaning of that Part, that provides for the payment of a premium of more than 10% of the costs otherwise payable under the agreement on the successful outcome of the matter concerned) with that party as to those costs in accordance with Division 3 of that Part, and
  - (c) before entering into the costs agreement, advises the party (in a separate written document) that, even if costs are awarded

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in favour of the party, the party will be liable to pay such amount of the costs provided for in the costs agreement as exceeds the amount that would be payable under the 1998 Act in the absence of a costs agreement.

- (2) Schedule 7 does not apply to the costs concerned to the extent that they are payable on a practitioner and client basis.

## **Subdivision 2      Restriction on awarding of costs**

### **Note.**

This Subdivision is made under section 346 of the 1998 Act, which provides that a party is not entitled to an award of costs to which that section applies (being costs payable by a party in or in relation to a claim for work injury damages, including court proceedings for work injury damages) except as prescribed by the regulations or by the rules of the court concerned.

In the event of any inconsistency between the provisions of this Regulation and rules of court, the provisions of this Regulation prevail to the extent of the inconsistency: section 346 (4).

### **89      Costs where claimant no less successful than claimant's final offer**

If a claimant obtains an order or judgment on a claim that is no less favourable to the claimant than the terms of the claimant's final offer of settlement in mediation under the 1998 Act as certified by the mediator under section 318B of the 1998 Act, the court is to order the insurer to pay the claimant's costs on the claim assessed on a party and party basis.

### **90      Costs where claimant less successful than insurer's final offer or insurer found not liable**

- (1) If a claimant obtains an order or judgment on a claim that is less favourable to the claimant than the terms of the insurer's final offer of settlement in mediation under the 1998 Act as certified by the mediator under section 318B of the 1998 Act, the court is to order the claimant to pay the insurer's costs on the claim assessed on a party and party basis.
- (2) If a claimant does not obtain an order or judgment on a claim (that is, if the court finds the insurer has no liability for the claim), the court is to order the claimant to pay the insurer's costs on the claim assessed on a party and party basis.

### **91      Costs in other cases**

Except as provided by this Subdivision, the parties to court proceedings for work injury damages are to bear their own costs.

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**92 Deemed offer where insurer denies liability and no mediation**

If:

- (a) the insurer wholly denies liability, and
- (b) the matter is not referred to mediation, and
- (c) the claimant obtains an order or judgment on the claim,

costs are to be awarded in accordance with this Subdivision as if:

- (d) the insurer had made a final offer of settlement at mediation of \$0, and
- (e) the claimant had made a final offer of settlement at mediation of the amount of damages specified in the pre-filing statement served under section 315 of the 1998 Act.

**93 Subdivision does not apply to ancillary proceedings**

This Subdivision does not apply to costs payable in or in relation to proceedings that are ancillary to proceedings on a claim for work injury damages, and a court is to award costs in such ancillary proceedings in accordance with the rules of the court.

**94 Multiple parties**

Where 2 or more defendants are alleged to be jointly or jointly and severally liable to the claimant and rights of contribution or indemnity appear to exist between the defendants, this Subdivision does not apply to an offer of settlement unless:

- (a) in the case of an offer made by the claimant—the offer is made to all the defendants and is an offer to settle the claim against all of them, and
- (b) in the case of an offer made to the claimant:
  - (i) the offer is to settle the claim against all the defendants concerned, and
  - (ii) where the offer is made by 2 or more defendants—by the terms of the offer the defendants who made the offer are jointly or jointly and severally liable to the claimant for the whole amount of the offer.

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## Division 4 Assessment of costs

### Subdivision 1 Preliminary

#### 95 Definitions

In this Division:

*agent bill of costs* means a bill of costs for providing agent services within the meaning of section 250 of the 1998 Act.

*bill of costs* means a legal bill of costs or an agent bill of costs.

*client* of a legal practitioner or agent means a person to whom the practitioner or agent has provided legal services or agent services in respect of any workers compensation matter or work injury damages matter.

*legal bill of costs* means a bill of costs for providing legal services within the meaning of Part 11 of the *Legal Profession Act 1987*.

#### 96 Applications by clients

- (1) A client who is given a bill of costs may apply to the Registrar for an assessment of the whole of, or any part of, those costs.
- (2) An application relating to a bill of costs may be made even if the costs have been wholly or partly paid.
- (3) If any costs have been paid without a bill of costs, the client may nevertheless apply for an assessment. For that purpose the request for payment by the legal practitioner or agent is taken to be the bill of costs.

**Note.** Section 343 (1) of the 1998 Act provides that the legal representative or agent of a person in respect of a claim for compensation made or to be made by the person is not entitled to recover from the person any costs in respect of the claim unless those costs are awarded by the Commission.

#### 97 Applications by instructing practitioners or agents for assessment of costs in bills

- (1) A legal practitioner or agent who retains another legal practitioner or agent to act on behalf of a client may apply to the Registrar for an assessment of the whole of, or any part of, a bill of costs given in accordance with this Part by the other legal practitioner or agent in relation to the matter.
- (2) An application may not be made if there is a costs agreement between the client and the other legal practitioner or agent.

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- (3) An application is to be made within 30 days after the bill of costs is given and may be made even if the costs have been wholly or partly paid.

**98 Application for assessment of costs by legal practitioner or agent giving bill**

- (1) A legal practitioner or agent who has given a bill of costs may apply to the Registrar for an assessment of the whole of, or any part of, those costs.
- (2) An application may not be made unless:
- (a) the bill of costs includes the following particulars:
    - (i) a description of the legal services or agent services provided,
    - (ii) an identification of each activity, event or stage specified in Schedule 6 or 7, by reference to the item number of the activity, event or stage, that was carried out,
    - (iii) the amount sought, and
  - (b) at least 30 days have passed since the bill of costs was given or an application has been made under this Division by another person in respect of the bill of costs.

**99 Application for assessment of party/party costs**

- (1) A person who has paid or is liable to pay, or who is entitled to receive or who has received, costs as a result of an order for the payment of an unspecified amount of costs made by a court or the Commission may apply to the Registrar for an assessment of the whole of, or any part of, those costs.
- (2) A court or the Commission may direct the Registrar to assess costs payable as a result of an order made by the court or the Commission. Any such direction is taken to be an application for assessment duly made under this Division.

**100 How is an application to be made?**

- (1) An application for assessment is to be made in the form approved by the Commission and is, subject to subclause (4), to be accompanied by the fee determined by the Commission from time to time.
- (2) The application must authorise the Registrar to have access to, and to inspect, all documents of the applicant that are held by the

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applicant, or by any legal practitioner or agent concerned, in respect of the matter to which the application relates.

- (3) The Registrar may waive or postpone payment of the fee either wholly or in part if satisfied that the applicant is in such circumstances that payment of the fee would result in serious hardship to the applicant or his or her dependants.
- (4) The Registrar may refund the fee paid under this clause either wholly or in part if satisfied that it is appropriate because the application is not proceeded with.

#### **101 Persons to be notified of application**

The Registrar is to cause a copy of an application for assessment to be given to any legal practitioner, agent or client concerned or any other person whom the Registrar thinks it appropriate to notify.

#### **102 Registrar may require documents or further particulars**

- (1) The Registrar may, by notice in writing, require a person (including the applicant, the legal practitioner or agent concerned, or any other legal practitioner, agent or client) to produce any relevant documents of or held by the person in respect of the matter.
- (2) The Registrar may, by any such notice, require further particulars to be furnished by the applicant, legal practitioner, agent, client or other person as to instructions given to, or work done by, the legal practitioner or agent or any other legal practitioner or agent in respect of the matter and as to the basis on which costs were ascertained.
- (3) The Registrar may require any such particulars to be verified by statutory declaration.
- (4) A notice under this clause is to specify the period within which the notice is to be complied with.
- (5) If a person fails, without reasonable excuse, to comply with a notice under this clause, the Registrar may decline to deal with the application or may continue to deal with the application on the basis of the information provided.
- (6) A legal practitioner who fails, without reasonable excuse, to comply with a notice under this clause is guilty of professional misconduct.

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### 103 Consideration of applications

- (1) The Registrar must not determine an application for assessment unless the Registrar:
  - (a) has given both the applicant and any legal practitioner, agent, client or other person concerned a reasonable opportunity to make written submissions to the Registrar in relation to the application, and
  - (b) has given due consideration to any submissions so made.
- (2) In considering an application, the Registrar is not bound by rules of evidence and may inform himself or herself on any matter in such manner as he or she thinks fit.
- (3) In the case of a legal practitioner, for the purposes of determining whether an application for assessment may be or is required to be made, or for the purpose of exercising any other function, the Registrar may determine any of the following:
  - (a) whether or not disclosure has been made in accordance with Division 2 of Part 11 of the *Legal Profession Act 1987* and whether or not it was reasonably practicable to disclose any matter required to be disclosed under that Division,
  - (b) whether a costs agreement exists, and its terms.

### 104 Assessment to give effect to maximum costs, 1998 Act and orders and rules of the Commission or court

An assessment of costs is to be made in accordance with, and so as to give effect to, orders of the Commission or a court, the Rules of the Commission or rules of court, Part 8 of Chapter 7 of the 1998 Act, this Part, and Schedules 6 and 7.

### Subdivision 2 Assessment of bills of costs between practitioner or agent and client

#### 105 Assessment of bills generally

- (1) When considering an application relating to a bill of costs, the Registrar must consider:
  - (a) whether or not it was reasonable to carry out the work to which the costs relate, and
  - (b) whether or not the work was carried out in a reasonable manner, and

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- (c) the fairness and reasonableness of the amount of the costs in relation to that work.
- (2) The Registrar is to determine the application by confirming the bill of costs or, if the Registrar is satisfied that the disputed costs are unfair or unreasonable, by substituting for the amount of the costs an amount that, in his or her opinion, is a fair and reasonable amount.
- (3) Any amount substituted for the amount of the costs may include an allowance for any fee paid or payable for the application by the applicant.
- (4) If a legal practitioner is liable under section 182 (3) of the *Legal Profession Act 1987* to pay the costs of the costs assessment (including the costs of the Registrar), the Registrar is to determine the amount of those costs. The costs incurred by the client are to be deducted from the amount payable under the bill of costs and the costs of the Registrar are to be paid to the Commission.
- (5) The Registrar may not determine that any part of a bill of costs that is not the subject of an application is unfair or unreasonable.

**Note.** Clause 104 requires an assessment of costs to give effect to the maximum costs set out in Schedules 6 and 7, as well as to other matters.

Section 337 (3) and (4) of the 1998 Act provide that a legal practitioner or an agent is not entitled to be paid or recover for a legal service or agent service or other matter an amount that exceeds any maximum costs fixed for the service or matter by regulations under section 337.

Section 343 (1) of the 1998 Act provides that the legal representative or agent of a person in respect of a claim for compensation made or to be made by the person is not entitled to recover from the person any costs in respect of the claim unless those costs are awarded by the Commission.

#### 106 Additional matters to be considered in assessing bills of costs

In assessing what is a fair and reasonable amount of costs, the Registrar may have regard to any or all of the following matters:

- (a) whether the legal practitioner or agent complied with any relevant regulation, barristers rule, solicitors rule or joint rule,
- (b) in the case of a legal practitioner—whether the legal practitioner disclosed the basis of the costs or an estimate of the costs under Division 2 of Part 11 of the *Legal Profession Act 1987* and any disclosures made,
- (c) any relevant costs agreement (subject to clause 107),
- (d) the skill, labour and responsibility displayed on the part of the legal practitioner or agent responsible for the matter,



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- (e) the instructions and whether the work done was within the scope of the instructions,
- (f) the complexity, novelty or difficulty of the matter,
- (g) the quality of the work done,
- (h) the place where and circumstances in which the legal services were provided,
- (i) the time within which the work was required to be done.

#### **107 Costs agreements not subject to assessment**

- (1) The Registrar is to decline to assess a bill of costs if:
  - (a) the disputed costs are subject to a costs agreement that complies with Division 3 of Part 11 of the *Legal Profession Act 1987*, and
  - (b) the costs agreement specifies the amount of the costs or the dispute relates only to the rate specified in the agreement for calculating the costs.
- (2) If the dispute relates to any other matter, costs are to be assessed on the basis of that specified rate despite clause 105. The Registrar is bound by a provision for the payment of a premium that is not determined to be unjust under clause 108.
- (3) This clause does not apply to any provision of a costs agreement that the Registrar determines to be unjust under clause 108.
- (4) This clause does not apply to a costs agreement applicable to the costs of legal services if a legal practitioner failed to make a disclosure in accordance with Division 2 of Part 11 of the *Legal Profession Act 1987* of the matters required to be disclosed by section 175 or 176 of that Act in relation to those costs.

#### **108 Unjust costs agreements**

- (1) The Registrar may determine whether a term of a particular costs agreement entered into by a legal practitioner and a client is unjust in the circumstances relating to it at the time it was made.
- (2) For that purpose, the Registrar is to have regard to the public interest and to all the circumstances of the case and may have regard to the matters specified in section 208D (2) (a)–(j) of the *Legal Profession Act 1987*.
- (3) For the purposes of this clause, a person is taken to have represented another person if the person represented the other person, or assisted

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the other person to a significant degree, in the negotiations process up to, or at, the time the agreement was made.

- (4) In determining whether a provision of the agreement is unjust, the Registrar is not to have regard to any injustice arising from circumstances that were not reasonably foreseeable when the agreement was made.

### **109 Interest on amount outstanding**

- (1) The Registrar may, in an assessment, determine that interest is not payable on the amount of costs assessed or on any part of that amount and determine the rate of interest (not exceeding the rate referred to in section 190 (4) of the *Legal Profession Act 1987*).
- (2) This clause applies despite any costs agreement or section 190 of the *Legal Profession Act 1987*.
- (3) This clause does not authorise the giving of interest on interest.
- (4) This clause does not apply to or in respect of the assessment of costs referred to in Subdivision 3 (party/party costs).

## **Subdivision 3 Assessment of party/party costs**

### **110 Assessment of costs—costs ordered by court or Commission**

- (1) When dealing with an application relating to costs payable as a result of an order made by a court or the Commission, the Registrar must consider:
- (a) whether or not it was reasonable to carry out the work to which the costs relate, and
- (b) what is a fair and reasonable amount of costs for the work concerned.
- (2) The Registrar is to determine the costs payable as a result of the order by assessing the amount of the costs that, in his or her opinion, is a fair and reasonable amount.
- (3) If a court or the Commission has ordered that costs are to be assessed on an indemnity basis, the Registrar must assess the costs on that basis, having regard to any relevant rules of the court or Commission.
- (4) The costs assessed are to include the costs of the assessment (including the costs of the parties to the assessment, and the

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Registrar). The Registrar may determine by whom and to what extent the costs of the assessment are to be paid.

- (5) The costs of the Registrar are to be paid to the Commission.

**Note.** Subdivision 2 of Division 3 of this Part limits the circumstances in which costs may be awarded on a party/party basis in relation to a claim for work injury damages.

Clause 104 requires an assessment of costs to give effect to the maximum costs set out in Schedules 6 and 7, as well as to other matters.

**111 Additional matters to be considered by Registrar in assessing costs ordered by court or Commission**

In assessing what is a fair and reasonable amount of costs, the Registrar may have regard to any or all of the following matters:

- (a) the skill, labour and responsibility displayed on the part of the legal practitioner or agent responsible for the matter,
- (b) the complexity, novelty or difficulty of the matter,
- (c) the quality of the work done and whether the level of expertise was appropriate to the nature of the work done,
- (d) the place where and circumstances in which the legal services were provided,
- (e) the time within which the work was required to be done,
- (f) the outcome of the matter.

**112 Effect of costs agreements in assessments of party/party costs**

- (1) The Registrar may obtain a copy of, and may have regard to, a costs agreement.
- (2) However, the Registrar must not apply the terms of a costs agreement for the purposes of determining appropriate fair and reasonable costs when assessing costs payable as a result of an order by a court or the Commission.

**113 Court or Commission may specify amount etc**

This Division does not limit any power of a court or the Commission to determine in any particular case the amount of costs payable or that the amount of the costs is to be determined on an indemnity basis.

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## **Subdivision 4      Enforcement of assessment**

### **114    Certificate as to determination**

- (1) On making a determination, the Registrar is to issue to each party a certificate that sets out the determination.
- (2) The Registrar may issue more than one certificate in relation to an application for costs assessment. Such certificates may be issued at the same time or at different stages of the assessment process.
- (3) In the case of an amount of costs that has been paid, the amount (if any) by which the amount paid exceeds the amount specified in any such certificate may be recovered as a debt in a court of competent jurisdiction.
- (4) In the case of an amount of costs that has not been paid, the certificate is, on the filing of the certificate in the office or registry of a court having jurisdiction to order the payment of that amount of money, and with no further action, taken to be a judgment of that court for the amount of unpaid costs, and the rate of any interest payable in respect of that amount of costs is the rate of interest in the court in which the certificate is filed.
- (5) For this purpose, the amount of unpaid costs does not include the costs incurred by the Registrar in the course of a costs assessment.
- (6) To avoid any doubt, this clause applies to or in respect of both the assessment of costs referred to in Subdivision 2 of this Division (practitioner/client costs) and the assessment of costs referred to in Subdivision 3 of this Division (party/party costs).
- (7) If the costs of the Registrar are payable by a party to the assessment (as referred to in clause 116), the Registrar may refuse to issue a certificate relating to his or her determination under this clause until the costs of the Registrar have been paid.
- (8) Subclause (7) does not apply in respect of a certificate issued before the completion of the assessment process under subclause (2).

### **115    Reasons for determination**

The Registrar must ensure that a certificate issued under clause 114 that sets out his or her determination is accompanied by:

- (a) a statement of the reasons for the Registrar's determination, and

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- (b) the amount of costs the Registrar determines is fair and reasonable, and
- (c) if the Registrar declines to assess a bill of costs under clause 107—the basis for doing so, and
- (d) if the Registrar determines that a term of a costs agreement is unjust—the basis for doing so, and
- (e) a statement of any determination under clause 109 that interest is not payable on the amount of costs assessed or, if payable, of the rate of interest payable.

**116 Recovery of costs of costs assessment**

- (1) This clause applies when the costs of the Registrar are payable by a party to the assessment (under section 182 (3) of the *Legal Profession Act 1987* or clause 105 or 110 (5)).
- (2) On making a determination, the Registrar may issue to each party a certificate that sets out the costs incurred by the Registrar in the course of the costs assessment.
- (3) The certificate is, on the filing of the certificate in the office or registry of a court having jurisdiction to order the payment of that amount of money, and with no further action, taken to be a judgment of that court for the amount of unpaid costs.
- (4) The Registrar may take action to recover the costs of the Registrar.

**117 Correction of error in determination**

- (1) At any time after making a determination, the Registrar may, for the purpose of correcting an inadvertent error in the determination:
  - (a) make a new determination in substitution for the previous determination, and
  - (b) issue a certificate under clause 114 that sets out the new determination.
- (2) Such a certificate replaces any certificate setting out the previous determination of the Registrar that has already been issued by the Registrar, and any judgment that is taken to have been effected by the filing of that previously issued certificate is varied accordingly.

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**118 Determination to be final**

The Registrar's determination of an application is binding on all parties to the application and no appeal or other review lies in respect of the determination, except as provided by this Division.

**Subdivision 5 Appeals**

**119 Appeal against decision of Registrar as to matter of law**

- (1) A party to an application who is dissatisfied with a decision of the Registrar as to a matter of law arising in the proceedings to determine the application may, in accordance with the Rules of the Commission, appeal to the Commission constituted by a Presidential member against the decision.
- (2) The appeal is to be in the form approved by the Commission and be accompanied by the fee approved by the Commission from time to time.
- (3) After deciding the question the subject of the appeal, the Commission constituted by a Presidential member may, unless it affirms the Registrar's decision:
  - (a) make such determination in relation to the application as, in its opinion, should have been made by the Registrar, or
  - (b) remit its decision on the question to the Registrar and order the Registrar to re-determine the application.
- (4) On a re-determination of an application, fresh evidence, or evidence in addition to or in substitution for the evidence received at the original proceedings, may be given.

**120 Effect of appeal on application**

- (1) If a party to an application has appealed against a determination or decision of the Registrar, either the Registrar or the Commission constituted by a Presidential member may suspend, until the appeal is determined, the operation of the determination or decision.
- (2) The Registrar or the Commission may end a suspension made by the Registrar. The court or the Commission may end a suspension made by the court or Commission.

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## **Subdivision 6 Miscellaneous**

### **121 Liability of legal practitioner or agent for costs in certain cases**

- (1) The Registrar may act as set out in subclause (2) if it appears to the Registrar that costs have been incurred improperly or without reasonable cause, or have been wasted by undue delay or by any other misconduct or default.
- (2) The Registrar may in the determination:
  - (a) disallow the costs as between the legal practitioner or agent and the practitioner's or agent's client, and
  - (b) direct the legal practitioner or agent to repay to the client costs that the client has been ordered by a court or the Commission to pay to any other party, and
  - (c) direct the legal practitioner or agent to indemnify any party other than the client against costs payable by the party indemnified.
- (3) Before taking action under this clause, the Registrar must give notice of the proposed action to the legal practitioner or agent and the client and give them a reasonable opportunity to make written submissions in relation to the proposed action.
- (4) The Registrar must give due consideration to any submissions so made.

### **122 Referral of misconduct to Legal Services Commissioner**

- (1) If the Registrar considers that any conduct of a legal practitioner or agent involves the deliberate charging of grossly excessive amounts of costs or deliberate misrepresentations as to costs, the Registrar must refer the matter to the Legal Services Commissioner appointed under the *Legal Profession Act 1987*.
- (2) For the purposes of the *Legal Profession Act 1987*, the deliberate charging of grossly excessive amounts of costs and deliberate misrepresentations as to costs are each declared to be professional misconduct.
- (3) The Registrar may refer any failure by a legal practitioner to comply with a notice issued under clause 102, or with any other provision of this Division, to the Legal Services Commissioner.

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## Division 5 Goods and services tax

### 123 GST may be added to costs

- (1) Despite the other provisions of this Part, a cost fixed by Division 3 (Costs recoverable in work injury damages matters) may be increased by the amount of any GST payable in respect of the service to which the cost relates, and the cost as so increased is taken to be the cost fixed by this Part.
- (2) This clause does not permit a legal practitioner or agent to charge or recover, in respect of GST payable in respect of a service, an amount that is greater than:
  - (a) 10% of the maximum amount payable under this Part to the legal practitioner or agent in respect of the service apart from this clause, or
  - (b) the amount permitted under the New Tax System Price Exploitation law,whichever is the lesser.
- (3) In this clause:

*GST* has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth.

*New Tax System Price Exploitation law* means:

- (a) the New Tax System Price Exploitation Code, as applied as a law of New South Wales by the *Price Exploitation Code (New South Wales) Act 1999*, or
- (b) Part VB of the *Trade Practices Act 1974* of the Commonwealth.

## Division 6 Miscellaneous

### 124 Modifications to Legal Profession Act 1987 relating to assessment of costs

A reference in section 175 (Obligation to disclose to clients basis of costs) or 182 (Effect of non-disclosure of matters related to basis of costs) to assessment of costs under Division 6 of Part 11 of the *Legal Profession Act 1987* is to be read as including, as an alternative to assessment under that Division, assessment of costs under Division 4 of Part 8 of Chapter 7 of the 1998 Act.



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### 125 Transitional provisions

- (1) In relation to claims for compensation, this Part:
  - (a) applies to new claims, and
  - (b) extends to proceedings with respect to existing claims that are treated as new claims under clause 224 but only if those proceedings had not commenced before 21 December 2001, and
  - (c) extends to proceedings with respect to existing claims that are treated as new claims under clause 225.
- (2) In relation to claims for work injury damages, this Part applies to claims made after 1 January 2002.
- (3) An amendment of Schedule 6 applies only to an activity or event carried out or occurring wholly after the commencement of the amendment.
- (4) In this clause, *existing claim* and *new claim* have the same meaning as in Chapter 7 of the 1998 Act.

### 126 Special provision for matters involving coal miners

This Part does not apply to legal services or agent services provided in any workers compensation matter involving a claim for compensation or work injury damages by a coal miner, and regulations made under Division 5 (Costs fixed by regulation) of Part 11 of the *Legal Profession Act 1987* continue to apply to legal services provided in such a matter.

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## Part 20 Insurance premiums

### Division 1 Preliminary

#### 127 Definitions

In this Part:

**category A employer**, in relation to a policy, means an employer whose basic tariff premium (within the meaning of the insurance premiums order for the time being in force) for the policy at the time at which the insurer first demands a premium for the policy would exceed \$3,000, assuming the period of insurance to which the premium relates to be 12 months (whether or not that period of insurance is in fact 12 months).

**category B employer** means an employer who is not a category A employer.

**claim** means a claim made by a worker against an employer to which a policy relates.

**cost of claims**, in relation to the calculation of a premium for the issue or renewal of an employer's policy, means:

- (a) except as provided by paragraph (b), the cost of claims for an injury year (within the meaning of Division 4) for the employer, being that cost as at the commencement of the period of insurance to which the premium relates, or
- (b) after that period of insurance has expired, the cost of claims for an injury year (within the meaning of that Division) for the employer, being that cost as at the expiration of that period.

**decreasing adjustment** has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth.

**employer** includes a person who proposes to become an employer.

**GST** has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth.

**input tax credit entitlement**, in relation to an employer, means the amount of input tax credit that may be claimed by the employer in accordance with the *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth in respect of the issue or renewal of a policy of insurance expressed as a percentage of the GST payable by the employer in respect of the issue or renewal of that policy.

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*insurer* means a licensed insurer, or a former licensed insurer, within the meaning of the Act.

*period of insurance*, in relation to a policy, means a period for which an insurer assumes risk under the policy, being a period which commences on the first day on which the policy is in force after having been issued or renewed.

*policy* or *policy of insurance* means a policy of insurance within the meaning of the Act.

*wages* means wages as defined in section 174 (9) of the Act.

#### **128 Meaning of “injury year”**

In this Part, a reference to an injury year, when made in relation to the calculation of a premium for the issue or renewal of a policy, is a reference to any of the successive periods of 12 consecutive months occurring before the commencement of the period of insurance for which the premium is or is to be calculated.

#### **129 Non wages-based calculation of premium**

If the manner of calculation of the premium payable for a policy of insurance is not based on the wages payable to workers:

- (a) a reference in this Part to wages is to be read as a reference to that other basis of calculation of the premium, and
- (b) the form of any notice or declaration under this Part is to be appropriately modified having regard to the manner of calculation of the premium.

### **Division 2 Declaration of wages**

#### **130 Employer to supply insurer with return relating to wages**

- (1) An employer must, as soon as practicable (but not later than 2 months) after:
  - (a) making an application to an insurer for the issue of a policy, or
  - (b) the renewal of a policy,

supply the insurer concerned with a notice in the approved form, duly completed, which contains a reasonable estimate of the wages that will be payable by the employer during the relevant period of insurance to workers employed by the employer.

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- (2) An employer must, not later than 2 months after the end of the relevant period of insurance relating to a policy, supply the insurer who issued or renewed the policy with a notice in the approved form, duly completed, which contains a full and correct declaration of the wages that were actually paid by the employer during that period of insurance to workers employed by the employer.

**131 Declaration accompanying return**

When an employer supplies an insurer with a notice under clause 130 (being a notice that relates to a period of insurance that has expired) the employer must also supply the insurer with:

- (a) if no accountant, registered tax agent or registered company auditor was, during that period, engaged as a consultant to or in a similar independent capacity by the employer—a declaration in the approved form, or
- (b) in any other case—a declaration in the approved form, to which is attached a report of a tax agent or registered company auditor as set forth in the attachment to that form.

**132 Experience premium return**

For the purpose of ascertaining the premium payable by an employer in respect of a period of insurance, an insurer to whom the employer has applied for the issue or renewal of a policy may, by notice in writing served on the employer not later than 1 month after the commencement or end of the period of insurance, require the employer to furnish the insurer, within 28 days of service of the notice:

- (a) with a declaration in the approved form, and
- (b) a statement setting forth (with respect to the last 2 injury years that occurred before the commencement of the period of insurance) the particulars relating to wages required by the attachment to that form to be inserted in it.

**133 Offence by employer**

An employer who, without reasonable excuse, refuses or fails to comply with clause 130 or 131 or with a requirement made in accordance with clause 132 is guilty of an offence.

Maximum penalty: 20 penalty units.

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### **Division 3 Input tax credit entitlements**

#### **134 Employer to give insurer notice of input tax credit entitlement**

For the purpose of enabling a premium to be calculated, an employer must, prior to the commencement of the period of insurance for which the premium is to be calculated, notify the insurer concerned in writing of the employer's input tax credit entitlement in relation to the payment of the premium for that policy of insurance.

### **Division 4 Certification of cost of claims**

#### **135 Definition**

In this Division:

*cost of claims*, in relation to an injury year or a period of insurance, means the total of the following costs:

- (a) the total of the costs of each individual claim of which the insurer has notice at the time of expiry or renewal (as appropriate) of the policy concerned, being a claim made against a particular employer with respect to an injury received (or that is deemed by the Act or the former Act to have been received) during the injury year or the period of insurance, whichever is relevant, but not including:
  - (i) in relation to a policy issued or renewed so as to take effect at or after 4 pm on 30 June 1988 (other than a policy to which subparagraph (ii) applies), any claim under section 10 (Journey claims) of the Act, or
  - (ii) in relation to a policy issued or renewed so as to take effect at or after 4 pm on 30 June 1995, any claim under section 10 (Journey claims) or section 11 (Recess claims) of the Act,
- (b) the total of the costs of payment of provisional weekly payments of compensation and provisional payment of medical expenses compensation, if any, under Part 3 of Chapter 7 of the 1998 Act by the insurer, being payments of compensation on the basis of provisional acceptance of liability to a worker employed by a particular employer with respect to an injury received (or that is deemed by the Act to have been received) during the injury year or the period of insurance.

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**136 Prevention of double allowance for provisional compensation payments**

(1) In this clause:

*provisional compensation payment* means provisional weekly payment of compensation or provisional payment of medical expenses compensation, under Part 3 of Chapter 7 of the 1998 Act, on the basis of provisional acceptance of liability to a worker.

(2) If payments are made in respect of a claim pursuant to the Act and provisional compensation payments have been made in respect of the injury concerned:

- (a) the provisional compensation payments are, for the purposes of determining the cost of the claim, taken to be payments made by the insurer in respect of the claim pursuant to the Act and are to be included as such under clause 137, and
- (b) clause 138 does not apply to those provisional compensation payments, and
- (c) the cost of those provisional compensation payments is not to be included in the total of the costs of provisional compensation payments under paragraph (b) of the definition of *cost of claims* in clause 135.

**137 Cost of an individual claim**

(1) For the purposes of this Part, the cost of an individual claim is (except as provided by subclause (2)) the sum of the following:

- (a) the payments, if any, made by the insurer in respect of the claim pursuant to the Act or the former Act,
- (b) the payments, if any, of damages at common law and under the *Compensation to Relatives Act 1897* made by the insurer either in satisfaction of judgments relating to the claim or in settlement of the claim,
- (c) fees and expenses, if any, paid by the insurer to medical practitioners, investigators or assessors in respect of the investigation of the claim,
- (d) legal costs, if any, paid by the insurer in relation to the settlement or investigation of the claim or as a consequence of proceedings at law, including any such costs that were paid to the claimant or incurred by the insurer on the insurer's own account,

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- (e) the most accurate estimation for the time being of the insurer's outstanding liability reasonably likely to arise out of the claim,

whether the payments were made or the fees, expenses or costs were paid (or the estimation relates to liability that will arise) during or after the injury year or period of insurance in which the injury to which the claim relates was received (or is deemed by the Act or the former Act to have been received).

- (2) However, the cost of an individual claim:
- (a) does not include any amount calculated by reference to the insurer's costs of administration or profit, and
  - (b) is to be reduced by the amounts, if any, that have been recovered or are recoverable by the insurer from any source, other than an amount recovered or recoverable under section 160 of the Act, from the Insurers' Contribution Fund or pursuant to a policy of reinsurance, and
  - (c) is to be reduced by the first \$500 of the claim or, if the cost of the claim is less than \$500, is to be reduced by that lesser cost, and
  - (d) does not include any amount paid or payable under section 64A of the Act (Compensation for cost of interpreter services), and
  - (e) does not include any amount which section 54 (4) (b) of the 1998 Act (Second-injury scheme) requires to be excluded from the claims experience of the employer, and
  - (f) is to be reduced by an amount that is the most accurate estimation for the time being by the insurer of the amount of any input tax credit or decreasing adjustment that may be claimed or has been claimed by the insurer in respect of the payments, fees, expenses or costs included in the cost of the individual claim under subclause (1), pursuant to the *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth.
- (3) In this clause, references to the insurer's outstanding liability reasonably likely to arise out of the claim are references to the amount calculated to be sufficient to meet all reasonably likely future payments in respect of the claim, including adjustments (at such rates, if any, as the Authority from time to time determines) to take account of expected future earnings on investments and expected future inflation or deflation on that amount.

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- (4) For the purpose of this clause, in the case of a claim in respect of the death of or injury to a person caused by or arising out of a motor accident as defined in the *Motor Accidents Act 1988*:
- (a) the insurer's liability to indemnify an employer in respect of the employer's liability to the claimant independently of the Act is taken to be limited to the amount of damages (if any) that would be payable if Division 3 of Part 5 of the *Workers Compensation Act 1987* applied to the award of damages concerned, and
- (b) the insurer is taken not to be liable for legal costs connected with proceedings under the *Motor Accidents Compensation Act 1999* if damages would not have been payable if that Division applied to that award.
- (5) If the cost of an individual claim exceeds the large claim limit that applied when the injury to which the claim relates was received (or is deemed by the Act or the former Act to have been received), the cost of the individual claim is the amount of that large claim limit.
- (6) For the purposes of subclause (5), the large claim limit specified in Column 2 of the Table to this clause applies to an injury that was received or is deemed to have been received during a year specified in Column 1 of that Table in relation to that limit.

**Large claim limits**

<b>Column 1</b>	<b>Column 2</b>
<b>Period of 12 months commencing with:</b>	<b>Large claim limit</b>
30 June 1985	\$100,000
30 June 1986	\$200,000
30 June 1987 or 30 June of the years 1988 to 1994	\$100,000
30 June 1995 or 30 June of any subsequent year	\$150,000

**138 Cost of provisional payments of compensation**

- (1) For the purposes of this Part, the cost of payment of provisional weekly payments of compensation and provisional payment of medical expenses compensation, if any, with respect to a particular



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injury is (except as provided by subclause (2)) the sum of the following:

- (a) the sum of the payments of provisional weekly payments of compensation and provisional medical expenses compensation, if any, made by the insurer in respect of the injury pursuant to the 1998 Act,
- (b) fees and expenses, if any, paid by the insurer to medical practitioners, investigators or assessors in respect of the investigation of the injury,
- (c) legal costs, if any, paid by the insurer in relation to the investigation of the injury, the determination of liability to make provisional weekly payments of compensation or provisional payment of medical expenses compensation and otherwise in complying with Divisions 1 and 3 of Part 3 of Chapter 7 of the 1998 Act,
- (d) the most accurate estimation for the time being of the insurer's outstanding liability to make provisional weekly payments of compensation and provisional payment of medical expenses compensation, if any, with respect to the injury,

whether the payments were made or the fees, expenses or costs were paid (or the estimation relates to liability that will arise) during or after the injury year or period of insurance in which the injury was received (or is deemed by the Act to have been received).

- (2) However, the cost of provisional weekly payments of compensation and provisional payment of medical expenses compensation with respect to a particular injury:
  - (a) does not include any amount calculated by reference to the insurer's costs of administration or profit, and
  - (b) is to be reduced by the amounts, if any, that have been recovered or are recoverable by the insurer from any source, other than an amount recovered or recoverable under section 160 of the 1987 Act, from the Insurers' Contribution Fund or pursuant to a policy of reinsurance, and
  - (c) is to be reduced by the first \$500 of the provisional payments or, if the cost of the payments is less than \$500, is to be reduced by that lesser cost, and
  - (d) does not include any amount paid or payable under section 64A (Compensation for cost of interpreter services) of the 1987 Act, and

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- (e) does not include any amount that section 54 (4) (b) of the 1998 Act (Second-injury scheme) requires to be excluded from the claims experience of the employer, and
  - (f) is to be reduced by an amount that is the most accurate estimation for the time being by the insurer of the amount of any input tax credit or decreasing adjustment that may be claimed or has been claimed by the insurer in respect of the payments, fees, expenses or costs included in the cost of provisional weekly payments of compensation or provisional payment of medical expenses compensation under subclause (1), pursuant to the *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth.
- (3) In this clause, references to the insurer's outstanding liability to make provisional weekly payments of compensation or provisional payment of medical expenses compensation with respect to an injury are references to the amount calculated to be sufficient to meet all reasonably likely future provisional payments of weekly compensation or medical expenses compensation in respect of the injury.

### 139 Certificates relating to cost of claims

- (1) For the purpose of ascertaining the premium payable by an employer in respect of a period of insurance:
- (a) an employer to whom a policy has been issued by an insurer, or
  - (b) another insurer,
- may, by notice in writing served on the insurer who issued the policy not later than 1 month after the commencement of the period of insurance, require the insurer who issued the policy to furnish the employer or other insurer, within 21 days of service of the notice, with a certificate in the approved form, specifying (with respect to the whole or any part of the 2 last injury years which occurred or will have occurred before the commencement of the period of insurance) the particulars relating to costs of claims required by the form to be inserted in it.
- (2) An insurer who, without reasonable excuse:
- (a) fails to comply with a requirement made in accordance with subclause (1), or

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- (b) in purported compliance with any such requirement, furnishes a certificate knowing that the certificate contains particulars that are false or misleading in a material particular or knowing that the certificate is incomplete in a material particular,

is guilty of an offence.

Maximum penalty: 20 penalty units.

#### **140 Effect of certificate**

- (1) Where an insurer has, in accordance with clause 139, furnished a certificate to an employer or another insurer for the purpose of ascertainment of the premium payable in respect of a period of insurance, the particulars relating to costs of claims specified in the last or only certificate so furnished are binding on the employer and any insurer for the purpose of calculation at any time of those costs of claims as at the commencement of that period of insurance, except as provided by subclauses (2) and (3).
- (2) Those particulars are not binding on the employer to the extent of any inconsistency with a determination of the Authority under section 170 (Action by employer where premium not in accordance with insurance premiums order) of the 1987 Act.
- (3) If an insurer (other than the insurer who furnished the certificate) does not agree with any of those particulars and applies to the Authority for a variation of those particulars (and the application is not withdrawn or, in the opinion of the Authority, abandoned), the particulars relating to costs of claims specified in the certificate as confirmed or varied by the Authority are binding on any insurer for the purpose of calculation at any time of those costs of claims as at the commencement of that period of insurance.

#### **141 Employers who were previously self-insurers**

- (1) If an employer:
  - (a) makes an application to an insurer for the issue or renewal of a policy, and
  - (b) was a self-insurer during any part of the last 2 injury years occurring before the proposed period of insurance,

the cost of claims in relation to the period as a self-insurer is to be calculated (subject to any relevant determination of the Authority) as if the employer had been insured under a policy in respect of that period.

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- (2) The provisions of this Division relating to insurers apply (subject to such modifications and exceptions as the Authority may determine) to such an employer in respect of the period as a self-insurer.

## **Division 5 Demand for premium**

### **142 Notice of premium calculation**

- (1) An insurer may not demand a premium for the issue or renewal of a policy to which an insurance premiums order applies unless the insurer has sent or sends at the time to the employer a notice in the approved form, duly completed, relating to the calculation of the premium in respect of that employer.
- (2) The sending by an insurer of a notice referred to in subclause (1) to a broker or an intermediary or an agent of an employer (whether or not the notice is also addressed to the employer) does not constitute sending of the notice to the employer for the purposes of that subclause, but nothing in this subclause prevents the sending of any such notice to an employer by a postal or courier service.

## **Division 6 Procedure before Authority relating to insurance premiums**

### **143 Applications**

An application to the Authority under section 170 of the 1987 Act or clause 140 of this Regulation must, unless the Authority otherwise directs, be made in a form approved by the Authority and lodged at the office of the Authority.

### **144 Answer**

If a respondent who has notice of the application wishes to make representations to the Authority in relation to the application, the respondent must lodge those representations with the Authority in writing (unless the Authority otherwise directs).

### **145 Decision of Authority**

The Authority:

- (a) is to consider the application and may have regard to such representations as it thinks fit, and
- (b) is to determine the matter to which the application relates, and

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- (c) is to inform the applicant and the respondent of its decision in such manner as it thinks fit.

#### **146 Procedure generally**

The Authority may, in its discretion:

- (a) permit an actuary, auditor, accountant, insurance authority, medical referee or other person to sit with it as an assessor, and
- (b) obtain and consider a report from any insurer, self-insurer or any other person referred to in paragraph (a), in connection with its dealing with an application referred to in clause 143 or any other matter.

### **Division 7 Policies exempt from insurance premiums orders**

#### **147 Further policies exempt from order—unregulated premiums**

- (1) Policies issued or renewed by a specialised insurer are exempted from insurance premiums orders.
- (2) The exemption under subclause (1) is in addition to the exemptions provided by section 168 (4) (b) of the Act.

### **Division 8 Payment of premiums by instalments**

#### **148 Policies under which premiums may be paid by instalments**

- (1) An employer may elect to pay the premiums under a policy of insurance by instalments if:
- (a) the period of insurance is 12 months, and
- (b) the employer is a category A employer for the purposes of the policy, and
- (c) the election is made within 1 month after the commencement of the period of insurance to which the premiums relate.
- (2) Payment of the required instalments deposit within 1 month after the commencement of the period of insurance constitutes an election to pay by instalments.
- (3) For the purposes of this Division, the *required instalments deposit* is, subject to clause 149 (3), an amount equal to one-third of the estimated premium for the policy.

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Clause 149

Insurance premiums

Part 20

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**149 Number, size and times for payment of instalments**

- (1) If an employer elects to pay the premiums under a policy of insurance by instalments and pays the required instalments deposit within 1 month after the commencement of the period of insurance, the premiums are payable in instalments as follows:

**Instalment No 1**

Payment to be made within 4 months after the commencement of the period of insurance. The amount of the instalment is to be the amount by which two-thirds of the estimated premium for the policy exceeds the amount paid as the required instalments deposit.

**Instalment No 2**

Payment to be made within 8 months after the commencement of the period of insurance. The amount of the instalment is to be the balance of the estimated premium for the policy taking into account the instalment and the required instalments deposit already paid.

**Adjustment of Premium**

Payment to be made within 1 month after service on the employer of a notice that payment of such an adjustment is due. The amount of such an adjustment is the amount by which the actual premium payable for a policy exceeds the amounts already paid by way of instalments and required instalments deposit.

- (2) A notice in relation to an adjustment of premium as referred to in subclause (1) does not affect the service of a notice under section 172 (1) (c) of the Act.
- (3) If the estimated premium for the policy cannot be determined by the time the required instalments deposit is required to be paid, the amount of the required instalments deposit is to be:
- (a) one-third of the estimated premium for the employer for the previous period of insurance, or
  - (b) if there was no such previous period of insurance—\$800 or such greater amount as the employer and the insurer may agree.
- (4) Subclause (3) applies only if the estimated premium cannot be determined because the employer has not yet supplied the relevant notice under clause 130 (1) and the insurer cannot estimate the premium by reference to wages for the previous period of insurance in accordance with the relevant insurance premiums order.

Clause 150      Workers Compensation Regulation 2003

Part 20          Insurance premiums

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## **Division 9      Miscellaneous**

### **150    Transitional—operation of amendments**

An amendment to this Part does not apply to or in respect of any policy of insurance that takes effect before the amendment commences, unless the amendment otherwise specifically provides.

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Clause 151

Premium Discount Scheme

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## Part 21 Premium Discount Scheme

### Division 1 Preliminary

#### 151 Commencement

The Scheme commenced at 4 pm on 30 June 2001.

#### 152 Interpretation

(1) In this Part:

*Code of Conduct for PDAs* means a Code of Conduct for PDAs approved by the Authority under clause 192.

*Code of Conduct for Sponsors* means a Code of Conduct for sponsors approved by the Authority under clause 192.

*cost of claims* has the same meaning as in Division 4 of Part 20.

*enrolled employer*, in relation to a sponsor, means an employer enrolled in a small business premium discount program conducted by the sponsor.

*managed fund insurer* means an insurer to which Division 4 of Part 7 of the Act applies.

*member*, in relation to a PDA, means:

- (a) if the PDA is or includes an individual—that individual or each such individual, and
- (b) if the PDA is or includes a body corporate—each director or person involved in the management of the body corporate (however described), and
- (c) if the PDA is or includes a partnership—each member of the partnership, and
- (d) each employee of the PDA, and
- (e) each person engaged by the PDA for the purpose of carrying out the PDA's functions under the Scheme.

*minimum premium employer* means an employer who pays the minimum premium in respect of a policy of insurance under an insurance premiums order that applies to the policy under section 168 of the Act.



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Part 21 Premium Discount Scheme

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**occupational health and safety legislation** means the *Occupational Health and Safety Act 1983* or the *Occupational Health and Safety Act 2000*.

**Premium Discount Adviser** or **PDA** means a Premium Discount Adviser approved by the Authority under clause 156.

**Premium Discount Guidelines** means guidelines issued by the Authority under clause 190.

**Principal**, in relation to a PDA, means a Principal of the PDA as referred to in clause 160.

**relevant Insurance Premiums Order**, in relation to the calculation of a discount under this Part on a premium with respect to a policy, means an insurance premiums order in force under section 168 of the Act that applies to the policy.

**sponsor** means a sponsor approved by the Authority under clause 166.

**the Scheme** means the Premium Discount Scheme established under clause 153.

- (2) For the purposes of this Part, an employer completes the PDS (General) when a PDA engaged by the employer verifies that the employer has passed the fourth verification (within the meaning of clause 174).

### 153 Premium Discount Scheme

- (1) There is established a scheme called the “Premium Discount Scheme”, to be administered by the Authority.
- (2) The object of the Scheme is to provide for a discount on workers compensation insurance premiums for employers who implement programs to improve workplace safety and injury management for injured workers.
- (3) There are two strands to the Scheme:
  - (a) the Premium Discount Scheme (General) (*the PDS (General)*), and
  - (b) the Premium Discount Scheme Small Business Strategy (*the Small Business Strategy*).
- (4) An employer may participate in either strand of the Scheme, subject to this Part.

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Clause 154

Premium Discount Scheme

Part 21

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**154 Employers eligible to participate in PDS (General)**

- (1) An employer is eligible to participate in the PDS (General) if the employer has a policy of insurance with a licensed managed fund insurer.
- (2) However, the following classes of employers are not eligible to participate in the PDS (General):
  - (a) minimum premium employers,
  - (b) employers who:
    - (i) are participating in the Small Business Strategy, or
    - (ii) have passed the second verification under the Small Business Strategy, or
    - (iii) have completed the PDS (General), or
    - (iv) are precluded from participating in the PDS (General) by reason of clause 184 (Time limits on participation in Scheme).
- (3) Despite subclause (2) (b), if an employer referred to in that paragraph that is a body corporate merges with, acquires or is acquired by another body corporate, or reconstitutes itself into two or more bodies corporate, the body or bodies formed by the merger, acquisition or reconstitution is or are eligible to participate in the PDS (General) (if otherwise eligible).

**155 Employers entitled to participate in Small Business Strategy**

- (1) An employer is eligible to participate in the Small Business Strategy if the employer:
  - (a) has no more than 20 full time equivalent workers, and
  - (b) has a policy of insurance with a licensed managed fund insurer.
- (2) However, the following classes of employers are not eligible to participate in the Small Business Strategy:
  - (a) minimum premium employers,
  - (b) employers who:
    - (i) are participating in the PDS (General), or
    - (ii) have completed the PDS (General), or
    - (iii) have passed the fourth verification under the Small Business Strategy, or

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Part 21 Premium Discount Scheme

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- (iv) who are precluded from participating in the Small Business Strategy by reason of clause 184 (Time limits on participation in Scheme).
  - (3) An employer who enrolls in a small business premium discount program under Division 3 remains eligible to participate in the Small Business Strategy even if the number of the employer's workers subsequently increases to more than 20 full time equivalent workers.
  - (4) Despite subclause (2) (b), if an employer referred to in that paragraph that is a body corporate merges with, acquires or is acquired by another body corporate, or reconstitutes itself into two or more bodies corporate, the body or bodies formed by the merger, acquisition or reconstitution is or are eligible to participate in the Small Business Strategy (if otherwise eligible).

## **Division 2 Premium Discount Scheme (General)**

### **Subdivision 1 Premium Discount Advisers**

#### **156 Approval of Premium Discount Advisers**

- (1) The Authority may on application approve any of the following (*the applicant*) as a Premium Discount Adviser in accordance with the Premium Discount Guidelines:
  - (a) an individual,
  - (b) a body corporate,
  - (c) a group consisting of a combination of individuals or bodies corporate or both (including a partnership or other unincorporated association).
- (2) The Authority may not approve an applicant as a PDA unless:
  - (a) the applicant has an Australian Business Number, and
  - (b) the applicant has provided to the Authority such information as the Authority may reasonably require in order to assess the applicant's suitability to be a PDA and the character of the applicant's proposed members, and
  - (c) the Authority is satisfied that:
    - (i) the applicant is suitable to be a PDA, and
    - (ii) the applicant, and each of the applicant's proposed members, is of good character.

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Clause 157

Premium Discount Scheme

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- (3) For the purpose of assessing whether an applicant is suitable to be a PDA and the character of the applicant's proposed members, the Authority may make such inquiries and undertake such investigations about the applicant, and each of the applicant's proposed members, as it thinks fit.
  - (4) In this clause, *proposed member*, in relation to an applicant, has the same meaning as *member* has in relation to a PDA.

#### **157 Conditions of approval**

- (1) An approval as a PDA is subject to the following conditions:
  - (a) the PDA must hold professional indemnity insurance covering the activities of the PDA (including the activities of the PDA's members) in carrying out the functions of a PDA,
  - (b) the PDA must sign a performance agreement containing such terms as the Authority may require, and must comply with that performance agreement,
  - (c) the PDA, and each member of the PDA, must comply with the Code of Conduct for PDAs,  
**Note.** Clause 187 (1) provides that it is an offence for a PDA to fail to comply with the Code of Conduct for PDAs.
  - (d) the PDA must comply with the Premium Discount Guidelines and any directions given by the Authority under clause 191 (for example, directions as to the use of audit tools),
  - (e) each Principal of the PDA, and each member of the PDA involved in carrying out audits under the Scheme, must satisfactorily complete such course of training as the Authority may direct,
  - (f) the PDA must co-operate with any review of the PDA by the Authority under clause 162, and must allow the Authority access to the PDA's premises and records for that purpose,
  - (g) any conditions of approval set out in the Premium Discount Guidelines.
- (2) The Authority may at any time impose further conditions on an approval by notice in writing, and vary or revoke those conditions by notice in writing.

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Part 21 Premium Discount Scheme

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### **158 Functions of a PDA**

A PDA has the following functions:

- (a) to audit the performance and systems of employers to assess whether standards, benchmarks or performance criteria set by the Authority have been met,
- (b) to issue certificates verifying whether those employers are entitled to a premium discount under the Scheme,
- (c) such other functions as are set out in the Premium Discount Guidelines.

### **159 Relationship with employer**

- (1) An employer may engage a PDA to act as PDA in relation to the employer for the purposes of the Scheme.
- (2) The PDA engaged by an employer may engage any other person or body in order to assist it to carry out its functions in relation to the employer under the Scheme.

### **160 Principals of a PDA**

- (1) A PDA must have at least one Principal, and may have more than one Principal.
- (2) A Principal of a PDA is an individual who is:
  - (a) a member of the PDA (other than a person engaged by the PDA as referred to in paragraph (e) of the definition of *member* in clause 152), and
  - (b) nominated as a Principal by the PDA.
- (3) An individual may not be a Principal of more than one PDA.
- (4) Subclause (3) does not prevent a member of a PDA from carrying out work for more than one PDA.

### **161 Functions of Principals**

The function of a Principal of a PDA is to ensure that the PDA and each member of the PDA complies with this Part, the Code of Conduct for PDAs, the Premium Discount Guidelines, the performance agreement signed by the PDA and any directions given by the Authority under clause 191.

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Premium Discount Scheme

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**162 Review of PDAs by Authority**

- (1) The Authority may at any time review the performance and operations of a PDA, or of any member of the PDA, in accordance with the Premium Discount Guidelines.
- (2) For the purpose of conducting a review under this clause, the Authority may make such inquiries and undertake such investigations as it thinks fit.
- (3) The Authority may take action at any time under subclause (4) if it determines that:
  - (a) the PDA or a member of the PDA has failed to comply with this Part, the Premium Discount Guidelines, the Code of Conduct for PDAs, the performance agreement signed by the PDA or with any direction given by the Authority under clause 191, or
  - (b) the PDA has become bankrupt, applied to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounded with its creditors or made an assignment of its remuneration for their benefit, or
  - (c) the PDA has entered into administration (whether voluntary or involuntary) or has been wound up, or
  - (d) the PDA has not been engaged by an employer during the three years preceding the commencement of a review by the Authority, or
  - (e) a Principal of the PDA ceases to be a member of the PDA, being a person who, in the opinion of the Authority, was integral to the performance or operations of the PDA.
- (4) The Authority may take any one or more of the following actions:
  - (a) disallow or adjust the PDA Rating of the PDA by notice in writing,
  - (b) disallow or adjust the entitlement to a premium discount of an employer by whom the PDA is engaged by notice in writing,
  - (c) suspend or cancel the approval of a PDA by notice in writing.
- (5) Before taking action under subclause (4), the Authority may give an employer by whom the PDA concerned is engaged an opportunity to make oral or written submissions to the Authority about the matter.
- (6) An action referred to in subclause (4) takes effect 14 days after notice of the action is given to the PDA.

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Part 21 Premium Discount Scheme

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- (7) The actions that the Authority may take under subclause (4) are in addition to any other powers of the Authority.

**Note.** For example, the Authority may also issue directions to a PDA or impose or vary conditions of an approval of a PDA.

## **Subdivision 2 PDA Ratings**

### **163 Initial PDA Ratings**

- (1) In its approval of a PDA, the Authority is to classify it as a Category 1, a Category 2 or a Category 3 PDA.
- (2) A Category 1 PDA has the PDA Rating for a Category 1 PDA specified in the Table to this clause until immediately before 4 pm on 30 June following its approval, unless the Authority reclassifies it as a Category 2 PDA under subclause (3).
- (3) A Category 1 PDA may, in accordance with the Premium Discount Guidelines, request the Authority to reclassify the PDA as a Category 2 PDA. The following provisions apply if such a request is made:
  - (a) the Authority is to determine in accordance with the Premium Discount Guidelines whether to reclassify the PDA as a Category 2 PDA,
  - (b) if the Authority reclassifies the PDA, the PDA has the PDA Rating for a Category 2 PDA specified in the Table to this clause from the date that the Authority notifies it of the reclassification until immediately before 4 pm on 30 June following its approval, and thereafter the PDA Rating of the PDA is as determined by the Authority under clause 164.
- (4) A Category 2 PDA or a Category 3 PDA has the PDA Rating specified in the Table to this clause for that category of PDA until immediately before 4 pm on 30 June following its approval. Thereafter, the PDA Rating of the PDA is as determined by the Authority under clause 164.

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Premium Discount Scheme

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**Table**

<b>PDA Category</b>	<b>PDA Rating</b>
Category 1 PDA	5%
Category 2 PDA	10%
Category 3 PDA	15%

**164 Subsequent determination of PDA Rating by Authority**

- (1) Each year the Authority is to:
  - (a) assess the success of each PDA in achieving cost savings for employers engaging the PDA (including reductions in the cost of claims for employers), and
  - (b) on the basis of that assessment, determine a PDA Rating for each PDA of 0% to 15%.
- (2) A PDA Rating determined by the Authority for a PDA has effect (or is taken to have effect) from the time specified by the Authority in the notice of determination (whether or not the notice is given to the PDA before or after the time specified in the notice).
- (3) A PDA Rating has effect until immediately before the time specified by the Authority in the next notice of determination of the PDA Rating for the PDA (including a notice disallowing or adjusting the PDA Rating of the PDA under clause 162).
- (4) The assessment referred to in subclause (1) (a) is to be undertaken in accordance with the Premium Discount Guidelines, and otherwise as the Authority determines.
- (5) For the purpose of undertaking an assessment, the Authority may make such inquiries and undertake such investigations as it thinks fit.
- (6) The Authority may publish the PDA Rating of PDAs from time to time in such manner as the Authority determines.

**165 PDA Rating not transferable**

- (1) A member of a PDA who becomes a member of another PDA or carries out work for another PDA does not thereby transfer the PDA Rating of the first-mentioned PDA to that other PDA.



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- (2) A PDA that merges with, or acquires or is acquired by, another PDA does not thereby transfer its PDA Rating to the other PDA, or acquire the PDA Rating of that other PDA.

### Division 3 Small Business Strategy

#### 166 Approval of sponsors

- (1) The Authority may on application approve any of the following (*the applicant*) as a sponsor in accordance with the Premium Discount Guidelines:
- (a) a body or organisation,
  - (b) a group consisting of more than one body or organisation.
- (2) The Authority may not approve an applicant as a sponsor unless:
- (a) the applicant has an Australian Business Number, and
  - (b) the applicant has provided to the Authority such information as the Authority may reasonably require in order to assess the application.
- (3) For the purpose of an assessment under this clause, the Authority may make such inquiries and undertake such investigations about the applicant as it thinks fit.

#### 167 Conditions of approval

- (1) An approval as a sponsor is subject to the following conditions:
- (a) the sponsor must hold professional indemnity insurance covering the activities of the sponsor (including the activities of each person employed or engaged by the sponsor) in carrying out the functions of a sponsor,
  - (b) the sponsor must comply with the Code of Conduct for Sponsors,  
**Note.** Clause 187 (2) provides that it is an offence for a sponsor to fail to comply with the Code of Conduct for Sponsors.
  - (c) the sponsor must comply with the Premium Discount Guidelines and any directions given by the Authority under clause 191,
  - (d) the sponsor must comply with the terms of any funding agreement between the sponsor and the Authority,
  - (e) the sponsor must co-operate with any review of the sponsor by the Authority under clause 173, and must allow the

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Authority access to the sponsor's premises and records for that purpose,

- (f) any conditions of approval set out in the Premium Discount Guidelines.
- (2) The Authority may at any time impose further conditions on an approval by notice in writing, and vary or revoke those conditions by notice in writing.

**168 Authority may invite proposals for small business discount programs**

- (1) The Authority may at any time, in such manner as the Authority determines, invite sponsors to submit a proposal to conduct a program to assist employers to improve their occupational health and safety and injury management performance (a *small business premium discount program*).
- (2) A proposal is to be made in accordance with the Premium Discount Guidelines.
- (3) The Authority may request the sponsor to provide further information or particulars about the proposed small business premium discount program.

**169 Assessment of proposals**

- (1) The Authority is to assess proposals for small business premium discount programs according to criteria and procedures set out in the Premium Discount Guidelines.
- (2) After such assessment, the Authority may accept or reject the proposal, or accept it subject to specified modifications.

**170 Funding agreements**

A sponsor whose proposal has been accepted with or without modifications by the Authority may enter into an agreement (a *funding agreement*) in accordance with the Premium Discount Guidelines with the Authority by which the Authority agrees to provide funds to the sponsor for the proposed small business premium discount program on the terms set out in the funding agreement.

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### **171 Relationship with employer**

- (1) An employer may enrol in a small business premium discount program proposed to be conducted by a sponsor at any time after the sponsor is approved up to 6 months after the commencement of a premium year (within the meaning of clause 174) of the employer.
- (2) An employer who enrolled in a small business premium discount program of 2 years duration and who has passed the third verification for that program (within the meaning of clause 174) may enrol in the third year of a small business premium discount program of 3 years duration, but only with the consent of the sponsor conducting that program.

### **172 Functions of a sponsor**

A sponsor has the following functions:

- (a) to implement its small business premium discount program in accordance with the funding agreement, this Part, the Premium Discount Guidelines, the Code of Conduct for Sponsors and any directions given by the Authority under clause 191,
- (b) such other functions as are set out in the Premium Discount Guidelines.

### **173 Review of sponsors by Authority**

- (1) The Authority may at any time review the performance and operations of a sponsor in accordance with the Premium Discount Guidelines.
- (2) For the purpose of conducting a review under this clause, the Authority may make such inquiries and undertake such investigations as it thinks fit.
- (3) The Authority may take action at any time under subclause (4) if it determines that:
  - (a) a sponsor has failed to comply with the funding agreement, this Part, the Premium Discount Guidelines, the Code of Conduct for Sponsors or with any direction given by the Authority under clause 191, or
  - (b) the sponsor has become bankrupt, applied to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounded with its creditors or made an assignment of its remuneration for their benefit, or

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- (c) the sponsor has entered into administration (whether voluntary or involuntary) or has been wound up, or
  - (d) the small business premium discount program conducted by the sponsor has ceased to be viable.
- (4) The Authority may take any one or more of the following actions:
- (a) disallow or adjust the entitlement to a premium discount of an enrolled employer by notice in writing,
  - (b) suspend or cancel the approval of a sponsor by notice in writing,
  - (c) suspend or cancel the sponsor's program by notice in writing.
- (5) The Authority may by notice in writing require a sponsor to repay to the Authority any funds provided to the sponsor by the Authority that:
- (a) have not been spent by the sponsor, or
  - (b) if spent, were not spent in accordance with the funding agreement.
- (6) Before taking action under subclause (4), the Authority may give an employer enrolled in a program conducted by the sponsor concerned an opportunity to make oral or written submissions to the Authority about the matter.
- (7) An action referred to in subclause (4) or (5) takes effect 14 days after the notice of the action is given to the sponsor.
- (8) The actions that the Authority may take under subclause (4) or (5) are in addition to any other powers of the Authority.
- Note.** For example, the Authority may also issue directions to a sponsor or impose or vary conditions of an approval of a sponsor.
- (9) The Authority may recover funds payable to it under subclause (5) as a debt in a court of competent jurisdiction.

#### Division 4 Premium discounts

##### 174 Definitions

- (1) In this Division:
- first verification** means a verification to assess whether:
- (a) in the case of an employer participating in the PDS (General)—the employer has met the standards, benchmarks

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or performance criteria set by the Authority for the first verification, or

- (b) in the case of an employer participating in the Small Business Strategy—the employer has met the objectives set by the employer’s sponsor for the first verification.

***first year of participation***, in relation to an employer, means the premium year of the employer in which the employer attempts to pass the first verification and the second verification.

***fourth verification*** means a verification to assess whether:

- (a) in the case of an employer participating in the PDS (General)—the employer has met the standards, benchmarks or performance criteria set by the Authority for the fourth verification, or
- (b) in the case of an employer participating in the Small Business Strategy—the employer has met the objectives set by the employer’s sponsor for the fourth verification.

***premium year***, in relation to an employer, means a period of insurance of up to 12 consecutive months commencing on the date of issue or renewal of a policy of insurance by the employer.

***second verification*** means a verification to assess whether:

- (a) in the case of an employer participating in the PDS (General)—the employer has met the standards, benchmarks or performance criteria set by the Authority for the second verification, or
- (b) in the case of an employer participating in the Small Business Strategy—the employer has met the objectives set by the employer’s sponsor for the second verification.

***second year of participation***, in relation to an employer, means the premium year of the employer in which the employer attempts to pass the third verification.

***third verification*** means a verification to assess whether:

- (a) in the case of an employer participating in the PDS (General)—the employer has met the standards, benchmarks or performance criteria set by the Authority for the third verification, or
- (b) in the case of an employer participating in the Small Business Strategy—the employer has met the objectives set by the employer’s sponsor for the third verification.

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*third year of participation*, in relation to an employer, means the premium year of the employer in which the employer attempts to pass the fourth verification.

*year of participation* means the first year of participation, the second year of participation or the third year of participation.

- (2) For the purposes of this Division:
- (a) an employer passes a verification when the employer's PDA or sponsor issues a certificate verifying that the employer:
    - (i) in the case of an employer participating in the PDS (General)—has met the standards, benchmarks or performance criteria set by the Authority for that verification, or
    - (ii) in the case of an employer participating in the Small Business Strategy—has met the objectives set by the sponsor for that verification, and
  - (b) a reference to a PDA Rating, in relation to a PDA verifying that an employer has passed a verification, is a reference to the PDA Rating of the PDA at the time that it so verifies.

#### **175 First year of participation**

- (1) An employer is to attempt to pass the first verification within 6 months of the commencement of the employer's first year of participation. The employer may make more than one attempt during that period.
- (2) If the employer's PDA or sponsor verifies that the employer has passed the first verification within that period, the employer is provisionally entitled to a discount on the insurance premium payable with respect to the employer's first year of participation.
- (3) The amount of premium discount to which the employer is provisionally entitled is to be calculated in accordance with the relevant Insurance Premiums Order. For that purpose, the *PDS level* for the first year of participation is:
  - (a) in the case of an employer participating in the PDS (General)—a percentage rate equal to the PDA Rating of the PDA who verifies that the employer has passed the first verification, or

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(b) in the case of an employer participating in the Small Business Strategy—a percentage rate of 10%.

**Note.** The relevant Insurance Premiums Order may set a maximum amount of premium discount for a year of participation.

- (4) An employer is to attempt to pass the second verification within 12 months of the commencement of the employer's first year of participation. The employer may make more than one attempt during that period.
- (5) The employer's entitlement to the discount referred to in subclause (2) is confirmed if the employer's PDA or sponsor verifies that the employer has passed the second verification.

#### 176 Change in PDA Rating—first year of participation

- (1) This clause applies to an employer who is participating in the PDS (General).
- (2) If the PDA who verifies that the employer has passed the second verification is the same PDA who verified that the employer passed the first verification, but the PDA Rating of that PDA has changed since then, the *PDS level* for the first year of participation is a percentage rate equal to the PDA Rating of the PDA at the time that the PDA verifies that the employer has passed the second verification (even though that may result in a lower PDS level).
- (3) If the PDA who verifies that the employer has passed the second verification is different to the PDA who verified that the employer passed the first verification, the *PDS level* for the first year of participation is a percentage rate equal to the PDA Rating of the PDA who verifies that the employer has passed the second verification (even though that may result in a lower PDS level).

#### 177 Second year of participation

- (1) An employer is provisionally entitled to a discount on the insurance premium payable with respect to the employer's second year of participation if the employer's PDA or sponsor verifies that the employer has passed the second verification.
- (2) The amount of premium discount to which the employer is provisionally entitled is to be calculated in accordance with the relevant Insurance Premiums Order. For that purpose, the *PDS level* for the employer's second year of participation is:
  - (a) in the case of an employer participating in the PDS (General)—a percentage rate equal to two-thirds of the PDA

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Rating of the PDA who verifies that the employer has passed the second verification, and

- (b) in the case of an employer participating in the Small Business Strategy—a percentage rate of 10%.

**Note.** The relevant Insurance Premiums Order may set a maximum amount of premium discount for a year of participation.

- (3) An employer is to attempt to pass the third verification within 12 months of the commencement of the employer's second year of participation. The employer may make more than one attempt during that period.
- (4) The employer's entitlement to the discount referred to in subclause (1) is confirmed if the employer's PDA or sponsor verifies that the employer has passed the third verification.

#### **178 Change in PDA Rating—second year of participation**

- (1) This clause applies to an employer who is participating in the PDS (General).
- (2) If the PDA who verifies that the employer has passed the third verification is the same PDA who verified that the employer passed the second verification, but the PDA Rating of that PDA has changed since then, the *PDS level* for the second year of participation is a percentage rate equal to two-thirds of the PDA Rating of the PDA at the time that the PDA verifies that the employer has passed the third verification (even though that may result in a lower PDS level).
- (3) If the PDA who verifies that the employer has passed the third verification is different to the PDA who verified that the employer passed the second verification, the *PDS level* for the second year of participation is a percentage rate equal to two-thirds of the PDA Rating of the PDA who verifies that the employer has passed the third verification (even though that may result in a lower PDS level).

#### **179 Third year of participation**

- (1) An employer is provisionally entitled to a discount on the insurance premium payable with respect to the employer's third year of participation if the employer's PDA or sponsor verifies that the employer has passed the third verification.

**Note.** An employer who is participating in the Small Business Strategy has a third year of participation only if the employer is enrolled in a small business premium discount program of 3 years duration.



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- (2) The amount of premium discount to which the employer is provisionally entitled is to be calculated in accordance with the relevant Insurance Premiums Order. For that purpose, the *PDS level* for the third year of participation is:
- (a) in the case of an employer participating in the PDS (General)—a percentage rate equal to one-third of the PDA Rating of the PDA who verifies that the employer has passed the third verification, or
  - (b) in the case of an employer participating in the Small Business Strategy—a percentage rate of 5%.
- Note.** The relevant Insurance Premiums Order may set a maximum amount of premium discount for a year of participation.
- (3) An employer is to attempt to pass the fourth verification within 12 months of the commencement of the employer's third year of participation. The employer may make more than one attempt during that period.
- (4) The employer's entitlement to the discount referred to in subclause (1) is confirmed if the employer's PDA or sponsor verifies that the employer has passed the fourth verification.

**180 Change in PDA Rating—third year of participation**

- (1) This clause applies to an employer who is participating in the PDS (General).
- (2) If the PDA who verifies that the employer has passed the fourth verification is the same PDA who verified that the employer passed the third verification, but the PDA Rating of that PDA has changed since then, the *PDS level* for the third year of participation is a percentage rate equal to one-third of the PDA Rating of the PDA at the time that the PDA verifies that the employer has passed the fourth verification (even though that may result in a lower PDS level).
- (3) If the PDA who verifies that the employer has passed the fourth verification is different to the PDA who verified that the employer passed the third verification, the *PDS level* for the third year of participation is a percentage rate equal to one-third of the PDA Rating of the PDA who verifies that the employer has passed the fourth verification (even though that may result in a lower PDS level).

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### **181 Verifications**

- (1) A PDA verifies whether an employer has passed a verification by carrying out an audit. A PDA must carry out an audit in accordance with the Premium Discount Guidelines and any directions given by the Authority under clause 191.
- (2) A PDA is to verify an employer as having passed a verification if the employer has achieved the standards, benchmarks or performance criteria set by the Authority for that verification.
- (3) A sponsor must carry out a verification in accordance with the terms of the funding agreement, the Premium Discount Guidelines and any directions given by the Authority under clause 191.
- (4) A sponsor is to verify an employer as having passed a verification if the employer has met the objectives set by the sponsor for that verification.

### **182 Provisional entitlement not confirmed**

An employer who does not pass a verification within the period specified for that verification (and whose provisional entitlement to a discount is therefore not confirmed) must repay to the employer's insurer (in such manner as the insurer specifies) an amount equal to the amount of discount received by the employer as a result of the provisional entitlement.

### **183 Year of participation may be repeated**

- (1) An employer who does not pass a verification specified for a year of participation within the period specified for that year of participation may attempt to pass that verification again in the employer's next premium year, or the premium year following that premium year.
- (2) However, an employer participating in the Small Business Strategy may only attempt to pass a verification again under this clause with the sponsor's consent.
- (3) **First verification and second verification attempted again**

Clause 175 (and clause 176, if relevant) apply to the premium year in which the employer attempts to pass the first verification and the second verification again.

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(4) **Second verification only attempted again**

If the employer passed the first verification in the employer's first year of participation but did not pass the second verification, the following provisions apply:

- (a) in the premium year in which the employer attempts to pass the second verification again, the employer is taken to have passed the first verification and is not required to pass that verification again,
- (b) clause 175 (and clause 176, if relevant) otherwise apply to that premium year.

(5) **Third verification attempted again**

Clause 177 (and clause 178, if relevant) apply to the premium year in which the employer attempts to pass the third verification again.

(6) **Fourth verification attempted again**

Clause 179 (and clause 180, if relevant) apply to the premium year in which the employer attempts to pass the fourth verification again.

**184 Time limits on participation in Scheme**

An employer ceases to be eligible to participate in the Scheme after the expiry of a period of 5 years from the commencement of the premium year in which the employer first attempted to pass the first verification.

**Division 5 Reviews and appeals**

**185 Internal review**

- (1) An applicant for approval as a PDA that is aggrieved by a decision of the Authority to refuse to approve the applicant may request the General Manager of the Authority to review the decision.
- (2) A PDA that is aggrieved by a determination of a PDA Rating for the PDA by the Authority may request the General Manager to review the determination.
- (3) A request for a review is to:
  - (a) be in writing, and
  - (b) clearly outline the reasons for the request, and

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- (c) be served on the Authority within 14 days of the day on which the Authority gave the applicant notice of the decision or determination concerned.
  - (4) The PDA is to provide any documents or information in support of the request that the Authority requires the PDA by notice in writing to provide.
  - (5) The General Manager may delegate the review of a decision or determination under this clause, but only to a person who was not involved with the original decision or determination.

#### **186 Appeal to Administrative Decisions Tribunal**

- (1) A PDA that is aggrieved by a decision of the Authority to cancel or suspend the PDA's approval may appeal to the Administrative Decisions Tribunal (*the Tribunal*) against the decision.
- (2) An appeal must be made within 14 days (or such longer period as the Authority may allow) after notice of the decision is given to the PDA. The appeal is to be lodged with the Tribunal, and notice giving details of the appeal is to be given to the Authority.
- (3) An appeal does not affect any decision with respect to which it is made until the appeal is determined.

#### **Division 6 Offences**

##### **Note.**

The workers compensation legislation sets out other offences that may affect persons participating in or involved in the Scheme, in particular offences dealing with fraud on the workers compensation scheme (see section 173A (Giving false information for premium calculation) of the Act and section 235A (Fraud on workers compensation scheme) of the *Workplace Injury Management and Workers Compensation Act 1998*).

#### **187 Failure to comply with Code of Conduct**

- (1) A PDA must comply with the Code of Conduct for PDAs.  
Maximum penalty: 50 penalty units.
- (2) A sponsor must comply with the Code of Conduct for Sponsors.  
Maximum penalty: 50 penalty units.

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### **188 Purporting to be a PDA**

- (1) A person who is not a PDA must not indicate that the person is a PDA.

Maximum penalty: 50 penalty units.

- (2) A person who is not a member of a PDA must not indicate that the person is a member of a PDA.

Maximum penalty: 50 penalty units.

- (3) Without limiting subclauses (2) and (3), a person indicates that the person is a PDA or a member of a PDA if the person continues to act as a PDA or a member of a PDA after the approval of the PDA has been suspended or cancelled.

### **189 Failure to notify Authority of changes concerning PDA**

A PDA must notify the Authority in writing if any of the following changes takes place within 14 days after the change takes place:

- (a) a Principal of the PDA ceases to be a Principal, or a member of the PDA,
- (b) the PDA ceases to operate, or merges with or acquires another PDA,
- (c) a change in the composition of the PDA that materially affects the skills or expertise of the PDA in occupational health and safety or injury management.

Maximum penalty: 50 penalty units.

## **Division 7 General**

### **190 Premium Discount Guidelines**

The Authority may from time to time issue guidelines for or with respect to the following matters:

- (a) the criteria to be used by the Authority in determining the suitability of an applicant, or a class of applicants, to be a PDA or a sponsor,
- (b) conditions of approval for PDAs and sponsors,
- (c) the functions of PDAs and sponsors,
- (d) the engagement of PDAs by employers (including fees payable to PDAs by employers),

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- (e) the enrolment of employers in small business premium discount programs (including fees payable to sponsors by employers),
  - (f) the criteria to be used by the Authority in classifying a PDA as a Category 1 PDA, a Category 2 PDA or a Category 3 PDA,
  - (g) the reclassification of a Category 1 PDA as a Category 2 PDA,
  - (h) the criteria to be used by the Authority in determining PDA Ratings for PDAs,
  - (i) benchmarks, standards or performance criteria to be achieved by employers in order for the employers to be entitled to a premium discount under the PDS (General) or the Small Business Strategy,
  - (j) notification of matters and provision of information to the Authority by PDAs and sponsors,
  - (k) the carrying out of audits and verifications by PDAs and verifications by sponsors,
  - (l) the submission and assessment of proposals for small business premium discount programs,
  - (m) the content and conduct of small business premium discount programs,
  - (n) the nature of funding agreements between the Authority and sponsors,
  - (o) review of PDAs or sponsors by the Authority,
  - (p) other matters in connection with the Scheme.

#### **191 Directions by Authority to PDAs or sponsors**

The Authority may at any time give directions to PDAs and sponsors concerning the carrying out of the Scheme. Such directions may be given to all PDAs or sponsors, or to a particular PDA or sponsor, or a particular class of PDAs or sponsors.

#### **192 Codes of Conduct**

- (1) The Authority may at any time issue a Code of Conduct for PDAs or a Code of Conduct for Sponsors (or both) and may at any time vary or revoke a Code of Conduct.

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- (2) A Code of Conduct may provide for any of the following matters:
- (a) conditions of approval for PDAs or sponsors or particular classes of PDAs or sponsors,
  - (b) standards of behaviour of PDAs and members of PDAs,
  - (c) standards of behaviour of sponsors, and persons employed or engaged by sponsors to carry out the functions of a sponsor under the Scheme,
  - (d) operational requirements for PDAs or sponsors,
  - (e) any other matter in connection with the Scheme.

#### **193 Calculation of premium discount**

- (1) Calculation of the amount of a premium discount under this Part is to be made in accordance with the relevant Insurance Premiums Order, including any maximum premium discount amount set in the relevant Insurance Premiums Order.
- (2) An insurer may make provision for any premium discount to which an employer is entitled (and any adjustments arising from changes to an entitlement to the discount) in any manner that the insurer chooses.
- Note.** For example, an insurer may give a premium discount by decreasing the amount of an instalment payable, or by giving the employer a refund, or a rebate on the next premium payable by the employer. The insurer may require an employer whose entitlement to a discount was not confirmed to repay the discount, or may increase the amount of an instalment payable.
- (3) Clause 149 does not prevent an insurer from adjusting an instalment in accordance with this clause.

#### **194 Powers of Authority if PDA or sponsor ceases to operate**

- (1) If a PDA ceases to operate (whether because its approval is suspended or cancelled or for any other reason), the Authority may do such things as it thinks fit to enable the employer to continue to participate in the PDS (General), including arranging another PDA for the employer.
- (2) If a sponsor ceases to operate (whether because its approval is suspended or cancelled or for any other reason), the Authority may do such things as it thinks fit to enable the employer to continue to participate in the Small Business Strategy, including arranging for enrolled employers to participate in a small business premium discount program conducted by another sponsor.

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### **195 Statistics**

The Authority may collect and disseminate statistics and other information arising out of the Scheme (including records of individuals) for the following purposes:

- (a) promoting education and knowledge about the Scheme or about occupational health and safety or injury management,
- (b) research into workers compensation, occupational health and safety or injury management,
- (c) statistical analysis.



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Part 22 Miscellaneous

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## Part 22 Miscellaneous

### 196 Additional records to be kept by employers

Pursuant to section 174 of the Act, an employer must keep records of the following additional matters:

- (a) to the extent that is relevant to the employer—the number of taxi plates of the employer, the number of rides for jockeys, the number of bouts for boxers and wrestlers and the number of games for football players,
- (b) in the case of workers paid under contracts of the kind referred to in paragraph (b) of the definition of *wages* in section 174 (9) of the Act—details of the contract concerned and related documentation, sufficient to enable an insurer to determine the amount of any costs to be deducted as referred to in that paragraph.

### 197 Uninsured Liability and Indemnity Scheme—modification of provisions of the Act

For the purposes of section 148 (3) of the Act, the following modifications are made to the provisions of the Act in their application to claims made under the Scheme:

- (a) references in sections 40A, 54, 83 and 84 of the 1987 Act and in sections 71, 119, 122, 125 and 126 of the 1998 Act to an insurer, self-insurer or employer are to be read as references to the Authority,
- (b) references in sections 11A (8) and 38A of the 1987 Act and in sections 58 and 65 (5) of the 1998 Act to an insurer or self-insurer are to be read as references to the Authority,
- (c) in a case where the employer named as a respondent as referred to in section 144 (2) (a) of the Act is a corporation that has ceased to exist or a deceased person whose estate has been distributed—section 144 (2) is to be read as if it also provided that (in such a case) the application is not, subject to any rules of the Compensation Court or the Commission, required to serve a copy of the application on that person,
- (d) section 174 (6A) of the Act is to be read as if:
  - (i) the words “, at the request of an insurer who has issued a policy of insurance to an employer,” were omitted, and

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- (ii) the reference to the insurer were a reference to the Authority or a person authorised by the Authority, and
  - (iii) section 174 (6B) were omitted,
  - (e) in section 52A (2) of the Act the reference to the person liable to make the payments is to be read as reference to the Authority, and the reference to the person's intention is to be read as reference to the Authority's intention,
  - (f) there is to be inserted at the end of section 52A (2) of the Act "This subsection applies whether or not the payments are made under an award or order of the Compensation Court or the Commission.",
  - (g) the reference in section 52A (6) of the Act to the worker's employer or the employer's insurer is to be read as a reference to the Authority.

**198 Costs of medical assessment: sec 330 of 1998 Act**

- (1) An employer or insurer is not required to pay any costs of medical assessment in connection with:
  - (a) a medical assessment under Part 7 of Chapter 7 of the 1998 Act, if the worker failed without reasonable excuse to submit himself or herself to a medical examination conducted for the assessment, or
  - (b) any further examination conducted for a medical assessment referred to in paragraph (a), or
  - (c) an appeal against such a medical assessment, if the worker failed without reasonable excuse to attend a hearing on the appeal, or
  - (d) any further hearing held on an appeal referred to in paragraph (c).
- (2) The worker is required to pay any costs of assessment referred to in subclause (1) (a)–(d).

**199 Arrangement of business before Commission: sec 349 of 1998 Act**

- (1) The President determines which Presidential member will hear an appeal against a decision of an Arbitrator or an application for leave to appeal.
- (2) The Registrar determines which Arbitrator will hear any other matter before the Commission.

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**200 Proceedings to enter up award on agreement for compensation: sec 66B of 1987 Act**

An application for determination of a claim for compensation by way of an award to give effect to an agreement between the parties may be lodged only if the application is accompanied by such evidence that the proceedings are not prevented by section 66B of the 1987 Act from being entertained by the Commission as is specified by the Rules of the Commission for that purpose.

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## **Part 23 Savings, transitional and other provisions**

### **Division 1 General**

#### **201 Repeal**

The *Workers Compensation Transitional Regulation 1997* is repealed.

#### **202 Saving**

Any act, matter or thing that, immediately before the repeal of the *Workers Compensation (General) Regulation 1995*, the *Workers Compensation (Insurance Premiums) Regulation 1995* or the *Workers Compensation Transitional Regulation 1997*, had effect under any of those Regulations continues to have effect under this Regulation.

#### **203 Exemptions for coal miners—1996 amendments**

A worker employed in or about a mine to which the *Coal Mines Regulation Act 1982* applies is exempt from the operation of the amendments made by the following provisions of the *WorkCover Legislation Amendment Act 1996*, with effect from the date of assent to that Act:

- (a) Schedule 1.2 (Employment required to be substantial contributing factor),
- (b) Schedule 1.4 (Reduction in maximum lump sum compensation amounts),
- (c) Schedule 1.6 (Deduction for previous injuries and pre-existing conditions and abnormalities).

#### **204 Application of Chapter 4 of 1998 Act**

Chapter 4 (Workers compensation) of the 1998 Act extends to an injury received before the commencement of that Chapter, subject to this Part.

#### **205 Restrictions on commencing court proceedings**

- (1) Division 5 (Restrictions on commencing court proceedings) of Part 2 of Chapter 4 of the 1998 Act does not apply to the commencement of court proceedings in respect of compensation if:

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- (a) a dispute about that compensation was referred for conciliation under Division 2 of Part 4 of the 1987 Act before 31 July 1998, or
  - (b) court proceedings in respect of that compensation were validly commenced under the 1987 Act before 31 July 1998.
- (2) The provisions of Divisions 3A and 3B of Part 4 of the 1987 Act continue to apply (as if they had not been repealed) to and in respect of the commencement of the court proceedings referred to in those provisions except court proceedings in respect of which Division 5 of Part 2 of Chapter 4 of the 1998 Act applies.

#### **206 Time for making claim**

Section 65 (13) of the 1998 Act applies in respect of an injury, or death resulting from an injury, received before the commencement of that subsection (but not before 4 pm on 30 June 1987), as if paragraphs (a) and (b) of that subsection read as follows:

- (a) the claim is made within whichever of the following periods ends later:
  - (i) the period of 3 years commencing when the injury or accident happened or, in the case of death, on the date of death,
  - (ii) the period of 1 year that commences when this section commences,
- (b) the claim is not made within that period but the claim is in respect of an injury resulting in the death or serious and permanent disablement of a worker.

#### **207 Contributions to WorkCover Authority Fund**

Part 9 (WorkCover Authority Fund) of the 1987 Act continues to apply (despite its repeal) to and in respect of financial years up to and including the financial year commencing on 1 July 2001.

#### **208 Reduction of maximum section 38 benefits period**

- (1) The amendments made to section 38 of the 1987 Act by the *Workers Compensation Legislation Amendment Act 1998* do not apply to a worker in respect of any period of incapacity after the commencement of those amendments that results from an injury before that commencement if the worker was in receipt of compensation in accordance with that section before that

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commencement for any period of incapacity resulting from that injury.

- (2) Clause 5D (2) of Part 4 of Schedule 6 to the 1987 Act is subject to this clause.

**209 Application of amendment to section 52 of the 1987 Act**

- (1) In this clause, *the 2001 amendment* means the amendment to section 52 (2) (b) of the *Workers Compensation Act 1987* made by the *Workers Compensation Legislation Amendment Act 2001*.
- (2) Section 52 (2) (b) of the 1987 Act, as amended by the 2001 amendment, applies to an injury received before or after the commencement of that amendment.
- (3) However, this clause does not revive or create any entitlement to weekly payments of compensation for a person who, before the commencement of the 2001 amendment, had ceased to receive a weekly payment of compensation by virtue of the operation of section 52 (2) (b) before its amendment by the 2001 amendment (being an entitlement that the person would not have apart from this clause).

**210 Application of amendments to definition of “wages”**

An amendment made to the 1987 Act by Schedule 2 [4], [5], [6] or [7] to the *Workers Compensation Legislation Amendment Act 2002*:

- (a) does not apply to wages paid before 4 pm on 30 June 2003, and
- (b) does not apply in respect of a policy of insurance issued or renewed before 4 pm on 30 June 2003.

**211 Amendment relating to 18 month limit for common law claims—transitional provision**

The amendment to section 151D (1) of the Act made by Schedule 5 (7) to the *Workers Compensation Legislation (Amendment) Act 1994* extends to proceedings in respect of injuries received before the commencement of the amendment (including proceedings pending at that commencement).

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## **Division 2      1996 amending Act**

### **212    Definition**

In this Division:

*the 1996 amending Act* means the *WorkCover Legislation Amendment Act 1996*.

### **213    Coal miners**

- (1) The amendments made to the *Workers Compensation Act 1987* by the following provisions of the 1996 amending Act do not apply in respect of an injury received before 1 July 1997 by a worker employed in or about a mine to which the *Coal Mines Regulation Act 1982* applies:
  - (a) Schedule 1.2 (Employment required to be substantial contributing factor),
  - (b) Schedule 1.4 (Reduction in maximum lump sum compensation amounts),
  - (c) Schedule 1.5 (Discontinuation of weekly payments after 2 years),
  - (d) Schedule 1.6 (Deduction for previous injuries and pre-existing conditions and abnormalities).
- (2) Clause 1 (3) of Part 18 of Schedule 6 to the Act applies in respect of an injury received before 1 January 1998 as if the reference in paragraph (c) of that subclause to the period of 78 weeks after the date of the injury concerned were a reference to the first 78 weeks of incapacity for work (whether total or partial, or both) after the worker becomes (or became) entitled to weekly payments of compensation in respect of the incapacity resulting from the injury. Separate periods of incapacity resulting from the same injury are to be aggregated to determine the period of incapacity for work.

### **214    Medical certificate accompanying weekly compensation claims**

Section 92 (1C) and (1D) of the Act do not apply in respect of a claim for compensation made before 1 April 1997, except a claim for weekly payments of compensation in respect of a psychological injury (within the meaning of section 11A of the Act).

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## 215 Discontinuation of weekly payments after 104 weeks—injuries before commencement of section 52A

- (1) Section 52A of the Act applies without any payment discontinuation notice being given and the worker concerned may apply to the Compensation Court under section 52B (1) of the Act for a determination of any dispute about the operation of section 52A of the Act (even though no such notice has been given), in the following cases:
- (a) any case where court proceedings in respect of the weekly payments of compensation concerned are pending as at the commencement of section 52A of the Act (other than a case referred to in clause 14 (3) of Part 4 of Schedule 6 to the Act),
  - (b) any case where court proceedings are commenced after the commencement of section 52A of the Act, being proceedings that involve a claim for weekly payments of compensation in respect of a period of incapacity for work (resulting from an injury received before that commencement) that includes any period of incapacity beyond the first 104 weeks of incapacity referred to in section 52A (1) of the Act (as determined in accordance with clause 14 (2) (e) of Part 4 of Schedule 6 to the Act).
- (2) This clause does not prevent the person on whom the claim has been made from giving the worker a notice informing the worker about the existence and effect of section 52A of the Act and alerting the worker to the application, or possible application, of that section to the worker. The giving of such a notice does not constitute an admission of liability by an employer or insurer under the Act or independently of the Act.

### Division 3 2001 amending Acts

#### Subdivision 1 Preliminary

#### 216 Definitions

In this Division:

*amending Acts* means the *Workers Compensation Legislation Amendment Act 2001* and the *Workers Compensation Legislation Further Amendment Act 2001*.

*existing claim, existing claim matter, new claim* and *new claim matter* have the same meaning as in Chapter 7 of the 1998 Act.



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## **Subdivision 2      Cessation of conciliation**

### **217    Cessation of conciliation**

- (1) On and from 1 January 2002:
  - (a) Divisions 3 and 4 of Part 2 of Chapter 4 of the 1998 Act cease to apply to all existing claims and there is to be no further conciliation of disputes in respect of existing claims on and from that date, and
  - (b) a provision of the 1987 Act or the 1998 Act is of no further force or effect to the extent that it confers or imposes a power, authority, duty or function on a conciliator or the Principal Conciliator or provides for conciliation of a dispute.
- (2) If a dispute has been referred to conciliation before the commencement of this clause and a conciliation certificate has not been issued before that commencement, court proceedings may be commenced with respect to the dispute in accordance with sections 101–103 of the 1998 Act (as modified by clauses 218–220).

### **218    Modification of section 101 of 1998 Act (Restrictions on commencing court proceedings about weekly payments)**

- (1) Section 101 of the 1998 Act is modified by replacing subsections (1)–(3) with the following subsection:
  - (1) On and from 1 January 2002, a worker cannot commence court proceedings in respect of weekly payments of compensation within 21 days after the worker made the claim for that compensation.
- (2) This clause applies whether the claim for compensation was made before or after the commencement of this clause.

### **219    Modification of section 102 of 1998 Act (Restrictions on commencing court proceedings for lump sum compensation)**

- (1) Section 102 of the 1998 Act is modified by replacing subsections (1)–(3) with the following subsection:
  - (1) On and from 1 January 2002, a worker cannot commence court proceedings in respect of compensation under section 66 of the 1987 Act (as in force immediately before its amendment by the amending Acts) within 2 months after the worker made the claim for that compensation.

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- (2) This clause applies whether the claim for compensation was made before or after the commencement of this clause.

**220 Modification of section 103 of 1998 Act (Restrictions on commencing court proceedings about medical, hospital and other expenses)**

- (1) Section 103 of the 1998 Act is modified by replacing subsections (1)–(3) with the following subsection:

- (1) On and from 1 January 2002, a worker cannot commence court proceedings in respect of compensation under Division 3 (Compensation for medical, hospital and rehabilitation expenses etc) or Division 5 (Compensation for property damage) of Part 3 of the 1987 Act within 28 days after the worker made the claim for that compensation.

- (2) This clause applies whether the claim for compensation was made before or after the commencement of this clause.

**221 Modification of sec 74 of 1998 Act (Insurers to give notice and reasons when liability disputed)**

On and from 1 January 2002, section 74 of the 1998 Act as it applies to existing claims (that is, as in force immediately before its amendment by the *Workers Compensation Legislation Amendment Act 2001*) is modified by omitting section 74 (2) (b) and (c).

**222 Modification of sec 121 of 1998 Act (Assessment of medical disputes by approved medical specialists)**

On and from 1 January 2002, section 121 is modified by reading the reference to the Principal Conciliator in section 121 (2) (b) as a reference to the Registrar of the Commission.

**Subdivision 3 Medical assessment of new claims in respect of pre-commencement injuries**

**223 Assessment of impairment dispute**

The following modifications are prescribed to Part 7 of Chapter 7 of the 1998 Act as that Part applies to a new claim in respect of an injury received before the day on which that Part commences:

- (a) omit section 322 (Assessment of impairment),  
 (b) omit section 323 (Deduction for previous injury or pre-existing condition or abnormality).

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#### **Subdivision 4      Transfer of existing claims**

##### **224    Transfer of existing claims**

- (1) On and from 1 April 2002, each existing claim in respect of which there is no pending application for determination by the Compensation Court is to be treated as a new claim for the purposes of the Workers Compensation Acts (under clause 5 of Part 18C of Schedule 6 to the 1987 Act).
- (2) An existing claim in respect of which an application for determination by the Compensation Court is pending on 1 April 2002 is to be treated as a new claim for the purposes of the Workers Compensation Acts (under clause 5 of Part 18C of Schedule 6 to the 1987 Act):
  - (a) on the day on which the Compensation Court makes a final award or order determining the claim (including a consent award or order), or
  - (b) on the day on which the claim is resolved by an agreement between the parties being registered under section 66A of the 1987 Act,whichever occurs first.
- (3) An application for determination by the Compensation Court that is pending on 1 April 2002 may be amended after that day if the amendment relates to the injury in respect of which the application for determination is made.

##### **225    Transfer of existing claims by election of worker**

- (1) If proceedings on a claim for compensation are pending in the Compensation Court immediately before 28 February 2003, the claimant can elect in a form approved by the Commission to transfer the claim to the Commission.
- (2) On receipt by the Commission of the election, the claim is to be treated as a new claim for the purposes of the Workers Compensation Acts (under clause 5 of Part 18C of Schedule 6 to the 1987 Act).
- (3) The consent of the employer or insurer is not required for the making or operation of an election under this clause.
- (4) Neither the Commission nor the Compensation Court has any discretion or power to refuse to accept an election under this clause.

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- (5) The Commission is to notify the Compensation Court of an election under this clause and is to make arrangements with the Court for the transfer of court records and other documents relevant to the claim, for the purpose of facilitating the hearing and determination of proceedings on the claim by the Commission.

**Note.** Under clause 6A of Part 18C of Schedule 6 to the 1987 Act, the Compensation Court ceases to have jurisdiction in respect of the claim once the claim becomes a new claim.

## 226 Continuing jurisdiction of Compensation Court

Despite section 105 of the 1998 Act, the Compensation Court has jurisdiction to examine, hear and determine the following matters with respect to existing claims that are treated as new claims under this Subdivision:

- (a) reconsideration of a matter to amend a judgment, award or order of the Compensation Court within 28 days after the judgment, award or order was made or given,
- (b) reconsideration of a matter that has been remitted to the Compensation Court for reconsideration by the Court of Appeal,
- (c) matters arising under section 112 (Costs) of the 1998 Act, if an application for an order with respect to costs is made within 28 days after the day on which the final award or order determining the claim was made,
- (d) the making of orders as to matters ancillary to proceedings before the court (for example, matters such as the return of exhibits or enforcement of awards).

## 227 Transitional provision—certificates

- (1) If a certificate has been given for a medical dispute with respect to an existing claim before the day on which the existing claim is to be treated as a new claim under this Subdivision, then after that day:
  - (a) the certificate is conclusive evidence as to a matter on which the certificate was conclusive evidence when it was issued, and
  - (b) a medical dispute about a matter as to which the certificate is conclusive evidence is not required to be assessed under Part 7 of Chapter 7 of the 1998 Act (despite section 293 of that Act and clause 4 of Part 18C of Schedule 6 to the 1987 Act).

Clause 228	Workers Compensation Regulation 2003
Part 23	Savings, transitional and other provisions

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- (2) If:
- (a) a medical dispute with respect to an existing claim was referred to an approved medical specialist under section 121 of the 1998 Act, or to a medical panel or medical referee under section 122 of the 1998 Act, before 1 April 2002, and
  - (b) a certificate was not given for the dispute before 1 April 2002, then after that day the specialist, panel or referee may proceed to (or continue to) make an assessment of the dispute and give a certificate as to findings on the dispute under the relevant section.
- (3) If a certificate is given as referred to in subclause (2):
- (a) the certificate continues on and from 1 April 2002 to be conclusive evidence as to a matter on which it would have been conclusive evidence under section 121 or 122 of the 1998 Act or section 72 of the 1987 Act (as in force before its repeal by the *Workers Compensation Legislation Amendment Act 2001*), and
  - (b) the certificate is admissible after that day in proceedings before the Commission, and
  - (c) a medical dispute about a matter as to which the certificate is conclusive evidence is not required to be assessed under Part 7 of Chapter 7 of the 1998 Act (despite section 293 of the 1998 Act and clause 4 of Part 18C of Schedule 6 to the 1987 Act).
- (4) In this clause:
- certificate* means a certificate given under one of the following provisions of the 1998 Act:
- (a) section 121 (Assessment of medical disputes by approved medical specialists),
  - (b) section 122 (Referral of medical disputes to referee or panel on application of worker or employer).

#### **228 Modification of sec 281 of 1998 Act**

Section 281 of the 1998 Act, as it applies to a claim in respect of an injury received before 1 January 2002, is modified for the purposes of clause 8 of Part 18C of Schedule 6 to the 1987 Act by replacing subsections (2) and (2A) with the following subsection:

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- (2) A claim must be so determined within 2 months after the claimant has provided to the insurer all relevant particulars about the claim.

**229 Modification of sec 282 of 1998 Act**

Section 282 of the 1998 Act is modified for the purposes of clause 8 of Part 18C of Schedule 6 to the 1987 Act by inserting at the end of the section:

- (5) In the application of this section to a claim in respect of an injury received before 1 January 2002, a reference in subsection (1) to “impairment” or “permanent impairment” is to be read as a reference to “loss” within the meaning of Division 4 of Part 3 of the 1987 Act (as in force before the commencement of the amendments made to that Division by the *Workers Compensation Legislation Amendment Act 2001* and the *Workers Compensation Legislation Further Amendment Act 2001*).

**Subdivision 5 Miscellaneous**

**230 Uninsured Liability and Indemnity Scheme**

An amendment made by Schedule 9 to the *Workers Compensation Legislation Further Amendment Act 2001* does not apply in respect of an injury received before the commencement of the amendment.

**231 Appointment of mediators**

- (1) The President may select one or more Arbitrators to act as mediators until such time as the President appoints one or more persons to be mediators under section 318F of the 1998 Act.
- (2) An Arbitrator selected by the President under this clause:
- (a) has and may exercise all the functions of a mediator under the 1998 Act, and
  - (b) ceases to have those functions when one or more mediators are appointed.

Clause 232	Workers Compensation Regulation 2003
Part 23	Savings, transitional and other provisions

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## Division 4 Coal miners—2001 amending Acts

### 232 Definitions

In this Division:

*amending Acts* means the *Workers Compensation Legislation Amendment Act 2001* and the *Workers Compensation Legislation Further Amendment Act 2001*.

*coal miners* has the same meaning as in clause 3 of Part 18 of Schedule 6 to the 1987 Act.

*Compensation Court conciliator* means an officer or employee of the Compensation Court nominated by the registrar of the Compensation Court to carry out conciliation in connection with a claim for compensation in respect of an injury received by a coal miner.

### 233 Compensation Court conciliators

- (1) A Compensation Court conciliator has and may exercise all the powers, authorities, duties and functions conferred on a Compensation Court conciliator as a result of the operation of this Division.
- (2) The Chief Judge of the Compensation Court may issue guidelines for or with respect to the referral of disputes for conciliation and the conduct of conciliations.

### 234 Conciliation

On and from 1 January 2002, Divisions 3 and 4 of Part 2 of Chapter 4 of the 1998 Act apply to coal miners subject to the following modifications:

- (a) read a reference in those provisions to a conciliator as a reference to a Compensation Court conciliator,
- (b) read a reference in those provisions to the Principal Conciliator as a reference to the Chief Judge of the Compensation Court,
- (c) omit sections 77 and 78 (1),

Workers Compensation Regulation 2003

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Savings, transitional and other provisions

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- (d) read section 78 (2) as requiring the Compensation Court to refer a dispute in respect of which proceedings have been commenced in the Court to a Compensation Court conciliator for conciliation,
  - (e) omit sections 79A and 81A,
  - (f) read section 84 (2) as requiring a Compensation Court conciliator to issue a conciliation certificate at the conclusion of the conciliation (including conclusion by way of cessation pursuant to section 90 (as modified by paragraph (j))),
  - (g) read section 84 (5) as if the words “A conciliation certificate is a certificate as to such of the following matters as the Principal Conciliator directs” were omitted and the following words were inserted instead: “A conciliation certificate is a certificate as to the following matters”,
  - (h) omit section 87 (1) and (5) and read section 87 (4) as providing that Compensation Court conciliators are subject to Rules of the Compensation Court as well as to guidelines issued by the Chief Judge,
  - (i) omit section 88,
  - (j) read section 90 as providing (in addition to the matters provided for in that section) that:
    - (i) conciliation must cease 35 days after the Compensation Court conciliator notifies the parties that the dispute has been referred to conciliation if, before the expiry of that period, the conciliator has not issued a certificate certifying that the conciliation was successful, unless the parties to the conciliation agree to continue the conciliation for a specified period of time (which period may be extended by further agreement), and
    - (ii) the Compensation Court may not proceed to hear or determine a dispute that has been referred to conciliation until conciliation of the dispute has concluded (whether or not by way of cessation pursuant to section 90 (as modified by this paragraph)).



Clause 235	Workers Compensation Regulation 2003
Part 23	Savings, transitional and other provisions

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**235 Modification of section 101 of 1998 Act (Restrictions on commencing court proceedings about weekly payments)**

- (1) Section 101 of the 1998 Act is modified in its application to coal miners by replacing subsections (1)–(3) with the following subsection:
  - (1) On and from 1 January 2002, a worker cannot commence court proceedings in respect of weekly payments of compensation within 28 days after the worker made the claim for that compensation.
- (2) This clause applies whether the claim was made before or after the commencement of this clause.

**236 Modification of section 102 of 1998 Act (Restrictions on commencing court proceedings for lump sum compensation)**

- (1) Section 102 of the 1998 Act is modified in its application to coal miners by replacing subsections (1)–(3) with the following subsection:
  - (1) On and from 1 January 2002, a worker cannot commence court proceedings in respect of compensation under section 66 of the 1987 Act (as in force immediately before its amendment by the amending Acts) within 2 months after the worker made the claim for that compensation.
- (2) This clause applies whether the claim was made before or after the commencement of this clause.

**237 Modification of section 103 of 1998 Act (Restrictions on commencing court proceedings about medical, hospital and other expenses)**

- (1) Section 103 of the 1998 Act is modified in its application to coal miners by replacing subsections (1)–(3) with the following subsection:
  - (1) On and from 1 January 2002, a worker cannot commence court proceedings in respect of compensation under Division 3 (Compensation for medical, hospital and rehabilitation expenses etc) or Division 5 (Compensation for property damage) of Part 3 of the 1987 Act within 28 days after the worker made the claim for that compensation.
- (2) This clause applies whether the claim was made before or after the commencement of this clause.

Workers Compensation Regulation 2003

Clause 238

Savings, transitional and other provisions

Part 23

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**238 Application of amendments made by Workers Compensation (General) Amendment (Savings, Transitional and Other Matters) Regulation 2001**

Provisions of this Regulation that correspond to provisions of the *Workers Compensation (General) Regulation 1995* apply to coal miners in the same way as those corresponding provisions of that Regulation applied to coal miners pursuant to clause 104 of that Regulation.

**Note.** Clause 104 of the *Workers Compensation (General) Regulation 1995* was a transitional provision that provided for the application to coal miners of amendments made to that Regulation by the *Workers Compensation (General) Amendment (Savings, Transitional and Other Matters) Regulation 2001*.

## Workers Compensation Regulation 2003

## Schedule 1 Forms

**Schedule 1 Forms**

(Clause 4)

**Form 1**

(Clause 33)

**Workplace Injury Management and Workers Compensation Act 1998  
Industrial deafness—Notice of injury**

- 1 Name and address of worker:
- 2 Age and occupation of worker:
- 3 Name and address of employer to whom notice of injury is given:
- 4 If not employed by the above employer at the date that this notice of injury is given, date of last day of employment with the employer:
- 5 Has the worker been paid any compensation for loss of hearing in Australia or elsewhere? YES/NO  
If YES, give details:
- 6 Using the following list, give the worker's complete work history in any noisy work in Australia or elsewhere, including work as an employee, in any business carried on by the worker (either alone or with anyone else), in military service or otherwise. Include work in the list even if unsure about how noisy the work was.

<b>Type of occupation</b>	<b>State whether employee/ own business/ other (specify)</b>	<b>Name &amp; address of employer, business or other</b>	<b>Period of work</b>
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.....  
(Signature of worker)

.....  
(Date)

Workers Compensation Regulation 2003

Forms

Schedule 1

## Form 2

(Clause 36)

### Workplace Injury Management and Workers Compensation Act 1998 Register of Injuries

Particulars: .....

Name of injured worker: .....

Address: .....

Age: ..... Occupation: .....

Industry in which worker was engaged: .....

Operation in which worker was engaged at time of injury: .....

Date (or deemed date) of injury: ..... /..... /..... Hour: ..... am/pm

Nature of injury: .....

Cause of injury: .....

Remarks: .....

(Signed) .....

(Address) .....

(Date) .....

[Entries in this book should, if practicable, be made in ink.]

**Note.** The employer's full name and address, together with the name of the employer's insurer and the insurer's address, should be written up in ink on the inside of the cover of the book.

## Form 3

(Clause 49)

### Workers Compensation Act 1987 New South Wales Employer's Insurance Policy

#### Part 1 Preliminary

##### 1 Definitions

In this Policy:

**Employer** means the person insured under this Policy, being the person named as the Employer in the Schedule of Employer Particulars.

**Insurer** means the insurer of the Employer under this Policy, being the person named as the Insurer in the Schedule of Employer Particulars.

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## Workers Compensation Regulation 2003

## Schedule 1 Forms

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**period of insurance** means the period specified in the Schedule of Employer Particulars as the period during which this Policy is in force, and any subsequent period in respect of which this Policy is duly renewed.

**the Act** means the *Workers Compensation Act 1987* and includes the *Workplace Injury Management and Workers Compensation Act 1998*.

**the Proposal** means the proposal for insurance in respect of which this Policy is issued (made by the Employer to the Insurer).

**Schedule of Employer Particulars** means the Schedule most recently issued by the Insurer to the Employer as the Schedule of Employer Particulars in respect of this Policy.

**worker** has the same meaning as in the Act (including the extended meaning it has because of Schedule 1 (Deemed employment of workers) to the Act).

## 2 Proposal and Schedule form part of Policy

The Proposal is the basis of this contract of insurance. Both the Proposal and the Schedule of Employer Particulars are considered to form part of this Policy.

## Part 2 Cover provided by Policy

### 3 What the Insurer is liable for

The Insurer will indemnify the Employer against all of the following sums for which the Employer becomes liable during or in respect of the period of insurance:

- (a) compensation that the Employer becomes liable to pay under the Act to or in respect of any person who is a worker of the Employer (including any person to whom the Employer is liable under section 20 of the Act),
- (b) any other amount that the Employer becomes liable to pay independently of the Act (but not including a liability for compensation in the nature of workers compensation arising under any Act or other law of another State, a Territory or the Commonwealth or a liability arising under the law of another country) for any injury to any such person (not including liability in respect of an injury, suffered by a person other than such a worker, arising out of any rescue or attempted rescue),
- (c) costs and expenses incurred with the written consent of the Insurer in connection with the defence of any legal proceeding in which any such liability is alleged.

The Insurer will not indemnify the Employer for the Employer's liability for GST payable on the settlement of a claim.

Workers Compensation Regulation 2003

Forms

Schedule 1

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#### **4 Businesses and industrial activities to which Policy applies**

This Policy applies to a business or industrial activity described in the Schedule of Employer Particulars. The Employer can change the businesses or industrial activities to which this Policy applies by giving notice of the change in writing to the Insurer. The Schedule of Employer Particulars is taken to have been changed to give effect to any such notice given by the Employer. The premium payable for this Policy is to be adjusted in accordance with any change in the businesses or industrial activities to which this Policy applies.

#### **5 Insurer is directly liable to workers**

The Insurer (as well as the Employer) is directly liable to any worker and (if the worker dies) to the worker's dependants or other persons to pay the compensation under the Act or other amount independently of the Act for which the Employer is liable and indemnified under this Policy. This means that a claim can be made and action taken directly against the Insurer.

#### **6 Insurer is bound by judgments etc against Employer**

The Insurer is bound by and subject to any judgment, order, decision or award given or made against the Employer, in respect of any liability for which the Insurer is liable to indemnify the Employer under this Policy.

#### **7 Premium**

The premium for this Policy is calculated in accordance with the relevant Insurance Premiums Order (unless this Policy is exempt from Insurance Premiums Orders).

### **Part 3 Conditions of Policy**

#### **8 Employer must give Insurer notice of injury to worker**

The Employer must notify the Insurer within 48 hours after becoming aware that a worker has received an injury that seems to be a significant injury (an injury that is likely to result in the worker being totally or partially incapacitated for work for a continuous period of more than 7 days). If the injury does not seem to be a significant injury, the Employer must notify the Insurer within 7 days after becoming aware that the worker has received the injury. If the worker first becomes totally or partially incapacitated for work after the Employer notifies the Insurer of the injury, the Employer must notify the Insurer of the incapacity as soon as possible after becoming aware of it.

#### **9 How notices are to be given**

- (1) Notices to be given under this Policy to the Insurer are to be given by being delivered, posted or transmitted electronically to the address of the Insurer last notified to the person giving the notice.

## Workers Compensation Regulation 2003

## Schedule 1      Forms

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- (2) Notices to be given under this Policy to the Employer are to be given by being delivered, posted or transmitted electronically to the address of the Employer last known to the Insurer.
- (3) The notification of injury required by clause 8 is to be given to the Insurer in the manner required by subclause (1) or in such other manner as the Insurer indicates to the Employer that the Insurer will accept.

**10 Employer not to make admissions etc**

The Employer must not, without the written authority of the Insurer, incur any expense of litigation, or make any payment, settlement or admission of liability in respect of any injury to or claim made by any worker.

**11 Defence of proceedings**

The Insurer can use the name of the Employer in respect of anything indemnified under this Policy, including the bringing, defending, enforcing or settling of legal proceedings for the benefit of the Insurer. The Employer must comply with all reasonable requests by the Insurer for information, assistance and documents to enable the Insurer to settle or resist a claim.

**12 Subrogation**

The Insurer can use the name of the Employer in any proceedings to enforce, for the benefit of the Insurer, any order made for costs or otherwise. The Insurer has the right of subrogation in respect of all rights which the Employer may have against any person or persons who may be responsible to the Employer or otherwise in respect of any claim for any injury covered by this Policy. The Employer must execute such documents as may be necessary for the purpose of vesting any of those rights in the Insurer, as and when required to do so by the Insurer.

**13 Precautions to prevent injury**

The Employer must take all reasonable precautions to prevent injury.

**14 Alterations and repairs following injury**

So far as is reasonably practicable, the Employer must not alter or repair any work, machinery, plant, way or appliance after an injury to a worker occurs in connection with it, until the Insurer has had an opportunity to examine it or has consented to the alteration or repair being made.

**15 Insurer's right of inspection**

The Insurer is entitled to inspect at any reasonable time any work, machinery, plant, way or appliance used in the Employer's business or industrial activity.

Workers Compensation Regulation 2003

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Schedule 1

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## **16 Assignment**

An assignment of interest under this Policy does not bind the Insurer unless the written consent of the Insurer to the assignment has been obtained.

## **17 Renewal of Policy**

This Policy is renewed on the expiration of the current period of insurance to which it applies, except where:

- (a) the Employer has given written notice to the Insurer (before the expiration of the current period of insurance) that renewal is not required, or
- (b) the Insurer has given the Employer notice in writing not less than 14 days before the expiration of the current period of insurance that the Insurer refuses to renew the Policy, but the Insurer cannot refuse to renew this Policy unless the WorkCover Authority has given its prior consent in writing to the refusal.

The period of each renewal is 12 months, or such shorter period as the Insurer and the Employer agree to before renewal.

## **18 Cancellation of Policy**

The Insurer may cancel this Policy at any time if the Insurer has first obtained the written consent of the WorkCover Authority (and cannot cancel this Policy in any circumstances without that consent). The Insurer cancels this Policy by giving notice of cancellation in writing to the Employer. The cancellation takes effect on the cancellation day notified in the notice of cancellation but that day must not be less than 7 days after the notice of cancellation is given to the Employer. Section 184 of the Act applies as if the Policy had been cancelled under that section.

## **19 No waiver or alteration**

A provision of this Policy cannot be waived or altered unless the consent of the Insurer has been previously obtained and signified by endorsement on this Policy.

## **20 Employer must tell Insurer if unable to give suitable work requested by injured worker**

If a worker employed by the Employer is partially incapacitated for work as a result of an injury and requests the Employer to provide suitable employment for him or her and the Employer does not immediately provide suitable employment, the Employer must promptly notify the Insurer of the following:

- (a) the fact of the worker's request and that the Employer has not provided suitable employment,
- (b) any proposal to provide or arrange for suitable employment for the worker, having regard to the medical certificate which the worker supplies and to the Employer's return-to-work program (if any) or otherwise.



## Workers Compensation Regulation 2003

## Schedule 1 Forms

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**21 Employer must advise change of business or industry**

The Employer must notify the Insurer, as soon as practicable, of any change in the business or industrial activity carried on by the Employer.

**22 Records to be kept of wages**

The Employer agrees to allow the Insurer to inspect the records kept by the Employer under section 174 of the Act.

**Note.** Section 174 of the Act requires the Employer to keep certain records (such as records of wages paid to workers) and requires the Employer to keep those records for at least 7 years. The section gives the WorkCover Authority certain rights to inspect those records.

**23 Cover conditional on Employer complying with Policy, Act and regulations**

The indemnity provided by this Policy is conditional on compliance by the Employer with the provisions of this Policy, the Act and the regulations under the Act.

**24 Act and regulations form part of Policy**

This Policy is subject to the provisions of the Act and the regulations under the Act and those provisions are taken to form part of this Policy.

**Notes.**

- 1 *Recovery of excess from Employer.* Under section 160 of the Act, the Employer is required to repay an excess of the first \$500 (or if another amount is prescribed by regulations under the Act, that other amount) of weekly payments of compensation in respect of each claim paid by the Insurer. An Employer is not required to make the repayment to the extent that the Insurer either offsets the amount against compensation duly advanced by the Employer to the claimant worker or makes an appropriate debit against any amount standing to the Employer's credit for premiums. If the basic tariff premium calculated for the Policy does not exceed \$3,000, the excess is repayable only if the Employer and Insurer have agreed that it is repayable.
- 2 *Disputes about premium.* If the Employer disputes the premium for this Policy calculated by the Insurer under an Insurance Premiums Order, the Act lets the Employer apply to the WorkCover Authority for a determination of the disputed aspect of the calculation. If the Employer wishes to make such an application, it must usually be lodged within 1 month after the Insurer demands the premium. *The Employer should first try to resolve any premium problem by contacting the Insurer.* Even if the Employer lodges such an application with the WorkCover Authority, the premium demanded by the Insurer remains payable (except to the extent that the WorkCover Authority otherwise directs) pending the WorkCover Authority's determination.
- 3 *Domestic etc workers.* If this Policy is issued for domestic or similar workers (including when this Policy forms part of a household insurance package) it is to be read as if:

## Workers Compensation Regulation 2003

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Schedule 1

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- (a) the reference to the Employer carrying on business were a reference to the Employer employing domestic or similar workers, and
  - (b) the provisions in clause 4 for the Employer to notify a change of business or industrial activity were omitted, and the provisions of clauses 17 (Renewal of Policy) and 21 (Employer must advise change of business or industry) were omitted.
- 4 *Workplace injury management.* The Employer of an injured worker who has been totally or partially incapacitated for work has certain obligations under Chapter 3 of the *Workplace Injury Management and Workers Compensation Act 1998*, including an obligation under section 49 to provide suitable employment if the worker is able to return to work. It is a condition of this Policy that the Employer must comply with the requirements of that Chapter, but only if the Insurer has taken appropriate steps to ensure that the Employer is made aware of those obligations.

## Workers Compensation Regulation 2003

## Schedule 2 Diseases

**Schedule 2 Diseases**

(Clause 5)

<b>Column 1</b>	<b>Column 2</b>
Poisoning by lead, its alloys or compounds, and its sequelae.	<p>Handling of ore containing lead including fine shot in zinc factories.</p> <p>Casting of old zinc and lead in ingots.</p> <p>Manufacture of articles made of cast lead or of lead alloys.</p> <p>Employment in the polygraphic industries.</p> <p>Manufacture of lead compounds.</p> <p>Manufacture and repair of electric accumulators.</p> <p>Preparation and use of enamels containing lead.</p> <p>Polishing by means of lead files or putty powder with a lead content.</p> <p>All painting operations involving the preparation and manipulation of coating substances, cements or colouring substances containing lead pigments.</p>
Poisoning by mercury or its amalgams or compounds, and its sequelae.	<p>Handling of mercury ore.</p> <p>Manufacture of mercury compounds.</p> <p>Manufacture of measuring and laboratory apparatus.</p> <p>Preparation of raw material for the hat-making industry.</p> <p>Hot gilding.</p> <p>Use of mercury pumps in the manufacture of incandescent lamps.</p> <p>Manufacture of fulminate of mercury primers.</p>
Anthrax infection.	<p>Work in connection with animals infected with anthrax.</p> <p>Handling of animal carcasses or parts of such carcasses including hides, hoofs and horns.</p> <p>Loading and unloading or transport of merchandise that has come in contact with animals infected with anthrax or with animal carcasses or parts of such carcasses.</p>
Phosphorus poisoning by phosphorus or its compounds, and its sequelae.	Any process involving the production, liberation or utilisation of phosphorus or its compounds.

## Workers Compensation Regulation 2003

Diseases

Schedule 2

Column 1	Column 2
Arsenic poisoning by arsenic or its compounds, and its sequelae.	Any process involving the production, liberation or utilisation of arsenic or its compounds.
Poisoning by benzene or its homologues, their nitro- and amido-derivatives, and its sequelae.	Any process involving the production, liberation or utilisation of benzene or its homologues, or their nitro- and amido-derivatives.
Poisoning by the halogen derivatives of hydrocarbons of the aliphatic series.	Any process involving the production, liberation or utilisation of halogen derivatives of hydrocarbons of the aliphatic series.
Pathological manifestations of a kind that are due to or contributed to by: (a) radium and other radioactive substances, (b) X-rays.	Any process involving exposure to the action of radium, radioactive substances or X-rays.
Primary epitheliomatous cancer of the skin.	Any process involving the handling or use of tar, pitch, bitumen, mineral oil, paraffin, or the compounds, products or residues of these substances.
Brucellosis, Leptospirosis and Q fever.	Slaughtering of cattle on the slaughter-floor of an abattoir or slaughter-house. Handling or processing of the slaughtered carcasses of cattle in an abattoir or slaughter-house. Penning up or running cattle through a race at an abattoir or slaughter-house. Any activity, incidental or necessary to the carrying out of the above activities, on the slaughter-floor, in any area where the raw by-products of slaughtered cattle are handled or in or about any pen or race of an abattoir or slaughter-house.

## Workers Compensation Regulation 2003

## Schedule 3 Medical tests and results—brucellosis, Q fever and leptospirosis

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**Schedule 3 Medical tests and results—brucellosis, Q fever and leptospirosis**

(Clause 6)

Column 1	Column 2	Column 3
Brucellosis.	A <i>Brucella abortus</i> agglutination or complement fixation test of 2 blood samples, the second of which was taken not earlier than 10 days and not later than 28 days after the day on which the first sample was taken.	A four-fold or greater increase in antibody titre.
	A <i>Brucella abortus</i> agglutination test of a single blood sample.	An antibody titre of 640 or greater.
	A <i>Brucella abortus</i> complement fixation test of a single blood sample, where the sample was taken from a person with symptoms consistent with chronic brucellosis.	An antibody titre of 640 or greater.
	A laboratory culture of any specimen.	The isolation of <i>Brucella abortus</i> .
Q fever.	A Q fever complement fixation test of 2 blood samples, the second of which was taken not earlier than 10 days and not later than 28 days after the day on which the first sample was taken.	A four-fold or greater increase in antibody titre.
	A fluorescence test of a single blood sample.	The demonstration of Q fever specific IgM antibodies.
	A laboratory culture of any specimen.	The isolation of <i>Coxiella burneti</i> .

## Workers Compensation Regulation 2003

Medical tests and results—brucellosis, Q fever and leptospirosis

Schedule 3

Column 1	Column 2	Column 3
Leptospirosis.	<p>The comparison of 2 blood samples (the second of which was taken not earlier than 10 days and not later than 60 days after the day on which the first sample was taken) by any technical method that:</p> <p>(a) is the same as a technical method used by the Leptospiral Reference Laboratory at the Laboratory of Microbiology and Pathology, Department of Health, Brisbane, for the purpose of comparing blood samples to establish whether or not a person has contracted leptospirosis, and</p> <p>(b) involves the use of a panel of leptospiral antigens or serovars that is recommended by the Leptospiral Reference Laboratory for use in making such a comparison.</p> <p>The analysis of a single specimen of blood serum by any technical method that:</p>	<p>A four-fold or greater increase in antibody titre.</p> <p>Agglutination of a leptospiral antigen at a dilution of 1 in 400 or greater.</p>

## Workers Compensation Regulation 2003

Schedule 3 Medical tests and results—brucellosis, Q fever and leptospirosis

Column 1	Column 2	Column 3
	<p>(a) is the same as a technical method used by the Leptospiral Reference Laboratory at the Laboratory of Microbiology and Pathology, Department of Health, Brisbane, for the purpose of analysing a single specimen of blood serum to establish whether or not a person has contracted leptospirosis, and</p> <p>(b) involves the use of a panel of leptospiral antigens or serovars that is recommended by that Leptospiral Reference Laboratory for use in carrying out such an analysis.</p>	The isolation of an invasive leptospire.
	A laboratory culture of a leptospire from blood or urine.	

Workers Compensation Regulation 2003

Schedule 4

**Schedule 4**

(Clause 62)

<b>Religious body or organisation</b>	<b>Class</b>	<b>Employer</b>
Anglican Church of Australia—Diocese of Canberra and Goulburn	Clergy holding a licence from the Bishop of the Diocese who perform work wholly or partly in New South Wales	Anglican Church of Australia Property Trust Diocese of Canberra and Goulburn
Anglican Church of Australia—Diocese of Grafton	Clergy holding a licence from the Bishop of the Diocese who perform work wholly or partly in New South Wales	The Corporate Trustees of the Diocese of Grafton
Anglican Church of Australia—Diocese of Riverina	Clergy holding a licence from the Bishop of the Diocese who perform work wholly or partly in New South Wales	Riverina Diocesan Trust
Assemblies of God New South Wales	Ministers serving a congregation in New South Wales affiliated with or recognised by the Assemblies of God New South Wales who receive a stipend paid by that congregation	The Assembly of the congregation concerned
The Baptist Union of New South Wales	Ministers serving a congregation in New South Wales affiliated with or recognised by The Baptist Union of New South Wales who receive a stipend paid by that congregation	The Secretary of the congregation concerned
Central Coast Christian Life Centre	Ministers serving a congregation in New South Wales affiliated with or recognised by the Central Coast Christian Life Centre who receive a stipend paid by that congregation	The Central Coast Christian Life Centre Limited



## Workers Compensation Regulation 2003

## Schedule 4

<b>Religious body or organisation</b>	<b>Class</b>	<b>Employer</b>
Church of Christ (Non-denominational)— Bankstown	Ministers serving a congregation in New South Wales affiliated with or recognised by the Church of Christ (Non-denominational)—Bankstown who receive a stipend paid by that congregation	The congregation concerned
Classis New South Wales of the Reformed Churches of Australia	(a) Ministers serving a congregation in New South Wales affiliated with or recognised by the Classis New South Wales of the Reformed Churches of Australia who receive a stipend paid by that congregation	(a) The Session of the congregation concerned
	(b) Ministers serving the Classis New South Wales of the Reformed Churches of Australia who receive a stipend paid by the Classis	(b) The Classis New South Wales of the Reformed Churches of Australia
Coptic Orthodox Church, New South Wales, Australia	Clergy authorised by the President of the Church Council in New South Wales to serve a parish in New South Wales	Coptic Orthodox Church (NSW) Property Trust
Fellowship of Congregational Churches	Clergy serving a congregation in New South Wales affiliated with or recognised by the Fellowship of Congregational Churches who receive a stipend paid by that congregation	The Secretary of the congregation concerned

## Workers Compensation Regulation 2003

## Schedule 4

<b>Religious body or organisation</b>	<b>Class</b>	<b>Employer</b>
Lutheran Church of Australia, New South Wales District	(a) Pastors who serve, and receive a stipend paid by, a congregation in New South Wales that is: <ul style="list-style-type: none"> <li>(i) a member of the Lutheran Church of Australia, New South Wales District, or</li> <li>(ii) authorised by the Church Council of the Lutheran Church of Australia, New South Wales District,</li> </ul> (b) Pastors who serve, and receive a stipend paid by, the Lutheran Church of Australia, New South Wales District	The Administrator of the Lutheran Church of Australia, New South Wales District
Presbyterian Church of Australia in the State of New South Wales	Presbyterian Ministers	Presbyterian Church in the State of New South Wales
Southside Christian Fellowship	Ministers serving a congregation in New South Wales affiliated with or recognised by the Southside Christian Fellowship who receive a stipend paid by that congregation	The Southside Christian Fellowship Incorporated

## Workers Compensation Regulation 2003

## Schedule 5 Penalty notice offences

**Schedule 5 Penalty notice offences**

(Clause 73)

**Part 1 Provisions of 1987 Act**

<b>Column 1</b>	<b>Column 2</b>
<b>Provision</b>	<b>Penalty \$</b>
Section 43 (2A)	200
Section 155 (1)	750
Section 161 (3)	200
Section 163 (1)	200
Section 163 (3)	200
Section 163A (2)	500
Section 163A (6)	500
Section 163A (7)	500
Section 174 (1) (a)	500
Section 174 (1) (b)	500
Section 174 (1) (c)	500
Section 174 (2)	500
Section 174 (3)	500
Section 174 (8)	500
Section 192A (4A)	500

Workers Compensation Regulation 2003

Penalty notice offences

Schedule 5

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## Part 2 Provisions of 1998 Act

Column 1	Column 2
Provision	Penalty \$
Section 63 (5)	500
Section 69 (1) (a)	500
Section 69 (1) (b)	500
Section 69 (1) (c)	500
Section 74A (3)	500
Section 79A (4)	200
Section 80 (5)	200
Section 81A (2)	200
Section 82 (3)	200
Section 90 (7)	200
Section 94 (1)	500
Section 94 (2)	500
Section 126 (2)	200
Section 155A (2)	500
Section 155A (6)	500
Section 155A (7)	500
Section 231 (3)	200
Section 232 (2) (a)	200

## Workers Compensation Regulation 2003

## Schedule 5 Penalty notice offences

<b>Column 1</b>	<b>Column 2</b>
<b>Provision</b>	<b>Penalty \$</b>
Section 232 (2) (b)	200
Section 256 (5)	500
Section 264 (1)	500
Section 264 (2)	500
Section 264 (3)	500
Section 267 (5)	500
Section 268	500
Section 283 (1)	500
Section 285	500
Section 290 (2)	500
Section 343 (4) (a)	500
Section 343 (4) (b)	500
Section 357 (3)	500
Section 358 (3)	500
Section 359 (2)	500

Workers Compensation Regulation 2003

Penalty notice offences

Schedule 5

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### **Part 3 Provisions of the Workers Compensation Regulation 2003**

<b>Column 1</b>	<b>Column 2</b>
<b>Provision</b>	<b>Penalty \$</b>
Clause 34 (2)	200
Clause 75	750
Clause 133	500

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Workers Compensation Regulation 2003

Schedule 6 Maximum costs—compensation matters

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## Schedule 6 Maximum costs—compensation matters

(Clause 84)

### 1 Costs determined by reference to activities or events in connection with the matter

- (1) In this Schedule:

*teleconference* means a conference conducted by way of long-distance communication.

*the table* means the Compensation Costs Table at the end of this Schedule.

- (2) The maximum costs for an activity or event described in a Part of the table and carried out in or in relation to a claim made or to be made in respect of a particular injury are as follows:

(a) **Making claim for permanent impairment compensation or pain and suffering compensation**

For an activity or event carried out on behalf of a claimant in making a claim for compensation under section 66 or 67 of the 1987 Act—the cost set out in Column 3 of Part 1 of the table opposite that activity or event up to the maximum total costs for that type of activity or event set out in Column 4 of the table.

(b) **Certain events or activities on behalf of claimant until dispute referred or order sought**

For an activity or event carried out on behalf of a claimant in any of the following circumstances (other than for an activity or event covered by paragraph (d) of this clause and Part 3 of the table):

- (i) the insurer fails to determine a claim as and when required by the 1998 Act,
- (ii) the insurer fails to commence weekly payments of compensation or discontinues or reduces weekly payments,
- (iii) the insurer makes a reasonable offer of settlement (in the case of a claim for compensation under section 66 or 67 of the 1987 Act),

Workers Compensation Regulation 2003

Maximum costs—compensation matters

Schedule 6

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- (iv) the insurer denies liability in respect of the claim by serving a notice under section 74 of the 1998 Act,  
—the cost set out in Column 3 of Part 2A of the table opposite that activity or event up to the maximum total costs for that type of activity or event set out in Column 4 of the table.
- (c) **Certain activities or events on behalf of insurer until dispute referred or order sought**  
For an activity or event carried out on behalf of an insurer in any of the following circumstances (other than for an activity or event covered by paragraph (d) of this clause and Part 3 of the table):
- (i) the insurer fails to determine a claim as and when required by the 1987 Act,
- (ii) the insurer fails to commence weekly payments of compensation or discontinues or reduces weekly payments of compensation,
- (iii) in the case of a claim for compensation under section 66 or 67 of the 1987 Act, the insurer makes a reasonable offer of settlement on the claim,
- (iv) the insurer denies liability in respect of the claim by serving a notice under section 74 of the 1998 Act,  
—the cost set out in Column 3 of Part 2B of the table opposite that activity or event up to the maximum total costs for that type of activity or event set out in Column 4 of the table.
- (d) **Certain applications for expedited assessment**  
For an activity or event carried out on behalf of a claimant or insurer in any of the following circumstances:
- (i) the insurer fails to determine a claim for medical expenses involving less than \$5,000,
- (ii) the insurer fails to commence weekly payments of compensation where less than 12 weeks' compensation is sought by the claimant and an interim payment order is made by the Registrar (whether or not the interim payment order was sought by a party to the claim),  
—the cost set out in Column 3 of Part 3 of the table opposite that activity or event up to the maximum total costs for that type of activity or event set out in Column 4 of the table.



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## Schedule 6 Maximum costs—compensation matters

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(e) **Election by claimant to transfer claim to Commission under clause 224**

For an activity or event carried out on behalf of a claimant in making an election under clause 224 of this Regulation to transfer the claim to the Commission—the cost set out in Column 3 of Part 4A of the table opposite that activity or event up to the maximum total costs for that type of activity or event set out in Column 4 of the table.

(f) **Referral of dispute to determination of the dispute**

For an activity or event carried out on behalf of a claimant or insurer from the time of referral of a dispute to the Commission to determination of the dispute by the Commission constituted by an Arbitrator—the cost set out in Column 3 of Part 4 of the table opposite that activity or event up to the maximum total costs for that type of activity or event set out in Column 4 of the table.

(g) **Appeal to a Medical Appeal Panel for dispute about degree of permanent impairment**

For an activity or event carried out on behalf of a claimant or insurer in respect of an appeal to a Medical Appeal Panel involving a medical dispute as to the degree of permanent impairment of the injured worker—the cost set out in Column 3 of Part 5 of the table opposite that activity or event up to the maximum total costs for that type of activity or event set out in Column 4 of the table.

(h) **Referral of a question of law to President**

For an activity or event carried out on behalf of a claimant or insurer in respect of the referral of a question of law to the Commission constituted by the President—the cost set out in Column 3 of Part 6 of the table opposite that activity or event up to the maximum total costs for that type of activity or event set out in Column 4 of the table.

(i) **Registration of agreement under sec 66A of 1987 Act or a commutation agreement**

For an activity or event carried out on behalf of a claimant or insurer in respect of the registration of an agreement under section 66A of the 1987 Act or a commutation agreement—the cost set out in Column 3 of Part 7 of the table opposite that activity or event up to the maximum total costs for that type of activity or event set out in Column 4 of the table.

Workers Compensation Regulation 2003

Maximum costs—compensation matters

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(j) **Appeals to Presidential member**

For an activity or event carried out on behalf of a claimant or insurer in respect of an appeal to the Commission constituted by a Presidential member—the cost set out in Column 3 of Part 8 of the table opposite that activity or event up to the maximum total costs for that activity or event set out in Column 4 of the table.

(k) **Any other substantive proceedings before the Commission**

For an activity or event carried out in respect of any other proceedings before the Commission involving the determination of substantive legal issues (including applications for review of existing orders, disputes relating to suitable duties, and disputes relating to apportionment)—the costs set out in Column 3 of Part 9 of the table opposite that activity or event up to the maximum total costs for that type of activity or event set out in Column 4 of the table.

(l) **Other costs**

For an activity or event described in Column 2 of Part 10 of the table—the cost set out in Column 3 of Part 10 of the table opposite that activity or event up to the maximum total costs for that type of activity or event set out in Column 4 of the table.

(3) This clause is subject to this Schedule.

**2 Multiple claims or disputes in respect of an injury to be treated as a single claim or dispute**

(1) In the event that more than one claim is made in respect of a particular injury, or more than one dispute arises in respect of a claim, the maximum total costs for a type of activity or event in respect of the injury, regardless of how many times the activity or event is carried out, is the maximum set out in Column 4 of the table in relation to that type of activity or event.

(2) Subclause (1) does not apply if:

- (a) a period of more than 12 months has elapsed between the making of the first claim in respect of the injury and the making of a subsequent claim (and the same applies to each claim subsequent to that claim), or
- (b) a period of more than 12 months has elapsed between the notification of the first dispute in respect of the claim and the

## Workers Compensation Regulation 2003

## Schedule 6 Maximum costs—compensation matters

notification of a subsequent dispute (and the same applies to each dispute subsequent to that dispute), or

- (c) the Commission or the Registrar orders that the claims or disputes are to be treated as separate claims or disputes for the purposes of the calculation or assessment of costs.
- (3) The Registrar may, on application, order that subclause (1) does not apply to costs incurred in respect of a claim or dispute if satisfied that the need for the costs to be incurred could not have been foreseen at the time that costs for the type of activity or event concerned were first incurred in connection with the injury.
- (4) No costs are payable or recoverable in respect of an application for the purpose of subclause (3).

**3 Restrictions on costs**

- (1) Costs specified in a Part of the table (other than Part 2A, 2B or 10) are payable only for an activity or event that is carried out in the period commencing when the first activity or event specified in that Part is commenced and concluding on either the completion of the last activity or event specified in that Part or finalisation of the matter (whichever occurs first).
- (2) Costs specified in Part 2A or 2B of the table are payable only for an activity or event that is carried out in the period commencing when the first activity or event specified in that Part is commenced and concluding on:
  - (a) the referral of a dispute in respect of the claim to the Commission, or the seeking of an order from the Commission, or
  - (b) the completion of the last activity or event specified in that Part, or
  - (c) finalisation of the matter,
 whichever occurs first.
- (3) If costs specified in Part 3 of the table are payable in relation to a matter, costs specified in Parts 2A, 2B and 4 of the table are payable only in respect of the matter if the matter is subsequently referred for determination after the conduct of an expedited assessment by the Registrar.
- (4) Costs specified in Item 10.01 in the table are payable no more than once in respect of any claim.

Workers Compensation Regulation 2003

Maximum costs—compensation matters

Schedule 6

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- (5) Costs specified in Item 10.02 or 10.03 in the table may be payable more than once in respect of any claim.

#### 4 Restrictions on travelling and accommodation costs

- (1) For the purpose of calculating costs for travelling referred to in Item 10.02 of the table:
- (a) costs payable in respect of travel are to be calculated separately for each separate instance of travel (with each separate journey constituting a separate instance of travel), and
  - (b) travel to a place to attend at proceedings before the Commission constitutes a separate journey to the return journey from that place (whether or not the travel results from any adjournment of proceedings), and
  - (c) no costs are payable for any distance travelled in excess of the distance of the shortest practicable route (depending on the mode of travel used), and
  - (d) if travel is undertaken for the purpose of attending at proceedings in respect of more than one claim, the costs for travelling are to be apportioned equally among the claims in respect of which the travel was undertaken.
- (2) If attendance at proceedings before the Commission is in respect of more than one claim, any costs of accommodation in relation to the proceedings, as referred to in Item 10.03 of the table, are to be apportioned equally among the claims concerned.

#### 5 Costs where multiple insurers party to claim

If more than one insurer (or any combination of insurers) is a party to a claim or a dispute or other matter in relation to a claim, the maximum costs in respect of the matter are the total of the following:

- (a) the costs for the matter calculated in accordance with the table,
- (b) 50% of that amount per party (other than the party who made the claim),

and payment of the costs is to be shared equally among the insurers who are parties to the matter.

**Note.** Clause 81 provides that in Part 19 (Costs) and Schedules 6 and 7, the term *insurer* includes an employer.

Workers Compensation Regulation 2003

Schedule 6 Maximum costs—compensation matters

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## **6 Calculation of hourly rates**

If an hourly rate is specified for an activity or event in the table, the maximum amount of costs set out for that activity or event is to be calculated to the nearest quarter hour.

## **7 Substantive legal issues**

The Commission or the Registrar may determine, for the purposes of clause 1 (2) (j), whether a particular activity or event is in respect of a substantive legal issue.

## **8 Special provision for medical disputes and disputes about weekly payments of compensation**

Despite any other provision of this Schedule, if a medical dispute or a dispute about weekly payments of compensation is finalised by an agreement for payment of an amount less than \$1,000, or an award for payment of an amount less than \$1,000, the maximum amount of costs for the dispute is \$200.

## **9 Certain agents not entitled to costs**

- (1) An agent who is not an agent within the definition of *agent* in section 356 (6) of the 1998 Act is not entitled to be paid or recover any costs.
- (2) Nothing in this clause prevents an agent who is a legal practitioner from being entitled to be paid or recover any costs.

## **10 Recovery of certain charges for certain documents from public authorities**

Nothing in this Schedule prevents the recovery, as a disbursement, of the fee or charge set for any of the following reports, certificates or searches by the agency concerned in a claim in respect of a particular injury:

- (a) a report from a coroner, the NSW Police or the Roads and Traffic Authority relevant to the claim,
- (b) a land title search from Land and Property Information NSW relevant to the claim,
- (c) a certificate from the Registry of Births, Deaths and Marriages relevant to the claim.

Workers Compensation Regulation 2003

Maximum costs—compensation matters

Schedule 6

**Compensation Costs Table**

Column 1	Column 2	Column 3	Column 4
Item No	Activity or event	Maximum amount for individual activity/event	Maximum total for type of activity/event
<b>Part 1</b>	<b>Making claim for permanent impairment compensation or pain and suffering compensation</b>		
1.01	<p>Obtaining and reviewing medical reports</p> <p><b>Note.</b> Part 10 of this Regulation limits the circumstances in which more than 1 medical report in a particular specialty can be admitted in proceedings, and also limits the recovery of the cost of obtaining medical reports that are not admitted in proceedings.</p> <p>Clause 82 (e) of this Regulation provides that costs covered by Part 19 do not include fees for reports from health service providers.</p>	<p>If the matter is finalised by the payment of compensation to the claimant—\$150 per report for the first 2 medical reports, \$100 per report for subsequent medical reports</p> <p>If the matter is not finalised by the payment of compensation—nil</p>	\$600
1.02	Lodging claim with insurer if the insurer has not already made an offer of settlement	<p>If the matter is finalised by the payment of compensation to the claimant—\$100</p> <p>If the matter is not finalised by the payment of compensation—nil</p>	\$100

## Workers Compensation Regulation 2003

## Schedule 6 Maximum costs—compensation matters

Column 1	Column 2	Column 3	Column 4
Item No	Activity or event	Maximum amount for individual activity/event	Maximum total for type of activity/event
<b>Part 2A</b>	<b>Certain events or activities on behalf of claimant until dispute referred or order sought</b>		
2.01	Obtaining instructions from client	\$250 per hour	\$500
2.02	Obtaining medical or other reports from insurer or requesting further information	\$20 per request	\$40 (for any party)
2.03	Referring insurer's reports to a medical specialist or the claimant's nominated treating doctor for review	\$20 per referral	\$40
2.04	Obtaining and reviewing medical reports (other than where Item 1.01 applies) <b>Note.</b> Part 10 of this Regulation limits the circumstances in which more than 1 medical report in a particular specialty can be admitted in proceedings, and also limits the recovery of the cost of obtaining medical reports that are not admitted in proceedings. Clause 82 (e) of this Regulation provides that costs covered by Part 19 do not include fees for reports from health service providers.	\$150 per report for the first 2 medical reports, \$100 per report for subsequent medical reports and \$75 per report for a report supplementing a medical report (up to 2 such supplementary reports)	\$600

## Workers Compensation Regulation 2003

Maximum costs—compensation matters

Schedule 6

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Item No</b>	<b>Activity or event</b>	<b>Maximum amount for individual activity/event</b>	<b>Maximum total for type of activity/event</b>
2.04A	Where a claim cannot be brought without a witness statement, preparing witness statements	\$100 per hour	\$150
2.05	Briefing a factual investigator or other investigator to obtain evidence other than witness statements (not including the investigator's fee)	\$100	\$100
2.06	Requesting a review of the claim from the insurer, prior to referral of the matter to the Commission	\$250 per hour	\$500
2.07	Agreeing terms of settlement with the insurer following a review of the claim by the insurer for a dispute (not being a claim for compensation under section 66 or 67 of the 1987 Act)	\$300	\$300
2.08	Agreeing terms of settlement with the insurer in the case of a claim for compensation under section 66 or 67 of the 1987 Act following a review of the claim by the insurer	\$750	\$750



## Workers Compensation Regulation 2003

## Schedule 6 Maximum costs—compensation matters

Column 1	Column 2	Column 3	Column 4
Item No	Activity or event	Maximum amount for individual activity/event	Maximum total for type of activity/event
<b>Part 2B</b>	<b>Certain activities or events on behalf of insurer until dispute referred or order sought</b>		
2.09	Obtaining instructions from client where the claimant seeks a review of the insurer's determination of the claim	\$250 per hour	\$500
2.10	Referring a further report provided by claimant for review	\$20 per referral	\$40
2.11	Obtaining and reviewing medical reports <b>Note.</b> Part 10 of this Regulation limits the circumstances in which more than 1 medical report in a particular specialty can be admitted in proceedings, and also limits the recovery of the cost of obtaining medical reports that are not admitted in proceedings. Clause 82 (e) of this Regulation provides that costs covered by Part 19 do not include fees for reports from health service providers.	\$150 per report for the first 2 medical reports, \$100 per report for subsequent medical reports and \$75 per report for a report supplementing a medical report (up to 2 such supplementary reports)	\$600
2.11A	Where a claim cannot be defended without a witness statement, preparing witness statements	\$100 per hour	\$150

Workers Compensation Regulation 2003

Maximum costs—compensation matters

Schedule 6

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Item No</b>	<b>Activity or event</b>	<b>Maximum amount for individual activity/event</b>	<b>Maximum total for type of activity/event</b>
2.12	Briefing a factual investigator or other investigator to obtain surveillance information or other evidence other than witness statements (not including the investigator's fee)	\$100	\$100
2.13	Providing advice to the insurer in relation to the review of the insurer's determination of the claim sought by the claimant	\$250 per hour	\$500
2.14	Agreeing terms of settlement with the claimant following a review of the insurer's determination of the claim for a dispute (not being a claim for compensation under section 66 or 67 of the 1987 Act)	\$300	\$300
2.15	Agreeing terms of settlement with the claimant in the case of a claim for compensation under section 66 or 67 of the 1987 Act following a review of the insurer's determination of the claim	\$750	\$750

## Workers Compensation Regulation 2003

Schedule 6 Maximum costs—compensation matters

Column 1	Column 2	Column 3	Column 4
Item No	Activity or event	Maximum amount for individual activity/event	Maximum total for type of activity/event
<b>Part 3 Certain applications for expedited assessment</b>			
3.01	Applying for expedited assessment to the Commission	If the application results in the making of an interim payment order—\$200 (claimant's legal practitioner or agent only)  If the application does not result in the making of an interim payment order—nil	\$200 (claimant's legal practitioner or agent only)
<b>Part 4 Referral of dispute to determination of the dispute</b>			
4.01	Lodging any of the following with the Commission: (a) an application for resolution of a dispute, (b) a response to an application, (c) an application for expedited assessment, (d) an application for joinder of another party	\$300	\$300
4.02	Service of material in relation to Item 4.01 on the other parties to the dispute	\$40 for the first party, then \$20 for each additional party	\$100
4.03	Requesting the Commission to give directions for the production of documents	\$60 for the initial direction, then \$40 for each additional direction	\$220

Workers Compensation Regulation 2003

Maximum costs—compensation matters

Schedule 6

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Item No</b>	<b>Activity or event</b>	<b>Maximum amount for individual activity/event</b>	<b>Maximum total for type of activity/event</b>
4.03A	Serving a direction by the Commission for the production of documents	\$40 per person served, regardless of the number of directions served on the person	\$200
4.03B	Paying conduct money to person served with direction for the production of documents (being money to meet reasonable expenses of compliance with the direction)	\$40 per person served with direction, regardless of the number of directions served on the person	\$200
4.04	Lodging an objection to a request for a direction for the production of documents	\$60 per objection	\$120
4.05	Reviewing documentation produced under a direction of the Commission, exchanging information with the other parties and obtaining further instructions from client	\$250 per hour	\$500
4.06	Applying for an order for the attendance of witnesses at proceedings before the Commission	\$60 for the initial order, then \$40 for each additional order	\$140

## Workers Compensation Regulation 2003

## Schedule 6 Maximum costs—compensation matters

Column 1	Column 2	Column 3	Column 4
Item No	Activity or event	Maximum amount for individual activity/event	Maximum total for type of activity/event
4.07	Applying to refer a matter to an approved medical specialist, or responding to such an application (including costs associated with agreeing on the approved medical specialist and review of the report by the approved medical specialist)	\$100	\$100
4.08	Preparing for a conference (including providing advice to client)	\$250 per hour	\$500
4.08A	Preparing for a conference (including providing advice to client) in addition to costs provided for by Item 4.08, but only where the matter is settled and terms of settlement are filed in the Commission at least 2 working days before preliminary teleconference is set down to be held	\$250 per hour	\$250
4.09	Attending and participating in a conference with an Arbitrator (other than an arbitration hearing or where Item 4.10 applies)	\$250 per hour	\$1,000

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Maximum costs—compensation matters

Schedule 6

Column 1	Column 2	Column 3	Column 4
Item No	Activity or event	Maximum amount for individual activity/event	Maximum total for type of activity/event
4.10	Attending and participating in a conference with an Arbitrator where the Arbitrator determines that the matter is complex and the matter proceeds directly to arbitration	\$250 per hour	\$1,500
4.11	Attending and participating in an arbitration hearing (other than where Item 4.10 applies, and subject in the case of a claim for compensation under section 66 or 67 of the 1987 Act to any Rules of the Commission relating to offers of compromise or settlement)	\$250	\$250
4.12	Reporting to the client on the outcome of a conference or arbitration (including finalising the applicant's matter with the Health Insurance Commission or Centrelink (or both))	\$190	\$190
<b>Part 4A</b>	<b>Election by claimant to transfer claim to Commission under clause 225</b>		
4.13	All work associated with the lodgment of the election	\$500	\$500

## Workers Compensation Regulation 2003

Schedule 6 Maximum costs—compensation matters

Column 1	Column 2	Column 3	Column 4
Item No	Activity or event	Maximum amount for individual activity/event	Maximum total for type of activity/event
<b>Part 5</b>	<b>Appeal to a Medical Appeal Panel for dispute about degree of permanent impairment</b>		
5.01	Lodgment of appeal and preparation for appeal, or preparation of a response to such an appeal	<p>If the result of the appeal is more favourable to the applicant for appeal—\$100 (applicant's legal practitioner or agent only)</p> <p>If the result of the appeal is not more favourable to the applicant for appeal—nil (applicant's legal practitioner or agent only)</p>	\$100
		For the respondent's legal practitioner or agent—\$100	\$100
5.02	Attendance at a Medical Appeal Panel hearing	<p>If the result of the appeal is more favourable to the applicant for appeal—\$200 per hour (applicant's legal practitioner or agent only)</p> <p>If the result of the appeal is not more favourable to the applicant for appeal—nil (applicant's legal practitioner or agent only)</p>	\$400
		For the respondent's legal practitioner or agent—\$200 per hour	\$400

Workers Compensation Regulation 2003

Maximum costs—compensation matters

Schedule 6

Column 1	Column 2	Column 3	Column 4
Item No	Activity or event	Maximum amount for individual activity/event	Maximum total for type of activity/event
<b>Part 6 Referral of a question of law to President</b>			
6.01	Obtaining advice from counsel and making an application including written submissions, or preparing a response to such an application including written submissions and obtaining advice from counsel (including counsel's fee for advice)	If the President grants leave to appeal—\$600 (applicant's legal practitioner or agent only)  If the President does not grant leave to appeal—nil (applicant's legal practitioner or agent only)	\$600
		For the respondent's legal practitioner or agent—\$600	\$600
6.02	Attending at proceedings before the Commission constituted by the President without counsel present	\$250 per hour	\$500
6.03	Attending at proceedings before the Commission constituted by the President with counsel present (including counsel's fee for attendance)	\$125 per hour for legal practitioner (other than counsel) or agent  \$300 per hour for counsel	\$250  \$600
<b>Part 7 Registration of agreement under sec 66A of 1987 Act or a commutation agreement</b>			
7.01	All work associated with registration of an agreement under section 66A of the 1987 Act	\$120	\$120



## Workers Compensation Regulation 2003

## Schedule 6 Maximum costs—compensation matters

Column 1	Column 2	Column 3	Column 4
Item No	Activity or event	Maximum amount for individual activity/event	Maximum total for type of activity/event
7.02	All work associated with registration of a commutation agreement	\$250	\$250
<b>Part 8</b>	<b>Appeals to Presidential member</b>		
8.01	Lodging application or response to such an application including written submissions	\$320	\$320
8.02	Obtaining the advice of counsel (including counsel's fee for advice)	\$500	\$500
8.03	Attending at proceedings before the Commission constituted by the President or Deputy President without counsel present	\$250 per hour	\$500
8.04	Attending at proceedings before the Commission constituted by the President or Deputy President with counsel present (including counsel's fee for attendance)	\$125 per hour for legal practitioner (other than counsel) or agent \$300 per hour for counsel	\$250 \$600

Workers Compensation Regulation 2003

Maximum costs—compensation matters

Schedule 6

Column 1	Column 2	Column 3	Column 4
Item No	Activity or event	Maximum amount for individual activity/event	Maximum total for type of activity/event
<b>Part 9 Any other substantive proceedings before the Commission</b>			
9.01	Conduct of any other proceedings before the Commission involving the determination of substantive legal issues, including preparatory work	\$250 per hour	\$625
<b>Part 10 Other costs</b>			
10.01	All work associated with instructing an agent to act on the claim or a matter relating to the claim	\$250 per hour	\$187.50
10.02	Travelling for the purpose of attending at proceedings before the Commission for the purpose of an activity or event referred to in Item 4.09, 4.10, 4.11, 5.02, 6.02, 6.03, 8.03, 8.04 or 9.01 (not including attendance at a teleconference)	\$0.59 per km (except the first 50 kms)	No maximum

## Workers Compensation Regulation 2003

## Schedule 6 Maximum costs—compensation matters

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Item No</b>	<b>Activity or event</b>	<b>Maximum amount for individual activity/event</b>	<b>Maximum total for type of activity/event</b>
10.03	Costs of accommodation incurred when attending at proceedings before the Commission for the purpose of an activity or event referred to in Item 4.09, 4.10, 4.11, 5.02, 6.02, 6.03, 8.03, 8.04 or 9.01 (not including attendance at a teleconference) where the place of attendance is more than 50 kms from the practitioner's usual place of practice	\$120 for each night's accommodation	No maximum

Workers Compensation Regulation 2003

Maximum costs for legal services—work injury damages matters

Schedule 7

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## Schedule 7 Maximum costs for legal services—work injury damages matters

(Clause 87)

### 1 Costs determined by reference to certain stages in the matter

- (1) The maximum costs for legal services provided for a stage of a claim for work injury damages set out in Column 1 of the Work Injury Costs Table A to this clause are the costs set out in Column 2 opposite that stage.
- (2) However, if a legal practitioner was first retained in the matter after a certificate as to mediation was issued under section 318B of the 1998 Act (or, if the matter is not referred to mediation because the insurer wholly denies liability, or the insurer has failed to respond to the pre-filing statement, after the service of the pre-filing statement of claim), the maximum costs are those set out in the Work Injury Costs Table B to this clause.
- (3) Costs may be charged for more than one stage described in this Schedule.
- (4) Other than stage 1 in the Work Injury Costs Table B to this clause, each stage specifies the maximum costs payable for all legal services provided in the period commencing on the occurrence of one specified event and concluding on either the occurrence of another specified event or settlement of the matter (whichever occurs first).

#### Work Injury Costs Table A

Column 1		Column 2	
Stage		Costs	
1	From the acceptance of the retainer to the preparation and service of a claim under section 260 of the 1998 Act (including the provision of all relevant particulars under 281 of that Act)	(a)	in the case of a legal practitioner acting for a claimant—\$200
		(b)	in the case of a legal practitioner acting for an insurer—nil

## Workers Compensation Regulation 2003

## Schedule 7 Maximum costs for legal services—work injury damages matters

Column 1		Column 2	
Stage		Costs	
2	From service of the claim under section 260 of the 1998 Act to the preparation and service of the pre-filing statement of claim under section 315 of that Act	(a)	in the case of a legal practitioner acting for a claimant—\$300
		(b)	in the case of a legal practitioner acting for an insurer—nil
3	If:		In addition to the \$500 specified for stages 1 and 2 (if chargeable):
	(a) the matter is referred to mediation and settlement occurs after the service of the pre-filing statement of claim without the issue of a certificate as to mediation under section 318B of the 1998 Act, or	(a)	if the settlement amount is \$20,000 or less and the insurer wholly admitted liability for the claim—\$500
	(b) the matter is not referred to mediation (because the insurer denies liability) and settlement occurs without the commencement of court proceedings, or	(b)	if the settlement amount is \$20,000 or less and the insurer wholly or partly denied liability for the claim—10% of the settlement amount
	(c) the insurer does not respond to the pre-filing statement of claim and settlement occurs without the commencement of court proceedings	(c)	if the settlement amount is more than \$20,000 but less than \$50,001 and the insurer wholly admitted liability for the claim—\$500 plus 12% of the settlement amount over \$20,000
	—from service of the pre-filing statement to finalisation of the matter	(d)	if the settlement amount is more than \$20,000 but less than \$50,001 and the insurer wholly or partly denied liability for the claim—\$2,000 plus 12% of the settlement amount over \$20,000

## Workers Compensation Regulation 2003

Maximum costs for legal services—work injury damages matters

Schedule 7

Column 1	Column 2
Stage	Costs
	(e) if the settlement amount is \$50,001 or more but less than \$100,001 and the insurer wholly admitted liability for the claim—\$4,100 plus 10% of the settlement amount over \$50,000
	(f) if the settlement amount is \$50,001 or more but less than \$100,001 and the insurer wholly or partly denied liability for the claim—\$5,600 plus 10% of the settlement amount over \$50,000
	(g) if the settlement amount is \$100,001 or more and the insurer wholly admitted liability for the claim—\$9,100 plus 2% of the settlement amount over \$100,000
	(h) if the settlement amount is \$100,001 or more and the insurer wholly or partly denied liability for the claim—\$10,600 plus 2% of the settlement amount over \$100,000

## Workers Compensation Regulation 2003

## Schedule 7 Maximum costs for legal services—work injury damages matters

Column 1	Column 2
Stage	Costs
<p>4 If the matter is referred to mediation and settlement occurs after the issue of a certificate as to the mediation under section 318B of the 1998 Act but without the commencement of court proceedings—from service of the pre-filing statement to finalisation of the matter</p>	<p>The total of the following:</p> <p>(a) an amount determined, in accordance with stage 3, by reference to the amount of the settlement,</p> <p>(b) 2% of the amount of the settlement</p>
<p>5 If the matter is referred to mediation and is finalised after the commencement of court proceedings (whether by way of settlement or an award of damages)—from service of the pre-filing statement to finalisation of the matter</p>	<p>The total of the following:</p> <p>(a) an amount determined in accordance with stage 4, by reference to the amount of the settlement or award as if that amount were the amount of the settlement referred to in stage 4,</p> <p>(b) 2% of the amount of the settlement or award</p>
<p>6 If the matter is not referred to mediation and the matter is finalised after the commencement of court proceedings (whether by way of settlement or an award of damages)—from service of the pre-filing statement to finalisation of the matter</p>	<p>The total of the following:</p> <p>(a) an amount determined in accordance with stage 3, by reference to the amount of the settlement or award as if that amount were the amount of the settlement referred to in stage 3,</p> <p>(b) 2% of the amount of the settlement or award</p>

Workers Compensation Regulation 2003

Maximum costs for legal services—work injury damages matters

Schedule 7

**Work Injury Costs Table B**

Column 1	Column 2
Stage	Costs
1	<p>Advice on the certificate as to mediation (if the matter is referred to mediation)</p> <p style="text-align: right;">\$250</p>
2	<p>From the giving of advice on the certificate of mediation (or, if the matter is not referred to mediation, from acceptance of the retainer) to finalisation of the matter by settlement or award of damages.</p> <p>In addition to the \$250 specified for stage 1 (if chargeable):</p> <p>(a) if the settlement amount or award is \$20,000 or less—nil</p> <p>(b) if the settlement amount or award is more than \$20,000 but less than \$50,001—10% of the settlement amount or award over \$20,000</p> <p>(c) if the settlement amount or award is \$50,001 or more but less than \$100,001—\$3,000 plus 8% of the settlement amount or award over \$50,000</p> <p>(d) if the settlement amount or award is \$100,001 or more—\$7,000 plus 2% of the settlement amount or award over \$100,000</p>

**2 Other costs for legal services**

- (1) Maximum costs for legal services provided in a claim for work injury damages may include (in addition to the costs for legal services referred to in clause 1) the costs set out in the Other Work Injury Costs Table to this clause.
- (2) However, an amount for the fees for senior counsel, or for more than one advocate, are not to be included unless the court so orders.



Workers Compensation Regulation 2003

Maximum costs for legal services—work injury damages matters

Schedule 7

**Other Work Injury Costs Table**

Column 1	Column 2
Nature of costs	Maximum costs
1 Costs associated with a dispute under Part 6 of Chapter 7 of the 1998 Act as to whether the degree of permanent impairment of an injured worker is sufficient for an award of damages (including costs associated with referring the dispute for assessment by an approved medical specialist under Part 7 of that Chapter)	\$500
2 Costs associated with a dispute under section 317 of the 1998 Act as to whether a pre-filing statement is defective	\$200
3 Cost of representation at a mediation under section 318A of the 1998 Act:	
(a) flat fee	\$400
(b) additional amount, at the mediator's discretion, if the conference exceeds 2 hours	up to \$125 per hour (or part of an hour) in excess of 2 hours
4 If the matter was referred to mediation and counsel advised before mediation about settlement:	
(a) counsel's fee for advice about settlement	\$500 (separate to the daily rate below)

## Workers Compensation Regulation 2003

Maximum costs for legal services—work injury damages matters

Schedule 7

Column 1	Column 2
Nature of costs	Maximum costs
(b) cost of representation in court, per day, for advocate other than senior counsel	\$1,500
(c) cost of representation in court, per day, for senior counsel	\$2,200
If the matter was not referred to mediation:	
(a) cost of representation in court, per day, for advocate other than senior counsel	\$1,500
(b) cost of representation in court, per day, for senior counsel	\$2,200



New South Wales

# Workers' Compensation (Dust Diseases) Regulation 2003

under the

Workers' Compensation (Dust Diseases) Act 1942

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Workers' Compensation (Dust Diseases) Act 1942*.

JOHN DELLA BOSCA, M.L.C.,  
Minister for Commerce

## Explanatory note

The object of this Regulation is to replace, without any major changes in substance, the provisions of the *Workers' Compensation (Dust Diseases) Regulation 1998*, which is repealed on 1 September 2003 under section 10 (2) of the *Subordinate Legislation Act 1989*. The new Regulation deals with the following matters:

- (a) the holding of meetings of the Workers' Compensation (Dust Diseases) Board (clause 5),
- (b) the service of summonses to attend meetings of the board (clause 6),
- (c) the procedure to be followed at meetings of the medical authority appointed under the Act (clause 7),
- (d) the prohibition of members of the medical authority from disclosing information as to the physical condition of applicants for compensation (clause 8),
- (e) the making of applications for compensation (clause 9),
- (f) the requiring of employers to furnish information to the board regarding the employment and remuneration of applicants and other persons (clause 10),
- (g) other matters of a minor, consequential or ancillary nature (clauses 1, 2, 3, 4 and 11).

Workers' Compensation (Dust Diseases) Regulation 2003

Explanatory note

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This Regulation is made under the *Workers' Compensation (Dust Diseases) Act 1942*, including section 10 (the general regulation-making power).

This Regulation comprises or relates to matters of a machinery nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

## Workers' Compensation (Dust Diseases) Regulation 2003

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Clause 1 Workers' Compensation (Dust Diseases) Regulation 2003

Part 1 Preliminary

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## Workers' Compensation (Dust Diseases) Regulation 2003

under the

Workers' Compensation (Dust Diseases) Act 1942

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Workers' Compensation (Dust Diseases) Regulation 2003*.

#### 2 Commencement

This Regulation commences on 1 September 2003.

**Note.** This Regulation replaces the *Workers' Compensation (Dust Diseases) Regulation 1998* which is repealed on 1 September 2003 under section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3 Definitions

In this Regulation:

*Chairperson* means the chairperson of the board.

*compensation* means compensation under section 8 of the Act.

*the Act* means the *Workers' Compensation (Dust Diseases) Act 1942*.

#### 4 Notes

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

Workers' Compensation (Dust Diseases) Regulation 2003

Clause 5

General

Part 2

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## **Part 2      General**

### **5      Meetings of board**

- (1) Meetings of the board are to be held at such intervals as the Chairperson may fix.
- (2) In the absence from a meeting of the Chairperson and all alternate members (if any) appointed by the Minister to act in place of the Chairperson, a member of the board chosen by the members present is to preside at the meeting.
- (3) The person presiding at a meeting of the board is to determine the procedure at the meeting.

### **6      Service of summons to attend meetings of board**

A summons under section 5 (2A) of the Act may be served by post.

### **7      Meetings of medical authority**

Subject to section 7 of the Act, the Chairperson of the medical authority (or, in the Chairperson's absence, the Deputy Chairperson of the medical authority) is to determine the procedure at a meeting of the authority.

### **8      Non-disclosure of information by members of medical authority**

- (1) A member of the medical authority must not disclose any information that the member has acquired, in the course of the member's duties, as to the physical condition of an applicant for compensation.

Maximum penalty: 1 penalty unit.

- (2) This clause does not prevent a member of the medical authority from disclosing any such information to the applicant or:
  - (a) with the written consent of the applicant, or
  - (b) in the performance of the member's duties,to any other person.

### **9      Applications for compensation**

- (1) An application for compensation is to be made to the board in a form approved by the board.

Clause 10 Workers' Compensation (Dust Diseases) Regulation 2003

Part 2 General

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- (2) The board may require an applicant for compensation for total or partial disablement to furnish to the board full and correct information concerning:
  - (a) the applicant's present and previous employments and engagements, whether as a worker or otherwise, in and outside New South Wales, and
  - (b) the applicant's dependants and the extent of their dependency.
- (3) An applicant for compensation must not, in support of the application, make or sign a statement that the applicant knows to be false or misleading in a material particular.

Maximum penalty: 1 penalty unit.

#### **10 Employers to supply certain information**

- (1) This clause applies to a person:
  - (a) who employs or has employed an applicant for compensation, or
  - (b) who employs or has employed a person receiving compensation under an award of compensation, or
  - (c) who employs or has employed a person who has been claimed by an applicant for compensation to be dependent on that applicant or on a person receiving compensation, or
  - (d) who has employed a person in respect of whose death an application has been made for an award of compensation.
- (2) The board may, by notice in writing served on a person to whom this clause applies, require the person to furnish to the board, within such time as is specified in the notice, such information in relation to the employment and remuneration of the applicant or person as is so specified.
- (3) A person on whom such a notice is served must not fail to comply with the requirements of the notice.

Maximum penalty: 1 penalty unit.

#### **11 Savings provision**

Any act, matter or thing that, immediately before the repeal of the *Workers' Compensation (Dust Diseases) Regulation 1998*, had effect under that Regulation continues to have effect under this Regulation.



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# Rules

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## Supreme Court Rules (Amendment No 377) 2003

under the

Supreme Court Act 1970

The Supreme Court Rule Committee made the following rules of court under the *Supreme Court Act 1970* on 18 August 2003.

Steven Jupp

Secretary of the Rule Committee

### Explanatory note

The object of these Rules is to make amendments consequential on the commencement of the *Criminal Procedure Amendment (Justices and Local Courts) Act 2001*, the *Justices Legislation Repeal and Amendment Act 2001* and the *Crimes (Local Courts Appeal and Review) Act 2001*. Those Acts, among other things, repeal the *Justices Act 1902* and re-enact its provisions in the *Criminal Procedure Act 1986*, the *Local Courts Act 1982* and the *Crimes (Local Courts Appeal and Review) Act 2001*.

The amendments update references to renumbered, repealed and re-enacted provisions and also replace outdated references to justices, courts of petty sessions and the clerk of a Local Court.

The amendments also repeal an unincorporable amendment made by the *Supreme Court Rules (Amendment No 376) 2003* and make the appropriate incorporable amendment.

Rule 1 Supreme Court Rules (Amendment No 377) 2003

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## **Supreme Court Rules (Amendment No 377) 2003**

under the

Supreme Court Act 1970

### **1 Name of Rules**

These Rules are the *Supreme Court Rules (Amendment No 377) 2003*.

### **2 Amendment of Supreme Court Rules 1970**

The *Supreme Court Rules 1970* are amended as set out in Schedule 1.

### **3 Amendment of Supreme Court Rules (Amendment No 376) 2003**

The *Supreme Court Rules (Amendment No 376) 2003* are amended by omitting Schedule 1 [12].

Supreme Court Rules (Amendment No 377) 2003

Amendments

Schedule 1

---

## Schedule 1 Amendments

(Clause 2)

### [1] Part 9, rule 7A Service on Magistrates

Omit “justice” wherever occurring in rule 7A (1) and (2).

Insert instead “Magistrate”.

### [2] Part 9, rule 7A (1) and (1A)

Omit “clerk” wherever occurring. Insert instead “registrar”.

### [3] Part 9, rule 7A (3)

Omit the subrule. Insert instead:

- (3) In this rule, *Magistrate* includes a licensing magistrate under the *Liquor Act 1982*, a children’s magistrate, a mining warden and an industrial magistrate.

### [4] Part 12, rule 4 (1) (s)

Omit “Part 6”. Insert instead “Part 2 of Chapter 7”.

### [5] Part 14D, rule 1 (c) (iii)

Omit “, justice of the peace”.

### [6] Part 32, Division 3

Omit the Division.

### [7] Part 51, rule 2 (1)

Omit “justice” from the definition of *court below*.

Insert instead “Magistrate”.

### [8] Part 51AA, rule 1 (1)

Omit “justice” from the definition of *court below*.

Insert instead “Magistrate”.

### [9] Part 51AA, rule 20 (2) (a)

Omit “justice”. Insert instead “Magistrate”.

## Supreme Court Rules (Amendment No 377) 2003

## Schedule 1 Amendments

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**[10] Part 51AA, rule 32**

Insert “(as in force at the relevant time before 1 September 1997)” after “Part 5 rule 4A” in rule 32 (1).

**[11] Part 51A, rule 1 (c)**

Omit “Division 1 or Division 2 or Part 5 of the *Justices Act 1902*”.

Insert instead “Part 5 of the *Crimes (Local Courts Appeal and Review) Act 2001*”.

**[12] Part 51B, heading**

Omit “**Justices Act 1902**”.

Insert instead “**Crimes (Local Courts Appeal and Review) Act 2001**”.

**[13] Part 51B, rule 1**

Omit the rule. Insert instead:

**1 Application**

This Part applies to an appeal to the Court under Part 5 of the *Crimes (Local Courts Appeal and Review) Act 2001*.

**[14] Part 51B, rules 5 (3A) and 6 (1A)**

Omit “Part 4A” wherever occurring. Insert instead “Part 2”.

**[15] Part 54, Division 4**

Omit the Division.

**[16] Part 55, rule 11 (3) (b)**

Omit rule 11 (3) (b).

**[17] Part 55, rule 11 (3) (c)**

Omit “court” wherever occurring. Insert instead “Local Court”.

**[18] Part 55, rule 11 (3) (c)**

Omit “section 152A of the *Justices Act 1902*”.

Insert instead “section 27B of the *Local Courts Act 1982*”.

Supreme Court Rules (Amendment No 377) 2003

Amendments

Schedule 1

---

**[19] Part 75, rule 3 (c)**

Omit “section 13”. Insert instead “section 30”.

**[20] Part 75, rule 3H, Election under s132 of Criminal Procedure Act 1986**

Omit “section 16 (1) or section 16 (5)” from rule 3H (1).

Insert instead “section 132 (1) or (5)”.

**[21] Part 75, rule 4**

Omit “*Supreme Court (Summary Jurisdiction) Act 1967*”.

Insert instead “Part 5 of Chapter 4 of the *Criminal Procedure Act 1986*”.

**[22] Part 75, rules 7, 9, 11B (1) and 13**

Omit “section 4” wherever occurring. Insert instead “section 246”.

**[23] Part 75, rule 9 (2)**

Omit “section 10 (b)”. Insert instead “section 250 (b)”.

**[24] Part 75, rule 11 (2)**

Omit “section 9 (1), section 9 (2) or section 11 (1)”.

Insert instead “section 249 (1) or 251”.

**[25] Part 75, rule 11 (3)**

Omit “section 10 (a)”. Insert instead “section 250 (a)”.

**[26] Part 75, rule 12**

Omit the rule.

**[27] Part 75, rule 13 (1)**

Omit “court of petty sessions is notified under section 28A”.

Insert instead “Local Court is notified under section 255”.

## Supreme Court Rules (Amendment No 377) 2003

## Schedule 1 Amendments

---

**[28] Part 75, rule 13 (1)**

Omit “justice at the court of petty sessions”.

Insert instead “Magistrate or an authorised officer within the meaning of the *Criminal Procedure Act 1986* at the Local Court”.

**[29] Part 75, rule 13 (2)**

Omit “court of petty sessions”. Insert instead “Local Court”.

**[30] Part 78, rule 4A**

Omit “clerk of petty sessions (who is not a police officer)”.

Insert instead “registrar of a Local Court”.

**[31] Part 78, rule 4A**

Omit “Court of Petty Sessions”. Insert instead “Local Court”.

**[32] Schedule F, Form 1**

Omit “*Division 1 of Part 5 of the Justices Act 1902 (which Division relates to stated cases)*”.

Insert instead “*Part 5 of the Crimes (Local Courts Appeal and Review) Act 2001*”.

**[33] Schedule F, Forms 41A and 41B**

Omit the forms.

**[34] Schedule F, Form 74AE**

Omit “*ss. 10 and 51*”. Insert instead “*ss. 8 and 9*”.

**[35] Schedule F, Form 74AE**

Omit “*s 50*”. Insert instead “*s 126*”.

**[36] Schedule F, Form 74AJ**

Omit “*s. 16 (1)*”. Insert instead “*s. 132 (1)*”.

**[37] Schedule F, Form 74AK**

Omit “*s. 16 (5)*”. Insert instead “*s. 132 (5)*”.

Supreme Court Rules (Amendment No 377) 2003

Amendments

Schedule 1

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**[38] Schedule F, Form 74A**

Omit “*Supreme Court (Summary Jurisdiction) Act 1967*”.

Insert instead “*Part 5 of Chapter 4 of the Criminal Procedure Act 1986*”.

**[39] Schedule F, Form 74B**

Omit “*section 4 (1) (a) of the Supreme Court (Summary Jurisdiction) Act 1967*”.

Insert instead “*section 246 (1) (a) of the Criminal Procedure Act 1986*”.

**[40] Schedule F, Form 74C**

Omit “*section 4 (1) (b) of the Supreme Court (Summary Jurisdiction) Act 1967*”.

Insert instead “*section 246 (1) (b) of the Criminal Procedure Act 1986*”.

**[41] Schedule F, Form 74C**

Omit “*section 4 (4) (b) of the Supreme Court (Summary Jurisdiction) Act 1967*”.

Insert instead “*section 246 (4) of the Criminal Procedure Act 1986*”.

**[42] Schedule F, Index of Forms**

Omit the matter relating to Forms 41A and 41B.

**[43] Schedule F, Index of Forms**

Omit “s 32 (1)” from the matter relating to Form 74AJ.

Insert instead “s 132 (1)”.

**[44] Schedule F, Index of Forms**

Omit “s 32 (5)” from the matter relating to Form 74AK.

Insert instead “s 132 (5)”.

**[45] Schedule F, Index of Forms**

Omit “*Supreme Court (Summary Jurisdiction) Act 1967*” from the matter relating to Form 74A.

Insert instead “*Part 5 of Chapter 4 of the Criminal Procedure Act 1986*”.

## Supreme Court Rules (Amendment No 377) 2003

Schedule 1 Amendments

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**[46] Schedule F, Index of Forms**

Omit “s 4 (1) (a), *Supreme Court (Summary Jurisdiction) Act 1967*” from the matter relating to Form 74B.

Insert instead “s 246 (1) (a), *Criminal Procedure Act 1986*”.

**[47] Schedule F, Index of Forms**

Omit “s 4 (1) (b), *Supreme Court (Summary Jurisdiction) Act 1967*” from the matter relating to Form 74C.

Insert instead “s 246 (1) (b), *Criminal Procedure Act 1986*”.



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## Orders

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# Public Sector Employment and Management (WorkCover) Order 2003

under the

Public Sector Employment and Management Act 2002

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 Chapter 4 of the *Public Sector Employment and Management Act 2002*, make the following Order.

Dated, this 27th day of August 2003.

By Her Excellency's Command,

BOB CARR, M.P.,  
Premier

Clause 1            Public Sector Employment and Management (WorkCover) Order 2003

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## **Public Sector Employment and Management (WorkCover) Order 2003**

under the

Public Sector Employment and Management Act 2002

### **1 Name of Order**

This Order is the *Public Sector Employment and Management (WorkCover) Order 2003*.

### **2 Amendment of Schedule 1 (Departments)**

Schedule 1 to the *Public Sector Employment and Management Act 2002* is amended by omitting the position of “General Manager of the Authority” from Column 2 of that Schedule where appearing opposite the name “WorkCover Authority” in Column 1 of that Schedule and by inserting instead the position of “Chief Executive Officer of the Authority”.

### **3 Construction of references to General Manager of WorkCover Authority**

A reference in any Act or statutory instrument, or in any other instrument, or in any contract or agreement, to the General Manager of the WorkCover Authority is to be construed as a reference to the Chief Executive Officer of the WorkCover Authority.



## Public Sector Employment and Management (Tourism, Sport and Recreation) Order 2003

under the

Public Sector Employment and Management Act 2002

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 66 and Chapter 4 of the *Public Sector Employment and Management Act 2002*, make the following Order.

Dated, this 27th day of August 2003.

By Her Excellency's Command,

BOB CARR, M.P.,  
Premier

Clause 1 Public Sector Employment and Management (Tourism, Sport and Recreation) Order 2003

---

## **Public Sector Employment and Management (Tourism, Sport and Recreation) Order 2003**

under the

Public Sector Employment and Management Act 2002

### **1 Name of Order**

This Order is the *Public Sector Employment and Management (Tourism, Sport and Recreation) Order 2003*.

### **2 Establishment of Department of Tourism, Sport and Recreation**

The Department of Tourism, Sport and Recreation is established as a Department of the Public Service responsible to the Minister for Tourism and Sport and Recreation.

### **3 Abolition of Department of Sport and Recreation and transfer of branches**

- (1) All branches are removed from the Department of Sport and Recreation and added to the Department of Tourism, Sport and Recreation.
- (2) The Department of Sport and Recreation is abolished as a Department of the Public Service.
- (3) A reference in any Act or statutory instrument, or in any other instrument, or in any contract or agreement, to the Department of Sport and Recreation is to be construed as a reference to the Department of Tourism, Sport and Recreation.

### **4 Abolition of Tourism New South Wales (as a Department) and transfer of branches**

- (1) All branches are removed from Tourism New South Wales and added to the Department of Tourism, Sport and Recreation.
- (2) Tourism New South Wales is abolished as a Department of the Public Service.

Public Sector Employment and Management (Tourism, Sport and Recreation) Order 2003

Clause 5

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**5 Amendment of Public Sector Employment and Management Act 2002**

The *Public Sector Employment and Management Act 2002* is amended as set out in Schedule 1.

Public Sector Employment and Management (Tourism, Sport and Recreation) Order 2003

Schedule 1 Amendments

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## Schedule 1 Amendments

(Clause 5)

### [1] Schedule 1 Departments

Omit the matter relating to the following:

Department of Sport and Recreation  
Tourism New South Wales

### [2] Schedule 1

Insert in alphabetical order of Departments:

Department of Tourism, Sport and Recreation      Director-General of the Department of Recreation

### [3] Schedule 2 Executive positions (other than non-statutory SES positions)

Insert in Part 2 after the position of Managing Director of the TAFE Commission:

General Manager of Tourism New South Wales  
Chief Executive of the Waterways Authority



## Subordinate Legislation (Postponement of Repeal) Order 2003

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 27th day of August 2003.

By Her Excellency's Command,

BOB CARR, M.P.,  
Premier

Clause 1 Subordinate Legislation (Postponement of Repeal) Order 2003

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## **Subordinate Legislation (Postponement of Repeal) Order 2003**

under the

Subordinate Legislation Act 1989

### **1 Name of Order**

This Order is the *Subordinate Legislation (Postponement of Repeal) Order 2003*.

### **2 Commencement**

This Order takes effect on 31 August 2003.

### **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 2003 to 1 September 2004.



Subordinate Legislation (Postponement of Repeal) Order 2003

Statutory rules

Schedule 1

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## Schedule 1 Statutory rules

(Clause 3)

*Animal Research Regulation 1995*  
*Apiaries Regulation 1995*  
*Architects (Elections and Appointments) Regulation 1995*  
*Architects (General) Regulation 1995*  
*Bills of Sale Regulation 1998*  
*Centre Based and Mobile Child Care Services Regulation (No 2) 1996*  
*Clean Air (Plant and Equipment) Regulation 1997*  
*Coastal Protection (Non-Local Government Areas) Regulation 1994*  
*Community Services (Complaints, Reviews and Monitoring) Regulation 1996*  
*Confiscation of Proceeds of Crime Regulation 1996*  
*Contaminated Land Management Regulation 1998*  
*Co-operatives Regulation 1997*  
*Crimes (Detention after Arrest) Regulation 1998*  
*Dangerous Goods (Gas Installations) Regulation 1998*  
*Day Procedure Centres Regulation 1996*  
*Dentists (General) Regulation 1996*  
*Electricity Safety (Electrical Installations) Regulation 1998*  
*Entertainment Industry Regulation 1995*  
*Exhibited Animals Protection Regulation 1995*  
*Family Day Care and Home Based Child Care Services Regulation 1996*  
*Fines Regulation 1997*  
*Firearms (General) Regulation 1997*  
*Gas Supply (Customer Protection—LPG and Other Gases) Regulation 1997*  
*Gas Supply (General) Regulation 1997*  
*Hairdressing Regulation 1997*  
*Home Building Regulation 1997*

Subordinate Legislation (Postponement of Repeal) Order 2003

Schedule 1 Statutory rules

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*Hunter Catchment Management Trust Regulation 1997*  
*Insurance Regulation 1998*  
*Landlord and Tenant Regulation 1994*  
*Law Enforcement (Controlled Operations) Regulation 1998*  
*Liens on Crops and Wool and Stock Mortgages Regulation 1998*  
*Liquor Regulation 1996*  
*Local Government (Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 1995*  
*Local Government (Elections) Regulation 1998*  
*Local Government (Manufactured Home Estates and Manufactured Homes) Regulation 1995*  
*Lord Howe Island (General) Regulation 1994*  
*Murray Valley Citrus Marketing (Polls) Regulation 1996*  
*Non-Indigenous Animals Regulation 1997*  
*Nursing Homes Regulation 1996*  
*Optometrists Regulation 1995*  
*Ozone Protection Regulation 1997*  
*Parking Space Levy Regulation 1997*  
*Pay-roll Tax Regulation 1998*  
*Pharmacy (Elections) Regulation 1998*  
*Pharmacy (General) Regulation 1998*  
*Podiatrists Regulation 1995*  
*Prevention of Cruelty to Animals (Animal Trades) Regulation 1996*  
*Prevention of Cruelty to Animals (General) Regulation 1996*  
*Private Hospitals Regulation 1996*  
*Professional Standards Regulation 1998*  
*Protected Estates Regulation 1995*  
*Protection of the Environment Operations (Waste) Regulation 1996*  
*Registered Clubs Regulation 1996*  
*Residential Tenancies (Residential Premises) Regulation 1995*  
*Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998*  
*Road Transport (Mass, Loading and Access) Regulation 1996*

Subordinate Legislation (Postponement of Repeal) Order 2003

Statutory rules

Schedule 1

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*Road Transport (Vehicle Registration) Regulation 1998*  
*Security Industry Regulation 1998*  
*Seeds Regulation 1994*  
*Stock (Artificial Breeding) Regulation 1995*  
*Stock (Chemical Residues) Regulation 1995*  
*Stock Diseases (General) Regulation 1997*  
*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*  
*Water Management (Broken Hill Water Supply—General) Regulation 1997*  
*Water Management (Broken Hill Water Supply—Special Areas) Regulation 1997*  
*Water Management (Broken Hill Water Supply—Water, Sewerage and Trade Waste) Regulation 1997*  
*Water Management (Water Supply Authorities—Finance) Regulation 1996*  
*Western Lands Regulation 1997*  
*Young Offenders Regulation 1997*



# Transport Administration (State Transit Authority—Fares) Amendment Order 2003

under the

Transport Administration Act 1988

I, John Douglas Stott, Chief Executive of the State Transit Authority, in pursuance of the *Transport Administration Act 1988*, make the following Order on behalf of the State Transit Authority.

JOHN DOUGLAS STOTT  
Chief Executive  
State Transit Authority

## Explanatory note

The object of this Order is to amend the *Transport Administration (State Transit Authority—Fares) Order 1991* so as:

- (a) to increase fares for bus and ferry services within the Sydney and Newcastle Suburban Areas (including services that are provided in conjunction with the rail services provided by the State Rail Authority), and
- (b) to rename an existing ferry service (the Upper Parramatta River service) as the Rydalmere service and to increase fares for that service, and
- (c) to create a new ferry service (the Upper Parramatta River service), being a service between any two places on the Parramatta River between the Parramatta and Drummoyne wharves, and to set fares for that service, and
- (d) to change the boundary description in respect of the State Transit Authority's bus services covered by the Blue and Red TravelPasses as a consequence of the demolition of the Western Suburbs Hospital at Croydon.

The fare for a pensioner's combined rail/bus/ferry excursion ticket is not being increased.

This Order is made under the *Transport Administration Act 1988*, including section 85 (Orders fixing charges).

Clause 1            Transport Administration (State Transit Authority—Fares) Amendment  
Order 2003

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## **Transport Administration (State Transit Authority— Fares) Amendment Order 2003**

under the

Transport Administration Act 1988

### **1 Name of Order**

This Order is the *Transport Administration (State Transit Authority—Fares) Amendment Order 2003*.

### **2 Commencement**

This Order commences on 31 August 2003.

### **3 Amendment of Transport Administration (State Transit Authority— Fares) Order 1991**

The *Transport Administration (State Transit Authority—Fares) Order 1991* is amended as set out in Schedule 1.

Transport Administration (State Transit Authority—Fares) Amendment  
Order 2003

Amendments

Schedule 1

---

## Schedule 1 Amendments

(Clause 3)

### [1] Clause 13 Definitions

Omit “the Western Suburbs Hospital” wherever occurring in the definitions of *Blue TravelPass* and *Red TravelPass* in clause 13 (1).

Insert instead “the intersection of Liverpool Road and Malvern Avenue, Croydon”.

### [2] Clause 13 (1)

Insert in alphabetical order:

*Rydalmere service* means any ferry service (including JetCat service) to or from a place on the Parramatta River between:

- (a) the bridge carrying the main northern railway line between North Strathfield and Meadowbank, and
- (b) the wharf at John Street, Rydalmere.

### [3] Clause 13 (1), definition of “Upper Parramatta River service”

Omit the definition. Insert instead:

*Upper Parramatta River service* means a ferry service between any two places on the Parramatta River between the Parramatta and Drummoyne wharves.

Transport Administration (State Transit Authority—Fares) Amendment  
Order 2003

Schedule 1 Amendments

**[4] Schedule 1**

Omit the Schedule. Insert instead:

**Schedule 1 Charges**

(Clause 4)

**Part 1 Sydney Suburban Area**

**Single Trip Fares**

	Full fare \$	Concession \$
<b>Bus Services</b>		
1 or 2 sections (to 3.2 km)	1.60	0.80
3–5 sections (to 8.0 km)	2.70	1.30
6–9 sections (to 14.4 km)	3.50	1.70
10–15 sections (to 24.0 km)	4.00	2.00
16 or more sections	4.80	2.40
<b>Ferry Services</b>		
Inner Harbour Zone 1	4.50	2.20
Inner Harbour Zone 2	4.80	2.40
Manly:		
Ferry	5.80	2.90
JetCat (full fare only)	7.50	—
Parramatta City	7.00	3.50
Rydalmere	5.80	2.90
Upper Parramatta River	4.50	2.20

Transport Administration (State Transit Authority—Fares) Amendment  
Order 2003

Amendments

Schedule 1

---

**Multi-trip Fares**

	<b>Full fare</b>	<b>Concession</b>
	<b>\$</b>	<b>\$</b>
<b>Bus Services</b>		
TravelTen Blue (1 or 2 sections)	11.80	5.90
TravelTen Brown (3–5 sections)	19.70	9.80
TravelTen Red (6–9 sections)	24.50	12.20
TravelTen Green (10–15 sections)	33.20	16.60
TravelTen Orange (16 or more sections)	41.80	20.90
BusTripper	10.90	5.40
<b>Ferry Services</b>		
FerryTen (Inner Harbour Zone 1)	28.50	14.20
FerryTen (Inner Harbour Zone 2)	31.10	15.50
FerryTen (Manly Ferry)	42.90	21.40
FerryTen (Manly JetCat) (full fare only)	62.50	—
FerryTen (Parramatta City)	49.30	24.60
FerryTen (Rydalmere)	42.90	21.40
FerryTen (Upper Parramatta River)	28.50	14.20
<b>Multi-trip Intermodal Fares</b>		
DayTripper	15.00	7.50

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Transport Administration (State Transit Authority—Fares) Amendment  
Order 2003

Schedule 1 Amendments

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**Periodical Fares**

	Full fare \$	Concession \$
<b>Weekly Periodical Fares</b>		
Two Zone TravelPass	29.00	14.50
Blue TravelPass	29.00	14.50
Red TravelPass	32.00	16.00
Orange TravelPass	36.00	18.00
Green TravelPass	40.00	20.00
Yellow TravelPass	44.00	22.00
Pink TravelPass	47.00	23.50
Pittwater TravelPass	49.00	24.50
Purple TravelPass	54.00	27.00

**Quarterly Periodical Fares**

The charge for a quarterly TravelPass ticket is 11 times that for the corresponding weekly TravelPass ticket.

**Yearly Periodical Fares**

The charge for a yearly TravelPass ticket is 40 times that for the corresponding weekly TravelPass ticket.

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Transport Administration (State Transit Authority—Fares) Amendment  
Order 2003

Amendments

Schedule 1

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**Special Services**

	<b>Full fare</b> \$	<b>Concession</b> \$
<b>Special (Sporting) Services</b>		
Old RAS Showground (Moore Park), Sydney Cricket Ground or Sydney Football Stadium	4.60	2.30
<b>Special (Racecourse) Service</b>		
Royal Randwick Racecourse	4.60	2.30

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**Part 2 Newcastle Suburban Area**

	<b>Full fare</b> \$	<b>Concession</b> \$
<b>Bus Services</b>		
Newcastle Multi-Ride 1-Hour bus ticket	2.60	1.30
Newcastle Multi-Ride 4-Hour bus ticket	5.10	2.50
Newcastle Time-Ten Multi-Ride bus ticket	21.50	10.70
<b>Ferry Service</b>		
Newcastle–Stockton	1.90	0.90
<b>Intermodal Service</b>		
Newcastle Multi-Ride Day bus-ferry ticket	7.80	3.90
<b>Intermodal Weekly Periodical Fares</b>		
Newcastle Orange TravelPass	36.00	18.00
Newcastle Yellow TravelPass	44.00	22.00

Transport Administration (State Transit Authority—Fares) Amendment  
Order 2003

Schedule 1 Amendments

	Full fare \$	Concession \$
Newcastle Pink TravelPass	47.00	23.50

**Quarterly Periodical Fares**

The charge for a quarterly TravelPass ticket is 11 times that for the corresponding weekly TravelPass ticket.

**Yearly Periodical Fares**

The charge for a yearly TravelPass ticket is 40 times that for the corresponding weekly TravelPass ticket.

**Part 3 Additional concessional fares**

	\$
<b>Pensioner's Combined Rail/Bus/Ferry Excursion Tickets</b>	
(a) Travel wholly within the Sydney Suburban Area, wholly within the Newcastle Suburban Area, between Gosford and the Newcastle Suburban Area or between the Newcastle Suburban Area and Gosford	1.10
(b) Travel wholly within the Sydney Suburban and Outer Metropolitan Areas, between Morisset and the Sydney Suburban and Outer Metropolitan Areas or between the Sydney Suburban and Outer Metropolitan Areas and Morisset	2.20
(c) Travel wholly within the City Rail Area otherwise than as referred to in paragraph (a) or (b)	3.30
<b>School Travel</b>	
Bus term ticket for school travel (per term)	40.00



## Workers Compensation (Car Travel Allowance) Order 2003

under the

Workers Compensation Act 1987

The WorkCover Authority of New South Wales, in pursuance of section 64 of the *Workers Compensation Act 1987*, makes the following Order.

Dated, this 28th day of August 2003.

JON BLACKWELL  
General Manager  
WorkCover Authority

### Explanatory note

The object of this Order is to fix the rate at which the cost of travel by private motor vehicle is to be calculated for the purposes of the inclusion of an amount in respect of that travel in the compensation payable to an injured worker.

This Order is made under section 64 of the *Workers Compensation Act 1987*.

Clause 1 Workers Compensation (Car Travel Allowance) Order 2003

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## **Workers Compensation (Car Travel Allowance) Order 2003**

under the

Workers Compensation Act 1987

### **1 Name of Order**

This Order is the *Workers Compensation (Car Travel Allowance) Order 2003*.

### **2 Commencement**

This Order commences on 1 September 2003.

### **3 Rate for travel by private motor vehicle**

For the purposes of section 64 (b) of the *Workers Compensation Act 1987*, the cost of, or an amount for, travel by private motor vehicle as referred to in that section is to be calculated:

- (a) in the case of travel before 1 July 2000—at the rate of 38 cents per kilometre, or
- (b) in any other case—at the rate of 42 cents per kilometre.

# OFFICIAL NOTICES

## Appointments

### CONSTITUTION ACT 1902

Ministerial Arrangements During the Absence of  
the Minister for Gaming and Racing

PURSUANT to section 36 of the Constitution Act 1902, Her Excellency the Governor, with the advice of the Executive Council, has authorised the Honourable R. P. MEAGHER, M.P., to act for and on behalf of the Minister for Gaming and Racing, as on and from 5 September 2003, with a view to him performing the duties of the Honourable G. A. McBRIDE, M.P., during his absence from duty.

BOB CARR,  
Premier

The Cabinet Office, Sydney,  
27 August 2003.

### CRIMES (ADMINISTRATION OF SENTENCES) ACT 1999

Serious Offenders Review Council  
Appointment of Alternate Chairperson

HER Excellency the Governor, on the advice of the Executive Council and pursuant to the provisions of the Crimes (Administration of Sentences) Act 1999, has approved the appointment of Professor Dr Larissa BEHRENDT as Alternate Chairperson of the Serious Offenders Review Council for a period of three (3) years dating on and from 1 September 2003, up to and including 31 August 2006.

JOHN HATZISTERGOS,  
Minister for Justice and  
Minister Assisting the Premier on Citizenship

### CRIMES (ADMINISTRATION OF SENTENCES) ACT 1999

Parole Board  
Appointment of Member

HER Excellency the Governor, on the advice of the Executive Council and pursuant to the provisions of the Crimes (Administration of Sentences) Act 1999, has approved the appointment of Yiah CHAN as a community member of the Parole Board for a period of three (3) years dating on and from 1 September 2003 until 31 August 2006.

JOHN HATZISTERGOS,  
Minister for Justice and  
Minister Assisting the Premier on Citizenship

### CRIMES (ADMINISTRATION OF SENTENCES) ACT 1999

Parole Board  
Appointment of Member

HER Excellency the Governor, on the advice of the Executive Council and pursuant to the provisions of the Crimes (Administration of Sentences) Act 1999, has approved the appointment of Maritsa EFTIMIOU as a community member of the Parole Board for a period of three (3) years dating on and from 1 September 2003 until 31 August 2006.

JOHN HATZISTERGOS,  
Minister for Justice and  
Minister Assisting the Premier on Citizenship

### CRIMES (ADMINISTRATION OF SENTENCES) ACT 1999

Parole Board  
Appointment of Member

HER Excellency the Governor, on the advice of the Executive Council and pursuant to the provisions of the Crimes (Administration of Sentences) Act 1999, has approved the appointment of Peter WALKER as a community member of the Parole Board for a period of three (3) years dating on and from 1 September 2003 until 31 August 2006.

JOHN HATZISTERGOS,  
Minister for Justice and  
Minister Assisting the Premier on Citizenship

### VALUATION OF LAND ACT 1916

Appointment of Valuer General  
Department of Lands

HER Excellency the Governor, with the advice of the Executive Council, pursuant to section 8 and Clause 2(1) of Schedule 1 of the Valuation of Land Act 1916, has appointed Philip WESTERN as Valuer General, Department of Lands, for a period not exceeding four years effective from 1 September 2003.

The Hon. TONY KELLY, M.L.C.,  
Minister Assisting the Minister for  
Natural Resources (Lands)

## NSW Agriculture

### STOCK DISEASES ACT 1923

Notification No. 1771

Notification of the State of New South Wales as a Protected Area as regards Newcastle Disease

I, IAN MACDONALD, M.L.C., Minister for Agriculture and Fisheries, pursuant to section 11A of the Stock Diseases Act 1923 ("the Act"), declare all land within the State of New South Wales to be a protected area as regards Newcastle disease.

Note: Newcastle Disease is a disease in stock declared by Proclamation 546, published in the *Government Gazette* No. 93 of 30 May 2003, at pages 4954-4955.

Dated this 27th day of August 2003.

IAN MACDONALD, M.L.C.,  
New South Wales Minister for  
Agriculture and Fisheries

### STOCK DISEASES ACT 1923

Notification No. 1772

Notification Directing the Treatment of Domestic Chickens by Prophylactic or Curative Methods for Newcastle Disease

I, IAN MACDONALD, M.L.C., Minister for Agriculture and Fisheries, pursuant to section 14(6) of the Stock Diseases Act 1923 ("the Act"), direct all owners and persons in charge of stock within the protected area as regards Newcastle Disease to treat the stock by approved prophylactic or curative methods for Newcastle Disease.

The Chief, Division of Animal Industries may in writing and subject to conditions exempt any stock from any treatment requirements.

#### Definitions

**Approved** means approved in writing from time to time by the Chief, Division of Animal Industries.

**Chief, Division of Animal Industries** means the person appointed as the Chief, Division of Animal Industries of the New South Wales Department of Agriculture.

**Commercial flock** means a managed group of 1000 or more domestic chickens.

**Stock** means domestic chickens (*Gallus domesticus*) that are in a commercial flock.

**Protected area** means the State of New South Wales declared by Notification 1771 pursuant to section 11 of the Stock Diseases Act 1923, to be a protected area as regards Newcastle Disease.

Notes: A bird is stock for the purposes of the Stock Diseases Act 1923, by Proclamation 541A, published in the *Government Gazette* No. 119 of 19 July 2002, at page 5476.

Newcastle Disease is declared to be a disease in stock by Proclamation 546, published in the *Government Gazette* No. 93 of 30 May 2003, at pages 4954-4955.

Approvals by the Chief Division of Animal Industries are shown on the Departments of Agriculture's internet website at <http://www.agric.nsw.gov.au>

This notification commences on 1 September 2003.

Dated this 27th day of August 2003.

IAN MACDONALD, M.L.C.,  
New South Wales Minister for  
Agriculture and Fisheries

### PLANT DISEASES ACT 1924

PROCLAMATION P142

PROCLAMATION to regulate the importation, introduction and bringing into specified parts of New South Wales of certain fruit originating from or which has moved through other specified parts of New South Wales on account of an outbreak of Queensland fruit fly at Narrandera.

Her Excellency Professor MARIE BASHIR, A.C.,  
Governor

I, Professor MARIE BASHIR, A.C., Governor of the State of New South Wales, with the advice of the Executive Council in pursuance of section 4(1) of the Plant Diseases Act 1924 and being of the opinion that any host fruit from the outbreak area is likely to introduce the pest Queensland fruit fly (*Bactrocera tryoni*) into the suspension area, and that any host fruit from the outbreak area or the suspension area is likely to introduce the pest Queensland fruit fly into the outer area:

1. (a) regulate the importation, introduction or bringing into the suspension area of any host fruit originating from or which has moved through the outbreak area; and  
(b) regulate the importation, introduction or bringing into the outer area of any host fruit originating from or which has moved through the outbreak area or suspension area.
2. Host fruit that originates from or that has moved through the outbreak area must not be imported, introduced or brought into the suspension area unless the movement complies with the conditions of clause 4.
3. Host fruit that originates from or that has moved through the suspension area must not be imported, introduced or brought into the outer area unless the movement complies with the conditions of clause 4.
4. The host fruit must be transported in a manner that prevents or otherwise controls infestation with Queensland fruit fly, and unless one of the following conditions is satisfied:
  - (a) the host fruit is accompanied by a Plant Health Certificate issued by an inspector, or by a Plant Health Assurance Certificate that certifies that the host fruit has been treated in a manner approved by the Chief, Division of Plant Industries; or

- (b) the host fruit is in a commercial consignment of host fruit in transit, that is securely sealed in a container, or that is shrink wrapped on a pallet, or that is in a bulk bin, that is unopened and securely sealed while it is in transit through the outbreak area or in the suspension area, and that leaves the outbreak area and the suspension area within 12 hours of its entry into these areas;
- (c) the host fruit has been purchased within the outbreak area or within the suspension area from an approved retail outlet, and is accompanied by proof of purchase of the host fruit, including a receipt or invoice from the approved retail outlet showing that it was purchased in the preceding 24 hours; or
- (d) the host fruit is moved in compliance with the written consent of the Chief, Division of Plant Industries.

### Definitions

In this Proclamation:

**approved retail outlet** means supermarkets, wholesalers or other importers who are approved by an import permit under the Plant Diseases Act 1924 to import host fruit into the New South Wales Fruit Fly Exclusion Zone, and corner and specialty stores that purchased the host fruit from an approved wholesaler or importer, but does not include a roadside market or a stall;

**Chief, Division of Plant Industries** means the Chief, Division of Plant Industries of the New South Wales Department of Agriculture;

**fruit** means the edible part of a plant derived from a flower;

**host fruit** means fruit specified in Schedule 3;

**outbreak area** means the part of New South Wales specified in Schedule 1;

**outer area** means the part of New South Wales known as the New South Wales Fruit Fly Exclusion Zone, as declared in the Proclamation published in *Government Gazette* No 13 of 31 January 1997 at page 321, other than the suspension area;

**Plant Health Assurance Certificate** means a Plant Health Assurance Certificate issued by a person authorised by the New South Wales Department of Agriculture to issue Plant Health Assurance Certificates;

**Plant Health Certificate** means a Plant Health Certificate issued by an authorised officer of the New South Wales Department of Agriculture; and

**suspension area** means the part of New South Wales specified in Schedule 2.

### SCHEDULE 1 — OUTBREAK AREA

The part of New South Wales within a 1.5 kilometre radius of coordinates decimal degrees 34.7468 south and 146.5530 east. The part is represented in the map titled “Narrandera Outbreak and Suspension Areas”.

### SCHEDULE 2 — SUSPENSION AREA

The part of New South Wales within a 15 kilometre radius of coordinates decimal degrees 34.7468 south and 146.5530 east. The part is represented in the map titled “Narrandera Outbreak and Suspension Areas”.

### SCHEDULE 3 — HOST FRUIT

All citrus fruit, pome fruit, stone fruit and tropical fruit (excepting pineapple).

The following berry fruit:

blackberry	mulberry
blueberry	raspberry
boysenberry	strawberry
cape gooseberry	youngberry
loganberry	

The following other fruit:

abiu	jujubes
babaco	kiwifruit or Chinese gooseberries
Brasilian cherry	loquat
capsicum	medlars
cashew apple	pepino
cherimoya	persimmon
chilli (chillies)	pomegranate
(cherry peppers)	prickly pear
(tabasco)	rollinia
dates (fresh)	santol
feijoa	tamarillo
fig	tomato
granadilla	walnuts (green)
grumichama (Brazilian)	wax jambu
(Costa Rican)	

Notes: The New South Wales Department of Agriculture’s reference is **P142**.

For further information contact the New South Wales Department of Agriculture on (02) 6391 3593.

Signed and sealed at Sydney this 12th day of August 2003.

By Her Excellency’s Command,

IAN MACDONALD, M.L.C.,  
NSW Minister for Agriculture and Fisheries

GOD SAVE THE QUEEN!



Narrandera Outbreak and Suspension Areas



# NSW Fisheries

F03/3590

## FISHERIES MANAGEMENT ACT 1994

Section 8 Notification – Fishing Closure  
Trial Bay South West Rocks

I, Ian Macdonald, prohibit the taking of fish by methods set forth in Column 1 of the Schedule to this Notification, from the waters specified in Column 2 of the Schedule.

This notification is effective from the date of publication for a period of 5 years.

The Hon IAN MacDONALD, M.L.C.,  
Minister for Agriculture and Fisheries

### SCHEDULE

Trial Bay NSW Waterways Authority Emergency Buoys.

<i>Column 1 Methods</i>	<i>Column 2 Waters</i>
All methods of commercial fishing by licensed commercial fishers including persons who hold permits issued under section 37 of the Fisheries Management Act 1994 to undertake commercial fishing activity in NSW waters.	The whole of the waters within a 100 metre radius of any NSW Waterways Authority Emergency Buoys situated at or near: 30° 52'.645 S 153° 03'.175 E and 30° 52'.664 S 153° 03'.106 E in Trial Bay.

**Note:** This closure does not apply to charter fishing boats licensed under Part 4A of the Fisheries Management Act 1994 when lawfully fishing in accordance with that licence.

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# Department of Infrastructure, Planning and Natural Resources

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## Infrastructure and Planning



New South Wales

## **Botany Local Environmental Plan 1995 (Amendment No 24)**

under the

Environmental Planning and Assessment Act 1979

### **Erratum**

Botany Local Environmental Plan 1995 (Amendment No 24) published in Gazette No 126 of 15.8.2003 (Extract No 2003—551) was published in error. The following corrects that error.

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*. (S00/01780/S69)

DIANE BEAMER, M.P.,

Minister Assisting the Minister for Infrastructure  
and Planning (Planning Administration)

Clause 1 Botany Local Environmental Plan 1995 (Amendment No 24)

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## **Botany Local Environmental Plan 1995 (Amendment No 24)**

under the

Environmental Planning and Assessment Act 1979

### **1 Name of plan**

This plan is *Botany Local Environmental Plan 1995 (Amendment No 24)*.

### **2 Aims of plan**

This plan aims:

- (a) to provide environmental planning controls that will result in the management of any disturbance to acid sulfate soils in the City of Botany Bay so as to minimise impacts on natural waterbodies and wetlands and on agricultural, fishing, aquaculture, urban and infrastructure activities, and
- (b) to require development consent for works that would disturb soils or groundwater levels in localities identified as having acid sulfate soils, and
- (c) to require special assessment of certain development on land identified as being subject to risks associated with the disturbance of acid sulfate soils.

### **3 Land to which plan applies**

This plan applies to land within the City of Botany Bay classified as Class 1, 2, 4 or 5 on the map marked "Botany Local Environmental Plan 1995 (Amendment No 24)" deposited in the office of the Council of the City of Botany Bay.

### **4 Relationship to other environmental planning instruments**

This plan amends:

- (a) *Botany Local Environmental Plan 1995* as set out in Schedule 1, and

Botany Local Environmental Plan 1995 (Amendment No 24)

Clause 4

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- (b) *State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development* as set out in Schedule 2.

Botany Local Environmental Plan 1995 (Amendment No 24)

Schedule 1 Amendment of Botany Local Environmental Plan 1995

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## Schedule 1 Amendment of Botany Local Environmental Plan 1995

(Clause 4 (a))

### [1] Clause 30A

Insert after clause 30:

#### 30A Development on land identified on Acid Sulfate Soil Planning Map

##### (1) Consent is required

A person must not, without the consent of the Council, carry out works described in the following Table on land of the class specified for those works, except as provided by subclause (3).

#### Table

Class of land as shown on Acid Sulfate Soil Planning Map	Works
1	Any works
2	Works below the ground surface Works by which the watertable is likely to be lowered
4	Works below 2m AHD Works by which the watertable is likely to be lowered beyond 2 metres AHD
5	Works within 500 metres of adjacent Class 1, 2 or 4 land which are likely to lower the watertable below 1 metre AHD on adjacent Class 1, 2 or 4 land

Botany Local Environmental Plan 1995 (Amendment No 24)

Amendment of Botany Local Environmental Plan 1995

Schedule 1

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- (2) For the purposes of the Table to subclause (1), **works** include:
- (a) any disturbance of more than one tonne of soil (such as occurs in carrying out agriculture, the construction or maintenance of drains, extractive industries, dredging, the construction of artificial waterbodies (including canals, dams and detention basins) or foundations, or flood mitigation works or urban development (such as the construction of basement car parks, building foundations, installation of utilities and site drainage)), and
  - (b) any other works that are likely to lower the watertable, such as the temporary or permanent use of pumps to lower the natural groundwater level within or around a site, or the construction or maintenance of drains.

(3) **Exception following preliminary assessment**

This clause does not require consent for the carrying out of those works if:

- (a) a copy of a preliminary assessment of the proposed works undertaken in accordance with the *Acid Sulfate Soils Assessment Guidelines* has been given to the Council, and
- (b) the Council has provided written advice to the person proposing to carry out those works confirming that results of the preliminary assessment indicate the proposed works need not be carried out pursuant to an acid sulfate soils management plan prepared in accordance with the ASS Manual.

(4) **Considerations for consent authority**

The Council must not grant a consent required by this clause unless it has considered:

- (a) the adequacy of an acid sulfate soils management plan prepared for the proposed development in accordance with the ASS Manual, and
- (b) the likelihood of the proposed development resulting in the discharge of acid water, and

Botany Local Environmental Plan 1995 (Amendment No 24)

Schedule 1 Amendment of Botany Local Environmental Plan 1995

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- (c) any comments received from the Department of Land and Water Conservation within 40 days of the Council having sent that Department a copy of the development application and of the related acid sulfate soils management plan.

(5) **Public authorities not excepted**

This clause requires consent for development to be carried out by councils and other public authorities despite:

- (a) clause 35 of, and items 2 and 11 of Schedule 1 to, the *Environmental Planning and Assessment Model Provisions 1980*, as adopted by this plan, and
- (b) clause 10 of *State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development*.

(6) **Special provisions for the Council and Sydney Water Corporation**

Despite subclauses (1)–(5), the Council or the Sydney Water Corporation may carry out the following development without consent:

- (a) development consisting of emergency work,
  - (b) development consisting of routine maintenance,
  - (c) development consisting of minor work,
  - (d) any work ancillary to such development.
- (7) If the Council or the Sydney Water Corporation carries out development described in subclause (6) and encounters, or is reasonably likely to encounter, acid sulfate soils, the Council must deal with those soils in accordance with the ASS Manual so as to minimise the actual or potential impact on the environment arising from disturbance of the soils.

(8) In this clause:

**emergency work** means the repair or replacement of any part of the Council or the Sydney Water Corporation's works:

- (a) because the works have been (or are being) damaged by a natural disaster, an accident, an act of vandalism or a like occurrence, or



Botany Local Environmental Plan 1995 (Amendment No 24)

Amendment of Botany Local Environmental Plan 1995

Schedule 1

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(b) because they have ceased to function or suddenly ceased to function adequately,

and includes work reasonably necessary to prevent or limit any further damage or malfunction.

**minor work** means new work carried out by the Council or the Sydney Water Corporation that has a value not greater than \$20,000, but does not include drainage work.

**routine maintenance** means the periodic inspection, cleaning, repair and replacement of the Council's or Sydney Water Corporation's works, but does not include work that would result in an increase in the design capacity of any part of those works or necessitate the deepening of an existing works capacity, except where works do not involve the disturbance of soil below the ground watertable.

## [2] Schedule 1 Definitions

Insert the following definitions in alphabetical order in Schedule 1:

**acid sulfate soil planning map** means the map marked "Botany Local Environmental Plan 1995 (Amendment No 24)" kept in the office of the Council.

**acid sulfate soils** means actual or potential acid sulfate soils, as defined in the ASS Manual.

**Acid Sulfate Soils Assessment Guidelines** means the *Acid Sulfate Soils Assessment Guidelines* in the ASS Manual.

**ASS Manual** means the document titled *Acid Sulfate Soil Manual* published by the Acid Sulfate Soils Management Advisory Committee, as adopted for the time being by the Director-General.

Botany Local Environmental Plan 1995 (Amendment No 24)

Schedule 2      Amendment of State Environmental Planning Policy No 4—Development  
Without Consent and Miscellaneous Exempt and Complying Development

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**Schedule 2    Amendment of State Environmental  
Planning Policy No 4—Development  
Without Consent and Miscellaneous  
Exempt and Complying Development**

(Clause 4 (b))

**Schedule 1 Ancillary or incidental development involving acid  
sulfate soils excepted from clause 10**

Insert at the end of Schedule 1:

*Clause 30A of Botany Local Environmental Plan 1995*



## Campbelltown Local Environmental Plan No 222

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*. (P01/00306/S69)

DIANE BEAMER, M.P.,  
Minister Assisting the Minister for Infrastructure  
and Planning (Planning Administration)

Clause 1            Campbelltown Local Environmental Plan No 222

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## **Campbelltown Local Environmental Plan No 222**

under the

Environmental Planning and Assessment Act 1979

### **1 Name of plan**

This plan is *Campbelltown Local Environmental Plan No 222*.

### **2 Aims of plan**

This plan aims:

- (a) to allow, with the consent of Campbelltown City Council, the carrying out of development on the land to which this plan applies for the purpose of a waste management centre provided that:
  - (i) the development does not adversely affect the viability of the shale-sandstone transition forest situated immediately to the west and north of the land and the endangered ecological community within the forest, and
  - (ii) the use of the land does not conflict with adjacent land uses (that includes residential and sporting facilities) in terms of noise or odour, or adversely impact on the water quality of the nearby water system, and
- (b) to reclassify the land from community land to operational land within the meaning of the *Local Government Act 1993*.

### **3 Land to which plan applies**

This plan applies land situated in the City of Campbelltown, being parts of Lots 288 and 290, DP 752062, Lynwood Road, St Helen Park, as shown edged heavy black on the map marked "Campbelltown Local Environmental Plan No 222—Reclassification Map" deposited in the office of the Council of the City of Campbelltown.

Campbelltown Local Environmental Plan No 222

Clause 4

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**4 Amendment of Interim Development Order No 28—City of Campbelltown**

*Interim Development Order No 28—City of Campbelltown* is amended as set out in Schedule 1.

**5 Amendment of Campbelltown Local Environmental Plan 1995—Classification of Public Land**

*Campbelltown Local Environmental Plan 1995—Classification of Public Land* is amended as set out in Schedule 2.

Campbelltown Local Environmental Plan No 222

Schedule 1 Amendment of Interim Development Order No 28—City of Campbelltown

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## Schedule 1 Amendment of Interim Development Order No 28—City of Campbelltown

(Clause 4)

### Clause 14

Insert after clause 13:

#### 14 Development of certain land—Lynwood Road, St Helen Park

- (1) This clause applies to parts of Lots 288 and 290, DP 752062, Lynwood Road, St Helen Park, as shown edged heavy black on the map marked “Campbelltown Local Environmental Plan No 222—Reclassification Map” deposited in the office of the Council.
- (2) Despite clause 4, the Council may grant consent for the carrying out of development on the land to which this clause applies for the purpose of a waste management centre.
- (3) Before the Council grants consent to the development referred to in subclause (2) it must be satisfied that:
  - (a) the development does not adversely affect the viability of the shale-sandstone transition forest situated immediately to the west and north of the land and the endangered ecological community within the forest, and
  - (b) the use of the land does not conflict with adjacent land uses (that include residential and sporting facilities) in terms of noise or odour, or adversely impact on the water quality of the nearby water system.
- (4) In this clause:

**waste management centre** means a building or place used to receive, sort, store or transfer waste material to other sites for reuse, recycling or disposal.

Campbelltown Local Environmental Plan No 222

Amendment of Campbelltown Local Environmental Plan 1995—  
Classification of Public Land

Schedule 2

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## **Schedule 2 Amendment of Campbelltown Local Environmental Plan 1995—Classification of Public Land**

(Clause 5)

### **Schedule—Classification and reclassification of public land as operational**

Insert in alphabetical order of locality in Part 2 of the Schedule:

#### **St Helen Park**

Lynwood Road

Parts of Lots 288 and 290, DP 752062, as shown edged heavy black on the map marked “Campbelltown Local Environmental Plan No 222—Reclassification Map” deposited in the office of Campbelltown City Council—*Campbelltown Local Environmental Plan No 222*.

## **Kogarah Local Environmental Plan 1998 (Amendment No 30)**

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*. (S02/00405/S69)

DIANE BEAMER, M.P.,  
Minister Assisting the Minister for Infrastructure  
and Planning (Planning Administration)

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Clause 1 Kogarah Local Environmental Plan 1998 (Amendment No 30)

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## **Kogarah Local Environmental Plan 1998 (Amendment No 30)**

### **1 Name of plan**

This plan is *Kogarah Local Environmental Plan 1998 (Amendment No 30)*.

### **2 Aims of plan**

- (1) This plan aims:
  - (a) to reclassify the land to which this plan applies from community land to operational land within the meaning of the *Local Government Act 1993 (the 1993 Act)*, and
  - (b) to rezone the land to Special Uses 5 (a)—Special Uses (Residential Care Facility) under *Kogarah Local Environmental Plan 1998 (the 1998 plan)*.
- (2) This plan incidentally makes more extensive provisions in the 1998 plan for the classification or reclassification of public land as operational land as a consequence of major changes made to the statutory scheme in section 30 (Reclassification of community land as operational) of the 1993 Act.

### **3 Land to which plan applies**

This plan applies to land known as the former Penshurst Bowling Club, 1 Centre Street, Penshurst, being Lots 8 and 21, DP 11492, as shown edged heavy red, coloured yellow with the red lettering “Residential Care Facility” on the map marked “Kogarah Local Environmental Plan 1998 (Amendment No 30)” deposited in the office of Kogarah Municipal Council.

### **4 Amendment of Kogarah Local Environmental Plan 1998**

*Kogarah Local Environmental Plan 1998* is amended as set out in Schedule 1.

Kogarah Local Environmental Plan 1998 (Amendment No 30)

Amendments

Schedule 1

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## Schedule 1 Amendments

(Clause 4)

### [1] Clause 13

Omit the clause. Insert instead:

#### 13 Public land

##### Objective of the provision

To classify, or reclassify, public land, being Council-owned land or land under the care and control of the Council, as operational land.

##### Classification and reclassification of public land as operational land

- (1) The public land described in Schedule 2 is classified, or reclassified, as operational land for the purposes of the *Local Government Act 1993*, subject to this clause.
- (2) The amendments made by the *Local Government Amendment (Community Land Management) Act 1998* to section 30 of the *Local Government Act 1993* do not apply to the land described in Part 1 of Schedule 2.
- (3) Land described in Part 2 of Schedule 2:
  - (a) to the extent (if any) that the land is a public reserve, does not cease to be a public reserve, and
  - (b) continues to be affected by any trusts, estates, interests, dedications, conditions, restrictions or covenants by which it was affected before its classification, or reclassification, as operational land.
- (4) Land described in Columns 1 and 2 of Part 3 of Schedule 2, to the extent (if any) that it is a public reserve, ceases to be a public reserve on the commencement of the relevant amending plan and, by the operation of that plan, is discharged from all trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land except those (if any) specified opposite the land in Column 3 of Part 3 of Schedule 2.

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Page 3

Kogarah Local Environmental Plan 1998 (Amendment No 30)

Schedule 1 Amendments

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- (5) In this clause, *the relevant amending plan*, in relation to land described in Part 3 of Schedule 2, means this plan or, if the description of the land is inserted in that Part by another local environmental plan, that plan.
- (6) Before the relevant amending plan inserted the description of land into Part 3 of Schedule 2, the Governor approved of subclause (4) applying to the land.

**[2] Clause 25 Dictionary**

Insert in appropriate order in the definition of *land use map* in clause 25 (1):

Kogarah Local Environmental Plan 1998 (Amendment No 30)

**[3] Schedule 2 Classification and reclassification of public land as operational land**

Insert after the new heading to the Schedule:

**Part 1 Land classified, or reclassified, under original section 30 of Local Government Act 1993**

**[4] Schedule 2, Parts 2 and 3**

Insert at the end of the Schedule the following Parts:

**Part 2 Land classified, or reclassified, under amended section 30 of Local Government Act 1993—interests not changed**

Column 1

Column 2

Locality

Description

Kogarah Local Environmental Plan 1998 (Amendment No 30)

Amendments

Schedule 1

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**Part 3 Land classified, or reclassified, under amended section 30 of Local Government Act 1993—interests changed**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Locality</b>	<b>Description</b>	<b>Trusts etc not discharged</b>
<b>Penshurst</b>		
1 Centre Street	Lots 8 and 21, DP 11492 (former Penshurst Bowling Club)	Nil.



New South Wales

## **Marrickville Local Environmental Plan 2001 (Amendment No 19)**

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*. (S03/00182/S69)

DIANE BEAMER, M.P.,  
Minister Assisting the Minister for Infrastructure  
and Planning (Planning Administration)

Clause 1           Marrickville Local Environmental Plan 2001 (Amendment No 19)

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## **Marrickville Local Environmental Plan 2001 (Amendment No 19)**

under the

Environmental Planning and Assessment Act 1979

### **1 Name of plan**

This plan is *Marrickville Local Environmental Plan 2001 (Amendment No 19)*.

### **2 Aims of plan**

This plan aims:

- (a) to broaden, with the consent of Marrickville Council, the range of permissible uses of the land to include a residential flat building, and
- (b) to set controls on the use of the land, and
- (c) to promote the economic use of the land.

### **3 Land to which plan applies**

This plan applies to land situated in the local government area of Marrickville, being Lot 100, DP 613696, and known as 5 Croydon Street, Petersham, as shown coloured magenta on the map marked “Marrickville Local Environmental Plan 2001 (Amendment No 19)—Additional Uses Development and Site Specific Development Controls Map” deposited in the office of Marrickville Council.

### **4 Amendment of Marrickville Local Environmental Plan 2001**

*Marrickville Local Environmental Plan 2001* is amended as set out in Schedule 1.

Marrickville Local Environmental Plan 2001 (Amendment No 19)

Amendments

Schedule 1

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## Schedule 1 Amendments

(Clause 4)

### [1] Schedule 1 Definitions

Insert in appropriate order in the definition of *the additional uses development and site specific development controls map*:

Marrickville Local Environmental Plan 2001 (Amendment No 19)—Additional Uses Development and Site Specific Development Controls Map

### [2] Schedule 2 Additional uses development and site specific development controls

Insert before the matter relating to 35 Crystal Street, Petersham, in Columns 1 and 2, respectively:

**5 Croydon Street,  
Petersham**

Lot 100, DP 613696, as shown coloured magenta on the map marked “Marrickville Local Environmental Plan 2001 (Amendment No 19)—Additional Uses Development and Site Specific Development Controls Map”.

The *additional uses development* for the purpose of a residential flat building, but only if:

- (a) the floor space ratio of the building will not exceed 1.3:1, and
- (b) the total number of dwellings will not exceed 25, and
- (c) the height of the building will not exceed RL 15.25 metres.



New South Wales

## **City of Wollongong Local Environmental Plan 1990 (Amendment No 215)**

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*. (W02/00084/S69)

DIANE BEAMER, M.P.,  
Minister Assisting the Minister for Infrastructure  
and Planning (Planning Administration)



Clause 1 City of Wollongong Local Environmental Plan 1990 (Amendment No 215)

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## City of Wollongong Local Environmental Plan 1990 (Amendment No 215)

under the

Environmental Planning and Assessment Act 1979

### 1 Name of plan

This plan is *City of Wollongong Local Environmental Plan 1990 (Amendment No 215)*.

### 2 Aims of plan

This plan aims to reclassify the land to which this plan applies from community land to operational land within the meaning of the *Local Government Act 1993*.

By the operation of this plan, any trusts, estates, interests, dedications, conditions, restrictions or covenants affecting the land or any part of the land (except for any reservations that except land out of a Crown grant relating to the land and reservations of minerals within the meaning of the *Crown Lands Act 1989*) are discharged.

### 3 Land to which plan applies

This plan applies to land situated in the local government area of the City of Wollongong, being Lot 4, DP 718606, Lots 117 and 118, DP 746513, Lots 17–29, DP 231969 and part Lot 1, DP 562135, off Tarrawanna Road, Corrimal, as shown edged heavy black on the map marked “City of Wollongong Local Environmental Plan 1990 (Amendment No 215)” deposited in the office of the Council of the City of Wollongong.

### 4 Amendment of City of Wollongong Local Environmental Plan 1990

The *City of Wollongong Local Environmental Plan 1990* is amended by inserting at the end of Schedule 4B the following words:

Lot 4, DP 718606, Lots 117 and 118, DP 746513, Lots 17–29, DP 231969 and part Lot 1, DP 562135, off Tarrawanna Road, Corrimal, as shown edged heavy black on the map marked

City of Wollongong Local Environmental Plan 1990 (Amendment No 215)      Clause 4

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“City of Wollongong Local Environmental Plan 1990  
(Amendment No 215)”—*City of Wollongong Local  
Environmental Plan 1990 (Amendment No 215)*.



## Wyong Local Environmental Plan 1991 (Amendment No 149)

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*. (N02/00288/S69)

DIANE BEAMER, M.P.,  
Minister Assisting the Minister for Infrastructure  
and Planning (Planning Administration)

Clause 1 Wyong Local Environmental Plan 1991 (Amendment No 149)

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## **Wyong Local Environmental Plan 1991 (Amendment No 149)**

under the

Environmental Planning and Assessment Act 1979

### **1 Name of plan**

This plan is *Wyong Local Environmental Plan 1991 (Amendment No 149)*.

### **2 Aims of plan**

This plan aims to remove the lot amalgamation restrictions from the land to which this plan applies as imposed by clause 18 of *Wyong Local Environmental Plan 1991*.

### **3 Land to which plan applies**

This plan applies to land situated in the local government area of Wyong, being Lot 606, DP 1012140, Lot 1, DP 817815 and Lot 371, DP 880842, in the vicinity of the Sydney–Newcastle Freeway and McPherson Road, Mardi, as shown edged heavy black on the map marked “Wyong Local Environmental Plan 1991 (Amendment No 149)” deposited in the office of Wyong Council.

### **4 Amendment of Wyong Local Environmental Plan 1991**

*Wyong Local Environmental Plan 1991* is amended by inserting in appropriate order in the definition of *the map* in clause 7 (1) the following words:

Wyong Local Environmental Plan 1991 (Amendment No 149)

## Natural Resources

### WATER ACT 1912

APPLICATIONS under Part 2, within proclaimed (declared) local areas under section 5 (4) of the Water Act 1912.

Applications for licences under section 10 for works within a proclaimed (declared) local area as generally described hereunder have been received from:

#### *Macquarie River Valley*

GEOFFREY WARD DAYMOND AND MARIE ANN DAYMOND for 2 pumps on the Campbells River, Lot A, DP164296, Parish of Langdale, County of Westmoreland for irrigation of 11 hectares (lucerne and market garden) (replacing an existing licence – no increase in area or allocation) (80SL96119).

DONALD ERNEST YEO for a pump on the Macquarie River, Lot 224, DP754331, Parish of Warrie, County of Lincoln for water supply for stock and domestic purposes and water supply for stock and domestic purposes to the occupier of Lot 224, DP754331, Parish of Warrie, County of Lincoln (new licence) (80SL96120).

DONALD ERNEST YEO for a pump on the Macquarie River, Lots 125 and 156, DP754331, Parish of Warrie, County of Lincoln for irrigation of 12 hectares (lucerne) (replacing an existing licence – no increase in area or allocation) (in lieu of advert 18.3.02) (80SL96027).

AGRILAND PTY LTD for a pump on the Macquarie River, Lot 7002, DP755130 and Lot 73, DP723349, being part Reserve 75642, Parish of Weemabah, County of Narromine for irrigation of 162.5 hectares (cotton and wheat) (replacing an existing licence – no increase in area or allocation) (80SL96121).

Written objections to the applications specifying grounds thereof, may be made by any statutory authority or local occupier within the proclaimed local (declared) area and must be lodged with the Departments Regional Office at Dubbo, within twenty-eight (28) days as prescribed by the Act.

Any inquiries regarding the above should be directed to the undersigned (telephone 68 842 560). GA2: 306595

FRED HUNDY,  
Water Access Manager, Macquarie

Department of Infrastructure, Planning and  
Natural Resources  
PO Box 717  
DUBBO NSW 2830

### WATER ACT 1912

AN application for a license under Part 2 of the Water Act 1912 being within a proclaimed (declared) local area under section 5 (4) of the Act.

An application for a license under section 10 of Part 2 of the Water Act has been received as follows:

#### *Lachlan River Valley*

Stanley Louis PETERS, for 2 pumps on the Lachlan River on Lot 46/755186, Parish of Naradhun, County of Nicholson

and Lot 355, DP755189, Parish of Redbank, County of Nicholson, for irrigation of 486 hectares (lucerne, summer crops) (new license – replacing an existing entitlement, no increase pumping capacity – no increase in area) (GA2:512501) (70SL090887)

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 must be lodged with the Department within 28 days of the date of this publication as prescribed by the Act.

DAVID THOMAS,  
Senior Natural Resource Officer,  
Central West Region

Department of Infrastructure, Planning and  
Natural Resources  
PO Box 136  
FORBES NSW 2871  
(02) 6852 1222

### WATER ACT 1912

AN application under Part 2 of the Water Act 1912, being within a proclaimed (declared) local area under section 5 (4) of the Act.

An application for a licence under section 10 of Part 2 of the Water Act 1912, has been received as follows:

#### *Barwon/Darling River Valley*

BERINGER BLASS WINE ESTATES LTD for pumping plant on the Darling River, Lot 6920, DP1004854, Parish of Avoca, County of Wentworth, for irrigation of 236 hectares (replacement licence due to permanent transfer of water entitlement – no increase in commitment to Murray River storages) (Ref:60SL085429) (GA2:512578).

Written objections to the applications specifying the grounds thereof may be made by any statutory authority or local occupier within the proclaimed local area and must be lodged within the Department's Natural Resource Project Officer at Buronga within twenty-eight (28) days as provided by the Act.

P. WINTON,  
Natural Resource Project Officer,  
Murray Region

Department of Infrastructure, Planning and  
Natural Resources  
PO Box 363  
32 Enterprise Way  
BURONGA NSW 2739  
(03) 5021 9400

### WATER ACT 1912

AN application under Part 2 of the Water Act 1912, being within a proclaimed (declared) local area under section 5 (4) of the Act.

An application for an authority for a Joint Water Supply Scheme, under section 20 of Part 2 of the Water Act has been received as follows:

*Murray River Valley*

Terrence Michael and Anne-Marie MARDLING and Glen John TURNER for a pump on the Billabong Creek, on Public Road East of Part Lot 24, DP753748, Parish of Mahonga Forest, County of Hume for stock and domestic purposes. (GA2:494942) (Ref:50SA006619).

Any enquiries regarding the above should be directed to the undersigned (telephone (02) 6041 6777).

Written objections to the application specifying the grounds thereof, may be made by any statutory authority or local occupier within the proclaimed area whose interests may be affected, and must be lodged with the Department's office at Albury by no later than the 26 September 2003.

C. PURTLE  
Natural Resource Officer  
Murray Region

Department of Infrastructure, Planning and  
Natural Resources  
PO Box 829  
ALBURY NSW 2640  
(02) 6041 6777

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**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:

OLIMPIA CONSTRUCTIONS PTY LTD for a bywash dam and pump (off-creek storage) Lot 1, DP125747, Parish of Monga, County of St Vincent for conservation of water and the irrigation of 25.0 hectares (nuts) (new licence) (Dam in excess of MHRDC) (Capacity 30.0 megalitres) (Ref:10SL56526) (GA2: 493218).

Any inquiries regarding the above should be directed to the undersigned (Phone: ).

Written objections specifying grounds thereof must be lodged with the Department within 28 days of the date of this publication as prescribed by the Act.

WAYNE CONNERS,  
A/Natural Resource Project Officer,  
Sydney/South Coast Region

Department of Infrastructure, Planning and  
Natural Resources  
PO Box 3935  
PARRAMATTA NSW 2124  
(02) 9895 7194

## Department of Lands

### FAR WEST REGIONAL OFFICE

#### Department of Lands

**45 Wingewarra Street (PO Box 1840), Dubbo, NSW 2830**

**Phone: (02) 6883 3000      Fax: (02) 6883 3099**

#### ERRATUM

IN the notification appearing in the *Government Gazette* of 15 August 2003, Folio 7978, under the heading Appointment of Trust Board Members in column 1 Innes MCLEOD should read Ines MCLEOD. WL90 R 68

#### 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 and Planning  
and Minister for Natural Resources

*Administrative District – Bourke; Shire – Bourke,  
Parish – Talowla and others; County – Landsborough*

The conditions of Western Lands Lease 12451, being the land contained within Folio Identifier 3899/766372, have been altered by the removal of the special conditions referred to in the *Government Gazette* of 16 September 1977 effective from 24 October 1983.

#### 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 and Planning  
and Minister for Natural Resources

*Administrative District – Hillston  
Shire – Central Darling  
Parish – Casey and others; County – Manara*

The conditions of Western Lands Lease 7905, being the land contained within Folio Identifier 3835/766278, have been altered by the removal of the special condition following effective from 1 June 1960.

#### SPECIAL CONDITION REMOVED FROM WESTERN LANDS LEASE 7905

- (A) The lessee shall permit the holders of the three Western Lands Leases adjoining Beechams Bore on the east, south-east and south to water their stock from the water from that bore subject to the payment of fees to be arranged. In the event of a dispute arising as to the fees to be paid for the use of such water, the matter of dispute shall be determined by the Commissioner.

#### 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 and Planning  
and Minister for Natural Resources

*Administrative District – Bourke; Shire – Bourke  
Parish – Goombalie and others  
County – Barrona and others*

The conditions of Western Lands Lease 12450, being the land contained within Folio Identifier 3896/766369, have been altered by the removal of the special conditions referred to in the *Government Gazette* of 16 September 1977 effective from 24 October 1983.

#### 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 and Planning  
and Minister for Natural Resources

*Administrative District – Bourke; Shire – Bourke  
Parish – Barcoola and others; County – Landsborough*

The conditions of Western Lands Lease 12449, being the land contained within Folio Identifier 3898/766371, have been altered by the removal of the special conditions referred to in the *Government Gazette* of 3 June 1977 effective from 24 October 1983.

**GRAFTON OFFICE**  
**Department of Lands**  
**76 Victoria Street (Locked Bag 10), Grafton, NSW 2460**  
**Phone: (02) 6640 2000 Fax: (02) 6640 2035**

**ROADS ACT 1993**

ORDER

Transfer of a Crown Road to a Council

IN pursuance of the provisions of section 151, Roads Act 1993, the Crown public 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 from that date the road specified in Schedule 1 ceases to be a Crown public road.

TONY KELLY, M.L.C.  
 Minister Assisting the Minister for Natural  
 Resources (Lands)

SCHEDULE 1

Crown public road 20.115 metres wide west of Lot 436 DP 755624 at Woodburn, Parish Riley, County Richmond.

SCHEDULE 2

Roads Authority: Richmond Valley Council. Papers: GF03 H 238. Councils Ref: R-405-00

**ROADS ACT 1993**

ORDER

Transfer of a Crown Road to a Council

IN pursuance of the provisions of section 151, Roads Act 1993, the Crown public roads specified in Schedule 1 are transferred to the Roads Authority specified in Schedule 2 hereunder, as from the date of publication of this notice and from that date the roads specified in Schedule 1 cease to be Crown public roads.

TONY KELLY, M.L.C.  
 Minister Assisting the Minister for Natural  
 Resources (Lands)

SCHEDULE 1

Crown public road 20.115 metres wide shown in black in diagram hereunder at Gulmarrad, Parish Gulmarrad, County Clarence.



Not to Scale

Diagrammatic representation only

SCHEDULE 2

Roads Authority: Maclean Shire Council. Papers: GF03 H 253. Councils Ref: PO1713



**GRIFFITH OFFICE**  
**Department of Lands**  
**2nd Floor, Griffith City Plaza,**  
**120–130 Banna Avenue (PO Box 1030), Griffith NSW 2680**  
**Phone: (02) 6962 7522      Fax: (02) 6962 5670**

**ERRATUM**

IN notice appearing in NSW *Government Gazette* No. 126, Folio 7980, under the “Griffith Office” and under the heading “Notification of Closing of Public Road” is amended by altering the description from “Lots 1 and 3, DP 1050769 at Golgeldrie, Parish Golgeldrie, County Cooper” to Lot 1 DP 1050769 and Lot 3 DP 1050770 at Golgeldrie, Parish Golgeldrie, County Cooper. File No.: GH99H73

**ORANGE OFFICE**  
**Department of Lands**  
**92 Kite Street (PO Box 2146), Orange NSW 2800**  
**Phone: (02) 6393 4300 Fax: (02) 6362 3896**

**CROWN LANDS ACT 1989, PART 3**

**Crown Lands Regulations 2000**

Draft Assessment of Land at Grenfell

A DRAFT land assessment has been prepared for Crown land situated at Grenfell, being land described hereunder.

Inspection of this draft assessment can be made at the Orange Office of Crown Lands, Department of Lands, Cnr Kite and Anson Streets Orange 2800 (PO Box 2146), Grenfell Shire Council Chambers, during normal business hours.

Representations are invited from the public on the Draft Assessment. These may be made in writing for a period of 28 days commencing from 29 August 2003, and should be addressed to Louise Harcombe, Orange at the above address.

TONY KELLY, M.L.C.,  
 Minister Assisting the Minister  
 for Natural Resources (Lands)

DESCRIPTION

*Parish – Brundah; County – Monteagle  
 Land District – Grenfell; Shire – Weddin*

Portion 369, DP 754578 of 1.214 hectares, currently Quarry Reserve 651100, located approximately 3km south of the Town of Grenfell. The land is fenced within the adjoining freehold land, fully cleared with visible disturbance from previous quarrying. The site is currently utilised for grazing purposes. It is planned to sell the land to the adjoining owner. Reference: OE89 H 582

**NOTIFICATION OF CLOSING OF A ROAD**

IN pursuance to the provisions of the Roads Act 1993, the roads hereunder specified are closed and the road ceases to be public road and the rights of passage and access that previously existed in relation to the road are extinguished.

TONY KELLY, M.L.C.,  
 Minister Assisting the Minister for  
 Natural Resources (Lands)

DESCRIPTION

*Land District – Bathurst  
 L.G.A – Bathurst City Council*

Road Closed: Lot 1, Deposited Plan 1037588 subject to easement created by the Deposited Plan, at Bathurst, Parish Bathurst, County Bathurst. File No: OE01 H 324

Note: On closing, the land within Lot 1 in DP 1037588 remains vested in Bathurst City Council as operational land for the purposes of the Local Government Act 1993. Council's reference: JW:GH:25.00158

**SYDNEY METROPOLITAN OFFICE****Department of Lands****Level 12, Macquarie Tower, 10 Valentine Avenue, Parramatta 2150****(PO Box 3935), Parramatta, NSW 2124****Phone: (02) 9895 7657 Fax: (02) 9895 6227****PROPOSED REVOCATION OF DEDICATION OF  
CROWN LAND FOR A PUBLIC PURPOSE**

IT is intended, following the laying of a copy of this notification before each House of Parliament in the State of New South Wales in accordance with section 84 of the Crown Lands Act 1989, to revoke the dedication of Crown land specified in Schedule 1 hereunder to the extent specified in Schedule 2 with a view to dealing with the land as specified in Schedule 3.

TONY KELLY, M.L.C.,  
Minister Assisting the Minister for  
Natural Resources (Lands)

—————  
SCHEDULE 1

*Land District – Metropolitan; City – Rockdale  
Parish – St George; County – Cumberland  
Dedication No. – P500191*

Area of 44.48 hectares proclaimed a public park by notification in the *Government Gazette* of 30 March 1886, being the land generally within 30.48 metres of high water mark of Botany Bay adjacent to Lady Robinson's Beach known as Cook Park.

File number: MIN03/1764

—————  
SCHEDULE 2

About 2,000 square metres being the land embracing the former Brighton Baths Amenities Building that fronts the Grand Parade at Brighton-le-Sands and is situated on the beach side between Duke Street and Teralba Road. The building includes the Le Sands Restaurant, Signature Café, the Brighton Kiosk, the Brighton Athletic Club and public toilet facilities.

—————  
SCHEDULE 3

It is intended that the land be leased to Rockdale City Council, under the provisions of the Crown Lands Act 1989, and, with the consent of the Minister, be permitted to be sub-let, as necessary, so that the existing occupancies can continue. However, once revoked from the proclaimed public park, the established principles relating to the use of public recreation reserves will no longer apply.

**PLAN OF MANAGEMENT FOR  
A CROWN RESERVE**

Anderson Park at Neutral Bay, under  
Part 5, Division 6 of the Crown Lands Act 1989  
and Crown Lands Regulation 2000

A draft plan of management can be made at Customer Service Centre North Sydney Council Council Chambers 200 Miller Street, North Sydney NSW 2060; or visit Council's website: [www.northsydney.nsw.gov.au](http://www.northsydney.nsw.gov.au) or at Stanton Library, 234 Miller Street, North Sydney NSW 2000.

Representations are invited from the public on the draft plan. The plan will be on exhibition from September 4, 2003 for a period of 43 days. Submissions will be received up until Thursday, October 16, 2003 and should be sent to The General Manager, Attention Megan White, North Sydney Council P O Box 12 North Sydney.

TONY KELLY, M.L.C.,  
Minister Assisting the Minister for  
Natural Resources (Lands)

—————  
Descriptions of Reserves

*Land District – Metropolitan; Parish – Willoughby  
L.G.A – North Sydney; County – Cumberland*

Reserve 500363 dedicated for the public purpose of Public Recreation dedicated 1 June 1928 being Lot 7131, DP 752067.

Reserve 500352 dedicated for public purpose of Public Recreation notified 8 October 1898 being Lots 708 and 7130, DP 752067.

Location: Bounded by Clark, Kurraba Roads and Neutral Bay (Sydney Harbour). MN02 R 73

**TAREE OFFICE**  
**Department of Lands**  
**102-112 Victoria Street (PO Box 440), Taree, NSW 2430**  
**Phone: (02) 6552 2788 Fax: (02) 6552 2816**

**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 for the term also specified in Column 1, 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 Assisting the Minister for  
Natural Resources (Lands)

SCHEDULE

COLUMN 1	COLUMN 2	COLUMN 3
Terrence John EVANS	Lansdowne (Sandy Point) Recreation Flora Reserve Trust	Reserve No. 50557 Public Purpose: Public Recreation, Preservation of Native Flora Notified: 10 Mar 1915

File Reference: TE80R 186/3

For a term commencing 1 September 2003 and expiring 29 February 2004.

**DRAFT ASSESSMENT OF LAND UNDER  
PART 3 OF THE CROWN LANDS ACT 1989  
AND CROWN LANDS REGULATION 1995**

THE Minister Assisting the Minister for Natural Resources (Lands) has prepared a draft land assessment for the Crown land described hereunder.

Inspection of this draft assessment can be made at the Department of Lands, 98 Victoria Street, Taree and at the Offices of Hastings Council during normal business hours.

Representations are invited from the public on the draft assessment. These may be made in writing for a period commencing from 29 August 2003 to 29 September 2003 and should be sent to the Manager, Mid North Coast, Department of Lands, PO Box 440, Taree 2430. Telephone enquiries should be directed to the Taree office on 02 6552 2788.

TONY KELLY, M.L.C.,  
Minister Assisting the Minister for  
Natural Resources (Lands)

Description

Part bed of Caswell Channel, Hastings River being R56146 from Sale or Lease Generally fronting freehold land being Lot B, DP 325952.

Reason: Consideration of application for domestic licence for walkway and pontoon.

Contact Officer: Mr Bob Birse  
(File No. TE02 H 151).

**DRAFT ASSESSMENT OF LAND UNDER  
PART 3 OF THE CROWN LANDS ACT 1989  
AND CROWN LANDS REGULATION 1995**

THE Minister Assisting the Minister for Natural Resources (Lands) has prepared a draft land assessment for the Crown land described hereunder.

Inspection of this draft assessment can be made at the Department of Lands, 98 Victoria Street, Taree and at the Offices of Hastings Council during normal business hours.

Representations are invited from the public on the draft assessment. These may be made in writing for a period commencing from 29 August 2003 to 29 September 2003 and should be sent to the Manager, Mid North Coast, Department of Lands, PO Box 440, Taree 2430. Telephone enquiries should be directed to the Taree office on 02 6552 2788.

TONY KELLY, M.L.C.,  
Minister Assisting the Minister for  
Natural Resources (Lands)

Description

Part bed of Munns Channel, Hastings River being R56146 from Sale or Lease Generally fronting freehold land being Lot 49, DP 754446.

Reason: Consideration of application for domestic licence for walkway and pontoon.

Contact Officer: Mr Bob Birse  
(File No. TE02 H 100).

**DRAFT ASSESSMENT OF LAND UNDER  
PART 3 OF THE CROWN LANDS ACT 1989  
AND CROWN LANDS REGULATION 1995**

THE Minister Assisting the Minister for Natural Resources (Lands) has prepared a draft land assessment for the Crown land described hereunder.

Inspection of this draft assessment can be made at the Department of Lands, 98 Victoria Street, Taree and at the Offices of Greater Taree City Council during normal business hours.

Representations are invited from the public on the draft assessment. These may be made in writing for a period commencing from 29 August 2003 to 29 September 2003 and should be sent to the Manager, Mid North Coast, Department of Lands, PO Box 440, Taree 2430. Telephone enquiries should be directed to the Taree office on 02 6552 2788.

TONY KELLY, M.L.C.,  
Minister Assisting the Minister for  
Natural Resources (Lands)

Description

Part bed of Manning River being R56146 from Sale or Lease Generally fronting freehold land being 59 Newtons Road, Dumaresq Island.

Reason: Consideration of application for variation of existing licence for domestic jetty fronting freehold land to include mooring poles and wet area.

Contact Officer: Mr Bob Birse  
(File No. TE97 H 277).

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**DRAFT ASSESSMENT OF LAND UNDER  
PART 3 OF THE CROWN LANDS ACT 1989  
AND CROWN LANDS REGULATION 1995**

THE Minister Assisting the Minister for Natural Resources (Lands) has prepared a draft land assessment for the Crown land described hereunder.

Inspection of this draft assessment can be made at the Department of Lands, 98 Victoria Street, Taree and at the Offices of Kempsey Shire Council during normal business hours.

Representations are invited from the public on the draft assessment. These may be made in writing for a period commencing from 29 August 2003 to 29 September 2003 and should be sent to the Manager, Mid North Coast, Department of Lands, PO Box 440, Taree 2430. Telephone enquiries should be directed to the Taree office on 02 6552 2788.

TONY KELLY, M.L.C.,  
Minister Assisting the Minister for  
Natural Resources (Lands)

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Description

Part bed of Macleay River being R56146 from Sale or Lease Generally fronting freehold land being Lot 81, DP 716573 about 1.5km upstream from Jerseyville bridge.

Reason: Consideration of application for domestic licence for timber jetty.

Contact Officer: Mr Bob Birse  
(File No. TE02 H 152).

## Roads and Traffic Authority

### Roads Act 1993

#### Notice under Clause 17 of the Road Transport (Mass, Loading and Access) Regulation, 1996

Greater Taree City 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.

**Phil Pinyon**  
**General Manager**  
**Greater Taree City Council**  
 (by delegation from the Minister for Roads)

### Schedule

**1. Citation**

This Notice may be cited as the Greater Taree City Council B-Doubles Notice No 2 2003.

**2. Commencement**

This Notice takes effect on the date of gazettal.

**3. Effect**

This Notice remains in force until 31 December 2008 unless it is amended or repealed earlier.

**4. Application**

4.1 This Notice applies to B-Doubles which 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 Greater Taree City Council**

Type	Road No	Road Name	Starting point	Finishing point	Conditions
25	000	Hargreaves Drive, Taree	Wingham Road (MR192)	Amcor Aerosols depot	Nil

**ROADS AND TRAFFIC AUTHORITY  
ROAD TRANSPORT (VEHICLE REGISTRATION) ACT 1997  
Notice Fixing Fees**

I Paul Forward, Chief Executive of the Roads and Traffic Authority, pursuant to section 8 (1) (k) of the Road Transport (Vehicle Registration) Act 1997 and clause 79 of the Road Transport (Vehicle Registration) Regulation 1998, make the Notice set forth hereunder.

This Notice takes effect on 1 September 2003.

Paul Forward  
Chief Executive  
Roads and Traffic Authority

**Amendments**

The Notice Fixing Fees published in Government Gazette No. 104 of 27 June 2003 at pages 6398 to 6400 is amended by inserting the following services and fees in the Schedule to that Notice.

<b>Column 1</b>	<b>Column 2 - \$</b>
30 Coloured plates - Order fee	\$50
31 Coloured plates - Annual fee (Standard and Personalised only)	\$70
32 Coloured plates - Annual fee (Personalised Plus only)	\$470
33 Coloured plates - Remake	\$50
34 ARU - Order fee (Standard and Personalised)	\$50
35 ARU - Annual Style fee (Standard and Personalised)	\$90
36 ARU - Remake	\$50
37 Custom Yellow plates - Annual fee (Personalised Plus)	\$400
38 White Slimline plates - Annual fee (Personalised Plus)	\$400

**ROADS ACT 1993****LAND ACQUISITION (JUST TERMS  
COMPENSATION) ACT 1991**

Notice of Compulsory Acquisition of Land  
at Barden Ridge in the Sutherland 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.

D J Lorsch  
Manager, Compulsory Acquisition & Road Dedication  
Roads and Traffic Authority of New South Wales

**SCHEDULE**

ALL that piece or parcel of Crown land situated in the Sutherland Shire Council area, Parish of Holsworthy and County of Cumberland, shown as Lot 101 Deposited Plan 1057642, being part of the land in Certificate of Title 1/1041291.

(RTA Papers FPP 3M3318; RO 411.12077)

**ROADS ACT 1993****LAND ACQUISITION (JUST TERMS  
COMPENSATION) ACT 1991**

Notice of Compulsory Acquisition of Land at Nabiac  
in the Greater Taree 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.

D J Lorsch  
Manager, Compulsory Acquisition & Road Dedication  
Roads and Traffic Authority of New South Wales

**SCHEDULE**

ALL those pieces or parcels of land situated in the Greater Taree City Council area, Parish of Wang Wauk and County of Gloucester, shown as:

Lot 27 Deposited Plan 1051947, being part of the land in Reserve No 84874 for Rubbish Depot notified in Government Gazette No 61 of 15 May 1964 on page 1561

and said to be in possession of the Crown and Greater Taree Utility Reserves Reserve Trust (Trustee); and

Lot 28 Deposited Plan 1051947, being part of the land in Reserve No 28369 from Sale for Water Supply and Camping notified in Government Gazette No 917 of 22 October 1898 on page 8409 and said to be in the possession of the Crown and Gloucester Rural Lands Protection Board.

(RTA Papers FPP 3M2489; RO 10/426.1710)

**ROADS ACT 1993****LAND ACQUISITION (JUST TERMS  
COMPENSATION) ACT 1991**

Notice of Compulsory Acquisition of Land at Singleton  
in the Singleton 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.

D J Lorsch  
Manager, Compulsory Acquisition & Road Dedication  
Roads and Traffic Authority of New South Wales

**SCHEDULE**

ALL those pieces or parcels of land situated in the Singleton Shire Council area, Parish of Darlington and County of Durham, shown as:

Lot 14 Deposited Plan 1046246, being part of Reserve No 23991 for Access, Quarry and Gravel Pit notified in the Government Gazette of 25 April 1896 on page 2955 and said to be in possession of the Crown; and

Lot 15 Deposited Plan 1046246, being part of Reserve No 96752 for Travelling Stock notified in Government Gazette No 68 of 6 May 1983 on page 2072 and said to be in the possession of the Crown and Hunter Rural Lands Protection Board.

(RTA Papers FPP 3M2326; RO 402.1265)



**ROADS ACT 1993**

## Section 10

Notice of Dedication of Land as Public Road  
at Gwynneville in the Wollongong City Council area

THE Roads and Traffic Authority of New South Wales dedicates the land described in the schedule below as public road under section 10 of the Roads Act 1993.

D J Lorsch  
Manager, Compulsory Acquisition & Road Dedication,  
Roads and Traffic Authority of New South Wales.

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**SCHEDULE**

All that piece or parcel of land situated in the Wollongong City Council area, Parish of Wollongong and County of Camden, shown as Lot 10 Deposited Plan 777196.

(RTA Papers: F6/497.11240)

## Other Notices

### ABORIGINAL LAND RIGHTS ACT 1983

#### ERRATUM

THE notice published under this heading in *Government Gazette* No. 126 on 15 August 2003 to appoint Mr Paul Gidley as administrator to Moree Local Aboriginal Land Council had an incorrect remuneration amount. The correct amount is \$63,707.00.

### APPRENTICESHIP AND TRAINEESHIP ACT 2001

#### ERRATUM

IN the notice regarding the VTO relating to the recognised trade vocation of Nursery in the *Government Gazette* of 15 August 2003, section (c) Courses of Study to be undertaken refers to Certificate III in Horticulture (Retail Nursery) RTF30503. It should also refer to Certificate III in Horticulture (Wholesale Nursery) RTF30603.

### ASSOCIATIONS INCORPORATION ACT 1984

#### Cancellation of Incorporation Pursuant to Sections 55A and 55B

TAKE notice that the incorporation of the following associations is cancelled by this notice pursuant to section 55A and 55B of the Associations Incorporation Act 1984:

Cancellation is effective as at the date of gazettal.  
 Cobar Regional Museum Association Incorporated  
 NSW Farm & Country Holiday Association  
 Incorporated  
 South West Border Landcare Group Incorporated  
 Stockton Dune Buggy Club Incorporated  
 White Cliffs Community Association Incorporated  
 Wamboota Ladies Charity Committee Incorporated  
 Young Brain Injured Caring Centre Incorporated  
 Beaches Christian Fellowship Incorporated  
 International Natural Horsemanship Coaches  
 Association Incorporated  
 NSW Association of Community Adult Education  
 Centres Incorporated  
 Port Kembla Community Outreach Project  
 Incorporated  
 Warroo Channel Watertable Management Association  
 Incorporated  
 Woolwich Aged Care Association Incorporated

COLIN CROSSLAND  
 General Manager  
 Registry of Co-operatives & Associations  
 Office of Fair Trading  
 Department of Commerce

22 August 2003

### CASINO CONTROL ACT 1992

#### Order

PURSUANT to section 66 (1) of the Casino Control Act 1992, the Casino Control Authority, by this Order, approves the following amendments to the rules for the playing of the games of "Baccarat", "Blackjack", "Caribbean Stud Poker" and "Roulette" in the casino operated by Star City Pty Limited under licence granted by the Casino Control Authority on 14 December 1994:

- (1) Amendment to the rules for the playing of "Baccarat"
  - (a) Baccarat sub-rule 4.11.5 is repealed and in substitution therefor, the following new sub-rule 4.11.5 is approved:
 

4.11.5 a casino supervisor may instruct the dealer to manually shuffle and/or cut the cards prior to placement in the shuffling device.
- (2) Amendment to the rules for the playing of "Blackjack"
  - (a) Blackjack sub-rule 4.6.5 is repealed and in substitution therefor, the following new sub-rule 4.6.5 is approved:
 

4.6.5 a casino supervisor may instruct the dealer to manually shuffle and/or cut the cards prior to placement in the shuffling device.
- (3) Amendment to the rules for the playing of "Caribbean Stud Poker"
  - (a) Caribbean Stud Poker sub-rule 4.4.4 is repealed and in substitution therefor, the following new sub-rule 4.4.4 is approved:
 

4.4.4 a casino supervisor may instruct the dealer to manually shuffle and/or cut the cards prior to placement in the shuffling device.
- (4) Amendments to the rules for the playing of "Roulette"
  - (a) Roulette sub-rule 7.1.2 is repealed and in substitution therefor, the following new sub-rule 7.1.2 is approved:
 

7.1.2 The display of the touch screen monitor of an open ATS must display the elements substantially similar to that shown in Diagram "F" or "G"; and
  - (b) Roulette sub-rule 7.5.1.2 is repealed and in substitution therefor, the following new sub-rule 7.5.1.2 is approved:
 

7.5.1.2 pay any winnings thereby causing an appropriate amount to be shown on the ATS win meter; and

(c) Roulette sub-rule 7.5.1.4 is repealed and in substitution therefor, the following new sub-rule 7.5.1.4 is approved:

7.5.1.4 on opening of the next wagering period, deduct the value of the winning wager(s) from the ATS chip account.

This Order shall take effect on and from 6 am, Tuesday 2 September 2003.

Signed at Sydney, this 26th day of August 2003.

RON HARREX,  
Acting Chief Executive,  
for and on behalf of  
the Casino Control Authority.

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### CIVIL LIABILITY ACT 2002

#### ORDER

I, Robert John Debus, MP, Attorney General, in pursuance of section 17 (1) of the Civil Liability Act 2002, by this order, declare the amount that is to apply for the purposes of section 16 (2) of the Civil Liability Act to be \$384,500 from 1 October 2003.

BOB DEBUS,  
Attorney General

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### CO-OPERATIVES ACT 1992, SECTION 325

Notice Under Section 601AA of the Corporations Law

NOTICE is hereby given that the Co-operative mentioned below will be deregistered when two months have passed since the publication of this notice:

Oxley Olive Co-operative Limited

Dated this 27th day of August 2003

C. GOWLAND,  
Delegate of the Registrar of Co-Operatives

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### 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:

Wagga Wagga 10.00 a.m. 15 December 2003 (1 week)

Dated this 12th day of August 2003.

R. O. BLANCH,  
Chief Judge

---

### DISTRICT COURT OF NEW SOUTH WALES

#### DIRECTION

PURSUANT to section 173 of the District Court Act 1973, I direct that the District Court shall sit in its criminal jurisdiction at the place and time shown as follows:

Wagga Wagga 10:00am 26 April 2004 (2 weeks) in lieu of 29 March 2004 (2 weeks)

Dated this 12th day of August 2003.

R. O. BLANCH,  
Chief Judge

### 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:

Wagga Wagga 10.00 a.m. 22 March 2004 (3 weeks) in lieu of 1 March 2004 (4 weeks)

Dated this 12th day of August 2003.

R. O. BLANCH,  
Chief Judge

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### HEALTH ADMINISTRATION ACT 1982

#### Order Declaring Approved Quality Assurance Committee

I, MORRIS IEMMA, Minister for Health, in pursuance of section 20E(1) of the Health Administration Act 1982 do, by this my Order, declare the TAPS Project Committee of the Royal Australian College of General Practitioners to be an approved Quality Assurance Committee for the purposes of Division 6B of that Act.

Dated this nineteenth day of August 2003.

MORRIS IEMMA, MP,  
Minister for Health

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### LOCAL GOVERNMENT ACT 1993

#### Mittagong Regional Sewerage Scheme

#### Vesting of Easements in Wingecarribee Shire Council

THE Minister for Land and Water Conservation of the State of New South Wales, declares that the easements described in the Schedule hereto, which were acquired for the purpose of the Mittagong Regional Sewerage Scheme are vested in Wingecarribee Shire Council.

JOHN AQUILINA, M. P.,  
Minister for Land and Water Conservation and  
Minister for Fair Trading

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#### SCHEDULE

#### INTEREST IN LAND

Easement rights as described under the heading Sewer Pipeline in Memorandum E931212 filed in the Office of Land and Property Information NSW over the site shown in:

Deposited Plan 1034687 (SB55191) as:

‘(B) PROPOSED EASEMENT FOR SEWER PIPE LINE 5 WIDE’

‘(A) PROPOSED EASEMENT FOR SEWER PIPE LINE 5 WIDE AND VARIABLE WIDTH’

‘(C) PROPOSED EASEMENT FOR SEWER PIPE LINE 5 WIDE AND VARIABLE WIDTH’

Deposited Plan 1035756 (SB55204) as:

‘(A) PROPOSED EASEMENT FOR SEWER PIPE LINE 5 WIDE’

DPWS Reference 148

**LOCAL GOVERNMENT ACT 1993**

Mittagong Regional Sewerage Scheme  
Vesting of land and easements in Wingecarribee  
Shire Council

THE Minister for Land and Water Conservation of the State of New South Wales, declares that the land and easements described in the Schedule hereto, which were acquired for the purpose of the Mittagong Regional Sewerage Scheme are vested in Wingecarribee Shire Council.

JOHN AQUILINA, M. P.,  
Minister for Land and Water Conservation and  
Minister for Fair Trading

**SCHEDULE****LAND**

Lot 1 in Deposited Plan 1039210 (SB 55228)

Lot 1 in Deposited Plan 1039136 (SB 55236)

Lot 10 in Deposited Plan 1039188 (SB 55227)

**INTEREST IN LAND**

Easement rights as described under the heading Water Pipeline in Memorandum E931212 filed in the Office of Land and Property Information NSW over the site shown in:

Deposited Plan 1039210 (SB55228) as:

‘(A) PROPOSED EASEMENT FOR SEWER PIPELINE, ACCESS, UNDERGROUND ELECTRICITY CABLES, WATER PIPELINE AND OVERHEAD ELECTRICITY CABLES VARIABLE WIDTH’

Easement rights as described under the heading Sewer Pipeline in Memorandum E931212 filed in the Office of Land and Property Information NSW over the site shown in:

Deposited Plan 1038744 (SB55226) as:

‘(A) PROPOSED EASEMENT FOR SEWER PIPELINE 5 WIDE’

Deposited Plan 1039210 (SB55228) as:

‘(A) PROPOSED EASEMENT FOR SEWER PIPELINE, ACCESS, UNDERGROUND ELECTRICITY CABLES, WATER PIPELINE AND OVERHEAD ELECTRICITY CABLES VARIABLE WIDTH’

‘(B) PROPOSED EASEMENT FOR SEWER OVERFLOW PIPELINE 3 WIDE’

Deposited Plan 1039136 (SB55236) as:

‘(B) PROPOSED EASEMENT FOR SEWER PIPELINE 5 WIDE’

Easement rights as described under the heading Access in Memorandum E780099 filed in the Office of Land and Property Information NSW over the site shown in:

Deposited Plan 1039210 (SB55228) as:

‘(A) PROPOSED EASEMENT FOR SEWER PIPELINE, ACCESS, UNDERGROUND ELECTRICITY CABLES, WATER PIPELINE AND OVERHEAD ELECTRICITY CABLES VARIABLE WIDTH’

Easement rights as described under the heading Electricity Cables (Beneath the Surface) in Memorandum E780099 filed in the Office of Land and Property Information NSW over the site shown in:

Deposited Plan 1039210 (SB55228) as:

‘(A) PROPOSED EASEMENT FOR SEWER PIPELINE, ACCESS, UNDERGROUND ELECTRICITY CABLES, WATER PIPELINE AND OVERHEAD ELECTRICITY CABLES VARIABLE WIDTH’

Easement rights as described under the heading Electricity Cables Overhead in Memorandum E780099 filed in the Office of Land and Property Information NSW over the site shown in:

Deposited Plan 1039188 (SB55227) as:

‘(A) PROPOSED EASEMENT FOR OVERHEAD ELECTRICITY CABLES VARIABLE WIDTH’

Deposited Plan 1039210 (SB55228) as:

‘(A) PROPOSED EASEMENT FOR SEWER PIPELINE, ACCESS, UNDERGROUND ELECTRICITY CABLES, WATER PIPELINE AND OVERHEAD ELECTRICITY CABLES VARIABLE WIDTH’

Deposited Plan 1039136 (SB55236) as:

‘(A) PROPOSED EASEMENT FOR OVERHEAD ELECTRICITY CABLES VARIABLE WIDTH’

DPWS Reference 151

**LOCAL GOVERNMENT ACT 1993**

Mittagong Regional Sewerage Scheme  
Vesting of land in Wingecarribee Shire Council

THE Minister for Land and Water Conservation of the State of New South Wales, declares that the land described in the Schedule hereto, which was acquired for the purpose of the Mittagong Regional Sewerage Scheme, is vested in Wingecarribee Shire Council.

JOHN AQUILINA, M. P.,  
Minister for Land and Water Conservation and  
Minister for Fair Trading

**SCHEDULE****LAND**

Lot 15 in Deposited Plan 788983 (SB55360)

DPWS Reference 169

**NATIONAL PARKS AND WILDLIFE ACT 1974**

## Notice of Reservation of National Park

I, Professor Marie Bashir AC, Governor of the State of New South Wales, with the advice of the Executive Council, reserve the land described in the Schedule below, as part of Bouddi National Park, under the provisions of section 30A(1) of the National Parks and Wildlife Act 1974.

Signed and sealed at Sydney this 13th day of August 2003.

MARIE BASHIR  
Governor

By Her Excellency's Command

BOB DEBUS  
Minister for the Environment

GOD SAVE THE QUEEN!

## SCHEDULE

*Land District – Gosford; LGA – Gosford City*

County Northumberland, Parish Kincumber, about 302 hectares, being lots 1, 2, 3, 4, 5 and 6 Section G DP 6113, lots 1 and 2 DP 10341, lots 1 and 2 DP 1040659, lots 6, 7, 8, 10, 11, 20, 75, 76 and 77 DP 10341, lots 141, 154, 163 and 203 DP 15671, lot 1 DP 126809, lot 1 DP 182172, lot 9 DP 259205, lot 18 DP 260099, lot 95 DP 261663, lot 7 DP 608796, lot 16 DP 630370, lot 10 DP 707733, lot 4 DP 712213, lot 16 DP 717069, lot 1 DP 747033, lots 5 and 7 DP 748968, lot 283 DP 755234, lot 2 DP 778219, lots 14, 15 and 16 DP 789473, lot 33 DP 789906, lot 12 DP 812185, lot 15 DP 812287, lot 4373 DP 817403, lot 4 DP 863379, lot 2 DP 1001712, lot 2 DP 1001713, lot 15 DP 740035, Crown Public Road separating lots 14, 15 and 16 DP 789473 from lot 9 DP 259205, lot 10 DP 707733, lot 16 DP 717069 and lot 95 DP 261663, Crown Public Road separating lot 15 DP 812287 from Bouddi National Park, Crown Public Road separating lot 2 DP 1001713 from lot 1 DP 10341 and Crown Public Road (Pomona Road) separating lot 33 DP 789906 from lot 5 DP 748968; inclusive of Crown Reserve 30.48 wide within lot 4 DP 863379; NPWS F/965

**PESTICIDES ACT 1999**

## Notice under Section 48 (4)

NOTICE is hereby given, pursuant to section 48 (4) of the Pesticides Act 1999, that I have granted an Aircraft (Pesticide Applicator) Licence, particulars of which are stated in the Schedule.

ALAN RITCHIE  
Manager Dangerous Goods  
Environment Protection Authority  
by delegation

## SCHEDULE

## Aircraft (Pesticide Applicator) Licence

<i>Name and address of Licensee</i>	<i>Date of Granting of Licence</i>
NORTHERN RIVERS AVIATION PTY LIMITED 26 ST GEORGE STREET MUNGINDI NSW 2406	25 August 2003

**WATER MANAGEMENT ACT 2000**

## ORDER

## Fish River Water Supply Scheme – Water Prices

IN pursuance of section 243 (3) of the Water Management Act 2000, The prices for water supplied from the Fish River Water Supply Scheme is increased by 3.6% in accordance with the following Schedule effective from the date of publication in the *Government Gazette*.

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

## SCHEDULE

	<i>Existing Price 2002–2003</i>	<i>New Price 2003–2004</i>
Major consumers	39.16 cents/kl	40.57 cents/kl
Minor Consumers	50.78 cents/kl	52.16 cents/kl

**REPORT ON THE DETERMINATION OF  
NSW PUBLIC TRANSPORT FARES**

**CITYRAIL AND STATE TRANSIT AUTHORITY**

**From 31 August 2003**

**INDEPENDENT PRICING AND REGULATORY TRIBUNAL  
OF NEW SOUTH WALES**

**INDEPENDENT PRICING AND REGULATORY TRIBUNAL  
OF NEW SOUTH WALES**

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**REPORT ON THE DETERMINATION OF  
NSW PUBLIC TRANSPORT FARES**

**CITYRAIL AND STATE TRANSIT AUTHORITY**

**From 31 August 2003**

**Determinations 5 and 6, 2003**

**ISBN 1 877049 56 5**

**15 August 2003**

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**The Tribunal members for this review are:**

**Mr James Cox, Full Time Member  
Ms Cristina Cifuentes, Part Time Member**

*Inquiries regarding this paper should be directed to:*

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## 1 INTRODUCTION

The Independent Pricing and Regulatory Tribunal of New South Wales (the Tribunal) has completed its 2003 review of public transport fares. Based on this review, the Tribunal has determined the maximum fares that CityRail and the State Transit Authority can charge for public transport services from 31 August 2003.

### 1.1 Summary of fares determination

The Tribunal has determined that maximum weighted average fares will rise as follows<sup>1</sup>:

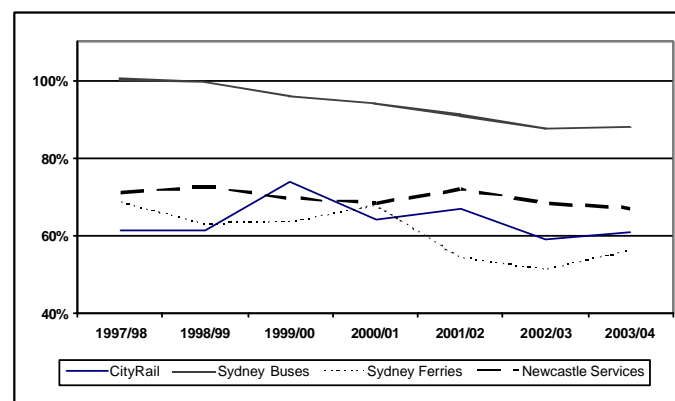
- 5.0 per cent for CityRail services
- 5.0 per cent for Sydney Buses
- 7.5 per cent for Sydney Ferries
- 5.0 per cent for Newcastle Services.

These changes aim to balance the competing concerns of the agencies and their customers. In particular, the Tribunal's pricing decisions should arrest the recent decline in the agencies' cost recovery, without placing excessive financial pressure on passengers.<sup>2</sup> The Tribunal has not addressed the longer term issues that are under consideration by the current Ministerial Inquiry into transport funding.

In reaching these decisions, the Tribunal was guided by the requirements set out in the *Independent Pricing and Regulatory Tribunal of New South Wales Act 1992*, and placed equal weight on each of the factors contained in section 15 of this Act. The Tribunal is satisfied that its determination achieves a reasonable balance between these factors.

Trends in cost recovery for CityRail and the three business arms of the State Transit Authority are illustrated in Figure 1.1. The fare increases of 5 per cent and 7.5 per cent are expected to arrest the downward trend in cost recovery for the agencies.

**Figure 1.1 Trends in cost recovery by agency**



<sup>1</sup> Unless otherwise noted, all fare rises and growth rates in this report are nominal.

<sup>2</sup> Cost recovery refers to the percentage of operating costs that each business is recouping from revenue derived directly and indirectly from carrying passengers. Specific definitions are provided when the cost recovery ratio in each business is discussed in Chapter 4 of this report.

The fare increases are above the inflation rate of 3.1<sup>3</sup> per cent in 2002/03, but they are occurring after two years of relatively modest fare increases.

## **1.2 Structure of report**

This report explains the Tribunal's determination in detail, including why it reached its decisions and what those decisions mean for the transport agencies, public transport passengers, the community in general and the environment. It is structured as follows:

- Chapter 2 outlines the review and decision-making process the Tribunal used to reach its decisions
- Chapter 3 provides an overview of the regulatory approach it has adopted to regulate public transport fares
- Chapter 4 explains the key analysis upon which the Tribunal based its decisions, and the implications of the Tribunal's decisions for the agencies
- Chapter 5 discusses the implications of the Tribunal's decisions for passengers, the environment and the community
- Chapter 6 provides a full summary of the new fares arising from this determination
- Chapter 7 outlines the issues arising from the review that the Tribunal believes the agencies should address and/or improve for the next fare determination.

The Tribunal members involved in this determination were Mr James Cox (Member), and Ms Cristina Cifuentes (Part-time Member).

---

<sup>3</sup> Unless otherwise stated, 'inflation' in this report refers to annual growth in the Consumer Price Index (All Capital Cities) - Financial Year Average.

## 2 TRIBUNAL'S REVIEW AND DECISION-MAKING PROCESS

The Tribunal has made its price determinations for public transport in accordance with Section 11(1) of the *Independent Pricing and Regulatory Tribunal Act, 1992* (the IPART Act).

The Tribunal's review included its own research and public consultation. As part of this review, the Tribunal:

- invited the public transport agencies and other interested parties to submit their views, and received 55 written responses (see Appendix 1 for a list of respondents)
- collected detailed financial information from CityRail and the State Transit Authority
- held a public hearing on 3 July 2003 and invited some of the parties who submitted written responses to present their submissions at this hearing (see Appendix 2 for a list of presenters).

In addition, the Tribunal explicitly considered all the matters outlined in section 15 of the IPART Act (see Appendix 3). These matters can be grouped as follows:

- **consumer protection**—protecting consumers from abuses of monopoly power; standards of quality, reliability and safety of the services concerned; social impact of decisions; effect on inflation
- **economic efficiency**—greater efficiency in the supply of services; the need to promote competition; effect of functions being carried out by another body
- **financial viability**—rate of return on public sector assets including dividend requirements; impact on pricing of borrowing, capital and dividend requirements of agencies
- **environmental protection**—promotion of ecologically sustainable development via appropriate pricing policies; considerations of demand management and least-cost planning.

The Tribunal took all these matters, plus the information and analysis it obtained through its investigation and public consultation, into consideration as it worked through a decision-making process.

In reaching its decisions on fares, the Tribunal had to weigh the relative interests of public transport stakeholders. For example, public transport passengers seek affordable public transport and ongoing improvements in service quality. The public transport agencies seek prices that provide a suitable level of cost recovery and the ability to enhance services. The general community seeks to minimise the public subsidy of public transport and to maximise the benefits of public transport to the environment and the economy.

The diversity of these interests and concerns required the Tribunal to trade off passenger affordability concerns, service quality expectations and social and environmental benefits against the financial viability of the agencies and public funding requirements. It took active steps to ensure that these trade-off decisions were well informed during the course of its review.

The Tribunal has not addressed some issues that are under consideration by the current Ministerial Inquiry into transport funding. In particular, the Tribunal has left the Ministerial

**Independent Pricing and Regulatory Tribunal****Reports 5 and 6, 2003**

Inquiry, which has broader terms of reference than this determination, to explore long term issues that could influence the Tribunal's future fare determinations. The Ministerial Inquiry is to review and report on:

- The likely future needs of CityRail and STA Bus and Ferry operations, with regard to efficient operating and capital costs;
- Funding options to meet these revenue needs, as well as funding options for any future expansion of the public passenger transport system;
- Options for enhancing the optimum use of public passenger transport relative to other transport modes;
- Possible arrangements for incentive mechanisms which better link fares and service standards, including safety; and
- Options for better targeting the funding and delivery of transport services to meet the needs of different groups in the metropolitan and non-metropolitan communities, including rural community and health transport needs.

The Tribunal's consideration of the matters listed in section 15 of the IPART Act in relation to specific pricing decisions is discussed throughout the report. Appendix 3 provides references for where each matter is discussed. Further information relating to the Tribunal's review, including copies of all submissions, can be found at the Tribunal website: [www.ipart.nsw.gov.au](http://www.ipart.nsw.gov.au).

### 3 REGULATORY APPROACH

#### 3.1 What prices are set by the Tribunal?

The Tribunal's role is to set **maximum fares** for CityRail's passenger transport services and for STA buses and ferries.

Because the Tribunal regulates Government monopoly services only, pricing determinations explicitly exclude services conducted by STA and CityRail that are deemed to fall outside the definition of Government monopoly service, such as bus and ferry charters. The Tribunal does not set the State Government's social benefit policy. Therefore, concessions granted to pensioners, children and students are a matter for the Government.

The Tribunal makes pricing determinations under S. 11 (1) of the IPART Act 1992. This Determination retains the practice of previous determinations in outlining a full schedule of maximum full-fares.

#### 3.2 How were the decisions made?

The Tribunal looked at each agency in turn, although some issues that applied to both agencies are summarised at the end of this section.

##### *CityRail*

CityRail's submission requested a fare rise that would increase cost recovery. It asked the Tribunal to consider CPI increases and service quality improvements.

The Tribunal determined a maximum weighted average fare increase of 5 per cent for CityRail. A particularly weak cost recovery outlook for CityRail encouraged the Tribunal to allow a fare increase that will support CityRail's financial health. The Tribunal also noted that revenue growth in 2003/04 depends heavily on the success of Transit Officers at curbing fare evasions.

In making this decision, the Tribunal acknowledges that CityRail, despite some service quality improvements, did not demonstrate improved service quality overall in 2002/03. The proposed improvements in performance reporting and the promise of improvements in train frequency and reliability were noted.

The Tribunal is also mindful that CityRail should have incentives to improve cost recovery. This determination asks CityRail to report on strategies to boost passenger numbers, and to develop efficient cost estimates, as part of next year's determination process.

##### *Sydney Buses*

STA's submission requested a fare rise of CPI plus an increment (not specified) to compensate for increased costs.

In making its decision to increase maximum Sydney bus fares by an average of 5 per cent, the Tribunal noted negative feedback from some passengers about service quality. Service

**Independent Pricing and Regulatory Tribunal****Reports 5 and 6, 2003**

quality will continue to be monitored closely, and the Tribunal notes STA's commitment to improve performance reporting.

*Sydney Ferries*

STA's submission requests a modest fare increase to recognise the widening gap between costs and revenue.

The Tribunal noted the extra costs involved in implementing the recommendations of the Waterways Authority this year. These had contributed to a particularly large drop in cost recovery for Sydney Ferries over the last two years. The Tribunal expects a rise in maximum average fares of 7.5 per cent will prevent further deterioration.

The relatively strong cost recovery forecast for 2003/04 is partly due to the inclusion of potential efficiency savings that were identified in a recent independent review. In making its decision, the Tribunal acknowledges that full cost recovery for Sydney Ferries is not a realistic goal in the near future.

*Newcastle Services*

STA's submission requested a fare rise of CPI plus a small increment to compensate for an increasing cost base.

The Tribunal has determined a maximum weighted average fare increase of 5 per cent for Newcastle Services to help arrest falling cost recovery. In making this decision, the Tribunal took account of the difficult financial environment for Newcastle Services, and the high proportion of pensioner and concession passengers.

*Community, social, environmental and other impacts*

For each agency, the Tribunal considered whether the fare increases would have serious social or environmental consequences. The fare increases were also considered in terms of financial and non-financial impacts on passengers and the community in general.

The Tribunal is satisfied that the fare increases per se will not cause excessive financial strain for passengers, especially in light of the modest increases over the past two years. No attempt was made by the agencies to specify an appropriate level of cost recovery - the Ministerial Inquiry into transport funding may provide more guidance on this matter.

An issue for the community in general is the impact of the fare increases on taxpayer funding. If translated into actual fares, the Tribunal's determination will increase farebox revenue by \$35.6m per annum.<sup>4</sup> Except for Newcastle Services, the fare increases will increase the level of cost recovery in the public transport agencies. This means that taxpayers will bear proportionately less of public transport costs in 2003/04.

The Tribunal suggests that the fare increases will not cause a major passenger shift from public transport to cars (which would have adverse consequences for traffic congestion, pollution and greenhouse gas emissions). However, the Tribunal recognises the recorded decline in the growth of passenger numbers in the past 12 months, and public perceptions on service quality issues.

---

<sup>4</sup> This is a full year calculation. In 2003/04, the effect on funding is reduced because the fare rise applies for 10 months.



## 4 FARE DETERMINATION: ISSUES AND ANALYSIS

The Tribunal has determined that maximum weighted average public transport fares will rise as follows:

- 5.0 per cent for CityRail services
- 5.0 per cent for Sydney Buses
- 7.5 per cent for Sydney Ferries
- 5.0 per cent for Newcastle Services.

The Tribunal reached its determination after considering recent changes in cost recovery and service quality for each agency, together with its own analysis of the impact of its determination on passengers, the community in general, the environment and the agencies themselves.

The key implications of these fare increases are as follows:

- The Tribunal's decision should allow an improvement in CityRail's cost recovery, following a sharp fall in 2002/03.
- Sydney Buses' financial position should improve, with cost recovery forecast to be slightly higher than the level achieved in 2002/03.
- Sydney Ferries will have significantly stronger cost recovery, although this is helped in part by the removal of \$3.5m in potential efficiency gains from cost recovery calculations.
- The Tribunal's decision should support the financial position of Newcastle Services, although it will probably not halt a recent decline in cost recovery.
- Passengers will pay proportionately more of the costs of public transport (except for Newcastle Services), but the financial impact should not be excessive, particularly after modest fare increases in the past two years.
- The forecast rise in cost recovery for CityRail, Sydney Buses and Sydney Ferries will mean that taxpayers will fund a lower proportion of public transport costs in 2003/04.
- The fare increases should not lead to a major shift from public transport to cars, which means that the environmental impact will be minimal.

The Tribunal would like to see better performance reporting from all agencies as part of the next fare determination.

The remainder of this section looks in detail at the key matters that the Tribunal considered in making its decisions on fares for 2003/04. The focus is on matters within the control of the agencies.

## 4.1 CityRail

CityRail's submission requested a fare rise that would increase cost recovery. It asked the Tribunal to consider CPI increases and service quality improvements.

### 4.1.1 CityRail's cost recovery history

Cost recovery can be measured in a number of ways, depending on the issue being addressed.

The Tribunal is most interested in how much of CityRail's above-rail costs are being covered by the farebox and government reimbursements to CityRail for travellers who use concession or free arrangements. The reason for including the latter in 'revenue' is because these reimbursements reflect government social policy rather than transport policy. The Tribunal uses this definition of cost recovery (Table 4.1) to highlight the percentage of above rail costs that are recouped from fare-related and other business revenue. It does not include deficit or 'gap' funding from the Government.

#### Above rail cost recovery

Looking at above-rail costs allows cost recovery comparisons with STA. Since the STA does not pay for the roads and waterways on which its buses and ferries travel, it is appropriate to exclude the payments CityRail makes to the Rail Infrastructure Corporation (RIC) for the infrastructure that supports the rails on which its trains ride.

**Table 4.1 How the Tribunal calculates CityRail's cost recovery**

Relevant Revenue		Relevant Costs
<ul style="list-style-type: none"> <li>• Farebox Revenue</li> <li>• Plus Free and Concession Revenue</li> <li>• Plus Revenue from Other Rail organisations</li> <li>• Plus other internal revenue (except profits from asset disposals)</li> </ul>	<b>Divided By</b>	<ul style="list-style-type: none"> <li>• Operating Expenses</li> <li>• Less Access Fees to RIC</li> <li>• Less Capital Grants to RIC</li> </ul>

#### Cash flow cost recovery

A different measure of cost recovery is used within CityRail. It includes only farebox revenue in the numerator and operating costs less depreciation (which is a non-cash item) plus capital costs in the denominator. This measure is designed to highlight the cash flow gap between farebox revenue and total costs that must be made up annually either by Government or some other source (income from other rail organisations, income from rent and advertising).

The following sections analyse CityRail's revenue and cost trends and related movements in terms of the Tribunal's measure of cost recovery.

#### *Cost recovery in 2002/03*

Cost recovery peaked in 1999/2000. Since then costs have risen faster than revenues. Costs actually fell back in the post-Olympics year but the downtrend in cost recovery resumed in 2002/03. According to the forecast for 2003/04, which incorporates the effect of the present determination (to be discussed in the next section), the downtrend will be arrested.

**Table 4.2 CityRail cost recovery since the late 1990s**

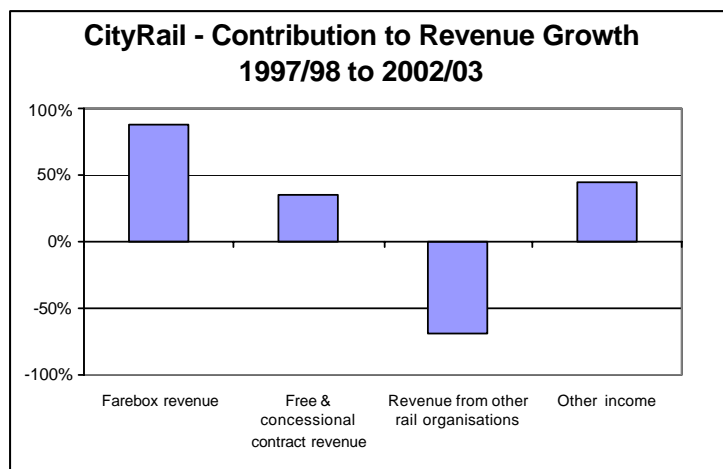
1997/98	1998/99	1999/00	2000/01	2001/02	2002/03	2003/04
61.2%	61.1%	73.8%	64.1%	67.0%	58.8%	60.6%

One reason for the downtrend in cost recovery is that revenue has declined in the past two years from a peak in the Olympics year, 2000/01 (Table 4.3), even when direct Olympics-related revenue is excluded from the total (as in Table 4.2).

**Table 4.3 Annual growth in CityRail revenues and costs since the late 1990s**

Growth of Cost Recovery Components	1998/99	1999/00	2000/01	2001/02	2002/03	1997/98 to 2002/03	
						Total Growth	Average Growth
Revenue Side	2.6%	13.0%	2.0%	-3.6%	1.8%	16.0%	3.0%
Cost Side	2.7%	-6.5%	17.6%	-7.9%	16.1%	20.7%	3.8%

Figure 4.1 shows that farebox revenue was the largest contributor to revenue growth from 1997/98 to 2002/03. Revenue from other rail organisations fell substantially due to reduced services performed by SRA for RIC.

**Figure 4.1 Sources of CityRail revenue growth**

On the cost side, the large rise in expenses in 2000/01 was mainly caused by increased labour costs. Staff numbers were little changed from 1999/00 according to SRA annual reports, although CityRail increased the number of frontline staff to deal with the Olympics and safety/public confidence issues.<sup>5</sup> It appears that neither rail staff numbers nor labour costs have fallen since the Olympics.

Changes to Major Periodical Maintenance (MPM) for CityRail were another notable driver of cost growth. MPM is cyclical, and the cycle period was shortened by CityRail from 2001/02 to maintain the standard of rolling stock. The more intensive work program led to much higher expenses.

<sup>5</sup> IPART Report 2001, p 41.

Figure 4.2 Sources of CityRail cost growth

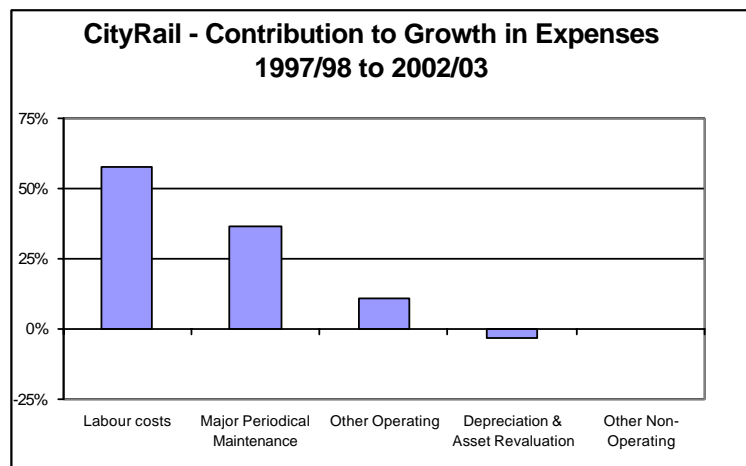


Table 4.4 Detailed annual growth in cost recovery components

	1998/99	1999/00	2000/01	2001/02	2002/03	1997/98 to 2002/03	
						Total Growth	Average Growth
Farebox Revenue	5.6%	15.9%	6.7%	-4.3%	0.7%	<b>26.0%</b>	<b>4.7%</b>
Free & Concession	7.3%	6.5%	8.5%	1.1%	2.6%	<b>28.5%</b>	<b>5.2%</b>
Revenue from Other Rail Organisations	-16.0%	-20.1%	1.2%	-2.3%	-41.8%	<b>-61.4%</b>	<b>-17.3%</b>
Other Internal Income	11.9%	65.1%	-28.5%	-11.7%	63.9%	<b>91.1%</b>	<b>13.8%</b>
<b>Total Revenue</b>	<b>2.6%</b>	<b>13.0%</b>	<b>2.0%</b>	<b>-3.6%</b>	<b>1.8%</b>	<b>16.0%</b>	<b>3.0%</b>
Labour costs	1.3%	-9.3%	21.6%	-5.6%	15.9%	22.3%	4.1%
Major Periodical Maintenance	-11.7%	-1.3%	9.8%	71.8%	32.0%	116.8%	16.7%
Other Operating	13.0%	4.0%	12.5%	-24.2%	10.3%	10.6%	2.0%
Depreciation & Asset Revaluation	-15.1%	-0.9%	2.0%	4.8%	5.0%	-5.5%	-1.1%
Other Non-Operating	40.5%	-31.3%	46.7%	-51.5%	44.3%	-0.9%	-0.2%
<b>Total Expenses</b>	<b>2.7%</b>	<b>-6.5%</b>	<b>17.6%</b>	<b>-7.9%</b>	<b>16.1%</b>	<b>20.7%</b>	<b>3.8%</b>

#### 4.1.2 CityRail's cost recovery outlook

In the absence of a fare rise, CityRail forecast a 2.2 per cent decline in revenue in 2003/04. The expected decline would be even greater if not for the expanded use of Transit Officers in 2003/04, who will use broader powers to collect greater income from fines and fees. Most fines will double on 1 September 2003.

On the demand side, CityRail pointed to an ongoing drop in CBD employment and the opening of the M5 East motorway as key factors in recent patronage declines. It expects no growth in patronage in 2003/04, and a one per cent increase in 2004/05. Given this outlook, any growth in passenger revenue will depend on higher effective fares per passenger. Any fare increase granted to CityRail would be partially offset by passengers' growing preference for discounted periodical tickets.

CityRail outlined plans to boost patronage at the public hearing. The provision of more services is the focus of its efforts, especially along the often over-crowded Illawarra line. Capital works projects such as the Bondi Junction 'turnback' should increase the line's carrying capacity. CityRail also cited public perceptions of service quality as an important factor in attracting passengers.

The Tribunal requests more information about CityRail's plans to improve passenger volumes. Other stakeholders have expressed related concerns - such as the Western Sydney Community Forum (WSCF) which argues that CityRail does not have clear strategies to increase patronage.<sup>6</sup> The WSCF sees this as a serious deficiency, particularly with regard to improving patronage in off-peak periods.

On the cost side, CityRail forecasts a 1.2 per cent fall in expenses for 2003/04. Major periodical maintenance is forecast to increase 20.7 per cent (\$32.2m) from 2002/03, but savings should be achieved in most other cost categories. Administrative savings are also expected when CityRail and Metro-RIC amalgamate. Despite 2003/04 cost containment, at the public hearing CityRail argued that its costs, especially labour costs, would grow faster than the inflation rate.

Capital expenditure, which CityRail requires to lift service quality and system capacity, will drive financial and operational costs in the immediate future. The Millennium Train and better stations are examples of a higher capital expenditure burden. The remaining capital spending will involve projects that allow more trains to run (eg, Bondi Junction turnback).

CityRail did not specify a cost recovery target for 2003/04. It expects the current Ministerial Inquiry to address some fundamental issues that affect the setting of such a target.

#### 4.1.3 Unresolved CityRail cost recovery issues

The Tribunal would like to include robust estimates of **efficient costs** for CityRail as part of future reviews. In order to look at cost recovery trends in a more meaningful way, and to form expectations about future cost recovery, the Tribunal must be confident about the appropriate level of costs to include in its deliberations.

Efficient cost estimates should enhance consideration of incentives for CityRail. Mr John Ready argued that fare rises related to cost rises gives no incentive to control costs.<sup>7</sup> The Tribunal notes from its *Ten Year Review* that, although CityRail received substantial real fare increases over several years, cost recovery did not trend upwards.

The Tribunal notes that CityRail has commenced a study to define efficient costs, and looks forward to the results of this study.

The Tribunal is also concerned that including some of **CityRail's ancillary activities** in cost recovery calculations may not be appropriate. Submissions by Mr Joseph Vnuk<sup>8</sup> and Action for Public Transport cited the example of CityRail's car parks, arguing that car parks should be provided on a user-pays basis (or not at all) because they:

- are a very expensive means of trying to generate new custom

<sup>6</sup> WSCF submission, p 2.

<sup>7</sup> Mr John Ready submission, p 4.

<sup>8</sup> Mr Joseph Vnuk submission, pp 1-4; Action for Public Transport submission, p 5.

- encourage car usage which may be unnecessary and
- do not benefit anyone except the person(s) using the car park.

Unfortunately, there are no agreed criteria at present to determine whether individual activities should be included in cost recovery calculations. The broader issue of funding public transport will be considered as part of the Ministerial Inquiry.

#### 4.1.4 CityRail service quality

Service quality can refer to a wide range of desirable outcomes for consumers, including service frequency and reliability, safety and security, comfort and amenity, passenger information and customer service. Each of these broad categories may require multiple performance criteria under a comprehensive reporting regime.

The present review, conducted in the shadow of Waterfall, saw service quality draw most comments in submissions. Many urged an explicit link between it and fares. In value for money terms, reduced service quality is tantamount to a fare rise. Improving it is an important way for CityRail to maintain its ability to compete with other forms of transport.

The Tribunal is aware that trade-offs must be made between service quality and costs (and hence price). Customers have differing perceptions of appropriate service standards, and have different abilities and willingness to pay for levels of service. CityRail has contracted to the Government (representing the community) to supply services of a given standard as contained in publicly stated performance targets and customer service commitments.

#### *Performance against CityRail's Existing Measures*

Average on-time running for the 12 months to April 2003 was broadly in line with the 92 per cent target.<sup>9</sup> However, a dip in on-time running was recorded in February and March 2003.

**Table 4.5 CityRail's measure of on-time running**

Suburban and InterCity Daily Peak Services: On-Time Running												
% of Services on time, adjusted for force Majeure												
Apr-02	May-02	Jun-02	Jul-02	Aug-02	Sep-02	Oct-02	Nov-02	Dec-02	Jan-03	Feb-03	Mar-03	Apr-03
95.1	92.8	91.5	92.6	92.8	94.2	93.7	91.4	92.7	93.3	83.3	87.9	91.7

The *number* of services run by CityRail met the target of 99 per cent.

#### *Public feedback on service quality*

The submissions were overwhelmingly negative regarding CityRail's service quality. Several noted problems with timetabling, reliability, and passenger comfort/amenities. The Tribunal received informal submissions detailing delays, cancellations and overcrowding. Many asserted that price rises were unacceptable without better service quality.

<sup>9</sup> This means that CityRail aims to have 92 per cent of peak timetabled services running on time. 'On time' means arriving at Central Station (and, for the North Shore Line, Wynyard Station) under 4 minutes of timetable for suburban trains and under 6 minutes for inter-city trains.

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The Tribunal noted recent efforts by CityRail to improve service quality. These include:

- more security officers and cleaning staff on trains and in stations
- an email notification service for scheduled track repairs and maintenance
- 65 stations that have now received easy access upgrades
- canopy extensions, providing weather protection and improving loading times, that have been completed at 37 stations.

CityRail has outlined its intentions in relation to:

- \$24m budgeted for station improvements such as easy access, transport interchanges and canopy extensions
- more reliable service (which will be accompanied by more detailed reporting on on-time running, skipped stops and the number of services provided)
- 500 Transit Officers to be employed by December 2004, supplementing police and security staff to provide safer services
- cleaner trains and stations
- \$30m invested in 2003 to provide better information for passengers.

The Millennium Trains have the potential to improve service quality if current operational problems are resolved.

*Performance reporting to date*

A major problem for the Tribunal in assessing service quality is the lack of effective performance reporting. Almost all stakeholders, including CityRail, considered pre-July 2003 performance reporting inadequate. In last year's determination, the Tribunal observed:

The Tribunal considers that on-time running is an important indicator of service standards. However, it should not be the sole focus when service standards are considered. It is sensible to have a range of indicators with which to assess performance. An organisation forced to focus on a single indicator may have perverse operational incentives forced upon it.

SRA have previously supported this opinion, suggesting that with a sole focus on on-time running performance, services may be cancelled and stops skipped in an effort to have trains arrive on time. In addition, the Tribunal considers that any focus on on-time running performance should not jeopardise the safe operation of the rail system.

In his submission, Mr David Caldwell criticised the current performance indicators for Sydney's transport agencies, saying that they offer little real indication of service quality.<sup>10</sup> Likewise, the Commuter Council of NSW requested better performance reports, and asked that they be published on the Internet and in the media.<sup>11</sup>

The Tribunal is satisfied that CityRail is making extensive efforts towards better reporting on performance as published weekly on its website. Measurement of on-time running will soon be extended to include the afternoon peak (at present, only data from the morning peak is reported) and to line-by-line data. CityRail's website will also report service

<sup>10</sup> David Caldwell submission, p 7.

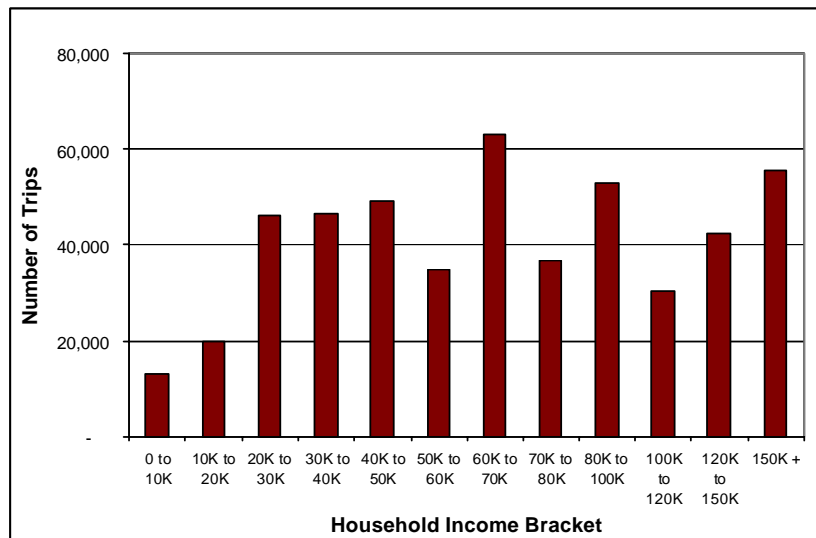
<sup>11</sup> Commuter Council of NSW submission, p 3.

availability measures (such as skipped stops), safety incidents and red signals passed, security offences, cleanliness, vandalism and patronage.

#### 4.1.5 Social considerations

The Tribunal considered income levels of CityRail passengers in making its determination, especially the household income distribution of full-fare paying passengers (Figure 4.3).

**Figure 4.3 Passengers per day by household income – CityRail**



Source: TDC Household Travel Survey 2001 Survey.

Although there is no major fare restructure in this review, the fare increase is skewed slightly towards periodical tickets. Periodical tickets are mostly purchased by commuters, and, on average, commuters have higher incomes than those who tend to purchase single/return tickets.

#### 4.1.6 Implications of the Tribunal's Determination for CityRail

The Tribunal's decision should allow a partial recovery in CityRail's cost recovery in 2003/04 – 60.6 per cent compared with 58.8 per cent in 2002/03. The fall in cost recovery in 2002/03 was sharp, and the Tribunal is looking to support CityRail's financial position until the Ministerial Inquiry is concluded. Supporting the financial position of CityRail will provide greater financial and operational flexibility in the short term, which should have positive outcomes for its key business objectives.

The Tribunal would like to see a commitment from CityRail to improve business efficiency and service quality, and to report on these matters in a suitable way. The Tribunal would welcome action by CityRail management to use the coming months to outline its strategies and plans for efficiency and service quality, and to develop robust reporting frameworks.



## 4.2 STA Sydney Buses

STA's submission requests a fare rise of CPI plus an increment (not specified) to respond to increased costs.

The STA advises that it would normally have set a cost recovery target as part of this exercise, but has not done so because of the issues currently under consideration by the Ministerial Inquiry into transport funding.

### 4.2.1 Sydney Buses cost recovery history

The Tribunal measure of cost recovery for the STA is straightforward because no allowance has to be made for 'below road' costs akin to CityRail's below rail expenses. The Tribunal's definition for the STA highlights the percentage of 'above-road' costs recouped from fare-related and business revenues. This measure of cost recovery for the STA does not include payments by Government to cover shortfalls.

Potential efficiency savings are removed when an independent study has identified specific opportunities. The removal of potential efficiency savings is designed to estimate efficient costs of the business, rather than accepting the actual costs at face value.

The Tribunal uses the same definition across all three of the STA's businesses.

**Table 4.6 How the Tribunal measures STA cost recovery**

Relevant Revenue		Relevant Costs
<ul style="list-style-type: none"> <li>• Farebox Revenue</li> <li>• Plus Free and Concession Revenue</li> <li>• Plus other internal revenue (except profits from asset disposals)</li> </ul>	<b>Divided By</b>	<ul style="list-style-type: none"> <li>• Operating expenses (except costs of asset disposals)</li> <li>• Less Efficiency Savings (if identified)</li> </ul>

Cost recovery for Sydney Buses has fallen in each year from 1997/98 to 2002/03. The 2003/04 forecast in Table 4.7 incorporates the effect of this determination.

**Table 4.7 Sydney Buses cost recovery since the late 1990s**

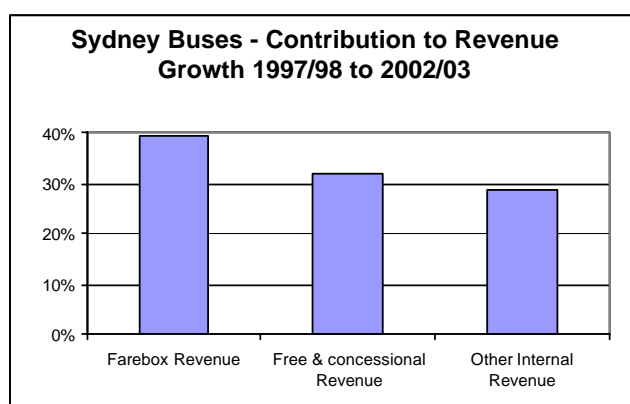
1997/98	1998/99	1999/00	2000/01	2001/02	2002/03	2003/04
100.5%	99.9%	96.0%	94.1%	91.0%	87.4%	88.0%

Cost recovery has declined because costs have grown faster than revenues, particularly from 1999/00 to 2001/02. Revenue growth has been constrained by falling patronage. Sydney Buses' total patronage is now down by more than 5 per cent from its 2000/01 peak. Total passenger growth since 1997/98 has been just 1.7 per cent. Steady growth has come from services in the north-west, but eastern suburbs patronage has dropped. CBD job losses are seen as the key factor.

**Table 4.8 Growth of cost recovery components**

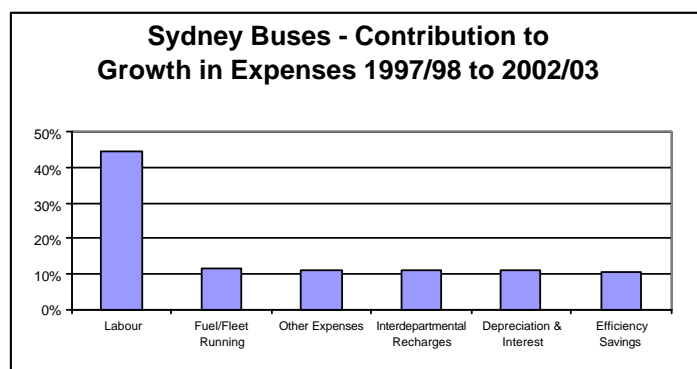
	1998/99	1999/00	2000/01	2001/02	2002/03	1997/98 to 2002/03	
						Total Growth	Average Growth
Revenue Side	4.6%	7.4%	7.8%	3.4%	0.8%	26.2%	4.8%
Cost Side	5.2%	11.7%	10.0%	7.0%	5.0%	45.0%	7.7%

Contributions to revenue growth have been shared between farebox revenue, concession payments from the Government, and other internal revenue such as earnings from fines, rents and advertising (Figure 4.4 below).

**Figure 4.4 Sources of Sydney Buses revenue growth**

Labour was the main contributor to growth in expenses (it is also the largest cost category). On average, labour costs rose 5.4 per cent per annum over the five years to 2002/03.

The other expense categories (Figure 4.5) grew faster than labour costs over the same period, despite the implementation of efficiency measures between 1997/98 and 2002/03 that are now worth \$12.6m per annum.<sup>12</sup>

**Figure 4.5 Sources of Sydney Buses cost growth**

<sup>12</sup> When efficiency savings are realised, they are removed from the 'Efficiency Savings' category. In theory, the 'loss' of potential efficiency savings should be balanced by savings realised in other expense categories.

Table 4.9 Detailed annual growth in cost recovery components

	1998/99	1999/00	2000/01	2001/02	2002/03	1997/98 to 2002/03	
						Total Growth	Average Growth
Farebox Revenue	5.0%	9.1%	2.5%	0.7%	-1.2%	16.9%	3.2%
Free & Concession	3.5%	4.2%	9.3%	3.7%	0.6%	23.0%	4.2%
Other Internal Income	9.2%	11.2%	111.0%	31.4%	19.6%	302.8%	32.1%
<b>Total Revenue</b>	<b>4.6%</b>	<b>7.4%</b>	<b>7.8%</b>	<b>3.4%</b>	<b>0.8%</b>	<b>26.2%</b>	<b>4.8%</b>
Labour	2.4%	7.7%	8.3%	5.2%	3.6%	30.2%	5.4%
Fuel/Fleet Running	12.8%	-1.9%	14.0%	9.0%	0.2%	37.7%	6.6%
Other Expenses	8.5%	23.4%	-22.1%	19.8%	13.7%	42.1%	7.3%
Interdepartmental Recharges <sup>1</sup>	6.7%	14.7%	21.1%	-6.8%	20.2%	66.1%	10.7%
Depreciation & Interest	7.1%	12.3%	35.8%	0.3%	-2.1%	60.4%	9.9%
Efficiency Savings	3.2%	-25.8%	-25.2%	-35.4%	2.9%	-62.0%	-17.6%
<b>Total Expenses</b>	<b>5.2%</b>	<b>11.7%</b>	<b>10.0%</b>	<b>7.0%</b>	<b>5.0%</b>	<b>45.0%</b>	<b>7.7%</b>

Note:

1. Interdepartmental recharges are to be reviewed.

#### 4.2.2 Sydney Buses cost recovery outlook

According to STA forecasts, patronage for Sydney buses will grow slightly over the next two years. STA predicts growth of around 0.5 per cent in 2003/04 but stronger growth of 1.5 per cent in 2004/05. This growth, if realised, would halt the patronage decline.

The Tribunal would like to see clearer outlines from the STA about patronage strategies in future. Earlier in this report, the Tribunal noted the comments of Western Sydney Community Forum on CityRail's lack of clear strategies to increase patronage. A similar argument could be applied to STA, although the STA does not run services in the WSCF's geographical areas of interest.<sup>13</sup>

The STA says that Sydney Buses has realised all potential efficiency gains. A Sydney Buses' 1998 efficiency study initially identified \$24.3m of efficiency savings, but was later pared back to \$13.9m. This study was recently updated by Indec Consulting Pty Ltd, whose assessment indicated that the STA had achieved savings that exceeded the target identified in the 1998 study.

The establishment of an efficient cost base, which could be considered in making fare determinations, is desirable for next year's determination. The Tribunal supported this idea last year. Its position has not changed, and this issue should be revisited following the Ministerial Inquiry into transport funding.

Capital expenditure will continue to drive STA expenses. Capital expenditure on the STA Sydney bus fleet is becoming more onerous because legislative requirements, and passenger expectations, for comfort, amenity and safety of buses continue to grow. This flows through to expenses through finance costs and other factors such as higher standards in maintenance

<sup>13</sup> WSCF submission, p 2.

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programs. To reduce the burden of ongoing expenses, the STA has made a conscious decision to pay more for new buses in return for extended warranty periods.

**4.2.3 Service quality**

Service quality drew the most comments from submissions to this review, and the Tribunal considers service quality to be a key consideration in setting maximum fares. STA acknowledges that service quality is a major factor in attracting and maintaining transport market share.

*Performance against existing measures*

STA's submission for Sydney Buses provided an historical table of KPIs (key performance indicators) which generally shows good performance, but no data for 2002/03 were submitted.

**Table 4.10 Sydney Buses' key performance indicators (KPIs)**

<b>KPI and Target</b>	<b>1998/99</b>	<b>1999/00</b>	<b>2000/01</b>	<b>2001/02</b>
<b>Reliability</b>				
On-time running (>95%)	97.1%	97.4%	96.1%	96.2%
Service reliability (>99%)	99.5%	99.6%	99.5%	99.6%
Mechanical reliability (<15 bus changeovers per 100,000 kms)	20.65	20.51	20.89	17.68
Traffic reliability (<4 changeovers per 100,000 kms)	5.31	5.45	5.02	4.83
<b>Safety (per million passenger trips)</b>				
Safety Incidents (<1.4)		1.55	1.54	1.44
Security Incidents (<0.4)	0.44	0.4	0.51	0.41
Personal Injury (<0.8)	1.16	1.31	1.27	1.23
<b>Comfort</b>				
Average Bus Age (<12 years)	11.9	11.8	12.2	11.7
<b>Convenience</b>				
Total kilometers (kms)	70,979	74,502	77,444	77,916
Passenger revenue kilometers (>63,000)	57,209	60,049	62,420	62,800
<b>Customer Service</b>				
Complaints per 10,000 trips (<1)	0.56	0.65	0.66	0.86
<b>Accessibility</b>				
Accessible buses (% of fleet)	9.2	17.4	21.7	26.7

After the 3 July public hearing, the STA provided results of independent customer satisfaction surveys, which reflected some recent improvements in service quality. The overall satisfaction levels were moderate for Sydney Buses, but 35 per cent of passengers thought that Sydney Buses' service had improved over the past 12 months, compared with 10% who thought that service had deteriorated.

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The STA has gained internationally recognised certification for its customer service delivery. The certification (ISO 9001:2000) is achieved through an independent audit, and recognised by Standards Australia.

The Tribunal is confident that the standard of new buses is rising, particularly in terms of passenger comfort and amenity. Mandatory low-floor designs and air conditioning contribute to this ongoing improvement. The independent customer satisfaction survey (referred to above) indicated that passengers considered newer buses to be the major recent improvement in Sydney Buses' service.

The STA has improved safety on Sydney buses with the introduction of closed circuit television on 100 per cent of its buses.

*Feedback from submissions*

Submissions to the Tribunal commented, usually negatively, on timetabling, service levels and reliability, and passenger comfort/amenity. Many submissions asserted that price rises would not be acceptable without a rise in service quality. The negative feedback was balanced against relatively positive feedback from the customer service surveys mentioned above.

Inadequate performance statistics prevent the Tribunal from making a more detailed assessment of recent movements in service quality. In last year's determination, the Tribunal noted the lack of relevance of some performance indicators for passengers.

Performance reporting for buses needs to be carefully framed. The STA noted, for example, that on-time running could be greatly improved if passengers are prepared to accept longer layover times in between services, or more allowance for standing times at each stop.

The Tribunal noted in last year's determination that it would like to be able to consider an effective performance assessment regime for public buses:

Under the PAR it is likely that STA will be required to collect information (and report on a quarterly basis) on vehicle accessibility, heating and ventilation of buses, information and signage systems, vehicle emission performance and complaint handling mechanisms. Transport NSW will be required to assess STA's performance, and that of other private operators, against a set of benchmarks. It is likely that penalties for operators who breach their contract requirements will be introduced.<sup>14</sup>

The Tribunal asked the STA to advise on progress on the issue. CEO John Stott replied:

Whilst ... [the Ministry of Transport] has not yet successfully developed a PAR for the whole industry, it is expected that all of the key aspects of such a regime will be included in the deliberations of the two Ministerial Inquiries that are now underway.<sup>15</sup>

*The Tribunal notes new measures and intentions to improve service quality*

The Tribunal notes that the STA is making efforts towards better service quality for Sydney buses, and towards reporting on service quality in a more meaningful way in the future. The STA advised the Tribunal of a number of new initiatives, including the following:

<sup>14</sup> IPART Report 2002, p 26.

<sup>15</sup> Letter to Tribunal dated 25 July 2003.

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- Independent assessments of on-time running, which will be available on the STA website as soon as possible
- \$5m on increased security spending
- Independent customer satisfaction assessments
- New reliability targets and reporting
- Enhanced driver training
- Better revenue protection (fare evasion etc).

The STA expects a passenger service charter to be published in the second half of 2003. The Tribunal was interested in this issue last year, when STA advised that it was working with Transport NSW in a joint venture with other transport agencies on the development of a generic service charter. The charter will lead to 'guaranteed' service standards for items such as on-time running, bus presentation and customer safety and security.

The Tribunal is pleased to note Sydney Buses' intention to report on service reliability in a more effective way. Reporting will include how often buses break down, and the reasons for breakdowns, which should give a much better picture of whether the STA's maintenance practices are working.

The Tribunal recognises that Sydney Buses has limited financial capacity to improve service quality, and must balance initiatives to improve passenger comfort against plans to increase services with more buses.

The Tribunal will monitor STA's progress in implementing new performance reporting measures. Specific matters of interest include:

- reporting of independent on-time running statistics on the STA website
- collection and reporting of more detailed bus reliability statistics
- publication of the passenger service charter in the second half of this year.

**4.2.4 Social considerations**

The Tribunal considered the income levels of Sydney Buses' passengers in making its determination. Figure 4.6 shows household incomes of Sydney Buses' full fare passengers.

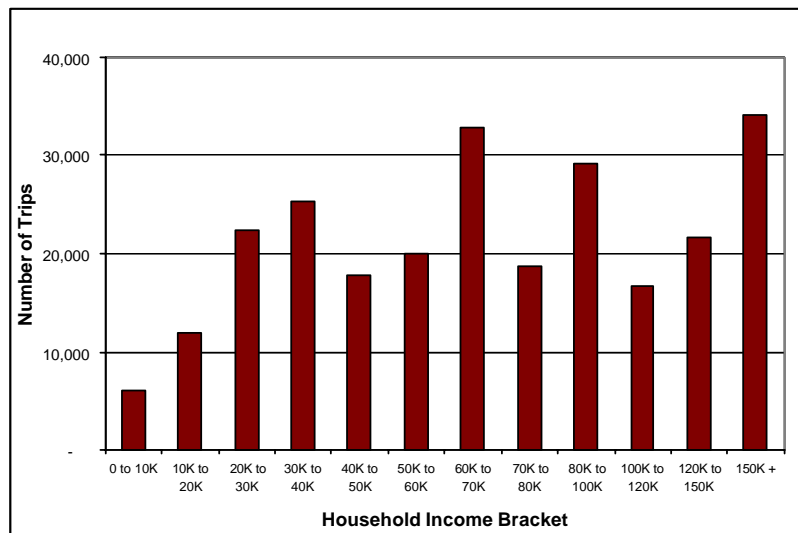
The new bus specifications used by Sydney buses have positive social and environmental effects. Wheelchair accessibility is improved with low floor designs, allowing greater mobility to disabled members of the community.

Sydney Buses' new vehicles use natural gas (CNG), which is environmentally friendly compared with the alternatives. The STA advises that, in terms of greenhouse emissions, CNG buses are 50 per cent cleaner than diesel buses. Noise levels are lower by 50 per cent on CNG buses. In 2003, there are 385 CNG buses in service - 23 per cent of the Sydney Buses fleet.

The Tribunal observed differing opinions about whether fare increases should fall most heavily on single/return cash fares, or on multi-trip tickets. The STA prefers to skew fare increases on the commuter market again this year, and sees integrated ticketing as the key

vehicle to reduce cash fares. Action for Public Transport argued, in its submission and the public hearing, against this policy, because cash fares reduce service efficiency as buses are delayed while drivers issue tickets. For this reason, the Tribunal last year supported an investigation into ticket types that would reduce the proportion of single trip fares.

**Figure 4.6 Passengers per day by household income – Sydney Buses**



Source: TDC Household Travel Survey 2001 Survey.

This issue is not resolved to the Tribunal's satisfaction, but two factors led the Tribunal to accept the STA's proposed fare structure. Firstly, the skew towards multi-trip tickets this year is very small – cash fares will rise by similar amounts. Secondly, the Tribunal does not want to propose major changes to ticket structures without full consideration of the issues surrounding integrated ticketing.

#### **4.2.5 Implications of the Tribunal's Determination for Sydney Buses**

The Tribunal's decision should improve the financial position of Sydney Buses, taking Sydney Buses' cost recovery to 88.0 per cent (compared with 87.4 per cent in 2002/03). The improved financial position should have a positive impact on the business in the immediate future, allowing greater freedom in the pursuit of business priorities.

The Tribunal would like to see a commitment from Sydney Buses to improve business efficiency and service quality, and to report on these matters in a suitable way. The Tribunal would welcome action by STA management to use the coming months to outline its strategies and plans for efficiency and service quality, and to develop robust reporting frameworks.

### 4.3 STA Sydney Ferries

STA's submission requests a modest fare increase to recognise the "widening gap between costs and revenue".

#### 4.3.1 Sydney Ferries cost recovery history

Sydney Ferries' cost recovery fell sharply in 2001/02 as costs jumped, and further cost increases in 2002/03 caused cost recovery to fall further. The 2003/04 forecast in Table 4.11 incorporates the effect of the present determination (discussed in next section).

**Table 4.11 Sydney Ferries cost recovery since the late 1990s**

1997/98	1998/99	1999/00	2000/01	2001/02	2002/03	2003/04
68.5%	63.0%	63.5%	67.7%	54.1%	51.1%	56.1%

#### *Rising costs are the key factor*

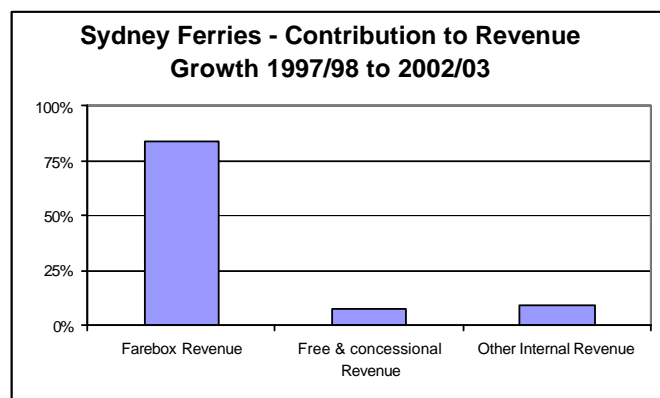
Expenses have grown much faster than revenues in the past five years. The plunge in cost recovery after 2001/02 was due to a 19.1 per cent jump in costs and a 4.8 per cent fall in revenue.

**Table 4.12 Growth of cost recovery components**

	1998/99	1999/00	2000/01	2001/02	2002/03	1997/98 to 2002/03	
						Total Growth	Average Growth
Revenue Side	0.3%	9.5%	8.3%	-4.8%	2.1%	15.6%	2.9%
Cost Side	9.1%	8.6%	1.5%	19.1%	8.1%	54.9%	9.2%

Increased farebox revenue has been the biggest factor in total revenue growth. Other Internal Revenue (including items such as rents and advertising income) rose strongly, but it is a small component of total revenue.

**Figure 4.7 Sources of Sydney Ferries revenue growth**





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The most notable impact on expenses from 1997/98 to 2002/03 came from the Fuel/Fleet Running category. The major factor was maintenance, which jumped from \$10.5m to \$19.1m over the last two years. A new layer of workers has been added to Sydney Ferries' workforce to address quality standards and improve maintenance. This change was part of a range of measures that were introduced after the 2001 Waterways Authority review.

The large labour component was the largest contributor to increased costs (Figure 4.8).

**Figure 4.8 Sources of Sydney Ferries cost growth**

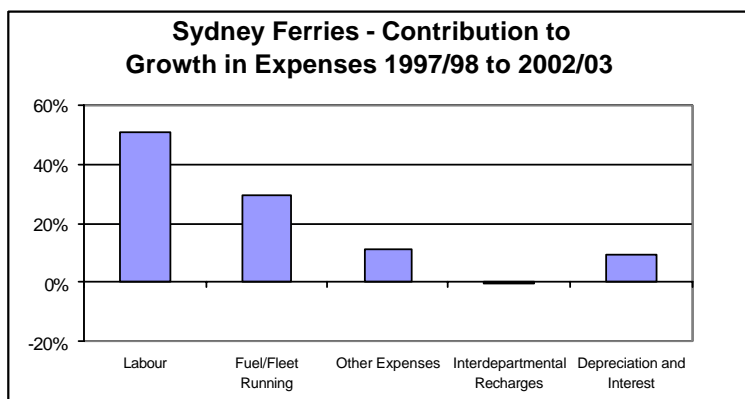


Table 4.13 shows the growth in major revenues and expenses in each of the past five years.

**Table 4.13 Detailed annual growth in cost recovery components**

	1998/99	1999/00	2000/01	2001/02	2002/03	1997/98 to 2002/03	
						Total Growth	Average Growth
Farebox Revenue	3.1%	12.2%	7.6%	-7.0%	0.9%	16.9%	3.2%
Free & Concession	-9.6%	-2.1%	5.9%	1.7%	10.2%	5.0%	1.0%
Other Internal Income	-14.4%	25.7%	178.7%	43.4%	-20.2%	243.2%	28.0%
<b>Total Revenue</b>	<b>0.3%</b>	<b>9.5%</b>	<b>8.3%</b>	<b>-4.8%</b>	<b>2.1%</b>	<b>15.6%</b>	<b>2.9%</b>
Labour	15.2%	7.7%	8.4%	11.8%	7.8%	62.0%	10.1%
Fuel/Fleet Running	7.4%	17.7%	-15.1%	49.7%	8.7%	74.5%	11.8%
Other Expenses	2.6%	27.9%	-7.4%	27.7%	3.3%	60.4%	9.9%
Interdepartmental Recharges	6.6%	-10.9%	14.2%	13.0%	-21.3%	-3.5%	-0.7%
Depreciation & Interest	-1.3%	-3.6%	8.1%	-2.4%	36.0%	36.5%	6.4%
Efficiency Savings	n/a	n/a	n/a	n/a	n/a		
<b>Total Expenses</b>	<b>9.1%</b>	<b>8.6%</b>	<b>1.5%</b>	<b>19.1%</b>	<b>8.1%</b>	<b>54.9%</b>	<b>9.2%</b>

#### 4.3.2 STA Ferries cost recovery outlook

The STA does not have a cost recovery target for Sydney Ferries, but advises that full cost recovery is unlikely in the foreseeable future.

The STA expects total patronage growth of around 1 per cent over the next two years. Patronage for Sydney Ferries peaked in 2000/01 with the Olympic Games. Since then, ferry patronage has been hit by the post-'September 11' tourism downturn, and the STA believes that a slight fall in ferry commuter travel is also affecting patronage.

Some curtailment of expenses is expected as the maintenance backlog recedes. Sydney Ferries moved to a higher cost structure when it implemented all of the recommendations made by a 2001 Waterways Authority review, including systems and standards that qualify it for the International Safety Management (ISM) code and ISO 9001:2000. However, some operational savings will be made as better workplace practices flow through.

Sydney Ferries' cost recovery will also be boosted by the inclusion of recently identified opportunities to improve efficiency. The Tribunal indicated last year that future fare increases for Sydney Ferries would be dependent on STA establishing and achieving efficient cost targets. A recent review by SKM<sup>16</sup> identified potential efficiency gains in the following areas:

- reducing fleet size
- improving the utilisation of crews to reduce the level of overtime at penalty rates
- re-specifying the period of operation of ticket outlets at the Circular Quay wharves
- divesting the ownership of wharves (however, savings may be offset by access fees charged by the new owners)
- reducing the insured value of vessels (subject to prudent risk management)
- reducing the level of inventory holdings
- developing best practice maintenance.

These recommendations, if fully achieved, may reduce Sydney Ferries costs by between \$3m to \$4m pa. The Tribunal used \$3.5m as its estimate of potential cost savings for 2003/04 in its cost recovery calculation.

#### 4.3.3 Service quality

##### *Performance against existing measures*

Sydney Ferries is meeting most of its service quality targets. On time running and other reliability measures have been particularly good.

The STA also provided the results of a customer satisfaction survey that reflected recent improvements. 29 per cent of passengers thought that service had improved over the past year, compared with only 7 per cent who believed that service had deteriorated. Positive feedback was received about upgraded ferries and on time running.

<sup>16</sup> Sinclair Knight Merz *Sydney Ferries Cost Efficiency Review Study 2003*, Final Report, 24 June 2003.

Unlike CityRail and Sydney Buses, the Tribunal received few submissions from passengers on service quality for Sydney Ferries.

#### *Improvements in service quality*

New accreditations gained by Sydney Ferries indicate that safety is improving. Sydney Ferries is now accredited to an internationally recognised quality management system<sup>17</sup> and the International Safety Management code<sup>18</sup>.

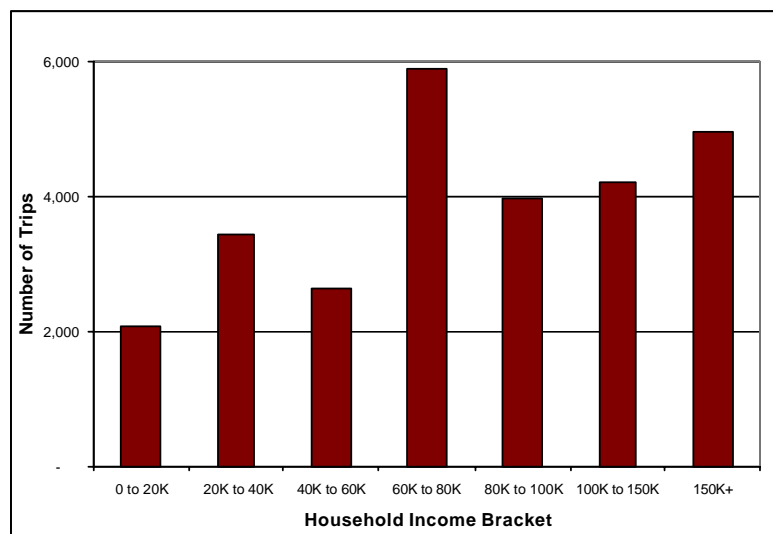
Sydney Ferries' submission also outlined steps that have been taken in the past year to improve cleanliness and comfort for passengers.

The current performance criteria and reporting processes for Sydney Ferries should be improved in order for the Tribunal to make a more detailed assessment of service quality. Performance statistics provided to the Tribunal are too broad, and are not always relevant for passengers. The Tribunal raised similar concerns last year. Better performance reporting could provide more scope to link fares more closely to service quality.

#### **4.3.4 Social considerations**

The Tribunal considered the income levels of Sydney Ferries passengers in making its determination. Figure 4.9 shows the household income of its full fare passengers.

**Figure 4.9 Passengers per day by household income – Sydney Ferries**



Source: TDC Household Travel Survey 2001 Survey.

TDC data indicates that the Sydney residents who are ferry passengers have higher household income profiles than passengers on CityRail and Sydney Buses. Further, tourists may be even more willing to pay for ferry services. Combined with modest fare increases in

<sup>17</sup> The STA has gained internationally recognised certification for its customer service delivery. The certification (ISO 9001:2000) is achieved through an independent audit, and recognised by Standards Australia.

<sup>18</sup> Recognised by the International Maritime Organisation

the past two years, a fare rise of 7.5 per cent is not likely to cause excessive financial hardship for ferry passengers.

#### **4.3.5 Implications of the Tribunal's Determination for Sydney Ferries**

The Tribunal's decision should strengthen the financial position of Sydney Ferries. Cost recovery for 2003/04 is forecast to be 56.1 per cent, which is higher than the past two years, although part of this increase is generated by removing expected cost savings from cost recovery calculations. To the extent that these fall short of expectations, the rise in the cost recovery ratio will not be as noticable.

An improved financial position should provide greater financial and operational flexibility as Sydney Ferries looks to pursue efficiency gains and other business objectives.

The Tribunal would like to see a stronger commitment from the STA on improving business efficiency and service quality, and to report on these matters in a suitable way. The Tribunal would like the STA to publicly outline its strategies and plans for efficiency and service quality for Sydney Ferries, and to develop robust performance reporting frameworks.

## 4.4 Newcastle Services

STA's submission requests a fare rise of CPI plus a small increment to partially offset an increasing cost base.

### 4.4.1 Newcastle Services cost recovery history

*Cost recovery was steady until 2002/03*

Newcastle services' cost recovery stayed in a band around 70 per cent from 1997/98 to 2001/02 (Table 4.14).

**Table 4.14 Newcastle Services cost recovery since the late 1990s**

1997/98	1998/99	1999/00	2000/01	2001/02	2002/03	2003/04
70.9%	72.4%	69.3%	68.2%	72.0%	68.3%	66.9%

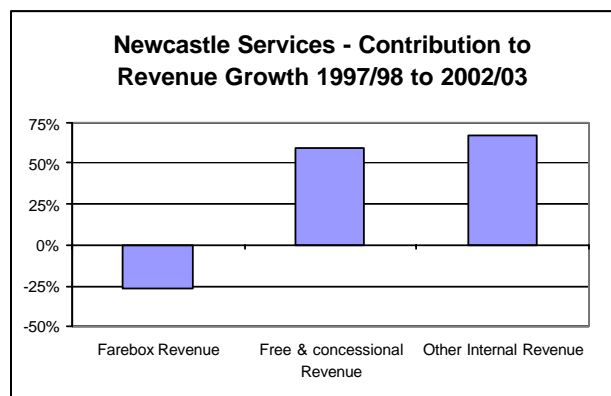
Cost recovery dipped in 2002/03 and will probably fall further. The Tribunal noted that cost recovery results for Newcastle Services are heavily dependent on Government social policy. The proportion of costs covered by farebox revenue has fallen steadily in the past five years to just 15.7 per cent in 2002/03. The 2003/04 forecast in Table 4.14 incorporates the effect of the present determination (discussed next section).

On the revenue side, farebox income has fallen in the five years to 2002/03, but Other Internal Revenue (notably rents and advertising) has grown strongly from a small base.

**Table 4.15 Growth of cost recovery components**

	1998/99	1999/00	2000/01	2001/02	2002/03	1997/98 to 2002/03	
						Total Growth	Average Growth
Revenue Side	2.6%	1.3%	0.9%	11.3%	0.0%	16.8%	3.2%
Cost Side	0.5%	5.7%	2.6%	5.5%	5.4%	21.2%	3.9%

**Figure 4.10 Sources of Newcastle Services revenue growth**



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On the cost side, labour was the main driver of expenses from 1997/98 to 2003/03, averaging 3.6 per cent growth per annum. All major categories of expenses increased (Figure 4.11).

**Figure 4.11 Sources of Newcastle Services cost growth**

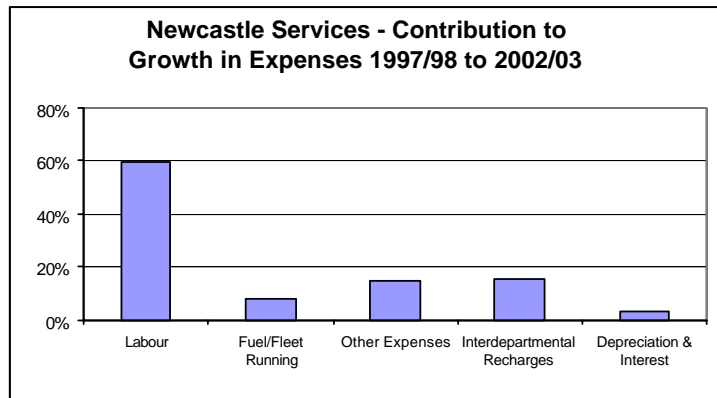


Table 4.16 shows the growth in major revenues and expenses in each of the past five years.

**Table 4.16 Detailed annual growth in cost recovery components**

						1997/98 to 2002/03	
	1998/99	1999/00	2000/01	2001/02	2002/03	Total Growth	Average Growth
Farebox Revenue	-4.5%	0.7%	-4.8%	-2.2%	-4.4%	-14.4%	-3.1%
Free & Concession	5.8%	1.7%	3.0%	7.5%	-3.4%	15.0%	2.8%
Other Internal Income	10.0%	-0.2%	11.6%	282.0%	40.9%	559.7%	45.8%
<b>Total Revenue</b>	<b>2.6%</b>	<b>1.3%</b>	<b>0.9%</b>	<b>11.3%</b>	<b>0.0%</b>	<b>16.8%</b>	<b>3.2%</b>
Labour	1.0%	5.2%	1.7%	7.3%	3.1%	19.5%	3.6%
Fuel/Fleet Running	-1.7%	5.5%	13.9%	1.6%	-7.1%	11.5%	2.2%
Other Expenses	-10.0%	10.5%	5.6%	20.8%	2.9%	30.5%	5.5%
Interdepartmental Recharges	35.3%	7.7%	23.3%	-4.6%	10.5%	89.4%	13.6%
Depreciation & Interest	-2.1%	3.8%	16.7%	-12.0%	4.0%	8.6%	1.7%
<b>Total Expenses</b>	<b>0.5%</b>	<b>5.7%</b>	<b>2.6%</b>	<b>5.5%</b>	<b>5.4%</b>	<b>21.2%</b>	<b>3.9%</b>

#### 4.4.2 Newcastle Services cost recovery outlook

Passenger numbers on Newcastle Services are falling. The STA has not fully assessed why this is happening, but points to possible reasons: an ageing population, decentralisation of Newcastle and movement of the population away from current service areas. The STA's strategy to stop this decline is to run more frequent services.

##### *Major cost savings are not apparent*

The STA claims that available cost efficiencies have been realised for Newcastle Services, and there are no plans to revisit this issue. Feedback from the STA indicates that efficiency studies for Sydney Buses have been used to identify potential cost savings in Newcastle.

A new fleet of 30 buses has been ordered. The STA advises that these buses are designed for light traffic, which makes them cheaper than buses used in Sydney.

#### **4.4.3 Service quality**

##### *Performance against existing measures*

A table of KPIs were provided for Newcastle services. Most of the results were satisfactory, although the average age of the bus fleet (14.1 years) exceeds the target.

On time running data from the STA indicate that performance has improved. Last year the Tribunal noted a declining trend in on time running for Newcastle Services, with no expected improvement.

The comments in Section 4.1.1 in relation to the improved quality of new buses also apply to Newcastle buses.

Mixed results were received from an independent customer satisfaction survey on Newcastle buses – 33 per cent of passengers thought that service has improved in the past 12 months, although 25 per cent thought it had deteriorated. Customers were most happy with the introduction of new routes and more frequent services, but at the same time route changes and less frequent service were cited as the main source of dissatisfaction.

Unlike CityRail and Sydney Buses, the Tribunal received few submissions from passengers on service quality for Newcastle Services.

##### *New measures and intentions to improve service quality*

A passenger charter for Newcastle Services will be published in the second half of 2003. The charter will lead to 'guaranteed' service standards for items such as on-time running, vessel presentation and customer safety and security.

New buses in Newcastle may boost service quality in a number of ways. A new fleet of 30 buses has been ordered – and they are designed for light traffic, which will provide a better service than if buses used in Sydney had been purchased.

Current performance criteria and reporting processes are not sufficient for the Tribunal to draw firm conclusions about service quality in Newcastle Services.

The Tribunal would like to see the STA improve performance reporting in the future.

#### **4.4.4 Social considerations**

The Tribunal notes that its decision mainly affects government funding because a high proportion of trips in Newcastle are made by passengers who are eligible for concession fares. Unlike Sydney services, not many commuters use the Newcastle Services' buses.

#### **4.4.5 Implications of the Tribunal's Determination for Newcastle Services**

The Tribunal's decision should support the financial position of Newcastle Services, although it will probably not halt the decline in cost recovery. The Tribunal's forecast for cost recovery for 2003/04 is 66.9 per cent, compared with 68.3 per cent in 2002/03. Increased revenue should help with immediate business priorities for Newcastle Services.

The Tribunal would like to see a stronger commitment from the STA on improving business efficiency and service quality, and to report on these matters in a suitable way. The Tribunal wants the STA to use the coming months to outline its strategies and plans for efficiency and service quality for Newcastle Services, and to develop robust reporting frameworks.



## 5 IMPLICATIONS FOR PASSENGERS, COMMUNITY AND ENVIRONMENT

### 5.1 Implications for passengers

The Tribunal is sensitive to the financial burden of fares on public transport passengers. In particular, the Tribunal's fare decisions are designed not to place excessive financial pressure on passengers. It should be noted that part of the price increase is an allowance for inflation, which was around 3.1 per cent in 2002/03.

In assessing the likely impact of the fare increases, the Tribunal examined the incomes of public transport passengers. The income range for public transport passengers tends to be very wide, because public transport is used by both commuters and non-commuters.

Table 5.1 presents an income profile of users of CityRail and STA services in Sydney who pay the full adult fare. Median household income is higher for Sydney Ferries' passengers than for CityRail and Sydney Buses.

**Table 5.1 Income profile of Sydney public transport users**

Mode	No. of Trips	Average Personal Income	Average Household Income	Median Household Income
CityRail	490,167	\$43,371	\$78,356	\$63,492
Sydney Buses	256,772	\$43,471	\$82,766	\$64,116
Sydney Ferries	27,183	\$59,425	\$95,332	\$71,864

Source: HTS 2001, average weekday.

The Tribunal notes that the proposed fare increases are not excessive, particularly in light of the modest fare increases of the previous two years (Table 5.2).

**Table 5.2 Average fare rises in recent years**

	1997/98 %	1998/99 %	1999/00 %	2000/01 %	2001/02 %	2002/03 %
CityRail	2.3	3.2	13.8	8.0	3.3	2.0
Sydney Buses	2.3	2.1	7.0	8.6	4.8	1.9
Sydney Ferries	2.3	3.3	7.0	8.6	5.0	2.0
Newcastle Services	2.3	0.5	7.0	8.6	3.7	0.5
<i>Inflation</i>	<i>0.0</i>	<i>1.3</i>	<i>2.4</i>	<i>6.0</i>	<i>2.9</i>	<i>3.1</i>

Table 5.3 provides some examples to show how the new fare increases apply across a number of distance bands.

Table 5.3 Specific examples of fare changes

Agency	Trip Description	Single Journey		Weekly/TravelTen	
		Old Fare \$	New Fare \$	Old Fare \$	New Fare \$
CityRail	Stanmore to Central	2.20	2.20	17.00	18.00
	Fairfield to Parramatta	2.60	2.80	20.00	22.00
	Parramatta to Central	3.80	4.00	29.00	31.00
	Cronulla to Bondi Junction	5.20	5.20	36.00	37.00
	Penrith to Central	6.60	6.60	43.00	44.00
Sydney Buses	Gladesville to Rozelle	2.60	2.70	18.90	19.70
	Malabar to City (Market St)	3.40	3.50	23.50	24.50
	Avalon to Nth Sydney	4.70	4.80	19.90	20.90
Sydney Ferries	Manly to Circular Quay	5.40	5.80	39.30	42.90
	Parramatta to Circular Quay	6.40	7.00	45.10	49.30
	Woolwich to Circular Quay	4.50	4.80	29.10	31.10

## 5.2 Implications for the community

The Tribunal is required under Section 16 of the *Independent Pricing and Regulatory Tribunal Act, 1992* to report on the likely annual cost to the Government if fares were not increased to the maximum permitted, and the STA were compensated from the Consolidated Fund for the revenue foregone. Table 5.4 shows the increase in farebox revenue for each agency from this Determination on a full year basis, assuming unchanged patronage in response to the fare increase.<sup>19</sup>

Table 5.4 Impact of the determination on agencies' farebox revenue

Agency	Additional Farebox Revenue 2003/04
CityRail	\$23.1m
Sydney Buses	\$9.4m
Sydney Ferries	\$2.8m
Newcastle Services	\$0.3m

The Tribunal's decision on Newcastle Services will change the composition of government funding because of the high proportion of concession fares. An increase in fares will raise concession payments, but will alleviate the need for deficit funding from government. The net savings to the taxpayer should be small.

<sup>19</sup> These estimates do not include extra revenue from higher free and concession ticket payments from the State Government. This revenue already comes from the Consolidated Fund.

Submissions received by the Tribunal indicated varying attitudes to public subsidies of transport. Some complained that public transport is over-subsidised, while others argued that the relative subsidies for road travel are even greater (with detrimental effects such as congestion and pollution). This raises the issue of agency 'self-promotion' – could/should CityRail and STA compare public and private subsidies at regular intervals, and/or outline the benefits of public transport for non-users?

Finally, the Tribunal's determination is not likely to affect general price inflation. Information from the ABS indicates that public transport spending is a very small component of the basket of goods and services that are monitored in inflation statistics.

### 5.3 Implications for the environment

Public transport is an environmentally friendly alternative to the use of private motor vehicles. The extent to which environmental benefits, notably reduced pollution, can be realised will depend on factors such as the relative cost of public versus private transport, and the propensity for private vehicle users to switch to public transport. This, in turn, will be influenced by accessibility, service quality and frequency of public transport.

The Tribunal has considered usage trends of public transport, and the extent to which fare increases may affect demand for public transport services. The TDC collects and publishes information on Sydney household travel patterns.

This information suggests a relative shift towards the use of private vehicles, but not at the expense of public transport. Data indicates that between 1991 and 1999, public transport's share of total trips remained stable at around 11 per cent. In contrast, the share of private vehicles trips made on weekdays increased from 67 per cent in 1991 to 70 per cent in 1999. Overall, the actual number of trips undertaken by car increased by around 18 per cent, compared to around 12 per cent for rail and 5 per cent for buses.

The majority of evidence available to the Tribunal suggests that price has only a small influence on the decision to use public transport. Other issues such as service quality, timeliness, frequency, convenience and accessibility are likely to be more important determinants of public transport demand.

During the 2001/02 Determination of Public Transport Fares, the Tribunal commissioned an independent study by the Centre for International Economics (CIE) on subsidies and the social costs and benefits of public transport.<sup>20</sup> The study indicated that changes in public transport fare levels are unlikely to have a major impact on patronage levels, and that a range of factors are considered by the traveller when determining travel mode. The study states:<sup>21</sup>

The effectiveness of public transport subsidies in controlling transport externalities depends partly on the influence they have on fares, and, through these, on the relative price of travel by these modes compared with car. The influence is only partial because subsidies can also be used to change the quality of service at a given fare – through expenditure that change journey speed, frequency, reliability, comfort and safety. The EPA and NCOSS have emphasised that these factors play a significant role in inhibiting

<sup>20</sup> Centre for International Economics, *Subsidies and the social costs and benefits of public transport*, March 2001. Available from the Tribunal's website, [www.ipart.nsw.gov.au](http://www.ipart.nsw.gov.au).

<sup>21</sup> Op cit, pp 38 and 43.

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public transport patronage. Mees (2000, p 86) also points out that '... public transport is already cheaper than owning and operating a car. It is flexibility, convenience and door to door travel times that count most'.

The Tribunal does not expect this Determination to have adverse environmental effects through a switch from public transport to cars.

Support for the financial health of the agencies should have positive long-term implications for the public transport network, which in turn is good for the environment. The Tribunal acknowledges the financial burden facing the agencies as they aim to improve public transport standards in line with community expectations, and sees appropriate fare increases as a means to ensure their long-term viability. For example, increased farebox revenue for Sydney Buses should assist the replacement of older buses with new vehicles that are friendlier to the environment and more attractive as a transport alternative for the community.

## 6 FARE DETERMINATIONS IN DETAIL

### 6.1 CityRail fare schedule

The fare schedule is part of Determination No. 4 of 2003 made by the Tribunal under section 11(1) of the *Independent Pricing and Regulatory Tribunal Act, 1992*.

**Table 6.1 Maximum fares for CityRail railway passenger services  
from 31 August 2003**

Distance	Single	Half Single	Return	Half Return	Weekly	Off-Peak Return
Km	\$	\$	\$	\$	\$	\$
5	2.20	1.10	4.40	2.20	18.00	2.60
10	2.80	1.40	5.60	2.80	22.00	3.40
15	3.00	1.50	6.00	3.00	25.00	3.60
20	3.60	1.80	7.20	3.60	28.00	4.40
25	4.00	2.00	8.00	4.00	31.00	4.80
30	4.40	2.20	8.80	4.40	33.00	5.40
35	4.40	2.20	8.80	4.40	34.00	5.40
45	5.20	2.60	10.40	5.20	37.00	6.40
55	6.00	3.00	12.00	6.00	40.00	7.40
65	6.60	3.30	13.20	6.60	44.00	8.00
75	8.00	4.00	16.00	8.00	47.00	9.80
85	8.80	4.40	17.60	8.80	50.00	10.80
95	9.80	4.90	19.60	9.80	52.00	12.00
105	10.20	5.10	20.40	10.20	54.00	12.40
115	11.40	5.70	22.80	11.40	56.00	14.00
125	12.80	6.40	25.60	12.80	59.00	15.60
135	13.00	6.50	26.00	13.00	64.00	15.80
155	15.00	7.50	30.00	15.00	70.00	18.40
175	17.00	8.50	34.00	17.00	74.00	21.00
195	21.00	10.50	42.00	21.00	82.00	26.00
215	21.00	10.50	42.00	21.00	82.00	26.00
235	25.00	12.50	50.00	25.00	96.00	31.00
255	25.00	12.50	50.00	25.00	96.00	31.00
305	28.00	14.00	56.00	28.00	108.00	34.00
305+	28.00	14.00	56.00	28.00	108.00	34.00

TravelPass	\$	Child Off-Peak	\$
Red	32.00	Sydney Suburban	2.40
Green	40.00	Newcastle Suburban	2.40
Yellow	44.00	Outer Metropolitan	3.50
Pink	47.00	CityRail	5.70
Purple	54.00		

Notes:

1. Quarterly TravelPass = 11 x weekly fare.
2. Yearly TravelPass = 40 x weekly fare.
3. Children over 4 years and under 16 years are eligible for the Child Off-Peak fare.
4. Eligibility for half fare tickets is as specified by the State Rail Authority from time to time. Details are available from the State Rail Authority and at [http://www.cityrail.nsw.gov.au/tickets/concession\\_fares.htm](http://www.cityrail.nsw.gov.au/tickets/concession_fares.htm).
5. Off-peak tickets are available after 9am on weekdays and all day on weekends and public holidays.
6. Boundaries of the Child Off-Peak zones are as specified by the State Rail Authority from time to time.

## 6.2 State Transit Authority fares schedule

The fares schedule is part of Determination No. 5 of 2003 made by the Tribunal under section 11(1) of the *Independent Pricing and Regulatory Tribunal Act, 1992*.

**Table 6.2 Maximum fares for STA Sydney Buses services from 31 August 2003**

<b>SYDNEY BUSES FARES</b>	<b>Adult (\$)</b>	<b>Concession (\$)</b>
<b>Single ride fares</b>		
1-2 Sections	1.60	0.80
3-5 Sections	2.70	1.30
6-9 Sections	3.50	1.70
10-15 Sections	4.00	2.00
16+ Sections	4.80	2.40
<b>TravelTen</b>		
Blue: 1-2 Sections	11.80	5.90
Brown: 3-5 Sections	19.70	9.80
Red: 6-9 Sections	24.50	12.20
Green: 10-15 Sections	33.20	16.60
Orange: 16+ Sections	41.80	20.90
<b>TravelPass – Bus and Ferry</b>		
Blue	29.00	14.50
Orange	36.00	18.00
2 Zone	29.00	14.50
Pittwater	49.00	24.50
<b>TravelPass<sup>1,2</sup> Bus, Ferry and Rail</b>		
Red	32.00	16.00
Green	40.00	20.00
Yellow	44.00	22.00
Pink	47.00	23.50
Purple	54.00	27.00
<b>BusTripper</b>	10.90	5.40
<b>DayTripper (Bus/ferry/rail daily)</b>	15.00	7.50

Notes:

1. Quarterly TravelPass = 11 x weekly fare.
2. Yearly TravelPass = 40 x weekly fare.
3. All half fare concessions have been rounded down to the nearest 10 cents.

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**Table 6.3 Maximum fares for STA ferry services from 31 August 2003**

<b>FERRY FARES</b>	<b>Adult (\$)</b>	<b>Concession (\$)</b>
<b>Single</b>		
Inner Harbour Zone 1/Upper Parramatta River	4.50	2.20
Inner Harbour Zone 2	4.80	2.40
Manly / Rydalmere	5.80	2.90
Parramatta	7.00	3.50
Manly JetCat	7.50	
<b>FerryTen</b>		
Inner Harbour Zone 1	28.50	14.20
Inner Harbour Zone 2	31.10	15.50
Manly / Rydalmere	42.90	21.40
Parramatta	49.30	24.60
Manly JetCat	62.50	

## Notes:

1. All half fare concessions have been rounded down to the nearest 10 cents.

**Table 6.4 Maximum fares for STA Newcastle services from 31 August 2003**

<b>NEWCASTLE FARES</b>	<b>Adult (\$)</b>	<b>Concession (\$)</b>
<b>Time</b>		
1 Hour	2.60	1.30
4 Hours	5.10	2.50
TimeTen 1 Hour	21.50	10.70
All day	7.80	3.90
Stockton Ferry	1.90	0.90
<b>TravelPass<sup>1,2</sup></b>		
Orange	36.00	18.00
Yellow	44.00	22.00
Pink	47.00	23.50

## Notes:

1. Quarterly TravelPass = 11 x weekly fare.
2. Yearly TravelPass = 40 x weekly fare.

## 7 ISSUES FOR AGENCIES TO CONSIDER PRIOR TO THE 2004 REVIEW

The 2003 public transport fare determination has raised a number of issues that the Tribunal wishes to consider in more detail prior to the next determination. The most significant of these issues include:

- developing robust estimates of efficient costs for each agency
- developing better performance criteria and reporting processes
- the plans and strategies of each agency to improve passenger volumes
- whether ancillary activities should be excluded from cost recovery calculations (eg, carparking).

The proposed introduction of integrated ticketing will also have implications for the Tribunal's future determinations, primarily with regard to fare structures. Issues noted by the Tribunal that may be affected by integrated ticketing include:

- deciding on level of discount that should apply to multi-trip and periodical fares
- reducing the off-peak return ticket discount (as proposed by CityRail), and the possible introduction of an off-peak single ticket
- introducing a TravelTen ticket for CityRail, but not until integrated ticketing smartcards are introduced in mid to late 2004
- defining travelpass zones that are not based on distance from the CBD (eg, it is not possible to purchase a pass that radiates from Parramatta)
- removing multiple flagfalls from multi-modal tickets.

The current Ministerial Inquiry into transport funding may provide guidance for many of these matters. Where needed, the Tribunal will also release issues papers or undertake further consultation. The Tribunal recognises that it may not be able to resolve all of these issues by the next determination, and will try to prioritise the list and address the most important issues first.

In addition, this process has raised a number of items that the Tribunal requires agencies to consider and report back on prior to the 2004 determination. These include:

- The Railway Technical Society argues that fares could be restructured to reflect characteristics other than distance. For example, express services could be more expensive. CityRail raised a similar issue with the Secretariat in a recent meeting.
- CityRail proposes to reduce the number of longer distance bands within its fare structure.
- Submissions must be in on time. Many community groups were severely handicapped by the delay in agency submissions this year. Some groups organised meetings to discuss the agencies' submissions soon after April 28 (the original agency deadline), only to cancel them because submissions were not received until 16 May. The private bus and private ferry associations also delayed their submissions until they had an opportunity to view the STA submission, meaning that community groups were not able to view either the BCA or CVA submissions until late May.



## APPENDIX 1 LIST OF SUBMISSIONS

The Tribunal received submissions from the following organisations and individuals.

### Organisations

Action for Public Transport  
Australian Council for Infrastructure Development Limited  
Blue Mountains Commuter and Transport Users Association  
Campbelltown & District Commuters Association  
Campbelltown City Council  
Combined Pensioners & Superannuants Association of NSW  
Combined Pensioners and Superannuants Association  
Commuter Council of NSW  
NSW Council of Social Service  
Public Interest Advocacy Centre  
Public Service Association of NSW  
Rail Tram and Bus Industry Union  
Railway Technical Society of Australasia  
Retired Members Association (LHMU)  
Retired Teachers Association  
Southern Cross University  
Springwood and Winmalee Action Group  
State Rail Authority of NSW  
State Transit Authority of NSW  
Vaucluse Progress Association  
Western Sydney Community Forum  
Wollongong University Postgraduate Association  
Woollahra Municipal Council

### Individuals

Adams, Jeanette	Owen, Ted
Ashlin, Mark	Ready, John
Beeney, A J	Romero, Mark
Bendall, Kirk	Simm, Shaun
Bruzgulis, Maris	Sinclair, W
Caldwell, David	Skinner, Harold
Cooper, David	Styles, Wayne
Craig, William	Sutherland, Greg
Crawford, P	Tanko, Tanya
Cuschieri, Julian	Vnuk, Joseph
Eames, Graham	White, Patrick
Hayes, Richard	Williamson, Jean
Hegarty, John	
Ireland, Tom	
Irving, Miles	
Jones, Pru	
Li, Richard	
Long, Marilyn	
Mitchell, Jeffrey	
Myers, Hazel	

**APPENDIX 2 PRESENTERS AT THE PUBLIC HEARING****The presenters at the public hearing on 3 July were:**

State Transit Authority (John Stott)  
CityRail (Vince Graham)

Action for Public Transport (Allan Miles)  
Blue Mountains Commuter Association (Paul Trevaskis)  
Commuter Council of NSW (Kevin Parish)  
Railway Technical Society of Australasia (Philip Laird)

**Also attending the hearing were:**

Margaret Brazel (StateRail)  
David Caldwell  
Malcom Currey  
Dick Day (StateRail)  
Sharyn Doyle (StateRail)  
Paul Dunn (STA)  
Graham Hoskin (Action for Public Transport)  
Richard Langereis (Ministry of Transport)  
Leanne Lincoln (2GB News)  
Peter McCallum (Action for Public Transport and Commuter Council)  
David Royle  
Peter Scarlett (StateRail)  
Yarie Scrutas (ABC News)  
Bill Watson (STA)  
Jim Wellsmore (Public Interest Advocacy Centre)

## APPENDIX 3 IPART ACT REQUIREMENTS

### *Section 15 requirements*

Section 15 of the IPART Act 1992 details the matters to be considered by the Tribunal when making a determination. The section is reproduced in full below.

#### **(15) Matters to be considered by Tribunal under this Act**

- (1) In making determinations and recommendations under this Act, the Tribunal is to have regard to the following matters (in addition to any other matters the Tribunal considers relevant):
  - (a) the cost of providing the services concerned,
  - (b) the protection of consumers from abuses of monopoly power in terms of prices, pricing policies and standard of services,
  - (c) the appropriate rate of return on public sector assets, including appropriate payment of dividends to the Government for the benefit of the people of New South Wales,
  - (d) the effect on general price inflation over the medium term,
  - (e) the need for greater efficiency in the supply of services so as to reduce costs for the benefit of consumers and taxpayers,
  - (f) the need to maintain ecologically sustainable development (within the meaning of section 6 of the [Protection of the Environment Administration Act 1991](#) ) by appropriate pricing policies that take account of all the feasible options available to protect the environment,
  - (g) the impact on pricing policies of borrowing, capital and dividend requirements of the government agency concerned and, in particular, the impact of any need to renew or increase relevant assets,
  - (h) the impact on pricing policies of any arrangements that the government agency concerned has entered into for the exercise of its functions by some other person or body,
  - (i) the need to promote competition in the supply of the services concerned,
  - (j) considerations of demand management (including levels of demand) and least cost planning,
  - (k) the social impact of the determinations and recommendations,
  - (l) standards of quality, reliability and safety of the services concerned (whether those standards are specified by legislation, agreement or otherwise).
- (2) In any report of a determination or recommendation made by the Tribunal under this Act, the Tribunal must indicate what regard it has had to the matters set out in subsection (1) in reaching that determination or recommendation.
- (3) To remove any doubt, it is declared that this section does not apply to the Tribunal in the exercise of any of its functions under section 12A.
- (4) This section does not apply to the Tribunal in the exercise of any of its functions under section 11 (3).

**Independent Pricing and Regulatory Tribunal****Reports 5 and 6, 2003**

Table A3.1 indicates where the matters have been considered throughout the report by the Tribunal in making this determination.

**Table A3.1 Consideration of section 15 matters by Tribunal for the Public Transport Fare determination**

Section 15(1)	Report reference
(a) cost of providing the service	Sections 4.1, 4.2, 4.3, 4.4
(b) protection of consumers from abuse of monopoly power	Sections 4.1.5, 4.2.4, 4.3.4, 5.1
(c) appropriate rate of return and dividends	Sections 4.1, 4.2, 4.3, 4.4
(d) effect on general price inflation	Section 5.2
(e) improved efficiency in supply of services	Sections 4.1, 4.2, 4.3, 4.4
(f) ecologically sustainable development	Section 5.3
(g) impact on borrowing, capital and dividend requirements	Section 4.1.6, 4.2.5, 4.3.5, 4.3.5
(h) additional pricing policies	Section 3.2, 4.1.5, 4.2.4, 4.3.4, 4.3.4
(i) need to promote competition	Sections 4.1.1, 4.2.1,
(j) considerations of demand management	Section 5.3
(k) the social impact on customers	Sections 4.1.5, 4.2.4, 4.3.4, 5.1
(l) standards of quality, reliability and safety of the services	Sections 4.1, 4.2, 4.3, 4.4

*Section 16 requirements*

Section 16 of the IPART Act requires the Tribunal to report on the likely impact to the Consolidated Fund if fares were not increased to the maximum permitted. This information is contained in Section 5.2.

## APPENDIX 4 NSW PUBLIC TRANSPORT : DESCRIPTION

The Transport Data Centre (TDC) estimates that, on an average weekday in Sydney in 2001, residents made 5.0 per cent of all trips by train, 5.9 per cent by bus and 0.2 per cent by ferries. Public bus services provide 56 per cent of these bus passenger trips.

**Table A4.1 Trips by mode on an average weekday, 1991<sup>1</sup>, 2000<sup>2</sup> and 2001<sup>3</sup>  
(unlinked trip legs)**

Mode	1991 '000	2000 '000	2001 '000	Annual % change 1991-00 <sup>4</sup>	% Change 2000/2001
Vehicle driver	6,366	7,519	7,594	1.9%	1.0%
Vehicle passenger	2,850	3,403	3,404	2.0%	0.0%
<b>Total private vehicle</b>	<b>9,216</b>	<b>10,921</b>	<b>10,998</b>	<b>1.9%</b>	<b>0.7%</b>
Train	691	784	776	1.4%	-1.0%
Bus	917	921	885	0.0%	-3.9%
Government Bus			559		
Private Bus			326		
Ferry	33	34	38	0.5%	11.7%
<b>Total public transport</b>	<b>1,641</b>	<b>1,739</b>	<b>1,699</b>	<b>0.6%</b>	<b>-2.3%</b>
Walk Only	2,700	2,724	2,713	0.1%	-0.4%
Bicycle	98	86	101	-1.5%	17.6%
Taxi	103	119	117	1.6%	-1.3%
Other	20	61	83	13.4%	35.8%

**Table A4.2 Trips by mode on an average weekend day, 1991<sup>1</sup>, 2000<sup>2</sup> and 2001<sup>3</sup>  
(unlinked trip legs)**

Mode	1991 '000	2000 '000	2001 '000	Annual % change 1991-00 <sup>4</sup>	% Change 2000/2001
Vehicle driver	4,974	5,798	5,754	1.7%	-0.7%
Vehicle passenger	4,077	4,431	4,382	0.9%	-1.1%
<b>Total private vehicle</b>	<b>9,051</b>	<b>10,229</b>	<b>10,137</b>	<b>1.4%</b>	<b>-0.9%</b>
Train	240	262	237	1.0%	-9.5%
Bus	295	308	319	0.5%	3.7%
STA Bus		243	239		
Private Bus		65	80		
Ferry	21	14	13	-4.2%	-9.1%
<b>Total public transport</b>	<b>555</b>	<b>584</b>	<b>569</b>	<b>0.6%</b>	<b>-2.5%</b>
Taxi	101	107	108		
Walk only	1,864	1,893	2,076	0.2%	9.7%
Other	200	296	305	3.9%	3.0%

Notes: 1 All data sourced from 1991/92 HIS, weighted to represent travel by the 1991 Estimated Resident Population (ERP) from the ABS.

2 All data sourced from waves 2 to 4 of the HTS (1998/99, 1999/2000 and 2000/01) pooled together and weighted to represent travel by the 2000 Estimated Resident Population (ERP) from the ABS.

3 All data sourced from waves 3 to 5 of the HTS (1999/2000, 2000/01 and 2001/02) pooled together and weighted to represent travel by the 2001 Estimated Resident Population (ERP) from the ABS.

4 Annual average growth rate 1991 to 2000.

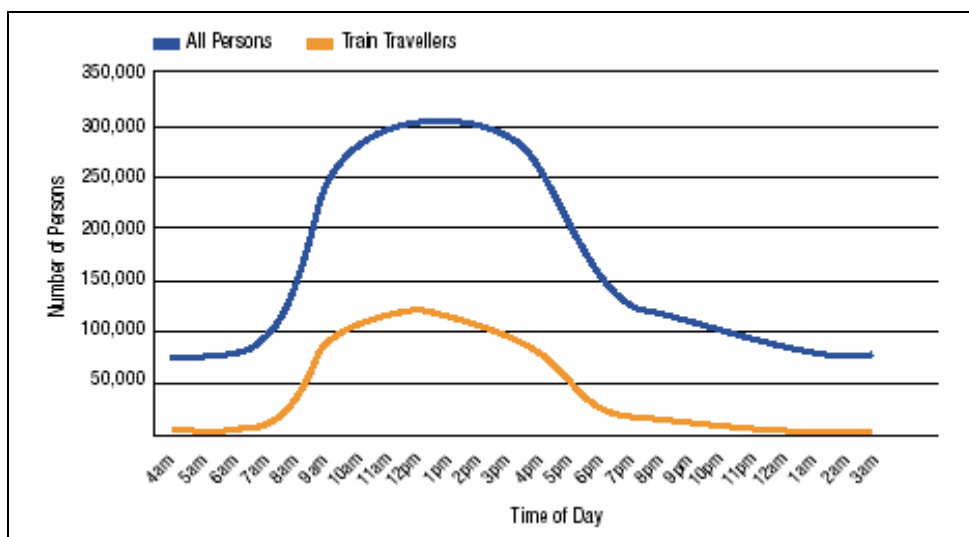
Figures in the tables are rounded, but percentages are calculated from original unrounded data.

**CityRail** provides heavy rail passenger services to the Sydney metropolitan area. The area extends to Scone/Dungog in the north, Lithgow in the west, Goulburn in the southwest and Nowra in the south. Until now, CityRail has been responsible for above-rail services only, but on 1 January 2004 its responsibilities will extend to metropolitan rail infrastructure.

CityRail accounts for about 5 per cent of all weekday travel in the Sydney area. It estimates that its passengers make an average of 950,000 journeys each weekday in 2000/01 (higher than the 776,000 estimated in the Household Travel Survey 2001).

Commuter travel is the major contributor to Cityrail patronage - on weekdays 6:30am to 9:30am about 51 per cent of all trips to the CBD are by train.

**Figure A4.2 Persons in Sydney CBD by time of day (average weekday 1999)**



\*\*Persons refers to residents of Sydney Statistical Division only, and therefore excludes people visiting the Sydney CBD who do not live in the Sydney Statistical Division.

CityRail’s capacity is often fully stretched during the morning peak (Figure A4.3). Travellers in the peak are around 82 per cent full-time workers and school commuters. Another two 6 per cent wedges are part-time work commuters and adult students.

Figure A4.3 Percentage of Sydney travellers in each mode by time of day

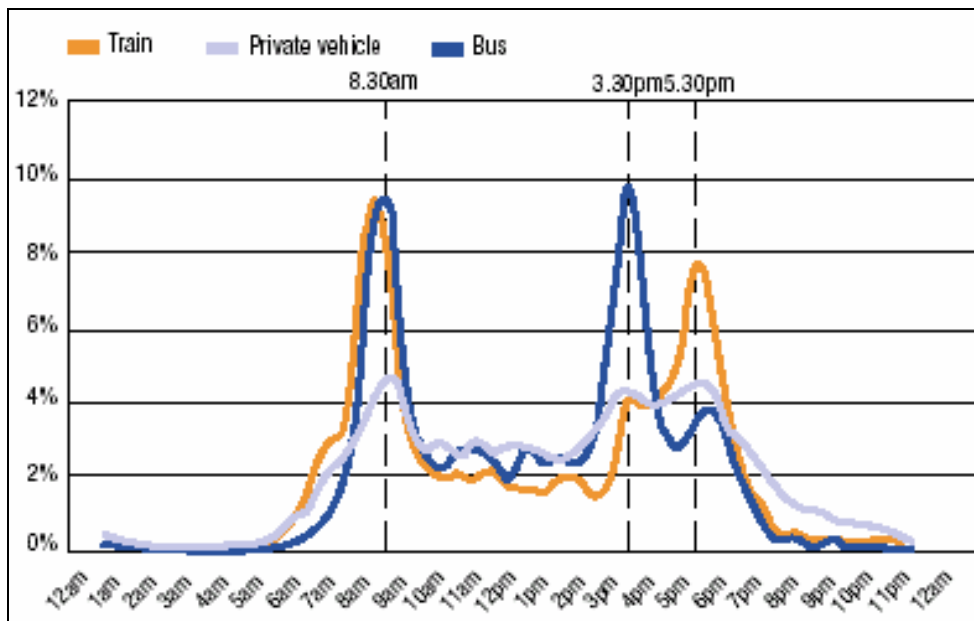


Table A4.3 Morning peak rail travellers by labour force status; average 2001 weekday

Labour Force Status	Trips	% of trips
Full time work	184,257	68.9
Retired / Aged pensioner	7,157	2.7
Adult full time study excluding secondary school	16,277	6.1
Unemployed	1,719	0.6
Part time / Casual work	16,894	6.3
Part time study	886	0.3
Other pensioner	2,146	0.8
Keeping house	639	0.2
Adult/Child attend school up to secondary (excl pre-schl)	37,589	14.0
<b>Total trips</b>	<b>267,564</b>	<b>100.0</b>

Table A4.4 Morning peak rail travellers by type of ticket; average 2001 weekday

Fare Type	Trips	% of trips
Full fare	187,508	70.1
Child fare	1,328	0.5
Free-School pass	33,211	12.4
Free-other	7,298	2.7
Concession-Pensioner/Aged	7,267	2.7
Concession-Student	19,728	7.4
Concession-Other	9,577	3.6
Other (specify)	1,649	0.6
<b>Total</b>	<b>267,564</b>	<b>100.0</b>

**Independent Pricing and Regulatory Tribunal****Reports 5 and 6, 2003**

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The STA bus network covers inner and eastern Sydney's higher-density areas and the northern beaches. Sydney Buses employs 3,560 staff and uses 1,760 buses on 300 bus routes and special events. Around 48 per cent of its travellers are full fare paying passengers.

The STA also operates ferry routes in Sydney, mostly in Sydney Harbour, and a Manly 'Jetcat' service. Sydney Ferries employs 542 staff and uses 32 ferries. Around two-thirds of its passengers who are Sydney residents pay full fare.

The STA runs Newcastle bus and ferry services, employing 379 staff and using two ferries and 182 buses on 30 routes and 150 school runs. Around 13 per cent of its passengers pay full fare.



**APPENDIX 5 ABBREVIATIONS USED IN THIS REPORT**

<b>ABS</b>	Australian Bureau of Statistics
<b>BCA</b>	The BCA or Bus and Coach Industrial Association is the peak industry organisation for the NSW private bus and coach sector.
<b>CVA</b>	The CVA or Charter Vessel Association of NSW is the peak industry organisation for the private ferry industry.
<b>HTS</b>	Household Travel Survey
<b>MoT</b>	The Ministry of Transport, formerly the Transport Co-ordination Authority, formerly the Department of Transport
<b>PAR</b>	Performance Assessment Regime - a series of best practice objectives and standards for buses. A PAR has previously been in place for private bus operators in NSW.
<b>PTA</b>	Passenger Transport Act 1990
<b>RTA</b>	Roads and Traffic Authority, NSW
<b>SRA</b>	The SRA or State Rail Authority is the government-owned provider of CityRail train services.
<b>SSTS</b>	SSTS or School Student Transport Scheme provides subsidised travel for eligible school students on government rail, government and private bus and ferry services and long distance coaches. The scheme can only be used for travel between home and school.
<b>STA</b>	The STA or State Transit Authority is the government-owned provider of bus and ferry services in Sydney and Newcastle.
<b>TDC</b>	The Transport Data Centre. It is the major source of transport data for the Sydney Statistical District (Sydney, Wollongong, Blue Mountains, Central Coast and Newcastle). The TDC is a division of the Ministry of Transport.



INDEPENDENT PRICING AND REGULATORY TRIBUNAL  
OF NEW SOUTH WALES

DETERMINATION UNDER SECTION 11 (1) OF THE INDEPENDENT PRICING AND  
REGULATORY TRIBUNAL ACT, 1992

<b>Reference No.:</b>	02/262
<b>Determination:</b>	No 5, 2003
<b>Government Agency:</b>	State Rail Authority
<b>Government monopoly services:</b>	Railway passenger services (within the meaning of the <i>Passenger Transport Act, 1990</i> ) supplied under the name "CityRail" by the State Rail Authority, excluding services supplied in accordance with the ticket known as the "SydneyPass".

*The Government monopoly services were declared by the Independent Pricing and Regulatory Tribunal (Passenger Transport Services) Order 1998, made on 24 February 1998 and published in Gazette No. 38 dated 27 February 1998 at page 1015.*

**The following are the maximum prices (to commence from 31 August 2003) determined by the Tribunal for the Government monopoly services set out above.**

1. *All standard CityRail passenger rail services*

The price of any type of rail ticket for a given distance band must not exceed the price, for that distance band, of that type of ticket as set out in the attached Pricing Schedule which forms part of this Determination.

2. *CityHopper tickets*

The price of a CityHopper ticket, when purchased outside the CityHopper area, must not exceed the price of the appropriate standard return ticket (peak or off-peak) to the City plus an additional sum of \$2.10 for one day's unlimited rail travel in the City area. If purchased within the CityHopper area the fare will be \$6.80 in the peak and \$4.80 in the off-peak.

3. *DayTripper tickets*

The price of a DayTripper ticket must not exceed \$15.00.

4. *Moore Park Link tickets*

The price of a Moore Park Link ticket must not exceed the combined price of the rail ticket to Central (as outlined in Table 1) and the sports special bus ticket of \$4.60 for an adult ticket and \$2.30 for a concession.

#### 5. Flexipass tickets

The price of a Flexipass ticket for a given distance band must not exceed the fare calculated by multiplying the weekly ticket price for the same distance band by the appropriate multiplier. The multiplier for calculating the appropriate Flexipass fare must be determined by the following formula (the value then being rounded off to the nearest whole dollar).

$$P_N = R * (3.66 + K * x - L * y)$$

where:

$P_N$  = Fare price (before rounding off)

$R$  = Weekly ticket price for the relevant distance band

$N$  = Number of days of validity (from 28 to 366)

$x$  =  $N - 28$

$y$  =  $N - 90$ ; for  $N > 90$

0; for  $N \leq 90$

$K$  = 0.12

$L$  = 0.011

#### 6. Olympic Park tickets

For day tickets, ie single or return tickets, the price of a ticket to Olympic Park Station must not exceed the price of the appropriate rail ticket for the distance from the station of origin to Strathfield or Lidcombe (whichever is shortest) plus an additional sum of \$1.60 for an adult single journey (\$0.80 concession), or \$3.20 for an adult return journey (\$1.60 concession).

For weekly and other periodical tickets, the price will be based on the distance from the origin station to Olympic Park Station.

#### 7. Bondi Link ticket

The price of a ticket to Bondi must not exceed the price of the appropriate rail ticket for the distance from the station of origin to Bondi Junction plus an additional sum of \$1.60 for an adult single journey (\$0.80 concession) or \$3.20 for an adult return journey (\$1.60 concession).

#### 8. New or additional charges

All other prices or charges for railway passenger services provided by CityRail not specifically referred to in this Determination must remain at 2002/03 levels. The State Rail Authority must not levy any new or additional charges for the Government monopoly services supplied under the name 'CityRail', other than in accordance with this Determination or with the approval of the Tribunal pursuant to any future Determination.

James Cox

*Tribunal Member*

15 August 2003

The fare schedule is part of Determination No. 5 of 2003 made by the Tribunal under section 11(1) of the *Independent Pricing and Regulatory Tribunal Act, 1992*.

**Maximum fares for CityRail railway passenger services  
from 31 August 2003**

Distance	Single	Half Single	Return	Half Return	Weekly	Off-Peak Return
Km	\$	\$	\$	\$	\$	\$
5	2.20	1.10	4.40	2.20	18.00	2.60
10	2.80	1.40	5.60	2.80	22.00	3.40
15	3.00	1.50	6.00	3.00	25.00	3.60
20	3.60	1.80	7.20	3.60	28.00	4.40
25	4.00	2.00	8.00	4.00	31.00	4.80
30	4.40	2.20	8.80	4.40	33.00	5.40
35	4.40	2.20	8.80	4.40	34.00	5.40
45	5.20	2.60	10.40	5.20	37.00	6.40
55	6.00	3.00	12.00	6.00	40.00	7.40
65	6.60	3.30	13.20	6.60	44.00	8.00
75	8.00	4.00	16.00	8.00	47.00	9.80
85	8.80	4.40	17.60	8.80	50.00	10.80
95	9.80	4.90	19.60	9.80	52.00	12.00
105	10.20	5.10	20.40	10.20	54.00	12.40
115	11.40	5.70	22.80	11.40	56.00	14.00
125	12.80	6.40	25.60	12.80	59.00	15.60
135	13.00	6.50	26.00	13.00	64.00	15.80
155	15.00	7.50	30.00	15.00	70.00	18.40
175	17.00	8.50	34.00	17.00	74.00	21.00
195	21.00	10.50	42.00	21.00	82.00	26.00
215	21.00	10.50	42.00	21.00	82.00	26.00
235	25.00	12.50	50.00	25.00	96.00	31.00
255	25.00	12.50	50.00	25.00	96.00	31.00
305	28.00	14.00	56.00	28.00	108.00	34.00
305+	28.00	14.00	56.00	28.00	108.00	34.00

TravelPass	\$	Child Off-Peak	\$
Red	32.00	Sydney Suburban	2.40
Green	40.00	Newcastle Suburban	2.40
Yellow	44.00	Outer Metropolitan	3.50
Pink	47.00	CityRail	5.70
Purple	54.00		

Notes:

1. Quarterly TravelPass = 11 x weekly fare.
2. Yearly TravelPass = 40 x weekly fare.
3. Children over 4 years and under 16 years are eligible for the Child Off-Peak fare.
4. Eligibility for half fare tickets is as specified by the State Rail Authority from time to time. Details are available from the State Rail Authority and at [http://www.cityrail.nsw.gov.au/tickets/concession\\_fares.htm](http://www.cityrail.nsw.gov.au/tickets/concession_fares.htm).
5. Off-peak tickets are available after 9am on weekdays and all day on weekends and public holidays.
6. Boundaries of the Child Off-Peak zones are as specified by the State Rail Authority from time to time.



INDEPENDENT PRICING AND REGULATORY TRIBUNAL  
OF NEW SOUTH WALES

**DETERMINATION UNDER SECTION 11 (1) OF THE INDEPENDENT PRICING AND  
REGULATORY TRIBUNAL ACT, 1992**

<b>Reference No.:</b>	03/16
<b>Determination:</b>	No 6, 2003
<b>Government agency:</b>	State Transit Authority
<b>Government monopoly services:</b>	Regular passenger services (within the meaning of the <i>Passenger Transport Act, 1990</i> ) supplied by the State Transit Authority, excluding the following: <ul style="list-style-type: none"> <li>a) services supplied in relation to the ticket known as the "SydneyPass",</li> <li>b) the bus service known as the "Airport Express",</li> <li>c) the bus service known as the "Sydney Explorer", the bus service known as the "Bondi &amp; Bay Explorer" and any other similar bus services operating in any other areas,</li> <li>d) ferry cruises operated by STA.</li> </ul>

*The Government monopoly services were declared by the Independent Pricing and Regulatory Tribunal (Passenger Transport Services) Order 1998, made on 24 February 1998 and published in Gazette No. 38 dated 27 February 1998 at page 1015.*

**The following are the maximum prices (to commence from 31 August 2003) determined by the Tribunal for the Government monopoly services set out above**

*1. All standard State Transit Authority Sydney Buses services*

The price of any State Transit Authority Sydney Buses ticket must not exceed the price set out for that type of ticket in Table 1 of the attached Price Schedule which forms part of this Determination.

*2. Sports special return bus tickets*

The price of a sports special return bus ticket must not exceed \$4.60 for an adult ticket and \$2.30 for a concession.

*3. Moore Park Link tickets*

The price of a Moore Park Link ticket must not exceed the combined price of the rail ticket to Central (as outlined in Table 1 in the CityRail determination) and the sports special bus ticket.

4. *School term pass*

The price of a school term pass must not exceed \$40.00 per school term.

5. *All State Transit Authority ferry services*

The price of any type of State Transit Authority ferry ticket must not exceed the price set out for that type of ticket in Table 2 of the attached Price Schedule which forms part of this Determination.

6. *Newcastle bus services*

The price of any State Transit Authority Newcastle bus ticket must not exceed the price set out for that type of ticket in Table 3 of the attached Price Schedule which forms part of this Determination.

7. *New or additional charges*

All other prices or charges for scheduled passenger transport services provided by the State Transit Authority must remain at 2002/03 levels. The State Transit Authority must not levy any new or additional charges for the Government monopoly services supplied by the State Transit Authority other than in accordance with this Determination, or with the approval of the Tribunal pursuant to any future Determination.

James Cox  
*Tribunal Member*  
15 August 2003

The fares schedule is part of Determination No. 6 of 2003 made by the Tribunal under section 11(1) of the *Independent Pricing and Regulatory Tribunal Act, 1992*.

**Table 1 Maximum fares for STA Sydney Buses services from 31 August 2003**

<b>SYDNEY BUSES FARES</b>	<b>Adult (\$)</b>	<b>Concession (\$)</b>
<b>Single ride fares</b>		
1-2 Sections	1.60	0.80
3-5 Sections	2.70	1.30
6-9 Sections	3.50	1.70
10-15 Sections	4.00	2.00
16+ Sections	4.80	2.40
<b>TravelTen</b>		
Blue: 1-2 Sections	11.80	5.90
Brown: 3-5 Sections	19.70	9.80
Red: 6-9 Sections	24.50	12.20
Green: 10-15 Sections	33.20	16.60
Orange: 16+ Sections	41.80	20.90
<b>TravelPass – Bus and Ferry</b>		
Blue	29.00	14.50
Orange	36.00	18.00
2 Zone	29.00	14.50
Pittwater	49.00	24.50
<b>TravelPass<sup>1,2</sup> Bus, Ferry and Rail</b>		
Red	32.00	16.00
Green	40.00	20.00
Yellow	44.00	22.00
Pink	47.00	23.50
Purple	54.00	27.00
<b>BusTripper</b>	10.90	5.40
<b>DayTripper</b> (Bus/ferry/rail daily)	15.00	7.50

Notes:

1. Quarterly TravelPass = 11 x weekly fare.
2. Yearly TravelPass = 40 x weekly fare.
3. All half fare concessions have been rounded down to the nearest 10 cents.

**Table 2 Maximum fares for STA ferry services from 31 August 2003**

<b>FERRY FARES</b>	<b>Adult (\$)</b>	<b>Concession (\$)</b>
<b>Single</b>		
Inner Harbour Zone 1/Upper Parramatta River	4.50	2.20
Inner Harbour Zone 2	4.80	2.40
Manly / Rydalmere	5.80	2.90
Parramatta	7.00	3.50
Manly JetCat	7.50	
<b>FerryTen</b>		
Inner Harbour Zone 1	28.50	14.20
Inner Harbour Zone 2	31.10	15.50
Manly / Rydalmere	42.90	21.40
Parramatta	49.30	24.60
Manly JetCat	62.50	

## Notes:

1. All half fare concessions have been rounded down to the nearest 10 cents.

**Table 3 Maximum fares for STA Newcastle bus services from 31 August 2003**

<b>NEWCASTLE FARES</b>	<b>Adult (\$)</b>	<b>Concession (\$)</b>
<b>Time</b>		
1 Hour	2.60	1.30
4 Hours	5.10	2.50
TimeTen 1 Hour	21.50	10.70
All day	7.80	3.90
Stockton	1.90	0.90
<b>TravelPass<sup>1,2</sup></b>		
Orange	36.00	18.00
Yellow	44.00	22.00
Pink	47.00	23.50

## Notes:

1. Quarterly TravelPass = 11 x weekly fare.
2. Yearly TravelPass = 40 x weekly fare.



# 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>

## Government Printing Service

### TENDERS FOR PRINTING

TENDERS will be received up to 9.30 am on the date specified for the undermentioned printing. Envelopes containing tenders must be addressed to: Government Printer Unit 5 Block V 391 Park Road REGENTS PARK NSW 2143, and have legibly endorsed upon the face thereof the items and description of the printing for which the tender is submitted.

#### Tender closing 1 September 2003

Advertised for 2 weeks commencing Friday 15 August 2003

Tender No 38620

Tenders are invited on behalf of the Department of Education for the production of a calendar printed 4 colour process throughout on Satin Art. Pages collated and wiro bound. Press checks required and a very high standard of quality is expected throughout. Contractor must be available to meet with the customer and designer when requested through the course of the tender. Sample of previous calendar is available.

Enquiries to Peter Sparks on 9721 9834

#### Three Weeks closing 1st September 2003

TENDER NO: 38947

Tenders are invited on the behalf of the NSW Department of Education and Training, for the development, production and implementation of the Computer Skills Assessment (CSA) practical component. The Tenderer must provide proper security facilities and resources to undertake all tasks as specified in the tender document. The Computer Skills Assessment (CSA) practical component is a test administered to Year 6 students via computers in schools throughout NSW.

The Tenderer is required to design and develop software in consultation with the Department of Education and Training, make available to schools throughout NSW via internet or CD, collect the student responses and supply data to be used for reporting on the student results.

ENQUIRIES: Peter Sparks 9721 9834

# PRIVATE ADVERTISEMENTS

## COUNCIL NOTICES

### FAIRFIELD CITY COUNCIL

Local Government Act 1993

Land Acquisition (Just Terms Compensation) Act 1991

Notice of Compulsory Acquisition of Land

THE Fairfield City Council declares, with the approval of Her Excellency the Governor, that the land described in the Schedule below, excluding mines and deposits of minerals within the land, is acquired by compulsory process in accordance with the provisions of the Land Acquisition (Just Terms Compensation) Act 1991, for the purpose of a multi-storey public car park and the resale of surplus land. Dated at Fairfield this 22nd day of August, 2003. ALAN YOUNG, General Manager, Fairfield City Council, PO Box 21, Fairfield, NSW 2165.

#### SCHEDULE

Lots 2 and 12, DP 883460. [0624]

### FAIRFIELD CITY COUNCIL

Local Government Act 1993

Land Acquisition (Just Terms Compensation) Act 1991

Notice of Compulsory Acquisition of Land

THE Fairfield City Council declares, with the approval of Her Excellency the Governor, that the land described in the Schedule below, excluding mines and deposits of minerals within the land, is acquired by compulsory process in accordance with the provisions of the Land Acquisition (Just Terms Compensation) Act 1991, for the purpose of a car park. Dated at Fairfield this 22nd day of August, 2003. ALAN YOUNG, General Manager, Fairfield City Council, PO Box 21, Fairfield, NSW 2165.

#### SCHEDULE

Lots 1 and 9, DP 883460. [0625]

### GREATER TAREE CITY COUNCIL

Roads Act 1993, Section 10

Dedication of Land as Public Road

NOTICE is hereby given that Greater Taree City Council, in pursuance of section 10 of the Roads Act 1993, dedicates the land described in the Schedule as public road. P. PINYON, General Manager, Greater Taree City Council, 2 Pulteney Street, Taree, NSW 2430. (Reference: PR14646).

#### SCHEDULE

Lots 2 and 3, DP 1023515. [0626]

### HASTINGS COUNCIL

Roads Act 1993, Section 10

Dedication of Land as Public Road

NOTICE is hereby given that the land described in the Schedule below is dedicated as public road pursuant to Section 10 of the Roads Act 1993. B. SMITH, General Manager, Hastings Council, PO Box 84, Port Macquarie, NSW 2444.

#### SCHEDULE

All those pieces or parcels of land being Lots 5, 6, 7 and 8 in Deposited Plan 1043702, Parish of Lorne, County Macquarie and situated on Lorne Road, Lorne. [0638]

### TAMWORTH CITY COUNCIL

Roads Act 1993, Section 162

Roads (General) Regulation 2000, Part 2, Division 2

Naming of Public Road

NOTICE is hereby given that in pursuance of the abovementioned Act and Regulation Tamworth City Council has named the section of road as described below:

That section of road that runs south-east from Cross Creek, Nemingha to O'Briens Lane, Nemingha known as King George V Avenue be renamed **Cross Park Road**.

That section of road that runs north-west from Cross Creek, Nemingha to East Street Tamworth will continue to be known as **King George V Avenue**.

Authorised by resolution of Council, 24th June, 2003. P. L. LYON, General Manager, Tamworth City Council, PO Box 555, Tamworth, NSW 2340. [0629]

### TENTERFIELD SHIRE COUNCIL

Revocation of Interim Heritage Order

Revocation of Interim Order No. 1/2002

IN pursuance of section 29(4) of the Heritage Act 1977, Tenterfield Shire Council, at the Ordinary Meeting of Council on Friday, 22 August 2003, under Resolution Number 428/03 and by this notice, revoke the Interim Heritage Order over the item specified in Schedule "A". This revocation shall apply to the curtilage or site of the item, being the land described in Schedule "B". Dated 26th August, 2003. S. A. RILEY, Director of Environmental Services, Tenterfield Shire Council, PO Box 214, Tenterfield, NSW 2372.

#### SCHEDULE 'A'

The property known as 'Peberdy House' situated at 182 Rouse Street, Tenterfield, NSW 2372, on the land described in Schedule 'B'.

#### SCHEDULE 'B'

All those pieces or parcels of land known as Lot 4, section 22, DP 758959, shown edged heavy black on the plan catalogued in the office of the Tenterfield Shire Council. [0622]

**WYONG SHIRE COUNCIL**

Local Government Act 1993

Land Acquisition (Just Terms Compensation) Act 1991

Notice of Compulsory Acquisition of Land

THE Wyong Shire Council declares, with the approval of Her Excellency the Governor, that the land described in the Schedule below, excluding mines and deposits of minerals within the land, is acquired by compulsory process under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991, for the purpose of open space. J. S. DAWSON, General Manager, Wyong Shire Council, PO Box 20, Wyong, NSW 2259.

## SCHEDULE

Lot 2, DP 369486. [0623]

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**GRAFTON CITY COUNCIL**

Local Government Act 1993, Section 713

Sale of Land for Overdue Rates

NOTICE is hereby given to the persons named hereunder that the Council of the City of Grafton 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 case, as at 13th August, 2003, is due:

Owners or persons having interest in land	Description of land	Amount of rates (including extra charges) overdue for more than five (5) years	Amount of all other rates in arrears	Total \$
(a)	(b)	(c) \$	(d) \$	(e) \$
Jason Harold GLENN and Vicki Maree LAURIE; Commonwealth Bank of Australia	Lot 14, DP 666985, 69 Bligh Street, South Grafton	9,732.05	2,321.52	12,053.57

In default of payment to the Council of the amount stated in column (e) above and any other rates (including extra charges) becoming due and payable after publication of this notice, or an arrangement satisfactory to the Council for payment of all such rates being entered into by the rateable person before the time fixed for the sale, the said land will be offered for sale by public auction by McKimms Real Estate at the Civic Centre, 2 Prince Street, Grafton, on Friday, 28th November, 2003, at 10.30a.m. RAY SMITH, General Manager, Grafton City Council, PO Box 24, Grafton, NSW 2460. [0631]

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**WOLLONDILLY SHIRE COUNCIL**

Local Government Act 1993, Section 713

Sale of Land for Overdue Rates and Charges

NOTICE is hereby given to the person(s) named hereunder that Wollondilly Shire Council has resolved, in pursuance of section 713 of the Local Government Act 1993, to sell the land described hereunder of which the person(s) named are known to the Council to be the owner(s) or to have interest in the land on which the amount of rates and charges stated in each case, as at 30th June, 2003, is due:

Owner(s) or person(s) having interest in the land	Description of subject land	Amount of rates and charges (including extra charges) overdue for more than five (5) years	Amount of all other rates and charges (including extra charges) payable and unpaid	Total
(a)	(b)	(c) \$	(d) \$	(e) \$
Peter TORDAI and Eva TORDAI	Lot 16, DP 774640, 19 Janette Place, Oakdale, Parish Burratorang, County Camden	362.90	4050.47	4413.37
Annie Louisa WILLIS	Lot B, DP 435268, 80 Steveys Forest Road, Oakdale, Parish Burratorang, County Camden	37.40	6743.02	6780.42
Symon Anthony GRYG	Lot 18, section 7, DP 2444, 36 Norwood Road, Buxton, Parish Couridjah, County Camden	390.50	2578.55	2969.05

In default of payment to the Council of the amount stated in column (e) above and any other rates (including extra charges) becoming due and payable after publication of this notice, or an arrangement satisfactory to the Council for payment of all such rates being entered into by the rateable person, before the time fixed for the sale, the said land will be offered for sale by public auction at the Wollondilly Shire Council's Administration Centre, 62-64 Menangle Street, Picton, on Saturday, 29th November, 2003, at 10.00a.m. [0627]

**ESTATE NOTICES**

NOTICE of intended distribution of estate.—Any person having any claim upon the estate of RUBY JANE SMART, late of 56 Thames Street, Merrylands in the State of New South Wales, widow, who died on 12th May, 2003, must send particulars of his/her claim to the executors, Dorothy Alma Jordan and David Albert Hodgkinson, c.o. Maclarens, Solicitors, 232 Merrylands Road, Merrylands, NSW 2160, within one (1) calendar month from publication of this notice. After that time the executors may distribute the assets of the estate having regard only to the claims of which at the time of distribution they have notice. Probate was granted in New South Wales on 29th July, 2003. MACLARENS, Solicitors, 232 Merrylands Road (PO Box 354), Merrylands, NSW 2160 (DX 25406, Merrylands), tel.: (02) 9682 3777. [0628]

NOTICE of intended distribution of estate.—Any person having any claim upon the estate of NINA GWENLLIAN SHELDON, late of Amity Nursing Home, 741 Forest Road, Bexley in the State of New South Wales, widow, who died on 28th June, 2003, must send particulars of his/her claim to the Executors, Marlene Ilma Nash and Peter Raymond Sheldon, c.o. Colquhoun & Colquhoun, Solicitors, 588 Darling Street, Rozelle, NSW 2039, within one 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 executors have notice. Probate was granted in New South Wales on 14th August, 2003. COLQUHOUN & COLQUHOUN, Solicitors, 588 Darling Street (PO Box 182), Rozelle, NSW 2039, tel.: (02) 9818 2666. [0630]

NOTICE of intended distribution of estate.—Any person having any claim upon the estate of LESLIE CHARLES DELLOW, late of Kangaroo Point in the State of New South Wales, who died on 6th March, 2003, must send particulars of his/her claim to the executor, c.o. Mercuri & Co., Solicitors, Suite 1, 191 First Avenue, Five Dock, NSW 2046, within one (1) calendar month from publication of this notice. After that time the executor may distribute the assets of the estate having regard only to the claims of which at the time of distribution they have notice. Probate was granted in New South Wales on 15th August, 2003. MERCURI & CO., Solicitors, Suite 1, 191 First Avenue (PO Box 198), Five Dock, NSW 2046 (DX 21014, Drummoyne), tel.: (02) 9712 5700. [0632]

NOTICE of intended distribution of estate.—Any person having any claim upon the estate of BETHIA JOAN ENGLISH, late of 5 Whitegum Place, Greystanes in the State of New South Wales, widow, who died on 26th May, 2003, must send particulars of his/her claim to the executrix, Gaynor Milham (in the Will referred to as Millham), c.o. Maclarens, Solicitors, 232 Merrylands Road,

Merrylands, NSW 2160, 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, 2003. MACLARENS, Solicitors, 232 Merrylands Road (PO Box 354), Merrylands, NSW 2160 (DX 25406, Merrylands), tel.: (02) 9682 3777. [0633]

NOTICE of intended distribution of estate.—Any person having any claim upon the estate of EILEEN MARY HARRIS, late of Wingham in the State of New South Wales, who died on 21st May, 2003, must send particulars of his/her claim to the executrices, Diane Ivy McKern and Moira Kathleen Sirett, c.o. McKerns, Lawyers, 43 Isabella Street, Wingham, NSW 2429, within one (1) calendar month from publication of this notice. After that time the executrices may distribute the assets of the estate having regard only to the claims of which at the time of distribution they have notice. Probate was granted in New South Wales on 5th August, 2003. McKERNs, Lawyers, 43 Isabella Street (PO Box 34), Wingham, NSW 2429 (DX 7021, Taree), tel.: (02) 6557 0922. [0635]

NOTICE of intended distribution of estate.—Any person having any claim upon the estate of HAROLD GILBERT, late of Wingham in the State of New South Wales, who died on 25th June, 2003, must send particulars of his/her claim to the executrix, Aileen Moira Gilbert, c.o. McKerns, Lawyers, 43 Isabella Street, Wingham, NSW 2429, 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 14th August, 2003. McKERNs, Lawyers, 43 Isabella Street (PO Box 34), Wingham, NSW 2429 (DX 7021, Taree), tel.: (02) 6557 0922. [0636]

## COMPANY NOTICES

NOTICE of voluntary winding up.—PRINCIPLE HOLDINGS NO. 2 PTY LTD, ACN 079 990 588 (in Voluntary Liquidation).—At a general meeting of the abovementioned company duly convened and held at Level 5, 14 Martin Place, Sydney, NSW 2000, on 21st August, 2002, the following resolutions were passed: 1. Special resolution “that the company be wound up voluntarily”. 2. “that Mr Stephen Humphrys, who has consented to act, be appointed liquidator of the company”. Stephen Girdis, Director. S. B. HUMPHRYS, Liquidator, c.o. Moore Stephens WI, Chartered Accountants, CML Building, Level 5, 14 Martin Place, Sydney, NSW 2000, tel.: (02) 9229 7999. [0637]

## OTHER NOTICES

### Maitland Presbyterian Church Land Sale Act 1870

8 William the Fourth No. 7 “an Act to regulate the temporal affairs of Presbyterian Churches and Chapels connected with the Church of Scotland in the Colony of New South Wales”.

The Presbyterian Church (New South Wales) Property Trust Act 1936

### Memorandum

The Trustees appointed for the Presbyterian Glebe Trust constituted by the Maitland Presbyterian Church Land Sale Act 1870, are:

Mair Fullerton, appointed 12th April, 2000;

Robert Glen Stevenson, appointed 23rd April, 2003;

Shirley Margaret Montgomery, appointed 23rd April, 2003.

Together with the continuing trustees:

Ian Maxwell Sutherland;

Ronald Oliver.

Rt. Rev. STUART ANDREWS, BSc, BD, BA, Moderator, The Presbyterian Church of Australia in the State of New South Wales. [0634]

